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Winter 1948



Vol. II No. 1

# PARLIAMENTARY AFFAIRS

## JOURNAL OF THE HANSARD SOCIETY

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## HANSARD SOCIETY NEWS

by STEPHEN KING-HALL

*Chairman of the Council and Honorary Director*

ON pages 33-44 of this issue of the Journal will be found the report of the Fourth Annual Meeting of the Society. Writing before the event I can only hope that it will prove acceptable to our members, and also convince them that we need all the help we can get in order to carry on with the ever-increasing volume of work which descends upon us.

**German Political Visitors.** On 21st September an advance party of four German politicians arrived in London as the guests of the Hansard Society in order to study the place of Parliament in British life (see *Hansard Society News, Parliamentary Affairs*, Volume 1, No. 4, pages 3 to 8). The guests were: Dr. Rudolf Gerstung, who spent the period 1938-45 in three concentration camps including Dachau and who is now head of the Department of Social Welfare of the Social Democratic Party; Dr. Heinrich Steffensmeier, member of the Executive of the Centre Party and editor of the *Rhein-Ruhr Zeitung* of Essen; Herr Ernst H. Müller-Hermann, member of the Executive of the Christian Democratic Union and also a newspaper editor; and Fräulein Dr. W. N. Gröwel of the Christian Democratic Union.

During 11 days in London, the German visitors saw many of our democratic institutions at first hand. What impressed them most was not the formal and well-known aspects of our democracy, but its informal and unwritten rules, and some of their comments on what they saw and heard in London will be found in our correspondence columns on pages 85-87.

During their first day in London they had lunch with several Members of Parliament at the House of Commons,

met Mr. Speaker, heard Mr. Ernest Bevin and Mr. R. A. Butler take part in an important Foreign Affairs debate, and later had an informal meeting with Members of Parliament. The following day they visited the House of Lords, where, after meeting the Lord Chancellor, they heard Lords Addison, Salisbury and Samuel speak on the Parliament Bill.

Among the Government departments visited was the Home Office, where they had a meeting with the Home Secretary. They were also entertained to lunch by Lord Henderson, and to tea by Lord Pakenham.

They visited the headquarters of the three political parties, and such bodies as the B.B.C., the Central Office of Information, His Majesty's Stationery Office, *The Times*, the Royal Institute of International Affairs, Political and Economic Planning, the Bureau of Current Affairs, and the British Society for International Understanding.

They saw something of the working of local government during visits to St. Pancras, where they met the Mayor and the Town Clerk; and to County Hall, where they met the Chairman and Deputy Chairman of the London County Council, the Leader of the Council and the Leader of the Opposition, and the Clerk and Assistant Clerk of the Council.

There were several informal discussions opened by Members and others connected with Parliament on such subjects as "The M.P. and his Constituents" and "Parliament and the Public".

As we go to press a second group of about a dozen German political leaders have arrived as our guests. It is the desire of the Council of the Hansard Society that their visitors shall be accommodated in private homes in London. The requirements are "bed and breakfast", and a sum of money is available to reimburse hosts for the expense involved. We should be grateful if any person willing to assist with this side of our work would enquire at our offices for details.

**Danish Parliamentary Visitors.** On 20th October the Council of the Society gave a reception for the all-Party Danish Parliamentary Delegation which was visiting London

for discussions with the British Government. The Hansard Society took advantage of the presence in London of leading Danish parliamentarians to acquaint them with the aims and activities of the Hansard Society, and to enable them to meet representative British men and women who support the work of the Society. Members of the Danish Delegation were as follows:

The Minister for Foreign Affairs, Mr. Gustav Rasmussen

Mr. Alsing Andersen, M.P. (Social Democrat)

Mr. Jørgen Jørgensen, M.P. (Radical)

Professor Thorkild Kristensen, M.P. (Liberal)

Mr. Bjørn Kraft, M.P. (Conservative)

H. E. the Danish Ambassador and several members of the Danish Embassy were also present.

**Meetings and Lectures.** During the past three months I have addressed a number of clubs and associations about our work, including an all-Party group of M.P.s in the House of Commons and the Glasgow Parliamentary Debating Association. Our Lecture Department has, within the limitation imposed by an over-worked staff and a crowded office, continued to help individual and corporate members of the Society who have wanted to secure speakers on Parliament.

**Exchange of Students.** The Council of your Society have long had in mind the desirability of exchanging students—particularly between the United Kingdom, Canada and U.S.A.—for the study of parliamentary institutions. In this connection an interesting proposal is being discussed with the University of Illinois, but at present it looks as if it will be held up for lack of finance.

**Library and Information Department.** Over 100 volumes have been added to our library during the past three months and we are grateful to those members who have either presented books or given donations to our library fund. Our library lacks the following volumes of the Parliamentary Debates:

<i>Commons</i>	<i>Period Covered</i>
5th Series, Volumes 1 to 64.	January, 1909, to July, 1914
68.	January to February, 1915
90 to 125.	January, 1917, to February, 1920
169 to 178.	January to December, 1924
228.	May to June, 1929
343 to 350.	December, 1938, to August, 1939

*Lords*

5th Series, Volumes 1 to 74.	1909 to 1929
134 to 136.	October, 1944, to October, 1945.

We should be grateful if any members of the Society can help to supply the missing volumes.

The Information Department has continued to deal with a wide range of inquiries from members on all aspects of the institution of Parliament.

**Press.** Your Society owes a great debt of gratitude to the British Press. During the past three months no less than 250 column inches in the Press have been devoted to various aspects of our work. I apologize for the use of this technical jargon, but what it means can be best appreciated by a layman if I explain that this would have filled almost two pages of *The Times*. At a time when space is so precious in the Press, the Council of the Society hope that their thanks will reach the appropriate quarters in Fleet Street.

**Hansard House.** Members should turn to the report of our Annual Meeting on pages 33-44 for the latest details about this project. Here I will only say that the fund is still open and we should be grateful if any benefactor feels disposed to emulate the generosity of Mr. Guggenheim; less ambitious efforts are, of course, equally acceptable!

**Publications.** After the usual delays now inevitable in the book publishing business we have at last secured the delivery of copies of the third edition of our classic and ever-popular publication *Our Parliament* by Strathearn Gordon. We have already disposed of 23,000 copies of this book, and

it has been translated into German, French and Spanish. Members ordering this book are entitled to a discount of  $33\frac{1}{2}$  per cent. which brings the price to 5s. 8d. post free, when ordered from our offices. It is the perfect Christmas present in the category of something useful, entertaining and of permanent value. All our pamphlets are now out of print except *The Independent Member of Parliament* by Harold Nicolson, of which we still have a few copies, price one shilling.

**Membership.** The membership figures this year were as follows: 1st February, 1,611; 1st May, 2,029; 1st August, 2,057; 1st November, 2,130. Some idea of the range of our growing membership is conveyed by the following names selected from those who have joined during the past three months:

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Looking down the list of addresses of those who have taken out subscriptions to *Parliamentary Affairs*, I have picked out the following places:

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Berlin, California, Wisconsin, New Zealand, Nebraska, Salonika, Washington, New York, Belfast, Utrecht, Copenhagen, Philadelphia, Chicago, Texas, North Carolina, Bangkok, Rome, Warsaw, Los Angeles, Virginia, New Delhi, Rio de Janeiro, Georgia, Montevideo, Utah.

**Overseas Societies.** The Council of the Hansard Society of Canada (Société Hansard du Canada), to whom I am Honorary Adviser, have invited me to visit Canada in February, 1949, in order to be present at their first annual meeting and then do a tour of Toronto, Montreal and Ottawa on behalf of the Canadian Society.

We have heard news that arrangements for the first Youth Conference organized by our sister Society in Canada are going forward. We cannot always hope to report good news to you in these pages, and therefore I must inform you that progress with the establishment of the movement in France and Italy has not been satisfactory. After several visits to these countries there is not the slightest doubt in my mind that adequate committees could be established if we had the resources to send someone to help our friends organize themselves. At the moment this is impossible.

It is also true that from the Dominions-- other than Canada-- evidence reaches us that the time is ripe for establishing sister societies but we lack the resources needed for the missionary work.

The attention of all those who read this journal and are *not* members of the Hansard Society and who *do* believe that the institution of Parliament is an indispensable part of the democratic way of life is drawn to the fact that there is no nationality qualification as regards membership of this Society. All who believe in the importance of working for the cause of strengthening the institution of Parliament are urged to join our ranks. This applies especially to citizens of the U.S.A.

**Covenanted Subscriptions.** An important note about this appears on page 98.



## THE PRIVY COUNCIL TODAY

by the Rt. Hon. HERBERT MORRISON, M.P.  
*Lord President of the Council*

**M**OST of those who have written about the Privy Council seem to have been more interested in the past than in the present. They tell us a great deal about its history; but they seldom describe its existing duties in much detail or say precisely how those duties are carried out. Something more about the Council in recent times can be pieced together from books not directly bearing on the subject—such as biographies and memoirs—but it is not at all easy for the ordinary reader who cannot consult a large library to discover what the Privy Council is and does to-day and how it sets about its work.

Although we are concerned here with things as they are the historical background must be borne in mind if the place the Council now occupies in the Constitution is to be understood. It must be remembered that nearly all the branches of administration with which we are familiar—Parliament, the Cabinet and the Privy Council among them—had their beginnings in the *curia regis*, the Court or Council of The King of Norman times. On important occasions, it met as the Great Council, the successor of the still earlier Saxon *witangemote*, but the mainspring that kept the business of the Government going was a smaller body within its framework which helped to make the laws, dispensed justice and collected the revenue. The members of this were chosen by The King, and while its activities were much more limited after Parliament appeared and the Exchequer and Law Courts branched off into independence, it remained closely associated with the Sovereign, merging by almost imperceptible stages into what became known as the Privy Council, through which many of the royal functions continued to be exercised. After a time there was a further development. A few of the more influential Coun-

sellors, who formed an inner ring especially in The King's confidence, began to supersede the Council as a whole when major questions had to be settled. Theirs was the decisive voice, and at the most the Council endorsed their conclusions. Before long, and as a result of this development, a new body destined to be of great constitutional importance was to emerge. This was the Cabinet. At first its position was rather indefinite, and like other innovations it was looked on with suspicion; but the early years of the eighteenth century saw it so well established that it was separated from the Council. By then an essential difference between the modern Cabinet and the Privy Council had already appeared: the Cabinet was confined to members of the party predominant in Parliament and directed policy, while the Council, whose composition was not restricted in that way, was mainly occupied with the more formal duties that settled usage requires it to perform to this day. The Privy Council, therefore, can trace its lineage right back to the feudal world and is a continuation of the "fertile parent stem" from which the complex executive machinery of to-day is derived. There is, indeed, still one momentous occasion on which the distant past and the present meet. At the beginning of a new reign, when the Privy Council, with the Lord Mayor and Aldermen of London and others, meet to acknowledge and proclaim a new Sovereign, their action is a direct link with the gatherings of the witangemote at such a time many hundreds of years ago.

During its long existence, the Privy Council has varied greatly in size. There are now about three hundred members—of whom some forty come from the Dominions—and its ranks include representatives of very varied walks in life who have merited special recognition by the Sovereign. Membership, indeed, is a high distinction which is sparingly conferred, although for constitutional reasons those who hold certain important posts under the Crown—among whom are the members of the Cabinet—are admitted on appointment. New Privy Counsellors kiss The King's hand and take the Oath of Allegiance as well as the Privy Counsellor's Oath,

which among other things binds them to keep secret "all matters committed or revealed" to them, and still contains phrases that appeared in it in much the same form five hundred years ago. There is only one exception to the rule that Privy Counsellors must take these oaths when they first attend a Council. If the Sovereign so directs, a member of the Royal Family may be introduced into the Council without being sworn. As long ago as 1410, the Prince of Wales, afterwards Henry V, was introduced in that way, and the records explain that no oath was administered "because of the highness and excellence of his honourable person".

When The King holds a Council, those whose presence is required receive a summons in the traditional form, which runs: "Let the messenger acquaint the Lords and Others of His Majesty's Most Honourable Privy Council that a Council is appointed to be held"—at such and such a place and time. Usually four Privy Counsellors are summoned, although the quorum is three, but on special occasions the attendance is larger, as it was last year when twelve Counsellors heard the Royal Assent given to Princess Elizabeth's marriage. Nowadays the whole Council very seldom meets; in fact it has not done so except at an Accession since 1839, when Queen Victoria's impending marriage was declared in Council. The place of meeting is generally Buckingham Palace, but Councils are held wherever His Majesty is in residence. Once or twice within fairly recent years they have been summoned to meet in private houses.

What happens at a Council depends on the business to be done, but as a rule the proceedings follow a straightforward course. First of all, before the Council begins, the Lord President is received in Audience. The other Counsellors then enter and, having bowed and shaken hands with The King, take up their position. They stand in a line, headed by the Lord President, who has a List of Business, as the agenda is called. The items in this are already known to His Majesty, who as they are read out by the Lord President, approves them or gives any other directions that may be needed. When the business is finished, the proceedings

become rather less formal. There is some general conversation: then the Counsellors withdraw, leaving as they entered in accordance with their precedence.

The Privy Council has duties of its own, but its chief function is to act as the body "by and with" whose advice certain things are done by the Sovereign. As constitutionally The King acts on the advice of Ministers, the decisions taken in Council necessarily reflect the views and policy of the Government. It is for this reason that Privy Counsellors who are members of the Opposition are unlikely to be summoned, unless the matters to be dealt with are exceptional and free from political controversy. Most of the business in Council is expressed in Proclamations or Orders in Council. Proclamations are usually reserved for the more important subjects, and after being approved in Council are signed by The King and pass under the Great Seal. Orders in Council, which bear the Privy Council Seal, are authenticated by the signature of the Clerk of the Council. As a rule, Orders in Council are complete in themselves, but sometimes they set in motion a series of executive acts. That happens when a Royal Charter is granted. Then, the Order in Council approving the grant is the authority for a Secretary of State to submit for the Sign Manual a Warrant, which in turn gives directions for the Charter to be issued as Letters Patent under the Great Seal.

The proceedings in Council are not confined to the approval of documents. There may be an oral Declaration by The King or Ministers may receive their Seals of Office. If a new Great Seal is brought into use, His Majesty defaces or "damasks" the old Seal with an oddly shaped little hammer; and once a year when the High Sheriffs of the Counties are appointed, the names of those chosen are pricked by The King with a bodkin as the long parchment Roll of Sheriffs is unwound. There is a tradition that this custom began one day when the Roll was submitted to Queen Elizabeth while she sat working in a garden. As there was no pen available, the Queen is said to have used her bodkin to show who were to serve. How much truth there may be in this pleasing

legend, it is impossible to say; but it must be admitted that such facts as are known do not seem to support it any too well.

A great many of the powers exercised by The King in Council are statutory—that is to say, they are derived from Acts of Parliament; others are prerogative, which means that they were not created by Parliament, but are included in the residue of the very wide powers that once vested in the Sovereign as of right. It is under the Prerogative that the prorogation or dissolution of Parliament is ordered, Ministers receive their Seals, the Sheriffs are pricked and Royal Charters granted. The Prerogative again is concerned in matters affecting the Channel Islands and the Isle of Man and—sometimes but not always—when new arrangements are made for the administration of overseas territories. The statutory powers are so numerous that it would be difficult even to summarize them. Parliament cannot go into all the detailed questions that will have to be settled when the legislation it passes comes into force; so provision is often made for points that are left outstanding to be dealt with by Orders in Council, which may or may not be subject to parliamentary approval or challenge. Such Orders are made under a great many Acts and may operate through almost the entire field of Statute law. One thing, indeed, that must impress those who attend Councils at all often, is the astonishingly wide range of the items that appear in the Lists of Business. Questions, large and small, affecting not only the United Kingdom but also distant parts of the Commonwealth and foreign countries throughout the world come before His Majesty in Council in almost endless variety.

The Privy Council itself, as distinct from The King in Council, not only long since lost the wide powers it once owned, but also in more recent times and with the creation of new Departments has seen some of its remaining duties transferred elsewhere. Fifty years ago, what is now the Ministry of Education was still a Committee of Council—as the Board of Trade is to-day—in theory but not in practice—and it was not until just before the war that the Committee on Education in Scotland was abolished. A few years before

that the Council ceased to administer the law of poisons, and other work it used to do is now undertaken by the Ministry of Agriculture and Fisheries and the Ministry of Health. But while this devolution was going on, Parliament occasionally reversed the process by giving the Council new functions. That happened, for instance, when the Privy Council was put in charge of the Cinematograph Fund set up under the Sunday Entertainments Act in 1931, and when in the same year architects were added to those in the medical and other professions in whose affairs the Council has an interest. To-day it has a very mixed collection of duties which may be of great antiquity or date only from yesterday.

The Lord President, who is one of the Great Officers of State, usually has heavy responsibilities in other directions as a member of the Government. As President of the Council he has certain powers; but, generally speaking, things that have to be done by the Privy Council are done to-day as they were in the past by Committees. Some of these are standing Committees—such as the Judicial Committee and the Committees which direct research in scientific, industrial, medical and agricultural matters. Other Committees are appointed to advise on questions referred to them by The King in Council: more often they are less formally constituted bodies which lapse when they have dealt with a particular item in the routine business arising from day to day. If the Committees have to report to The King in Council, their recommendations must be approved by Order in Council, but in less important matters the decisions may rest with the Committees themselves. They are then embodied in what are known as Orders of Council.

One or two of the standing Committees are seldom active. The others—apart from the Judicial Committee and those connected with research—deal with questions affecting the Channel Islands, the Isle of Man and the Scottish Universities and with certain recommendations for Honours. The short-lived Committees have many duties: among other things they consider petitions for the grant of Royal Charters or the creation of new boroughs; they have statutory obliga-

tions in relation to medical practitioners, veterinary surgeons, pharmacists and architects, and their approval is usually required when new by-laws are made by chartered institutions. Almost in a class by themselves, and set up soon after the beginning of a new reign, are two Committees of much historical interest, the Coronation Committee and the Court of Claims. The first, which prepares the detailed plans for the Coronation, now co-operates with a Coronation Commission, containing Dominion representatives and independent of the Privy Council. The Court of Claims, which dates back to the Accession of Richard II, has to decide who are entitled to perform traditional services during the ceremony. The cases adjudicated upon affect such claimants as The King's Champion and the Lord High Constable of Scotland, and those who seek to establish a right to carry the Great Spurs or the Staff of St. Edward or even to record the proceedings and "have five yards of scarlet cloth". Another Committee with a long pedigree is the one that has to review the Roll of Sheriffs each year before it is pricked. Until about twenty years ago the Lord President gave a dinner to the members of the Cabinet, who for that one occasion acted as a Committee of Council for the purpose. It was at such a dinner in 1820, when Lord Harrowby was Lord President, that the entire Ministry was to have been assassinated if the Cato Street Conspiracy had not become known to the Government in time.

It must not be imagined that Committees of Council are in almost constant session. Very often the questions involved can be settled by circulating papers; but one Committee that invariably sits is the Judicial Committee, the highest Court of Appeal in the Commonwealth. It was established in 1833, and scarcely ever adjudicates on appeals from the United Kingdom except in ecclesiastical cases. The appeals that reach the Committee come from many parts of the Empire, their number sometimes making it necessary for the Committee to sit in two or even three Divisions. The membership is fairly large, but the tribunals are usually drawn from a panel consisting of the Lord

Chancellor, the Lords of Appeal and a number of distinguished Judges who hold or formerly held office here or overseas. The Committee meets in Downing Street, and the hearings, which are occupied mainly by arguments on difficult points of law, may raise extremely important issues. Counsel appear in their wigs and gowns, but the members of the Committee do not wear robes; and there is a striking contrast between the prestige and authority of the Committee and the way in which the proceedings are conducted, which reminded one overseas observer of a dignified but friendly discussion in the library of a large country house.

With the Judicial Committee this outline of a large subject must come to an end. The gradual re-definition of the Council's sphere during the passing centuries and the fact that it is still an essential feature in the Constitution show how our institutions can be adapted to new conditions and keep their value in spite of far-reaching changes. In one way or another we are all affected by the questions with which the Council is concerned: yet to the majority it is scarcely more than a name. That this should be so is not surprising. On many matters the Privy Council must preserve silence, and more often than not the only publicity it receives is when from time to time the familiar words "The King held a Council to-day" appear in the Court Circular.

\* \* \* \* \*

### THE PRIVY COUNCIL

"Today the Privy Council retains only the shadow of its former greatness. Yet, with the aroma about it of its former greatness, it is a very honourable body. Membership is regarded as a high distinction. . . . I think that if one of the 'Lords and others' of the Privy Council, who had served in it during the centuries of its greatness, were to revisit these scenes today, he would be astonished to find how wide its range had grown, and how narrowly its power had shrunk. Yet, for the functions it still performs, it remains indispensable. Its mighty offspring, the Cabinet, is the centre of political power. Its Law Court, the Judicial Committee, is one of the most august tribunals in the world. And it may well be that, in the future, recourse may again be made, for the performance of some new and necessary function, to that ancient element in the British Constitution—His Majesty's Most Honourable Privy Council."—The Rt. Hon. the VISCOUNT SAMUEL, G.C.B., G.B.E., D.C.L., in a broadcast talk in April, 1945.



## WOMEN IN LEGISLATURES

by MEGAN LLOYD GEORGE, M.P.

(*Lady Megan Lloyd George has represented Anglesey in the House of Commons for the past 20 years.*)

IT was Victor Hugo who said: "The eighteenth century proclaimed the rights of men; the nineteenth century shall proclaim the rights of women."

Since the beginning of recorded time, women have exerted an indirect influence on public affairs, but it was only in the nineteenth century that the principle "that rights cannot be refused where duties are demanded" was extended to women. Gradually, grudgingly, concession after concession was gained in the struggle for political emancipation. As a first step in this country women were brought in to perform the menial tasks in the constituencies. The Primrose League was formed<sup>1</sup> and the Women's Liberal Federation was brought into being,<sup>2</sup> in the words of Mrs. Gladstone, "to help our husbands". The Corrupt Practices Act<sup>3</sup> which provided that canvassers should no longer be paid was passed. Canvassing still had to be done, why not employ women? It was unpaid and unpleasant, so it was just the thing for them. That was the beginning of the training of women in public questions. From that day they became an important part of the political machine, taking an ever-increasing share in the work of organization and propaganda.

Forty-one years ago Finland, the pioneer in political equality between the sexes, granted the franchise to women.<sup>4</sup> It was not until 1919 that an American-born British subject, Lady Astor, took her seat in the House of Commons.<sup>5</sup>

<sup>1</sup> 17th November, 1883.

<sup>2</sup> 27th May, 1886.

<sup>3</sup> 46 & 47 Vict. 1883 c. 51. An Act for the better prevention of Corrupt and Illegal Practices at Parliamentary Elections.

<sup>4</sup> In 1907, 19 women elected in a House of 200 Members.

<sup>5</sup> Miss Agnes McPhail, 1921-40.

<sup>6</sup> Viscountess Astor returned November, 1919, for the Sutton Division of Plymouth.

Two years later Canada elected a woman to Parliament,<sup>1</sup> the first British Dominion to do so. In the United Kingdom the portals of the House of Lords, however, remained, and remain to this day, firmly bolted and barred against "the monstrous regiment of women". But in the recent all-Party Conference on House of Lords Reform,<sup>2</sup> the inclusion of women in a new Second Chamber was agreed to by the leaders of all three political parties.

It has been said that since their emancipation only a comparatively small number of women have entered into their full rights, or taken advantage of their opportunities, and that the great majority stand on the threshold, hesitant and timid, afraid to enter into their new heritage. How far is this estimate justified? There are women deputies in all European and Commonwealth Parliaments as well as in the Latin-American Republics and the United States Congress. In Russia there are 277 women in the Supreme Soviet, 116 in the Soviet of the Union, and 161 in the Soviet of the Nationalities. But the most revolutionary change of all is to be found in countries of the Middle and Far East, in Malta and Turkey, in China where 93 of the 1,600 sitting members of the National Assembly are women, and in India and Pakistan. Women became eligible for election to the Indian Legislative Assembly in 1937 and to the Provincial Legislatures as early as 1924. So important was the representation of women considered that the Government of India Act 1935<sup>3</sup> reserved 42 seats for them in the Provincial Assemblies. In sharp contrast has been the history of political emancipation in Germany. Ever since the end of the first world war 6 per cent. to 10 per cent. of the deputies have been women, the last freely elected Reichstag returning 30 women. Under the Hitler régime, women were relegated to the home, their horizon bound on every side by domestic duties. Women's organizations existed, but their activities were strictly

<sup>1</sup> Miss Agnes McPhail, 1921-40.

<sup>2</sup> Cmd. 7380. Parliament Bill, 1947. Agreed statement on conclusion of Conference of Party Leaders, February-April, 1948. Para 5 (5).

<sup>3</sup> 25 & 26. Geo. 5. c. 42.

confined to the study of domestic science, and the running of "mother schools". The German woman was to remain a *Hausfrau*. Louise Schroeder retired from politics and worked in a bakery in Hamburg, and all those who were prominent in social and political work went into seclusion. Today they are again emerging into public life and taking an important part in the work of reconstruction in their country. There are now 1,886 deputies in the German *Länder*; of these 219 are women, 52 of whom are in the British Zone.

What progress has been made in the pioneer countries? In Finland there are the same number of women Members today as there were 40 years ago. Since the election of the first woman in 1916 in the United States,<sup>1</sup> over 41 different women have served in the Senate and House of Representatives. For the past few years the proportion in Britain has remained substantially the same. Today there are 21 members. In the last General Election out of a total of 87 women candidates nominated, 24 only were elected. Undoubtedly the prejudice against women in public life persists here as elsewhere. It can be seen in the reluctance of all political parties to nominate women as candidates or to give them reasonably safe seats. It is for this reason that many women of outstanding abilities and qualifications have never had an opportunity of entering Parliament. In addition many of the younger married women are tied to domestic duties and the choice between marriage and a career has become a real one. It has become increasingly difficult to combine the two functions. The housewives hardly have time to keep themselves informed on public affairs, much less to take an active part in political life. The fact that so many women are virtually excluded by their home ties is a national loss at a time when the best brains are needed to rebuild the economic and social structure of our country, and a well-informed public opinion is so necessary to the efficient working of democracy.

What has been the contribution of women to legislation and the work of Parliament? It was to be expected that in

<sup>1</sup> Miss Jeanette Rankin, Montana.

the early days of their political emancipation women should seek to right some of the wrongs, remove the handicaps, and iron out the inequalities from which their sex had suffered so long. In the early years of emancipation in Finland 26 Bills were introduced, most of which concerned the position of women in the State. They included laws concerning the legal right of married women to hold Government positions, the raising of the marriageable age of girls, and the granting of the communal franchise. These measures could not be set down as merely "feminist" legislation. They carried a wider social significance. Time after time they were rejected and were reintroduced in succeeding sessions. Some of these reforms have now been achieved after 10 and 20 years of patient endeavour. The trend has been the same in Britain. In the early days the handful of women in the House of Commons were concerned mainly in what have been called "women's questions". Bills were passed to prevent the sale of intoxicating liquors to persons under 18, introduced by that most spirited teetotaler, Lady Astor; to prevent the passing of the death sentence on expectant mothers; to safeguard the interests of the adopted child and the rights of children under the Inheritance Law. During the war women Members concerned themselves as a united body in all questions relating to the most effective use of woman power, and as a result of their efforts a representative from each Party was put upon a Consultative Committee of the Ministry of Labour to advise the Minister on the mobilization of woman power, and the welfare of women in the factories and the Services. Women M.P.s of all Parties united on deputations to successive Governments on such matters as the opening of the Foreign Service to women and on the part women should play in the work of reconstruction. In this united front women have shown a creditable independence of judgment and have not feared to criticize their own Parties. Mrs. Tate, a Conservative, led a revolt against a predominantly Conservative Government on the question of the granting of equal compensation to men and women injured in air raids, and won a well-deserved victory. Mrs.

Cazalet Keir, also a Conservative, actually defeated, if only by one vote, the Churchill Coalition Government at a critical moment in the war, on an Amendment to the Education Act,<sup>1</sup> which provided for equal pay for men and women teachers.

In the second phase of their political development the interest of women centred mainly in social and moral questions, public health, nursing, education. But in this and in other countries, as their experience of public life grows, they are turning their attention to wider national problems. In the U.S.A. the dean of women legislators—Mary T. Norton—as Chairman of the Labour Committee, championed the Wages and Hours Bill<sup>2</sup> which brought a large measure of financial security to millions of workers in America. In South Africa Mrs. Ballinger was chosen by the natives to represent their interests. Women here and in America have also shown a growing concern in the conditions of refugees, in the dispossessed peoples, and in the destitute countries of Europe. Eleanor Rathbone became, in the days of the Nazi persecutions in Europe and during the war, a courageous and tireless champion in the House of Commons of the oppressed and hunted races of the world.

Foreign policy has claimed the interest of women to an ever increasing degree. In the United States several women are members of the Foreign Affairs Committee of the House of Representatives and most of them take an active part in Foreign Affairs Debates. President Truman appointed Mrs. Norton as Government representative and observer to the International Labour Conference in Paris in 1945, and it became the custom to send a woman as substitute delegate to the Assembly of the old League of Nations, and today to the United Nations. All this is a reflection of the intense interest felt by women in all countries in the work of peace, although their views may differ widely. They range from those of Jeanette Rankin, the first Congress woman who

<sup>1</sup> Vol. 398, *House of Commons Hansard*, 28th March, 1944, cols. 1,355-1,392.

<sup>2</sup> Passed into law as the Fair Labour Standards Act, 1938: U.S. *Statutes at Large*, Vol. 52, Ch. 676.

voted against war in 1917, and again when Congress declared America at war with Japan, to those of Senator Hattie W. Caraway, who as "an advocate for peace" always voted for a large army, navy and air force and for lend-lease.

The capacity and competence of women in public life has been recognized by the high offices to which they have been appointed in many countries. In our own country, Margaret Bondfield was appointed Minister of Labour in the difficult and critical years of 1929-31, while Miss Perkins was given the same tough assignment in the United States Government in the great slump. In Sweden, Dr. Karim Kock, an economic expert, is Minister without Portfolio. Mrs. Aasland, in Norway, holds the same office, although she deals with social affairs. Ellen Wilkinson, the second woman to achieve Cabinet rank in Britain, was, before her untimely death in 1947, Minister of Education. She had the task of bringing into operation the Education Act of 1944, and was particularly successful in creating the Emergency Training Colleges for Teachers on which the success of the scheme must depend. In Denmark a woman presided over the same Ministry in the first Socialist Government in the '20's.<sup>1</sup> Rajkumari Amrit Kaur did remarkable work in India for the refugees in conditions of appalling difficulty. There have been women Ministers of Health in New Zealand,<sup>2</sup> in the Central Cabinet in India,<sup>3</sup> and for a characteristically meteoric period in France. Mme. Hertta Leino-Kuusinen, member of a well-known political family in Finland, has the distinction of being the only leader of a political Party.<sup>4</sup> History has been made also by Mme. Germaine Peyroles, who is now Vice-président de l'Assemblée Nationale, and by Mrs. Florence Paton, Labour Member for Rushcliffe, who, as temporary chairman of committees, took the Chair when the House of Commons was in Committee of Supply on the Scottish Estimates on the 31st May, 1948. And in Roumania we have the greatest innovation of all, a woman Foreign Secretary, Anna Pauker, who is the daughter of a Moldavian

<sup>1</sup> Mrs. Nina Bang, Minister of Public Instruction, 1925-6.

<sup>2</sup> Hon. Mabel B. Howard, 1947-. <sup>3</sup> Rajkumari Amrit Kaur, 1948-.

<sup>4</sup> People's Democratic League.

Jewish butcher. She has spent fifteen years underground or in exile, six years in prison, part of that time in solitary confinement, and she has twice been condemned to death. Mme. Pauker started her régime with a purge of the Foreign Office, and it is said that she directs the Foreign Policy of Roumania with a firm hand even if the voice comes from Moscow. She is certainly a remarkable woman, described by W. H. Lawrence as "a woman of great intellectual capabilities with a steel trap mind". Germany, too, has produced a woman of outstanding personality, the Acting Mayor of Berlin, Louise Schroeder, wise and forceful, who steered a perilous course with skill and dexterity until she was forced recently by ill health to play a less active part in public affairs.

What is the conclusion to be drawn from this brief record of Women in Legislatures? It is, I think, that in a comparatively short period of time remarkable progress has been made. It is true that they have not yet produced a figure of world renown, a Cromwell, a Pitt, or an Elizabeth, but then the ration even of great men in every century is restricted. But their quality and the contribution they have hitherto made has, however, been recognized in the increased responsibilities that have been placed upon them in every country, proof that they are coming ever more into their own as equals and partners in the work of Government.

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#### WOMEN AND THE STATE

"Can it be pretended that women who manage an estate or conduct a business—who pay rates and taxes, often to a large amount, and frequently from their own earnings—many of whom are responsible heads of families, and some of whom, in the capacity of schoolmistresses, teach much more than a great number of male electors have ever learnt—are not capable of a function of which every male householder is capable? Or is it feared that if they were admitted to the suffrage they would revolutionize the State—would deprive us of our valued institutions, or we would have worse laws, or be in any way whatever worse governed through the effect of their suffrage?" John Stuart Mill (1806-73) speaking in the House of Commons, 20th May, 1867, on an amendment to leave out the word "man" in the Representation of the People Bill, and insert instead the word "person". The amendment was lost. See *Hansard*, Third Series, Volume 187.

## LOBBY CORRESPONDENTS

by GUY EDEN\*

*(Mr. Eden is Political and Diplomatic Correspondent, Daily Express; Past-Chairman and present Honorary Secretary, Parliamentary Lobby Journalists; Past-Chairman, Parliamentary Press Gallery.)*

SINCE I addressed the Hansard Society's Youth Conference last March on the work of the Parliamentary Lobby Journalists, there have been many requests for a more detailed account of the activities of "Parliament's Intelligence Service". The description—not inapt—was recently applied to the Parliamentary Lobby Journalists by a very high official of the House of Commons, who had been able to study at close quarters, over a long period of years, the work done by these specialist representatives of the Press.

Nobody, I imagine, would contradict the statement that our Parliamentary system—which, we are proud to think, is a model to the rest of the world—could not be made to work, but for the Press. Many an elaborate speech has been made, in both Houses of Parliament, to an audience of Members which could fit itself comfortably into a small drawing-room—or even a telephone kiosk!

But—the Press Gallery, as ever, was well-tenanted, and that meant that the country and the world knew all about the speech in due course.

From time to time, some Parliamentarian, jealous of the influence of the Press, raises complaints about its work, but on the whole, the experienced members of both Houses readily agree that the association of the Press with Parliament is essential and beneficent.

Yet it is a curious fact that it is still, technically, an offence against Parliamentary privilege to report the proceedings in

\* Mr. Eden has donated his fee for writing this article to the Hansard Society.



the Commons or the Lords. It is—to put it mildly—open to doubt whether Parliament would ever “go underground” for any prolonged period. But there is an occasional sharp reminder to the Press that its representatives are there “on sufferance”, and that they are still “strangers”, even if highly-privileged ones.

For instance, when the Houses decide to go into “secret session”—as they often did during the war—it is a criminal offence, carrying a sentence of penal servitude, for any newspaper or other publication to publish any account, accurate or inaccurate, of the proceedings.

I should at once stress, however, that there is no other form of censorship on the Press in reporting the proceedings of Parliament. Even in the crises of the war, everything said in Parliament, in public session, was exempt from censorship. It was assumed that the Minister or private M.P. making a statement was doing so with a due sense of responsibility. Perhaps a slightly rash assumption, on occasions!

And, I think I am justified in saying, the authorities of Parliament take the view that the specially-selected Press representatives who attend Parliament have, themselves, a high sense of responsibility, as well as a high sense of news-values.

This must, in the nature of things, apply even more to the Lobby Journalists (or Political Correspondents, as most of us prefer to be called) than to the sketch-writers, or the verbatim and other reporters. I mean that those concerned solely with the proceedings on the Floor of the House—the sketch-writers and the reporters—have to show their sense of responsibility by being extremely accurate in their reporting (as they certainly are) while the Lobby Correspondents, because of the nature of their work and their special personal relationships with Ministers, private Members and officials, have also to know when *not* to write, as well as what and when and how *to* write.

Let me try to make clear the difference between the duties of a Political Correspondent and those of a Press Gallery man. It is a difference which many experienced M.P.s fail, even now, to appreciate.

The Parliamentary sketch-writers and reporters are concerned exclusively with what happens on the Floor of the House, with what is said and done on any given day, and the business transacted in public.

The Political Correspondents are concerned with recording and explaining what is *going* to happen at future sittings, with explaining and expanding the news of what *is* happening, and, perhaps most important of all, in analysing and "translating" into ordinary language the Bills, White Papers and many other official documents that flow in an endless stream through Parliament and Whitehall. The Political Correspondents have numerous other exacting duties, as I shall explain later, but it is important that the broad distinction between the two branches of the Parliamentary Press should be borne in mind.

I will explain the work of the sketch-writer. His task is to clothe with vividness and witty shrewdness the bare words of the debates, to make them easier to read, and to give the reader some of the "atmosphere" of the discussions. This can be as important as a straight account of the words used. Indeed, I say quite frankly, that a perfectly straight, uncoloured, account of the proceedings of Parliament would not convey a true picture, and could be positively misleading.

Many years ago, I saw an excitable M.P. lift the Mace from the Table of the House of Commons, and walk off with it. *Hansard* (which, of course, gives no descriptive matter) merely said, in square brackets: "*The Honourable Member proceeded to the Table and removed the Mace, which was restored by the Serjeant at Arms.*" But every newspaper, from the dignified *Times* to the most sensational, reported the (in its way) historic event at great length, and with a wealth of colourful description.

There have been many similar events, where an account of *actions* was more important than an account of the *words* used. It is the job of the sketch-writer to give this word-picture, either as a completely separate account, or (as is far more general nowadays) a combined report of the proceedings and "sketch". These vary from the whimsical

efforts of *Punch*, where the lighter side is stressed, to the more solid articles of *The Times* and the *Manchester Guardian*, to take notable examples.

The work of the reporters ranges from the completely verbatim accounts of the *Hansard* staff to the abbreviated third person reports of the popular newspapers. Of course, a great deal of skill is necessary in the selection of passages from long speeches, in order to give a clear and balanced account of the entire proceedings.

It is—most will agree—neither desirable nor necessary to give a verbatim account of Parliament's proceedings for the ordinary newspaper reader. Those who want to know *everything* that is said can always turn to *Hansard*.

The Political Correspondents are all members of the Press Gallery, and most of them have their own reserved seats in the Gallery. This is essential to ensure that they are up-to-the-moment in their knowledge of the day's proceedings, as it is necessary for them to know, and understand, everything that is going on in the political world, so that they can explain it to their readers.

Suppose, for instance, there is a vote in the House, in which, for some reason, there is "cross-voting"—Members of the various Parties voting in different lobbies. What every newspaper reader wants to know is: "*Why?*"

The men in the Gallery cannot tell, and it is for the Political Correspondents, with their special facilities and contacts, to find out and give the information to newspaper readers. The Political Correspondents can use their right to go down into the Members' Lobby—from which the public are excluded—and talk to Ministers, M.P.s and Party officials, building up an account of the "behind-the-scenes" events which led to the cross-voting "revolt".

The lists of names of Members who voted this way or that in some specially important division are also compiled by the Political Correspondents—and a very difficult job it is, for it has to be done at high speed late at night, largely from watching the M.P.s troop into the voting lobbies.

But the actual proceedings of the two Houses form only

a very small part of the work of the Political Correspondents. Perhaps the major part consists of condensing, and explaining, Government Bills, White Papers, reports and official documents of all kinds. Quite apart from the fact that most of these are far too long to print in full in the papers, they are also—of necessity—usually rather too technical in their phrasing to be understood easily by the ordinary reader.

It is, therefore, the task of the Political Correspondent to read through all these documents and to understand and digest them so that a shortened and simplified account may be given to the public. In making the facts clear to newspaper readers, the Political Correspondents can seek the help of the Government Department experts, or the Ministers themselves. It is generally recognized that the Political Correspondents play an important part in ensuring that the people of the country know what is going on and what is expected of them.

The Political Correspondents contrive to take a critical or approving line on Government policy—when this is called for—while making their accounts of official documents strictly objective. In other words, they are careful not to distort the effect of the documents, but add their comments, favourable or otherwise, for the guidance and instruction of the reader.

The explanation of the general political and economic situation is another duty of the Political Correspondent. Here, again, the special facilities—contact with Members and officials and access to official documents—make it possible to give accurate accounts of “inside” events. The well-informed Political Correspondent is always “on duty”—some of them work incredible hours—and is soaked in politics. He knows as much about public and Parliamentary affairs and procedure as the best-informed M.P. And he has the advantage that he is personally known by, friendly with, and trusted by, members of all Parties, for Political Correspondents pride themselves on their freedom from Party political prejudice and their ability to “see all sides” fairly and impartially.

This ability to look at a political problem impartially is

important—even though the finished article may be anything but impartial, as is sometimes necessarily the case. It is important to be able to look at a problem impartially because so much of the work of assessing a political situation is logical deduction, backed by a wide general knowledge.

The Sherlock Holmes-like fitting together of a series of apparently-unconnected facts is an everyday task for the Political Correspondent. Ministers and officials have often been astonished at the shrewdness and accuracy of deductions made by experienced political writers from a few odd and obscure facts.

The leading Political Correspondents are also “Ambassadors” between their offices and what are called “official and political circles”. Any matter calling for specially careful and tactful handling is apt to be handed over to the “Political man” to deal with, and the excellent personal relationship between these political journalists—some of whom are world-famous and quoted in the Press of many lands—and Ministers and officials has smoothed out many a difficult situation.

Their reputation for discretion and tact also leads to the Government’s selection of the Political Correspondents to handle specially delicate news and situations.

The abdication of King Edward VIII, for instance, was handled, from beginning to end, by the members of the Parliamentary Lobby. It was necessary to prepare the public for grave news, without causing alarm, and the Cabinet privately paid warm tribute to the skill with which the Lobby Correspondents carried out the most delicate and exacting task they have had to face in the sixty-three years they have been active in public affairs.

In the war, the most difficult and worrying situations were dealt with by the Political Correspondents, and they were entrusted with—and kept strictly—many of the deepest secrets of the military and political campaigns.

I was Honorary Secretary of the Lobby Journalists throughout the war, and one of my jobs was to keep liaison between them and the Government. I was the only person

outside a strictly-limited Cabinet and Service circle who knew in advance of Mr. Winston Churchill's perilous and adventurous journey to meet President Roosevelt for the "Atlantic Conference", in 1941.

For many days, I had to keep the secret even from my closest colleagues, who had to ring me several times every day to "keep in touch"—about what, they knew not. One Sunday, I had nearly 150 'phone calls, and I was not sorry when I was free to give the news! I suppose I had Mr. Churchill's life—perhaps the nation's—in my hands in those critical days.

The sensational and almost incredible events that led up to the ending of the war were handled by the Political Correspondents. So was the grim news of Dunkirk, and that "doodle-bugs" and, later, rockets were to add to the many troubles of the hard-pressed people of Britain.

It so happened that, as an officer of the Parliamentary Home Guard, I was in charge of an inlying picket at the Palace of Westminster the night the first flying-bomb came, and actually saw it go straight overhead. It was a somewhat unnerving confirmation of the top secret memorandum I had, just before, sent to my Editor!

Several of the leading Political Correspondents are also the Diplomatic Correspondents of their newspapers. In that capacity, I and others have travelled the world, attending international conferences, interpreting international events as we interpret home affairs.

A Political Correspondent holds high rank in his office, and his personal prestige, in his office, in Parliament, and with his readers is considerable. He must have a high sense of responsibility, both to his office and to the public at large, for he can make great mischief if he is irresponsible or ill-informed. And the Political Correspondents as a body treasure many tributes paid to them by leading figures in all political Parties, and by some very august Personages, for their handling of difficult situations and "stories".

It is not only the grim affairs of life that are dealt with by the Lobby men. They were chosen as the channel through

which the nation and the world were given the joyful news of the engagement and marriage of Princess Elizabeth, and several other items of news calling for a "special touch" in presentation.

There is the keenest competition between the Political Correspondents to get exclusive items of news—or "scoops"—but there is also a strong co-operative spirit in corporate matters. Several of the leading Political Correspondents have been in Parliament for decades. Mr. George Turnbull, "Father" of the Lobby, has been there without a break for well over forty years, and so has Mr. Francis Sulley, of the *Sheffield Daily Telegraph*.

I think it is largely the fact that the job is a high-ranking one in the newspaper world and the fact that its holders live in close personal relationship with Ministers, M.P.s, Peers and officials of all grades, that produces the—on the whole—excellent and reliable accounts of our British public life in the Press.

For the Political Correspondents are, in a very special sense, part of Parliament, part of its machinery and tradition. And they are intensely proud of the fact.

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## THE PRESS

"The liberty of the Press is the Palladium of all the civil, political, and religious rights of an Englishman." *The Letters of Junius*. [Although more than 40 persons have been suggested as the writer of these letters the evidence points to Sir Philip Francis (1740-1818) as the most likely author.]

"The Gallery in which the reporters sit has become a fourth estate of the realm." T. B. Macaulay (1800-1859) in *On Hallam's Constitutional History* (1828).

"Burke said there were Three Estates in Parliament; but, in the Reporter Gallery yonder, there sat a Fourth Estate more important far than they all." Thomas Carlyle (1795-1881) in *Heroes and Hero Worship* (1841).

## THE FOURTH ANNUAL GENERAL MEETING OF THE HANSARD SOCIETY

*The fourth Annual General Meeting of the Hansard Society was held on 4th November, 1948, in the Tudor Room, Caxton Hall, Westminster. The following is a summary of the proceedings.*

**T**HE Chairman, Commander Stephen King-Hall, said: "Mr. Churchill has sent us a message. He says: 'I send my best wishes for the work of the Hansard Society, and congratulate the Council and the members of the Society on the striking progress it has made during the past twelve months. There are few things more important today than to stimulate public interest all over the world in the parliamentary institutions which are an indispensable instrument of democracy. I hope that all those who understand the importance at this time of the democratic way of life will support the work of the Hansard Society.'

"I welcome as our guests tonight ten German political leaders who are now in this country as the guests of our Society, studying the place of Parliament in British life. Your Council felt it would be appropriate to invite them to be here tonight in order that they should hear about the activities of this Society, which exists to promote knowledge about the institution of Parliament.

"There is no doubt that if we were a public company our goodwill would be valued in the Balance Sheet at a pretty high figure. You have in your hands the Annual Report of the Council for the past year, and if you will turn to the penultimate page of the Report, you will see there that we are on the wrong side to the extent of £179 3s. 6d. I believe I could now go on to tell you that this is not too bad—and possibly get away with it. But that is not my intention, for I want to show you that in some respects our financial situation is not really satisfactory. We are not bankrupt and the accounts are



genuine and properly audited. But we have received during the past year donations towards our work, that is to say, donations over and above the Special Appeal which we made for Hansard House, which amount, one way and another, to nearly £1,500. If we had not managed to get those donations towards current expenditure, we should either not have been able to do the amount of work we have done, or we should have had to have done it on credit and ended up about £1,650 on the wrong side.

“One of the most difficult problems confronting the commander of armed forces in battle is the decision as to when he shall throw his main forces into the attack. The Council decided that during the year 1947/48 we would throw everything we had into the battle for democracy. We reached that decision for two reasons. Firstly, because of the character of the international crisis in which we are living at this time. We are a democratic David fighting the Cominform Goliath. This Society fights totalitarianism in all its forms, not by being negatively against it but by being positively for that institution of Parliament which we think is an indispensable instrument of democracy. The second reason was that we felt that during the past year we must make a supreme effort to put the Hansard Society definitely, clearly and substantially on the map of British public life, as a preliminary to making it a force for the good of democracy in international life.

“You will see in your Report some of the things we have managed to do. We have very nearly doubled our membership. We have become recognized by the British Government as the body in Britain for advancing the cause of the institution of Parliament. There were other achievements during the year, but I would say those were the most important. We have got a foothold in the fortress of ignorance and apathy, but I do not want you to imagine we have done more than that. The question we have to consider this evening is: Are we to enlarge that foothold during the next twelve months? Are we merely to retain the position we have got? Or are we going to retreat?

“As you will see from these accounts, what I call our assured revenue comes to about £3,000 a year, the bulk of which of

course is members' subscriptions, and a certain profit which we hope to get from publications. But I am bound to tell you that in my judgment we really require an absolute minimum of about £4,000 a year to carry on as we are going at the time. Now I do not know whether we can raise extra donations this year; nor do I know whether certain possibilities will mature.

“Some of the possibilities are very long shots. Someone has written a new play and given it to the Society; it may produce little, it may produce a lot of money, it has already produced £25 as a matter of fact; but I know enough of plays to tell you that you cannot take credit for revenue from a play that has not yet been produced when you make out your budget. Then again, we cannot be sure how much profit the Society will make out of its publications, although I can give you one good piece of news, and that is, that since the Annual Report was published, we have sold more than 1,000 copies of the third edition of our famous book, *Our Parliament*.

“But, quite apart from this uncertain position of whether we shall have enough revenue to hold our own or even do better than we did last year, we are always in the dilemma of the shortage of working capital. Tonight we have two books in varying stages of completion, one on the French Parliament and the other on the House of Lords.

“It is our job to publish books like these but you cannot go to printers and commit yourselves to that sort of thing without having some reasonable expectation that you will be able to pay the printing bill. I would say that those two books require capital expenditure in the region of £750, and we have not got it.

“We get continual requests for the five pamphlets which we first published and which are now out of print. The type is standing, but if I were to give an order tomorrow for 2,000 copies of those pamphlets to be printed, we would need £170.

“Hardly a day passes without a request from a society, school or association of some kind for a lecture on Parliament. If we had £1,000 to set up a lecture department, I believe that

within a very short time that department would pay for itself.

"*Parliamentary Affairs* will become, I believe, a source of revenue to the Society, and the rate at which it does that will depend upon the extent to which we can get advertising revenue. I believe that already it is a perfectly commercial proposition to take space in *Parliamentary Affairs* for various kinds of prestige advertising, and we hope our corporate members will turn a benevolent eye upon us when they are making out their advertising programme.

"Members are entitled to be assured that we are economical in our operation, and I hope you will forgive me if I give you a word of personal explanation here because I have been your Honorary Director, responsible to the Council, and I have to see that things are properly conducted. I assure you that the word 'honorary' is very strictly interpreted; we do not run expense or travelling accounts. You will see in your Report that the Canadian Society has asked me to go out there in February and give them a helping hand. The Council have approved that I should accept that invitation. I do want to assure you that expeditions of that character do not involve the Society in any expense whatever.

"There are one or two items in the Accounts which I am going to refer to. If you will turn to the expenditure side first you will observe that there is a printing and stationery expenditure of £1,336. That includes the cost of all the copies of *Parliamentary Affairs* sold to the public and the ones we still have in stock to be bound as volumes. The item immediately underneath, printing of members' publications, is for printing the copies of *Parliamentary Affairs*, the four issues which the members have had in the course of the year.

"We received special donations in order to have a headquarters for our work, and the sum of £2,358, shown on the revenue side includes the first of seven annual payments of £714 by our benefactor Mr. Guggenheim. He is a very modest man and does not seek personal publicity, but I think you will wish me to say 'thank you' on behalf of the Society for this very generous gift of £5,000 which he made to the Society in the form of a seven-year covenant.

“Now if you turn to the Balance Sheet on the back page, you will see there is a loan account which includes the loan from Mrs. King-Hall and myself, and also a loan from our Honorary Treasurer, Mr. Scott-Elliot. Although I use the word ‘loans’, and although there is no other way they can be described in the Balance Sheet, they are not loans from the point of view of any legal liabilities for the Society. The money has been provided free of interest on the terms that the money will be repaid when and if the Council see fit. In law the Society is under no obligation whatsoever to repay the loans at all. The balance of the loan account is a short-term, interest-free loan from Mr. Guggenheim which we are going to repay out of his own annual payments, simply to put us in funds for the purpose of being able to buy the house about which I shall have something to say in a moment.

“Again on the Balance Sheet, ‘Sundry Creditors’ of £1,009 may look alarming to some people, but you will see on the other side we have ‘Sundry Debtors’ of £2,151. You may say ‘Are the debts any good?’ £800 are owed by His Majesty’s Government, and we have got enough faith to think that as the machine grinds round, we will get the £800; and the rest of the money is in the hands of our honorary solicitor, Mr. Keith Miller Jones, who is merely holding that money because we hoped we might be able to buy the house, and we transferred 10 per cent. of the purchase price to our solicitor.

“Finally, you will see the estimated stock of our literature is shown as £378. I find it difficult to understand the theory of Balance Sheets, but that figure is low for the following reason; although when this Balance Sheet was drawn up we had committed ourselves to the expenditure of printing a book, the book in a final form was not visibly in our possession. It therefore could not be shown, apparently, on the right as an asset, but since this Balance Sheet was made up we have got 5,000 copies of the book and, as I have told you, we have sold more than 1,000 already.

“Now, I want to say a word about this house. After a great and exhausting search, we found a house at 11 Catherine

Place, which is now being used for professional and business purposes. We applied to the Westminster City Council for a licence for headquarters for the Society, and I must confess that I and various experts thought it would be a formality. Well, the long and short of the matter is that our application has been turned down, and we have appealed to the Minister of Health.

“Two final points. We have now come to the conclusion that it is permissible for members of this Society to pay subscriptions by seven-year covenant which, of course, will make a very considerable difference to our income. If members feel able to do that, I must tell them that they are committing themselves to supporting the Society for seven years, but their estate would not be liable if they went to a better place before the seven years were over.

“The last point I want to make—and I would like to get this spread around as much as possible—is that if any of you take *Hansard* or belong to a firm that buys publications from His Majesty’s Stationery Office, you can place your orders through the Hansard Society. You will not pay any more, you will get them just as quickly, and the Society will benefit by the extent of the usual trade discount.

“We must recognize that we are pioneers in a hitherto neglected field; we seek to find a way to bring to men the great truth that the institution of Parliament in all its free forms is an indispensable instrument of the free way of life. I have told you some of our difficulties, but I do not want you to think for a moment that we are daunted by them. We must overcome them. As pioneers we must say in this very early stage of our crusade, and I would emphasize that we are really in a very early stage of what is going to be a very long and big job, we must say, in the words of Walt Whitman: ‘The path to the house I seek to make, but leave to those to come the house itself.’ ”

Major C. P. Mayhew, M.P., Parliamentary Under-Secretary of State for Foreign Affairs, in seconding the adoption of the Report, said: “My purpose in coming here was merely to say a few words to thank the Hansard Society

on behalf of the Foreign Secretary for the work you have done in helping to bring German politicians over to Britain to see the workings of British democracy. We in the Foreign Office deeply appreciate this work. You are entirely non-official, and though, most discreetly, we shall have as little as possible to do with you, there are occasions nevertheless, when your work of explaining British democracy to Germany, to Europe and to the world is of the utmost importance to British foreign policy. The truth is, in my view, that British democracy today is as vigorous and healthy as at any time in British history. We at the Foreign Office know that the influence of British democracy and the example of Britain through all the difficult times we have to face is of the greatest importance to British foreign policy in giving a constructive alternative to Communism to the peoples of Europe, a way of life which is acceptable, I believe, to millions and millions of people not only in Britain but in Europe as a whole.

“I would like to say just a few words upon the subject of Germany and the work the Society has done there. It is Lord Henderson who should have come to make this speech because he is more directly concerned with German affairs than I am myself, but I did recently come back from a visit to Germany and would like to say one or two things about the attempts which are being made in Germany today to construct democracy there. Unquestionably the picture I found was an encouraging one. The German people face great problems, but there has been almost a transformation in outlook in Germany in recent months. This is partly due to the miraculous success of the currency reform, and partly it is due to the heartening effect of the resolute stand of the Berliners at the present time.

“I am not, of course, going deeply into this question because you have much more business on your agenda, but I merely want to stress that the more German politicians can be invited over to Britain to see at first hand the strengths and the weaknesses of British democracy, the better chance I believe they will have of fulfilling their task of creating in Germany a live and vigorous democracy. When I was in Germany I

went to the Parliamentary Council at Bonn, where, as you know, German political leaders are working out a new democratic constitution for Western Germany, and for a British Member of Parliament it was extremely interesting to note the atmosphere at Bonn in comparison with the atmosphere at British political meetings or in the House of Commons. In Germany, enjoying freedom of speech means something special. At a meeting such as the Parliamentary Council at Bonn you can see that the novelty of freedom of speech has not yet worn off, and that those who have suffered dictatorship for long years enjoy the opportunity to speak freely in public on matters of great political importance.

“May I thank the Hansard Society on behalf of the Foreign Secretary for what you are doing. I am sure British democracy owes a great deal to its long, slow growth. It cannot, therefore, be expected to be transported in its exact form to any country of the world. Nevertheless, we do feel we have the essentials of parliamentary democracy here, the tolerance of the other man’s point of view, the respect of the political rights of one’s opponents, willingness to discuss these things and the acceptance of a majority vote without overriding the rights of the minority. These things are the essence of the atmosphere of British democracy. We, who have learned so much from Germany in our long history, shall be proud if our experience, the lessons of our success and failure, can be helpful to those who in Germany today are trying to build a new democracy. If this is so, then the importance of your work is obvious, and we hope that you will be able to continue the work you are doing for us in this respect. Therefore I do most heartily wish to thank you for the great efforts you have made in this connection, and I hope your work continues to progress in the future as it is doing now.”

Mr. Geoffrey de Freitas, M.P., Under-Secretary of State for Air, said: “I feel I am entitled to start by saying: ‘If you read Hansard’. If you read today’s *Hansard* you will see that the Under-Secretary of State for Air, myself, replied to a relatively small Bill, which is called the *Recall of Army and Air Force Pensioners Bill*, and sat down, according to the clock, actually

four minutes before he got here. If this speech is not a polished Parliamentary oration you will know why! I was just in a hurry to come here.

“I am very glad to come here because I was very struck, in reading the Report, by the sentence that said that the Council invited each member to regard the Hansard Society as one of the channels through which individuals can make a positive and personal contribution to the cause of democracy. It is really quite clear that we have a chance of building up this Society so that it will be strong enough to tell the whole world of the parliamentary institutions we have developed here in this country. Our history has made us so accustomed to smooth and orderly change, behind an almost unchanging façade, that we are inclined, even here, to forget that Parliament is essentially dynamic and not static. Many people, when they get sold on the idea of Parliament, see Members of Parliament as the political descendants of the knights of the shires and burgesses who, for so many centuries, came riding to Westminster to found the Parliament we know. To many more, the Socialists and Conservatives sitting in the House are seen as an orderly, or mostly orderly, procession of men who have been going to Westminster, sometimes calling themselves Cavaliers, sometimes Roundheads, sometimes Whigs, sometimes Tories, and developing the institution over seven hundred years. If, over the centuries, the progression of men to Westminster has been orderly, or mostly orderly—and it has been—it is because our predecessors in Parliament realized that government must be flexible at all times, and we have built up—and we Members today know very well that we have built up—these parliamentary institutions only because our predecessors adapted their institutions to meet the social and political forces of the time.

“Now we recognize that as long as we want a system of government based on discussion, as long as we want governments changed by secret ballot, our parliamentary institutions will grow. We know that in our country they are not really under serious attack; so long as we can defend ourselves from outside aggression we are safe in this country. We recognize



it is suitable to us, but we have doubts of its suitability for other people, especially non-Europeans. But what has happened in recent years? In recent years our example and our encouragement have resulted in the setting up of Parliaments on our model in all parts of the world. If parliamentary institutions can work, and work smoothly, in countries separated from us by thousands of miles of land and sea, by centuries of technical development, and by at least decades of education, then there is a real hope that in that institution lies the key to free government in a free world, because it is the only form of government which is flexible enough to grow with people. It is only a parliamentary democracy which can fit itself into a greater unity, whether Commonwealth, or tightly controlled federal system, or a group of sovereign States.

“But against this spread of parliamentary institutions we have to count the real zeal and ingenuity of the enemies of this system, and if we should balance the gains, particularly recently, in the Commonwealth, against the most striking loss in Central Europe, and say that we were winning, we would just fool ourselves. The case of enemies of democracy may not be good, but it is maintained by men and women who for the most part have the integrity and zeal and the fanaticism of the early Christians. We got off to a good start in parliamentary democracy in the battle of the twentieth century, but we are going to lose it unless we begin teaching people to value the high ideals as well as the material benefits of parliamentary government. We must begin by not taking for granted what we have got. We must learn to marvel at the simple electoral device of putting a cross against someone’s name and realizing that no one need ever know against whose name we have put a cross. When we have learned to value that, we shall learn to value a community in which compromise and agreement to disagree is regarded as a sign of strength and not as weakness.

“I would like to put the task of my fellow-members of this Society in two ways. Firstly, as we have been called a nation of shopkeepers, let us put the task to a nation of shopkeepers; secondly, as we have been called a nation of politicians, let us put it to a nation of politicians. As shopkeepers we know that

in our system of government we have produced something that is good, and there is a sellers' market overseas for our good system of government. Unlike most exports the export of this institution deprives us of nothing at all, but like most exports we get in return something of real value, because there is certainly no greater link between peoples than a common form of government. But who is the export agency? The Board of Trade do not handle it, and to the British Council it is merely a side-line. It falls on us as members of the Hansard Society. As politicians, we must realize the necessity of acting as the Cominform of parliamentary democracy. As I say, we tend to take this thing for granted. We distrust the abstract and therefore do not make particularly good proselytisers of ideas. But even if it is difficult, it must be done. The object of our Society is stated to be the advancement of the gospel or cause expressed in the words 'parliamentary institutions', and the fact that that advancement is a difficult task must not deter us. We must regard difficulty merely as a challenge."

A brief discussion ensued during which Miss Lakeman asked whether the Council was satisfied that printing costs were being kept to a minimum, and Mr. Solomons sought information about the procedure for electing members to the Council.

After the Report had been carried unanimously, the Chairman, before proposing the election of Councillors for 1948-49, said: "Mr. Ronald Fredenburgh is retiring under Rule 13 (1), and I cannot let him go without telling you that he was one of the people who was really in on the very early days of this business, and in fact he was at times, shall I say, the Assistant Honorary Director of the Society, because he happened to be in the same office as I. Mr. Fredenburgh, who has the welfare of the Society at heart, suggested that as he has been on the Council for so long, perhaps it was in the interests of the Society that he should, at any rate temporarily, stand down and let us get fresh blood on to the Council, in order to get other interests represented. Of course, as the years go on we shall have to do that more and more."

The Chairman proposed, Mr. Lees seconded, and the

meeting unanimously approved the election of the following persons to fill the vacancies on the Council for the year, 1948-49:

Mr. W. Greville Collins

Mr. Evelyn King, M.P.

Mr. Hugh Linstead, O.B.E., M.P.

The Rev. H. M. Waddams, M.A.

Miss Judith Jackson, O.B.E., proposed, Mr. Parsons seconded, and the meeting unanimously approved the election of the following Officers for 1948-49:

*Hon. Director:* Commander Stephen King-Hall

*Hon. Treasurer:* Mr. W. Scott-Elliot, M.P.

*Hon. Solicitor:* Mr. Keith Miller Jones

Mr. Keith Miller Jones proposed, Mr. Fredenburgh seconded, and the meeting unanimously approved the appointment of Mr. F. S. Suter, A.L.A.A., as Honorary Auditor for 1948-49.

The Meeting was then declared at an end.

## HANSARD REPORTING IN SOUTHERN RHODESIA

THE work of reporting the Debates of Parliament in Southern Rhodesia is done under contract. It is so arranged that a carbon copy of much of the report can be made available and circulated to Members at regular intervals during the day's sitting, the remainder being ready for revision within an hour of the rising of the House. In order to facilitate rapid transcription, printers' abbreviations are employed. As the hours of sitting for the first ten days are from 2.15 to 6 p.m., a reporting staff of three is well able to deal with the work, aided as they are by an expert staff of typists who operate from direct dictation on to the machine. As the Session proceeds the Standing Orders provide for later sittings, either by extending the period to 7 p.m. or suspending business at 6 p.m., resuming at 8, and sitting until 11 p.m. As far as the House records show, there has never been an all night sitting, although during the debates on the Acquisition of the Mineral Rights some 15 years ago the House continued until well after midnight.

The House consists of 30 Members. Its proceedings have been invariably marked with a sense of good order and dignity. The duty of *Hansard* is to make "a full report—one which, though not strictly verbatim, is substantially a verbatim report, with repetitions and redundancies omitted and obvious mistakes corrected, but which on the other hand leaves out nothing that adds to the meaning of the speech or illustrates the argument".

Printed copies of the Debates are issued daily to the public at a cost of about 15s. a session, which is normally of some three months' duration. There has been so far no great demand for *Hansard*. The demand will doubtless increase when the Hansard Society's activities extend to the colony.

During the last two years the reporting work has been shared by a lady stenographer who gave up a pensionable post to do so and has shown herself remarkably dexterous in turning out a report which "leaves out nothing that adds to the meaning of the speech or illustrates the argument".

The Colony hopes to have a new Parliament House before long. The present Debating Chamber was at one time the dining room of an hotel. In the door at the back can still be seen the cut-away hole through which the hotel cat would proceed on nightly prowl.

Yet in this modest building, newly stuccoed without and girdered within, is something which links it closely with Home. In the vestibule, enshrined in its little niche in the inner wall, well lighted from the rear, is displayed a panel of fragments of the stained glass blasted during the blitz from the windows of the House of Commons.

The *Hansard* reporting staff, duly gowned, are provided with seats in front of the Clerks and just behind the Table. It is only when too many Blue Books are Tabled, or the Chairman of Committees has a bad cough, that everything cannot be clearly heard. But as the public at the rear of the Chamber have many of the Members' backs facing them, they are unable to hear all that is addressed to Mr. Speaker. *Hansard* office, too, is in a separate building and in time of tropical rain the staff, going to and fro in turns, are apt to become a little bedraggled and their notes a little blurred.

It is reliably recorded that some quarter of a century back, in the time of the Chartered Company, the Legislative Council of those days was accustomed to sit for a strictly limited number of hours during the afternoons and, when an Unopposed Motion was brought up to extend the sitting hours on one occasion, *Hansard*, who had a "date", did not wait for the outcome but folded up his book and disappeared from view.

The Legislative Council, on this silent but effective objection, thereupon adjourned.

A. E. LAMB,

*Contractor for the reporting of Parliamentary Debates.*



*Photo: A. E. Lamb*

Southern Rhodesian Parliament



*Photo: A. E. Lamb*

Interior S. R. Parliament



*Photo: A. E. Lamb*

Official Opening 1948



The Parliament Building, Ottawa  
*Courtesy: National Film Board of Canada*

## LEGISLATIVE BUILDINGS OF THE WORLD—III

### CANADA'S PARLIAMENT BUILDING

THE choice of Ottawa as the capital city of Canada followed one of the most heated controversies in Canadian history—though one long since dead. When Canada was ceded to Great Britain in 1763, Quebec was the capital. In 1791 the territory was divided into Upper and Lower Canada, but the two parts were re-united in 1841 and the first Legislature was summoned to meet in a hospital at Kingston which had been designated by the Governor General, Lord Sydenham, as the capital of the Province of Canada. In 1844 the Colonial Secretary informed the Governor General that Her Majesty had approved the choice of Montreal as the capital of Canada, and from 1844-49 Parliament met in that city. After the riots and fire which destroyed the Montreal Parliament Building in 1849, the Legislature met in Toronto, from 1851-55 in Quebec, and from 1855-59 in Toronto again.

By now the question of the capital city had become highly involved. Kingston claimed the privilege of providing the capital on the grounds that it had been the home of the first Legislature of the re-united Canada. Montreal was in a better situation and pointed out that it was Her Majesty's choice in 1844. Toronto emphasized that the population of Upper Canada was greater than that of Lower Canada and that therefore Toronto would be more suitable. Quebec based its claim on its long history as the capital under both France and Britain. Hamilton, Ottawa, and other growing cities felt that their claims should be considered.

Eventually, it was decided to ask Queen Victoria to exercise her royal prerogative and make the choice, and in 1858 it was learned that Her Majesty had selected Ottawa as the seat of government. This decision the Legislature was most reluctant to accept. The Prime Minister wished to support the



Queen's choice, but he could not depend on his colleagues, and the Chief Commissioner of Public Works showed his disapproval by resigning.

The matter came to a head early in 1859 when the Speech from the Throne asked the Legislature to "recognize a selection made by Her Majesty at your own request". After lengthy discussion, the Address was carried by a narrow majority and Ottawa was chosen as Canada's capital—a choice which has worked out to general satisfaction.

The construction of the Parliament Building began almost at once, and in the meantime the Legislature returned to Quebec. In 1866 the Legislature of the Province of Canada met for the first time in the new Parliament Building of Ottawa.

The years during which the Parliament Building was being built were of historic importance for Canada. Following the publication of the *Durham Report* in 1838, the subject of Confederation had been in the minds of Canadian statesmen, and eventually, in 1864, the Fathers of Confederation met in Quebec. By *The British North America Act*, 1867, which gave legislative effect to the proposals for Confederation, the Dominion of Canada came into existence, with Ottawa as the seat of government. In November, 1867, the first Parliament of the Dominion met in the new Parliament Building in Ottawa which, less than a year before, had been first used as the home of the Provincial Legislature.

In 1916, the Parliament Building was destroyed by fire, the origin of which remains a mystery to this day. A Royal Commission investigated the cause of the disaster and, in their first report, indicated that there was evidence of incendiarism. They promised to give further information in a later report, but no such document was ever published. The Library escaped destruction, but otherwise the building was badly damaged. A Member of Parliament, the Clerk Assistant of the House of Commons, two members of the House staff, and three other persons lost their lives. The Speaker's Chair and the Mace were rescued from the blazing building, and the contents of the Library, though suffering damage by water, were not destroyed.

The House of Commons found a temporary home in the Public Hall of the Victoria National Memorial Museum, and the new Parliament Building, in Gothic style similar to that of the building destroyed by fire, was ready for use early in 1920. It stands on a bluff, popularly known as "Parliament Hill", high above the Ottawa River. Visiting strollers and stenographers taking lunch on the benches along the riverside, look far down on a busy scene of rafts of pulp-logs being brought into the paper mills on the Quebec side. This panorama is to be greatly altered when the new Federal District plan clears industry away from the opposite side of the river and develops new boulevards and residential areas there.

The main building is about half the length of the Palace of Westminster, being 470 feet long and 245 feet wide. Dominated as it is by the 300-foot Peace Tower, it scarcely gives the impression of being a six-storey building.

The main entrance leads into Confederation Hall, underneath the Peace Tower. It is a handsome chamber, in the centre of which is a great stone column. Immediately above Confederation Hall is the Memorial Chamber, erected in honour of the heroism and sacrifices of Canadian men and women during the First World War. The Peace Tower is in many ways reminiscent of the Clock Tower at Westminster and the London-made clock and bells play the Westminster chimes.

The House of Commons Chamber, at the west end, is an oblong almost exactly the same length as the Commons Chamber at Westminster, but a few feet wider.<sup>1</sup> With a membership of less than half of Westminster's it is therefore much less crowded, and is provided with individual desks and armchairs for the M.P.s as in the United States Congress. Every Member has an aisle seat which encourages a good deal of moving about.

The acoustics of the Chamber are extremely bad so that it is impossible to hear many Members, a failing which has been over-corrected, it would seem, in the Parliamentary Restaurant, where confidential whisperings will travel surprisingly far.

<sup>1</sup> The Canadian Chamber is 72 feet long and 54 feet wide: that at Westminster is 68 feet long and 45½ feet wide.

The Commons Chamber otherwise resembles its London counterpart, with the Speaker's Chair at one end, the Bar facing the Chair, the narrow gangway, the galleries for the Diplomatic Corps, Senators, the public and the Press, with the Government supporters sitting on the Speaker's right and the Opposition on his left.

The Senate Chamber at the east end, known from its bright leather upholstery as the "Red Chamber", is similar in design to the Commons Chamber but is much smaller and has no side galleries. Members sit at desks on each side of the Speaker. It is a magnificent oak-panelled room, ornamented with stone and wood carvings, and is used for many official functions.

The beautiful Library of Parliament, which survived the fire of 1916, lies at the rear of the main Parliament Building. It was designed by Thomas Fuller, the Chief Dominion Architect of the day, and is octagonal in shape, in many ways reminiscent of the Reading Room of the British Museum. In the centre is a large marble statue of Queen Victoria. The Library contains over half a million volumes, many of them dealing with parliamentary affairs.

There are no private residences in the Parliament Building as there are at the Palace of Westminster but, in addition to the rooms already described, there are a large number of rooms for the use of members and officials. The Speaker of the House of Commons has a suite on the north corridor consisting of a beautiful study and library, a lounge, an office for his private secretary, and a waiting room. There is similar accommodation for the Speaker of the Senate.

The Prime Minister has an office on the fourth floor at the south-west corner, and the Leader of the Opposition has a room immediately below the Prime Minister's. The Prime Minister, as Leader of the House, has another office near the Commons Chamber and is also able to use an office at the Privy Council building.

There are a number of committee rooms and two caucus rooms where party meetings are held. "Room Sixteen", as it is called, is a comfortable waiting room for visitors and is a

great improvement on the draughty and rather cheerless Central Lobby at Westminster. There is a large Reading Room for the Commons, a smaller Reading Room for the Senate, a Parliamentary Restaurant, and a number of smaller dining rooms. As in the United States, members of both Houses are provided with office accommodation, in most cases with two Members to a room. The Press quarters, convenient to the Commons Chamber, have overflowed into an adjoining corridor.

Canada, in its democratic institutions as in so much else, is a bridge between Britain and the United States. The visitor from Britain will find that the atmosphere and activities of the Parliament Building of Ottawa are reminiscent of the Palace of Westminster, yet there are unmistakable signs of the influence of the vigorous Republic to the south.

By foresight or intuition a tenth shield was left blank above the doorway of the new Parliament Building, and this will now nicely accommodate the arms of the new province of Newfoundland.

S. D. B.

## PARLIAMENT AND THE CONVOCATIONS OF THE CHURCH

by G. W. O. ADDLESHAW, M.A., B.D.(Oxon.)

*(Canon Addleshaw is Canon-Residentiary and Treasurer of York Minster. He was Vice-Principal and Fellow of St. Chad's College, Durham, 1939-46.)*

IT may come as a surprise to many readers of this journal to know that there are in England two legislative bodies, which have not been created by Parliament and whose laws when they have received the royal assent are part of the public law of the country. These bodies are the Convocations of the clergy of the provinces of Canterbury and York, meeting regularly at London and York under the presidency of their respective archbishops. Although the Convocations took on their present shape in the thirteenth and fourteenth centuries, the same period which saw the rise of modern parliamentary institutions in this country, they have an ancestry as distinguished as that of Parliament and certainly older. For instance, on one side the Convocation of York can be regarded as the descendant of the Witan of the Northumbrian Kings; the lay members have migrated to Westminster, but the clerical members still meet at York to take counsel for the spiritual welfare of the North of England. On the other side its ancestry goes back to those councils of bishops, which were a recognized feature of church life long before our heathen ancestors were converted by the missionaries from Rome and Iona.

The Christian Church like any other society needs legislative organs; and since the Constantinian era one of the chief legislative organs of the Church has been councils of bishops, drawn sometimes from the whole Church like the Councils of Nicaea (325) or Chalcedon (451), or sometimes from a particular region or locality. The legislation of these councils took the form of rules, usually rather succinctly drafted, called

canons, dealing with the particular needs of the Church in the area from which the members of the council came. The canons put out by these councils varied in number; they are not usually logically arranged, nor, except occasionally in Africa or Spain, was there any attempt to put out canons forming anything approaching a comprehensive code. Such councils, or synods as they are often called, were common in England in the seventh and eighth centuries; but in the later Anglo-Saxon period both temporal and ecclesiastical affairs were dealt with in the Witan, in which of course the bishops had a seat. The thorough reorganization of the law and administration of the Church, which was initiated by the papacy in the twelfth and thirteenth centuries, was largely carried through by a renewed use of councils or synods of bishops, in the twelfth century on a national, and in the thirteenth century on a provincial basis. Their legislation, which was an application of the papal reforms to local needs, was put out in the form of constitutions, in shape exactly like the old canons. In strict ecclesiastical theory councils should be composed only of bishops; but the national church councils of the twelfth century contained in addition to the bishops, heads of religious houses and archdeacons.

Side by side with the purely church councils there grew up in the thirteenth century another form of ecclesiastical assembly, consisting not only of bishops, abbots, priors and archdeacons, but also of representatives or proctors, as they are called in technical language, of the parochial clergy. These assemblies were summoned for a civil purpose, that of voting subsidies to the Crown from clerical property. At one time Edward I wished the clergy to form a third estate in Parliament along with the Lords and Commons; but they preferred to meet and vote taxes in their own assemblies. By the middle of the fourteenth century the two types of ecclesiastical assembly are found to have coalesced, producing the Convocations of Canterbury and York as they exist today. The Convocations, each with two houses, one of the archbishop and diocesan bishops, the other of heads of religious houses, deans, archdeacons and proctors of the parochial clergy, had thus a

two-fold nature. As a civil assembly of the clergy of the province, they voted subsidies to the Crown out of clerical property; as a council or synod of the province, they dealt with ecclesiastical affairs.

In the later Middle Ages and down to the year 1665, the main reason for the meeting of the Convocations was the voting of taxes; though they achieved in addition a certain amount of useful legislation, notably the canons of 1603. These canons are one of the chief sources of the ecclesiastical law and are at present being revised by the Convocations on the basis of the proposals in the *Canon Law Report* of 1947. Definite statutory limits were placed on the legislative powers of the Convocations by the Act for the Submission of the Clergy (1534), the details of which will be explained later on in this article. In 1665 a private arrangement was made between Archbishop Sheldon and the Lord Chancellor, Clarendon, by which the clergy ceased to tax themselves in the Convocations and were henceforth to be taxed along with the other estates of the realm in Parliament. The chief reason for the meeting of the Convocations came to an end. They were regularly summoned when Parliament met, but were prorogued before doing any business. This continued down to the middle of the last century, with the exception of the years 1700-17, when the Convocations met and transacted business, and the Canterbury Convocation played a considerable part in Church affairs. These years were marked by an acrimonious controversy between the two houses of the Canterbury Convocation on their respective rights, which resulted in a by no means inconsiderable or unimportant body of pamphlet literature. The protagonists of the Upper House, Wake, the future Archbishop of Canterbury, and Gibson, the future Bishop of London, belonged to the group of clergy who in this period laid the foundations of scientific historical study, and their pamphlets are still the best literature available on the constitution of the Convocations. The champion of the Lower House, Atterbury, the future Bishop of Rochester, was no match for his opponents as a historian, but his pamphlets are worthy of the age, in which it seemed almost impossible for a

clergyman to produce a badly-turned sentence. His style is almost as good as Swift's, and his epigrams would not have been disdained by Mrs. Millamant herself, supposing that good lady had chosen ecclesiastical politics as a theme for her conversational powers.

In 1717 the attacks of the Lower House of the Convocation of Canterbury on the latitudinarian Bishop of Bangor, Hoadly, which were thought to be a Tory plot to embarrass the Government, led to the Convocations being continuously prorogued without being allowed to transact business till the middle of the nineteenth century. The Canterbury Convocation again began to function in 1854, and the York Convocation in 1861. Since then the Convocations have been the bodies in which the domestic concerns of the Church of England have been dealt with, though in this connection we must remember that since 1919 there has also been in existence the Church Assembly. This is a body set up by Parliament at the request of the Church; in it are represented not only the bishops and diocesan clergy, but also the laity; and it too deals with the domestic concerns of the Church, chiefly its finance, administration and external organization. Convocations deal with doctrinal and spiritual issues, voice the opinion of the clergy, and ventilate their grievances. The legislation of the Convocations, within the limits set by the Henrician Act, has taken the form of amendments or additions to the canons of 1603. The last piece of such legislation was in 1946, when the canon containing the Table of Kindred and Affinity was amended, and at the time of writing this article a canon setting up a new court, dealing with clergy discipline, awaits the royal assent.

Blackstone, in an often-quoted passage in the *Commentaries* (I, c. 7), describes Convocation as:

“the miniature of a parliament, wherein the archbishop presides with regal state; the upper house of bishops representing the house of lords; and the lower house, composed of representatives of the several dioceses at large, and of each particular chapter therein, resembles the house of commons with its knights of the shire and burgesses.”



At first sight nothing would seem more apt than Blackstone's assumption that the Convocations are a clerical counterpart of Parliament. Convocation is summoned and dissolved, and that in pursuance of a royal writ addressed to the archbishop, at the same time as Parliament; elections to the Lower Houses of the Convocations and the House of Commons take place at the same time, and the clergy who are standing for election canvass their constituencies. The houses of the Convocations meet separately; each has its chairman, the Upper House the archbishop, the Lower House the prolocutor, as he is called, and the consent of each house is necessary before a canon can become law. Each Convocation has its *Hansard*, the *Journal of Convocation*. In actual fact, however, Blackstone was wrong; the inner workings of the Convocations and Parliament are quite different.

The theory underlying the Constitution of the Convocations is one which has been deduced from the pages of the New Testament, namely that only those have power to rule the Church in Christ's name who have been sent by Him, that is the apostles and then the bishops; and the bishops exercise their governmental powers by meeting together as a body in a council or synod, and there in the name of Christ making laws for the parts of the Church over which they happen to preside. Owing to the peculiar circumstances of English history, the priesthood have by right through their elected representatives a place in the synods of the Church, but it is not an equal right. The Lower Houses in the Convocations do not exercise anything approaching the same powers as the House of Commons in Parliament, nor is the prolocutor a kind of clerical speaker.

The president of both houses in a Convocation is the archbishop. At the command of the King, but in his own name, he summons primarily the diocesan bishops of his province to take counsel with him for the welfare of the Church in the province, and also representatives of the clergy to assist the bishops in their work. The Convocation is one body meeting in two houses, and the archbishop is president equally of the Upper and the Lower House, and though the Lower

House meets separately, it must act in dependence on the bishops. This means four things:

1. The archbishop alone can compel the attendance of members of the Lower House.
2. The prolocutor is not so much president of the Lower House, as the connecting link between the two houses when they meet separately. In his own person he conveys the wishes of the Upper to the Lower House, and states the views of the Lower House on any matter under discussion to the bishops. He is elected by the Lower House; but the election has to be approved by the bishops.
3. The Upper House has the power of directing the Lower House to consider such business as it thinks fit; nor has the Lower House any power to refuse consideration of any business thus sent down to it.
4. The two Houses can, and in the Convocation of York they frequently do, meet together for the transaction of business. In this case the archbishop presides over both houses as one body, though voting is by houses.

On the other hand the Lower House possesses two important privileges. No act or canon is deemed to have the assent of Convocation unless it has been passed in the Lower as well as in the Upper House; and the Lower House can meet, debate and transact business as a separate house apart from the bishops.

At the present time the Convocations meet two or three times a year for two days at a time. The session begins by both houses meeting together for an address by the president; then the Canterbury Convocation transacts its business as two houses; the York Convocation, a smaller body, often meets as one house. The houses meet in committee when they so desire. The decisions of the Convocations may take the form of a resolution expressing the mind of the clergy on some question of public import; or an act, providing authoritative regulations on some department of Church life, or a canon, which, when it has received the royal assent, becomes part of the ecclesiastical law and as such enforceable in the Church courts.

Convocation may be a body which does not owe its origin to Parliament, but its legislative powers have been severely

limited by Parliament, so that a divergence between a canon and a statute is impossible. Under the terms of the Act for the Submission of the Clergy, no constitution or canon of Convocation can become law, unless the Convocation has first obtained the royal licence to make the canon, and the canon itself contains nothing contrary to the royal prerogative or to common, statute or customary law, and, when passed, has received the royal assent. The legislative powers of Convocation have been subsequently still further limited by the rule laid down by the judges of the common law courts, that no canon of Convocation binds the laity unless it is declaratory of the old canon law. This in effect makes the clergy only subject to the modern legislation of Convocation. When the revision of the canons of 1603, at present being undertaken by the Convocations, is completed, many of the canons, because they are intended to bind the laity, will have to receive the additional sanction of an Act of Parliament or a Church Assembly measure. It should also be borne in mind that an archbishop can neither summon nor dissolve his Convocation except in pursuance of a royal writ ordering him to do so.

In the past some churchmen have claimed that all legislation affecting the Church should be done through Convocation; in other words that the King in ecclesiastical matters should govern through the Convocations, as in temporal affairs he governs through Parliament. But since the Reformation large parts of Church life have consistently been dealt with by Acts of Parliament, notably matters of property and organization. Although most of these things are now dealt with in the Church Assembly, they are still under the ultimate control of Parliament; for the Church Assembly is a body set up by Parliament and its Measures are statutory enactments. The subjects which are properly dealt with by a canon of Convocation are such things as the Church's standards of faith, the conduct of divine worship, the furniture of churches, and the duties of the clergy and other church officials.

The Convocations may be purely clerical bodies; but apart from their importance and usefulness in the life of the Church, they have a contribution to make in the government of the

country. The clergy are one of the few remaining professions who still possess a certain amount of freedom and independence in the carrying out of their work, and that work brings them in contact with all classes of people and at times when people show themselves as they really are. Their opinion therefore on any subject of national importance is worth the consideration of our rulers and the Convocations are the means by which their opinions can be made known in an authoritative form. The Convocations themselves are a descendent of those councils of bishops, who particularly in Gaul and Spain on the break up of the Roman Empire passed on to future ages that respect and reverence for every human person which belief in the truth of the Incarnation had taught them. It may be that the Convocations will perform a similar service for the new world which is so rapidly being formed around us.

\* \* \* \* \*

### **WANTED: A FRENCH SCHOLAR**

This journal has two important manuscripts in French which we desire to publish. Will any member willing to undertake the service of translating these on a voluntary basis please communicate with the Assistant Editor.

## THE BUNGA

by E. W. PEARCE

*Mr. Pearce is Administrative Officer and Accountant of the  
United Transkeian Territories General Council.*

THE United Transkeian Territories General Council, commonly known as the "Bunga" and frequently referred to as the Native Parliament of the Transkei,<sup>1</sup> grew out of the Fingoland District Fund, an organization created under the guidance of Capt. M. S. Blyth, C.M.G., the first Chief Magistrate of the Transkei (1878 to 1890). By means of this Fund, the natives of Fingoland between the years 1882 and 1893 voluntarily taxed themselves to provide money for the construction and maintenance of roads and for the provision of educational facilities for their children.

In the year 1894, Cecil Rhodes toured the Transkeian Territories and one result of his visit was a decision to establish the Transkeian General Council and its subsidiary district councils under a formal constitution. The aim of the Government was to assist the natives "to advance in knowledge and prosperity" and the objects were stated to be *inter alia*: "That they (the natives) should have a reasonable voice in the management of the internal affairs of the country" and "that they should be provided with the means of carrying out the local works and other useful services which are deemed necessary and desirable".

During the year 1911, a similar but independent system was inaugurated in the three districts of Western Pondoland. As from 1st January, 1931, the Transkeian Territories and the Pondoland General Councils amalgamated into one body, the present United Transkeian Territories General Council, the area of jurisdiction of which now embraces 26 magisterial districts having a native population of over a million and a quarter living under communal conditions in an area of 15,452 square miles.

<sup>1</sup> The Transkei is a district in Cape Province, South Africa.

Each district council normally meets six times a year and consists of the Magistrate who is Chairman and six or seven native members. The General Council meets annually for about a fortnight at Umtata with the Chief Magistrate of the Transkeian Territories as Chairman. The native members number 82 (45 appointed by the district councils, 26 by the Governor-General, and 7 by the paramount chiefs who are themselves members *ex officio*). The magistrates of the 26 districts are also members of the General Council but these, while taking part in the discussion, do not vote.

Debates cover a wide range of subjects, embracing every aspect of native administration, social and economic services and general development, as well, of course, as the administration of its own domestic affairs.

The district and general councils are constituted as advisories to the administration, associating the people with the control of local funds, giving them a voice in the disposal of affairs intimately affecting their own interests, training them to constitutional methods of expressing their wishes in regard to general and local policy, and also keeping the Government and officers immediately in charge of the administration of the Transkeian Territories in touch with native feeling.

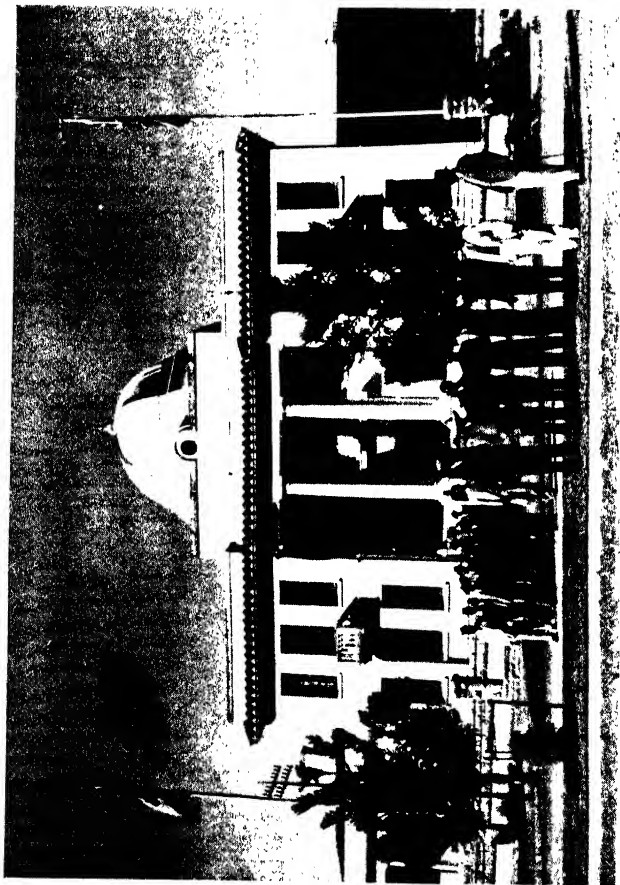
The clearest picture of the relation in which district councils stand to the General Council in local administration can be obtained by regarding the former as individual parts of a single body. They are the local executive organs of the General Council which distributes amongst them such duties as road maintenance, dipping operations, the supervision of location commonages, etc., whilst remaining financially responsible for their actions. They have no separate income or expenditure, but there is one common treasury to which all revenues flow and which is chargeable with the cost of the different services authorized. This arrangement, while sufficiently fluid to allow play to the individuality of the various members and keep their interests active, gives a financial stability to the organization as a whole which it would otherwise lack, promotes economy, and ensures the necessary financial control over administrative action. The

amalgamation of resources renders possible the undertaking of projects which would be beyond the means of any single district organization.

The Chief Magistrate of the Transkeian Territories is Chief Executive Officer of the General Council. He presides over bi-monthly meetings of the executive committee consisting of three magistrates appointed by him and four native councillors nominated by the General Council to hold office for a triennial period.

The Council had reached the peak of its development at the time of the outbreak of the Second Great War: it was unfortunate that some of its activities had necessarily to be curtailed owing to war-time and post-war conditions, the effects of which are still being felt. Since the cessation of hostilities a re-orientation of Council activities has taken place and some services for which the Council has hitherto been responsible, such as the development of water supplies, anti-erosion work, and the subsidizing of the purchase by natives of well-bred male stock, have been transferred to the South African Native Trust.

In practice, matters are dealt with under the Council system on the following lines: In a court-house in some district magistracy, a district council holds its bi-monthly meeting under the chairmanship of the Magistrate who is also Native Commissioner. A proposal is brought forward to have a bridge made over some stream which impedes traffic in the rainy season. The question being raised, other councillors press the need for bridges in their own neighbourhoods and after some discussion, the district council (usually with the guidance of the Native Commissioner) decides upon the most urgently needed bridge or bridges. The Chairman then communicates with Council headquarters at Umtata with a view to obtaining the services of a member of its engineering branch to survey the proposal and furnish an estimate of cost. When the district council is called upon to submit its estimates of revenue and expenditure for the ensuing financial year, the cost of the construction projects already approved by it is included. Upon receipt at Council headquarters of the estimates



The General Council Buildings of the "Bunga", at Umtata, with members of the Council





A view of the "Bunga" at Umtata where local government matters are being discussed

submitted by the various district councils, these are collated and the respective merits of the bridge construction proposals submitted by district councils are considered upon a basis of relative urgency and with regard to the financial resources available. The costs of the most urgently needed projects are included in the estimates recommended to the General Council for approval. Councillors have the opportunity, when the estimates are before the House, to debate the respective merits of their claims, subject, however, to the wise rule that no addition to the estimates may be moved without moving a corresponding deduction, so that the balance between revenue and expenditure will not be disturbed. The construction of a bridge, being a major work, will be carried out by the General Council under the supervision of the engineer and his staff. Minor works are carried out by the district councils with, if necessary, the advice of an engineering officer.

## THE QUEEN OF TONGA AND OUR JOURNAL

In the first issue of *Parliamentary Affairs* published a year ago we printed an article by Sir Harry Luke on the Legislatures of the British Pacific Islands. Included in the article was a survey of the Constitution of Tonga which, though not British territory, is an independent monarchy under British protection. The following message from the Queen of Tonga will interest our readers:

“I have read with much interest Sir Harry Luke’s article on Legislatures of the British Pacific Islands, published in the first issue of *Parliamentary Affairs*, the Journal of the Hansard Society.

“I appreciate very much the references to Tonga, particularly the references to Tonga’s Parliament in which we take much pride.

“I wish the new Journal of the Hansard Society a very successful career.”

We print on the next page a facsimile of the covering letter to Sir Harry Luke.



R.L.No. 52/48.

The Palace,  
Nuku'alofa,  
29th Apr. 1948.

Sir,

I have read with much interest Sir Harry Luke's article on " Legislatures Of the British Pacific Islands", published in the first issue of " Parliamentary Affairs " which you were kind enough to send me.

I should be most grateful if you would be good enough to convey to Sir Harry Luke on my behalf the enclosed message of appreciation.

I am, Sir,

Your True Friend,

*S. Dupou*

C. W. T. Johnson, Esq.,  
H.B.M's Agent and Consul,  
The Residency.

## THE AMERICAN GOVERNMENT—II

*The Hansard Society, as members know, is not only concerned with the Parliament at Westminster but with all democratic legislative assemblies at or above the State or Provincial level throughout the world. It is, therefore, right that the Society's journal should include articles on the institution of parliament as it has taken form outside Britain. We continue in this issue the series of extracts from the pamphlet Our American Government which was reviewed in Issue 3, Volume 1, and from which we printed extracts in Issue 4, Volume 1. These extracts, by the method of question and answer, seek to tell the story of the history and functions of the American Government. This is a subject of vital importance at the present time and we commend the questions and answers which follow to our members and to other readers of Parliamentary Affairs.*

*Question:* What technically constitutes the Capital of the United States?

*Answer:* The District of Columbia, comprising territory granted to the Federal Government under the terms of the Constitution, article I, section 8, is the permanent seat of Government of the United States.

*Question:* Why is the building in which Congress meets spelled "Capitol" while the Federal District is the "Capital"?

*Answer:* "Capital" is from a Latin adjective *capitalis*, derived from *caput*, meaning head. From this primary meaning it came to denote chief, or principal; and hence, the principal town, i.e., the town which is the official seat of government of a country, State, etc.

"Capitol" meant originally the temple of Jupiter, on the Mons Capitolinus in Rome. The derivation was from the same word *caput*. This Roman capitol was the centre of the official religion of the State and in it the senate and other legislative bodies held their meetings.

The two words are thus fundamentally the same, but the term "capitol" goes directly back to a specific edifice which

served the Roman State as our Capitol serves the United States, as a meeting place for the legislature.

*Question:* Was the Capitol building<sup>1</sup> designed and built as a unit in its present form?

*Answer:* No. The original building was constructed on plans drawn by Dr. William Thornton, and with interruptions was completed in 1827. The present Senate and House wings were built after designs by Thomas U. Walter (between 1851 and 1859) and necessitated a new dome, which was completed in 1865.

*Question:* What change in exterior construction of the Capitol has been seriously proposed in late years?

*Answer:* Before the present dome was even completed, Mr. Thomas U. Walter, then Architect of the Capitol, drew plans for an extension of the central east front of the building, which he considered an "architectural necessity". In 1904 a joint commission recommended extension of the east front, and from the Sixty-fifth to Seventy-fifth Congresses, bills for such construction (with variations) were almost constantly before Congress. The reason, architecturally, according to the Commission's report, is that at present "on the east front, the dome does not appear to be supported; in fact it overhangs the walls of the building and seems to rest partly upon the portico".

*Question:* Why does the United States flag fly over the Capitol in Washington at night?

*Answer:* During the World War the custom originated because it was felt for patriotic reasons that there should be one building in the United States over which the flag should never cease to fly. The Capitol was selected, since it was outside military regulations, which demand the furling of the flag at sunset.

*Question:* Why was the White House placed a mile and a half from the Capitol?

*Answer:* L'Enfant, who laid out the city under authority of a board of Commissioners and the direction of President Washington, selected for the Capitol and the President's

<sup>1</sup> See article on the U.S. Capitol in *Parliamentary Affairs*, Volume 1, Issue 2.

residence two commanding sites in the city. The fact that the locations were a mile and a half apart was welcomed by L'Enfant as conducing to ceremonial intercourse, and by the practical Washington as mitigating the importunities of the legislature, a waste of time he suffered in New York and Philadelphia.

*Question:* Has the mansion where the President lives, at 1,600 Pennsylvania Avenue, an official designation? And when and why was it so named?

*Answer:* L'Enfant's original plans called for a "President's Palace"; and while the resulting building was popularly known as the White House from a very early date, it was variously referred to in official records as President's House or Executive Mansion until the present century. On 31st October, 1901, President Theodore Roosevelt issued an Executive order, dated the White House, and the next year an act of Congress of 28th April used the same designation. So while the "White House" has never been definitely so named by Congress, the designation is officially recognized.

*Question:* Who was the architect of the White House?

*Answer:* James Hoban (a native of Ireland, who had resided for some time in Charleston, S. C.) in 1792 won a prize of \$500 offered for the best design for the President's house. Construction began in 1792, but President Adams in 1800 was the first to occupy the mansion.

*Question:* What is the difference between the White House and the Executive Offices?

*Answer:* A building to accommodate "the offices of the President" was authorized in 1902 because of congestion of the White House with the increasing amount of executive business. It was built at the west side of the White House grounds, connected with the main building by the west gallery. As reconstructed in 1934 it is a three-story building approximately 100 by 140 feet, including a Cabinet room, press room, and offices for the Presidential secretaries, secret service, and clerks, as well as telegraph rooms, telephone switchboard, etc.

*Question:* How can it be determined whether or not the President is at the White House?

*Answer:* The flag flown over the White House is taken down if the President leaves the mansion to be gone overnight.

*Question:* Has the District of Columbia always been its present size, geographically?

*Answer:* No. The District originally comprised territory ten miles square ceded by Maryland and Virginia, and accepted by Congress in 1790. The portion west of the Potomac was retroceded to Virginia in 1846, leaving the District an area of 60.1 square miles exclusive of water area.

*Question:* When did the United States Government move to the District of Columbia, and from where?

*Answer:* The seat of government was moved to the District of Columbia in 1800, from Philadelphia, where Congress had met since 1791. Only the First Congress met in New York. The second session of the Sixth Congress was the first to assemble in Washington.

*Question:* Have the residents of the District of Columbia ever had a vote and an elected government?

*Answer:* From 1871 to 1874 the District had a Territorial form of government—headed by a Governor, appointed by the President. The upper house of the assembly (the council) was also appointed by the President, but the members of the house of delegates were elected, as was a delegate to Congress. Before this, the cities of Georgetown and Washington had been governed by elected mayors and aldermen, but the city charters were repealed by the general act above cited.

*Question:* Who now legislates for the District of Columbia?

*Answer:* Congress exercises over the District of Columbia a dual authority—as the National Legislature, it enacts laws which apply to the District as to all the United States; and under the Constitution, article I section 8, it exercises exclusive legislation over the District of Columbia, and legislates on local matters. Congress, in effect, sits as a State legislature to enact laws for the District of Columbia.

*Question:* Is Inauguration Day a national holiday?

*Answer:* Inauguration Day is by act of Congress a public holiday in the District of Columbia.



*Question:* Does the Government do its own printing?

*Answer:* With minor exceptions, all printing for the United States Government must be done at the Government Printing Office. This is now the largest and best equipped printing plant in the world. Starting in 1861 with the acquisition of a commercial print shop with 46,395 square feet of floor space, the G.P.O. now occupies buildings with about three-and-a-half acres of floor space and valued at more than \$16,000,000.

*Question:* Is the Government Printing Office a retail book store?

*Answer:* The Superintendent of Documents, one of the branches of the G.P.O., is sales agent for Government publications not of a confidential nature. His office also is distribution centre for mailing of Government documents on order of Congress or Government agencies.

*Question:* How are Government documents available to the individual citizen?

*Answer:* Normally by sale through the Office of Superintendent of Documents, in the Government Printing Office. Persons wishing to keep close track of publications may subscribe to the Monthly Catalogue of United States Public Documents (\$1 a year); or if their requirements are specialized, may on application receive free a weekly price list on classified subjects. Sales of documents to the public amounted in 1936 to 10,000,000 copies.

Numerous publications issued by particular departments are available gratis through the issuing office.

*Question:* Are the proceedings in Congress published and preserved?

*Answer:* Each House, under the Constitution, keeps a journal of its proceedings. With the exception of the Journal of the Senate while in executive session, these are published among the documents of each session. The "executive journal" is not published except as the injunction of secrecy is removed by order of the Senate. Thus, in 1910 the Senate ordered it printed for the period up to 9th March, 1901, and the journals to that date are available. Journals of subsequent

years have been printed, but as the injunction of secrecy has not been removed, they are not available to the public.

The journals do not, of course, report debates, but the bare parliamentary proceedings. For a record of the debates there has been a succession of reports, overlapping in part, as follows: Annals of Congress, 1789-1824; Register of Debates, 1824-1837; Congressional Globe, 1833-1873; and finally and currently, the Congressional Record, 1873 to date.

The Congressional Record contains an official shorthand record of everything said on the floor by Senators and Representatives, as well as roll calls on all questions and, in an appendix, material not spoken on the floor but inserted by permission of either House—the so-called extension of remarks.

The Record is printed at the Government Printing Office. Bi-monthly the daily records are bound in paper covers, with an index; and for permanent preservation a bound edition is published for each session, in volumes of convenient size.

*Question:* How does the Congressional Record differ from the ordinary newspaper or magazine?

*Answer:* Perhaps the most noticeable difference is the almost complete absence of pictures and advertising. At rare intervals, charts have been carried (in black and white); but the only advertising is brief statements of the subscription rates and notices of other public documents. Also, the Record is printed twice. It comes out daily as a current record of congressional activity and at the close of the session is reprinted, with corrections authorized in the meantime.

*Question:* How may the Congressional Record be obtained?

*Answer:* Each Congressman and Senator receives a copy of the Record each morning following a meeting of the House or Senate. Each Member of Congress has a limited number of daily Congressional Records, which may be distributed free; they are usually sent to libraries, schools, or other places where they will be accessible to the public. Anybody may subscribe for the Record by writing to the Congressional Record Clerk at Washington, D. C. The subscription rate is \$1.50 per month.

*Question:* Is there anything unique about the daily Congressional Record?

*Answer:* Yes. It is the only publication in the United States that is not censored by some person. The language of each Member in the House and Senate is his own and no person has the authority to change it. In that way, the views of people from every section of our Nation are constantly printed in this publication. It covers practically every subject involving public affairs that is discussed. Every library, lodge, club, or other place where books and publications are retained for use of Members should have the daily Congressional Record. It may be obtained by anyone for \$1.50 per month post paid while Congress is in session. An index is printed every two weeks, and furnished to each person who receives the daily Record.

*Question:* What are the usual contents of the daily Congressional Record?

*Answer:* The Congressional Record carries a verbatim copy of the proceedings in both House and Senate (except proceedings in "executive session"). It includes notices of all bills, resolutions, and memorials introduced or filed by Members; shows all roll-call votes, and much other information not elsewhere available.

*Question:* Is there a national library in the United States?

*Answer:* The Library of Congress on Capitol Hill, Washington, D. C., has through the years become in fact a national library, serving primarily the Members of Congress, and then the Government establishment and the public at large.

*Question:* When was it established?

*Answer:* In 1800, with an appropriation of \$5,000 for purchase of books, and for fitting up a room in the Capitol to house them.

*Question:* How many volumes does the Library of Congress now contain?

*Answer:* As of 30th June, 1944, the Library collections included 7,304,181 books and pamphlets, exclusive of 1,537,168 maps, 1,664,730 volumes and pieces of music, 572,461 prints, and an estimated 7,790,616 manuscripts.

*Question:* Does the Library of Congress contain a copy of every book printed in the United States?

*Answer:* No. The Library has never purported to be a depository for all books printed in the United States. It was started as a small working collection for the use of the national legislators and increased gradually, by purchase and donations. Under the copyright law two copies of all copyrighted publications are required to be deposited with the Register of Copyrights; ordinarily these copyright deposits become a permanent part of the Library collection, but some publications are not regarded as worth preserving in this way. And there are, of course, many books published every year which are never copyrighted, and which are not of sufficient value to warrant their purchase by the Library.

*Question:* How long has the Library of Congress occupied a building of its own?

*Answer:* Since 1897. Prior to that time, the Library was housed in the Capitol, until the congestion became so great that something had to be done. By that time the collections were nearing the million mark. With the continued expansion of these collections, further space became necessary, and an annex was erected in 1939 with accommodations for about 12,000,000 volumes.

*Question:* Has the Library ever been struck by fire?

*Answer:* Yes, twice; first in 1812, when the Capitol was burned by the British, and again in 1851. In 1812 the Library was only about 3,000 volumes and the losses were replaced in 1815 by purchase of the extensive private collection of ex-President Jefferson (6,760 volumes for \$23,950). The fire in 1851 destroyed all but 20,000 out of a total of 55,000 volumes.

*Question:* Who appoints the Librarian of Congress, and how many Librarians have there been?

*Answer:* The Librarian is appointed by the President with consent of the Senate. In 145 years there have been but ten Librarians, including the present incumbent, Luther H. Evans, appointed by President Truman. Of these, three served over thirty years apiece; John S. Meehan, 1829-61,

Ainsworth R. Spofford, 1864-97, and Herbert Putnam, 1899-1939.

*Question:* What is the "President's flag" and seal?

*Answer:* By custom going back to President Hayes, the President has prescribed and used a coat of arms and a seal, but not until 1916 did he prescribe a presidential flag. The flag then adopted by President Wilson had four stars only, and this fact, among others, led President Roosevelt to consider a new design, when Congress established the rank of five-star admirals and generals. As finally promulgated by President Truman on 25th October, 1945, the new coat of arms (which is the basis of the seal and also appears on the flag) shows the eagle in full colour instead of all white, with the head turned to his own right (as is customary in heraldry) instead of to his left, and has a circle of 48 stars around the edge. The number of stars corresponds to the number of states, without any single star representing a particular State; the number will automatically change, as in the case of the flag of the United States, upon a change in number of States.

*Question:* Who has custody and use of the Great Seal of the United States?

*Answer:* The Secretary of State is custodian. He affixes the seal to all civil commissions of officers of the United States appointed by the President; this is automatic under the law. He also affixes the seal to proclamations, treaties, and ceremonial letters when so directed by warrant of the President. In all such cases the document must be counter-signed by the Secretary of State.

*Question:* What is the origin of the great seal of the United States?

*Answer:* The seal is carried over from the Continental Congress, one of the very earliest acts of the new Congress (15th September, 1789) stating that "the seal heretofore used by the United States in Congress assembled, shall be, and hereby is declared to be, the seal of the United States". The design was adopted by order of the Continental Congress, 20th June, 1782, after the matter had been pending for six years. The seal has been recut three times (in 1841, 1883,

and 1902) but always in strict compliance with the original design.

*Question:* What is the flag?

*Answer:* The general design of the flag was adopted by the Continental Congress on 14th June, 1777:

*Resolved,* That the flag of the United States be 13 stripes alternate red and white, that the union be 13 stars white in a blue field representing a new constellation.

In 1795 Vermont and Kentucky having been admitted as States, Congress enacted that the flag should consist of 15 stripes and the union have 15 stars. As new States kept joining the Union, Congress in 1818 changed the law again, going back to 13 stripes and making permanent provision for the stars in the union to equal the number of States—the star for a new State to be effective on 4th July following admission.

*Question:* What is the “pledge to the flag”, and when did its use become general?

*Answer:* The Youth’s Companion for 8th September, 1892, carried an official programme for celebration of Columbus Day in the public schools. One item was a Salute to the Flag by the pupils, reading as follows: “I pledge allegiance to my flag and the Republic for which it stands; one Nation indivisible, with liberty and justice for all”. This was modified by the second national flag conference in 1924, so that it now reads: “I pledge allegiance to the flag of the United States of America and to the Republic for which it stands; one Nation indivisible, with liberty and justice for all.”

*Question:* What is the approved ceremony for use in schools when pledging allegiance to the flag?

*Answer:* If it is customary to have a flag hanging in the front of the schoolroom, it is left in its regular position for the ceremony. Otherwise a pupil is appointed to hold a flag before the school, a medium-sized flag on a short staff being preferable. At a signal from the teacher, the pupils arise in their places and stand erect with the right hand over the heart. They then bring the open right hand, palm downward, to a line on a level with the forehead, the thumb just touching the right eyebrow. Standing thus they slowly and distinctly

repeat the pledge in concert. At the words "to the flag of the United States of America" each pupil extends the right hand, palm up, toward the flag, the hand remaining in that position until the words "justice for all", and the hand drops to the side; the pledge is completed when it is dropped to the side. This ceremony is generally followed by a patriotic song.

*Question:* What are some of the improper uses of the flag?

*Answer:* It is unlawful to use the flag for advertising purposes or to mutilate, defile, or contemptuously treat it, but it is no disrespect to wash or dry clean an American flag. It is also proper to mend the flag when torn, unless it is in such bad condition that it would be a discredit to the owner if displayed.

*Question:* What is the Flag Code?

*Answer:* By act of 22nd December, 1942, Congress enacted "existing rules and customs pertaining to the display and use of the flag", and established these as a code "for the use of such customs . . . as may not be required to conform with regulations promulgated by one or more executive departments". The code is in the form of recommendations, without sanctions.

*Question:* What is the official salute to the flag?

*Answer:* During the ceremony of hoisting or lowering the flag or when the flag is passing in a parade or in review, all persons present should face the flag, stand at attention, and salute. Those present in uniform should render the right-hand salute. When not in uniform, men should remove the head-dress with the right hand and hold it at the left shoulder. In inclement weather the hat may be raised and held above the head.

Men without hats merely stand at attention, without saluting, unless they are soldiers, sailors, or marines, in which case they render the military salute.

Women should salute by placing the right hand over the heart. The salute in a moving column is rendered at the moment the flag passes.

*Question:* Why are flags flown at half-staff?

*Answer:* The flying of the flag at half-staff (from a

stationary staff) universally indicates mourning. It is the practice to run the flag first to the top of the staff and then lower it to the half-way position.

When a Member dies the flag over the Chamber, and on the Senate or House Office Building (as well as the Library of Congress) is flown at half-staff until after the funeral. Upon the death of President Roosevelt flags on all Government buildings were ordered at half-mast for a period of 30 days.

*Question:* What is the flag of the Americas, and how did it originate?

*Answer:* The flag of the Americas was adopted at the Seventh International Conference of American States at Montevideo in 1933. It is white to symbolize peace and bears three purple crosses to signify the three caravels of Columbus. Behind the central cross is a bronze sun of the Incas, commemorating all the native Indian races of the three Americas or the Western Hemisphere.

*Question:* What was the original name of our national anthem? When did it become our national anthem?

*Answer:* The original title was "The Defense of Fort McHenry". It was written in 1814 by Francis Scott Key (1790-1843), a lawyer of Frederick Md., and Washington, who, as a visitor on board a British vessel in Baltimore, had witnessed the British bombardment of Fort McHenry. The words were sung to the air of Anacreon in Heaven, and it at once gained popularity as a national lyric. It was not officially made the national anthem until over 100 years after it was written, upon approval 3rd March, 1931, of an act designating "the composition consisting of the words and music known as the Star-Spangled Banner as the national anthem of the United States of America".

*Question:* What response is necessary when the national anthem is played, on the part of military personnel and civilians?

*Answer:* All those present should stand and face toward the music; civilian men should stand at attention, removing their hats. Men in uniform should salute at the first note of the anthem, retaining this position until the last note is sounded.



## EIRE AND THE COMMONWEALTH

*The relation of Eire to the British Commonwealth of Nations has recently been in the news. This is partly because of the statement made on 1st October by Mr. Costello, Prime Minister of Eire, that he intended to introduce legislation to repeal the External Relations Act, the one remaining formal link between Eire and the Crown; and partly because no representative of Eire attended the conference of Commonwealth Prime Ministers held in London in October.*

*The Hansard Society cannot, of course, express any opinion on the precise relationship which exists to-day between Eire and the British Commonwealth of Nations, but for purposes of historical record, we print the following statements made in Dáil Eireann<sup>1</sup> in July and August, 1948, relating to this important constitutional question.*

**M**R. SEÁN MACBRIDE, **Minister for External Affairs**, made the following statement on the 20th July, 1948, when introducing the estimate for his Department:

“If we are to create a sound framework of our relations with Britain, it must be appreciated that what matters is the substance and not the form of the relationship. Political forms have sense and usefulness only in so far as they express political realities. Outworn forms which are only reminders of a historically unhappy past can only act as irritants. As irritants, they endanger and frustrate the relationship which they are intended to express and preserve.

“The British Crown may well be a traditional rallying point for the people of Britain, Australia, New Zealand or Canada. If I were an Englishman, or an Australian, I probably would feel considerable attachment to the British Crown and would attach value to the traditional forms that go with it. The descendants of the British pioneers that built

<sup>1</sup>Copies of Dáil and Senate Reports may be consulted at the office of the High Commissioner for Eire, 33-37 Regent Street, S.W.1, or can be ordered from the Publications Sales Office, 3-4 College Street, Dublin.

the present Commonwealth under a common Crown may take an understandable pride in their common British origin. They may well choose to express their association by adopting forms that are part and parcel of British constitutional history. We in no way criticize their views. They are quite understandable. But there is no parallel between the history of the Commonwealth countries and the history of our country. We are a small country with a very different history; a history which has been one of continual struggle for survival as a nation. We take pride in our history, in our culture, in our race and in our nation. We resent anything that takes away from that pride of nationhood or race.

“We want to be friendly with our big neighbour, not merely because she is a big neighbour, but because we have many things in common. The Crown and outward forms that belong to British constitutional history are merely reminders of an unhappy past that we want to bury; they have no realities for us and only serve as irritants. I have said all these things frankly as I feel that a clear understanding of this position can only help to bring about more real co-operation. An examination of the history of the last quarter of a century will, I think, show that many of these forms in the past only served to prevent closer understanding.

“We have very close relationships, indeed, with many great countries that are far more distant from us, such as the United States, Canada and Australia. Millions of our people have lived and settled in these countries. No question of forms enter into our relationship with them, yet our relationship is always most friendly and useful.”

Replying to the debate on the 21st July, **Mr. MacBride** said:

“On the question of our constitutional position, there has been quite a lot of nonsense talked on both sides of the House. Deputy Cowan has said that we are members of the British Commonwealth of Nations, that that is our position constitutionally. Our constitutional position is governed by our own Constitution. We are not members of the British Commonwealth of Nations.”

In reply to a parliamentary question on the 28th July, enquiring when and under what circumstances Eire ceased to be a member of the British Commonwealth of Nations, **the Taoiseach, Mr. J. A. Costello**, said:

"Ireland's constitutional position is governed by the provisions of the Constitution. In particular, Article 5 avers that Ireland is a sovereign, independent, democratic State, while Article 29 recognizes that the State is, or may be, associated with the members of any group or league of nations for the purpose of international co-operation in matters of common concern.

"The constitutional position is that Ireland is a sovereign, independent, democratic State associated with the members of the British Commonwealth. The process by which Ireland ceased formally to be a member of that Commonwealth has been one of gradual development."

In the course of a reply to a further question on the 5th August, **Mr. Costello** explained the nature and basis of Ireland's association with the Commonwealth:

"Ireland's association with the Commonwealth of Nations depends on the factual position.

"This factual relationship upon which our association is based depends on the reciprocal exchange of concrete benefits in such matters as trade and citizenship rights, the principles of consultation and co-operation in matters of common concern, and on the many ties of blood and friendship that exist between us and those other great nations whose populations include so many of our own people.

"Our association with the Commonwealth is a free association which, by virtue of its freedom, can be terminated by unilateral action.

"The question whether Ireland is a republic is purely one of nomenclature which I am not prepared to discuss. Ireland by its Constitution, is a sovereign, independent, democratic State, in which all powers of Government derive under God from the people."

## CORRESPONDENCE

## UNIVERSITY REPRESENTATION

Sir,

May I comment on Mr. Humberstone's third article on University Representation by suggesting that there is a means of reconciling university representation with the principle of equalitarianism. As was proposed by a few M.P.s in the debates on the Representation of the People Bill, graduates could be given the choice of voting either in their residential constituency or in a University one. Undoubtedly most would choose the latter. If they did so, then a single United Kingdom Universities constituency could be created which would return as many Members in proportion to the number of graduates as the nation returns in proportion to the total number of electors. Under the Bill as enacted each M.P. is to be returned by an average of about 57,000 voters. Since there are now 229,000 graduates, the University constituency would return four M.P.s, who would, of course, be elected by proportional representation.

Unlike the Conservative proposal to restore the existing system, this plan has the disadvantage of greatly reducing the number of University M.P.s. On the other hand, it reconciles university representation with equalitarianism by eliminating plural voting and the present unequal representation of the several universities.

Nuffield College,  
Oxford

I am,

Yours, etc.,

PETER CAMPBELL

Sir,

In the concluding article on University Representation it is stated quite correctly that, since 1918, nine of the University

M.P.s have been elected by proportional representation by the single *transferable* vote, but there follows the sentence: "It is claimed that the alternative vote has encouraged the candidature and election of independent members." The *alternative* vote has never been used in the University elections, and if it were it would not encourage the election of independent members.

My article in the same issue will, I hope, help to clear up this constantly recurring confusion between P.R. and the alternative vote. The alternative vote is the 1, 2, 3 . . . method of voting applied to the filling of *one* vacancy only. One M.P. can represent only one set of opinions: there can be no question of the proportional representation of several opinions unless several M.P.s are elected at a time.

Yours faithfully,  
ENID LAKEMAN

The Proportional Representation Society,  
82 Victoria Street, London, S.W.1

## A SOUND RECORD OF PARLIAMENT

Sir,

As I have been associated from the outset with various proposals to record the proceedings of Parliament, I should like to draw the attention of your readers to one or two points which may interest them.

During the war I prepared some notes in connection with a proposal that Mr. Churchill's speeches in the House of Commons should be recorded.<sup>1</sup>

This proposal was misunderstood, and Mr. Churchill withdrew it in good natured deference to the opposition which it aroused in the House of Commons. I sat in the Gallery at the time and was astonished at the enthusiasm which greeted the withdrawal of a suggestion, the adoption of which would have greatly benefited posterity.

On leaving the B.B.C. and setting up my own Recording

<sup>1</sup> Mr. Fletcher was then Recorded Programmes Director at the B.B.C.

Organization at the end of the war, I made it my business to go into the matter in detail and to collect as many as possible of the reactions of Members and Officials concerned, as the result of which I came to the following conclusions:

(1) Many people confuse Recordings with Broadcasting and imagine that a Record must, *ipso facto*, become available to the public.

(2) Because of this it is feared that Members would fashion speeches in the House with one ear on the reactions of their Constituents.

(3) It is feared that the selection of speeches for recording might become invidious.

To those who, like myself, maintain a Recording Service quite independent of any Broadcasting concern, such fears appear groundless. In none of the Conferences that I have recorded, either in this country or on the Continent, has there been any sign that recording in any way influenced the speeches of delegates. The truth is that the presence of microphones at Conferences is now such a common occurrence that they occasion no comment. I do not believe many people stop to enquire whether a recording is taking place.

I think it is probable that recording could be arranged in the House of Commons without any alteration of the existing microphone arrangements. I cannot imagine that a Member intent on catching the Speaker's eye would pause to ask a colleague "Am I being recorded?" Equipment of the type we have used at United Nations meetings in this country could be installed in a room in the House of Commons, and could be operated under the direction of the Speaker, or a Committee set up by the House of Commons for that purpose. If necessary, it could be stipulated that only certain kinds of debates were to be recorded. Some decision would have to be taken on the speeches or extracts which were to be preserved. A similar arrangement could be made in the House of Lords.

Need there be any greater difficulty about recording voices

than there is about recording words? When the popular press was as young as Broadcasting is to-day, there were similar fears about what might be done with the transcriptions taken down by reporters in the House of Commons.

There is not space here for me to deal with technical details, but whilst I disagree that a day's debate could be recorded upon a reel of wire the size of a cotton reel, it is certainly the case that the entire proceedings of a complete Parliamentary Session could be kept without difficulty in an average sized room. If it were not considered essential that everything recorded be preserved for posterity, there would be nothing to prevent wire and magnetic tape recorders using the same recording medium repeatedly, so that the cost of materials used would in fact be less than the price of the paper necessary to carry the equivalent written word.

Yours faithfully,

H. LYNTON FLETCHER,

*Managing Director, Recorded Sound Ltd., London*

6a Whitehorse Street,  
Piccadilly, London, W.1

## CORRESPONDENCE FROM GERMANY

*We print below extracts from letters received from the German politicians who visited London in September under the auspices of the Hansard Society in order to study the place of Parliament in British life.*

Herr Ernst H. Müller-Hermann writes from Bremen:

“After my return to Germany it is a sincere pleasure for me to give once more many thanks to the Hansard Society, for all proved hospitality and kindness and all the troubles the staff took in order to make our visit as instructive and as comfortable as possible. I would like to assure once more, that the programme was really interesting not only in regard to the facts which we were set in a position to deal with, but especially regarding the atmosphere in which English people are making their politics. Although I am convinced that every nation has its own traditions and its own experiences and what may be good for one may not necessarily be good for the other nation, I am quite sure that we Germans can learn a lot from the English nation, especially in regard to tolerance, fairness, common sense, and the sense of humour in public life. Our experiences in London will, as I hope, help everybody of the delegation to fill the frame of our new constitution with democratic actions and activities. As a second reason in favour of the visits arranged by the Hansard Society I see the fact that a better and continuous understanding between two nations can be brought about best if members of the two nations can be exchanged and have a chance to get in touch also with the ordinary men of the other nation.”

Dr. Rudolf Gerstung of Hanover writes:

“Since our visit to England have passed several weeks, and the impressions I got there are still very vivid and not forgotten at all in the routine of daily work. On the contrary,



this short visit to England gave me a lot of stimulation both of political and personal kind.

“Most of the things which I found attractive and noticeable are surely matters of course for the English, especially the atmosphere of a friendly and fair working together even among followers of differing political parties. But still more I got impressed by the friendliness and generosity of everybody we had the chance to meet towards us—members of a nation which you were fighting not so very long ago. I am trying very hard to spread among my countrymen the same spirit of understanding and am of the opinion that this spirit is a necessity for future political development, nevertheless I am quite sure that at present there are still numerous obstacles to overcome. People have suffered too much by the war not to be suspicious against each other.”

Fräulein Dr. W. N. Gröwel of Hamburg writes:

“I thank you from my whole heart for the pleasant days which I spent in London. I will never forget them. We do not think any more of the difficulties, but the happy days that we spent with the Hansard Society will always be a beautiful memory. You showed much of kindness and friendship, and this makes the United Nations no empty words. We learnt a lot which is very useful as we are only at the beginning of democracy and your success makes us believe in democracy.”

The following is a translation of part of a letter from Dr. Heinrich Steffensmeier of Essen:

“The atmosphere in England impressed me much more on this visit than previously. Many of our people are indifferent to political affairs, but I believe that the mistrust and apathy will disappear when material conditions improve. I often say that this must be the first task of our political leaders. The work of the Hansard Society for German politicians will surely help us to achieve this because you showed us at first hand the democratic institutions and parliamentary life of England. Our political life is still domi-

nated by a too great emphasis on doctrines and ideologies: this fault has led our people astray for centuries. Even our intellectuals fail to see that political matters begin with realities and not theories. The re-education of the German people is only possible when they see the way things actually work in Britain, the things which the Hansard Society showed us in such a splendid manner. My colleagues in the group that came to England share my view of this. As far as it is within my power I shall support your objectives.

“When a German discards his narrow nationalistic outlook and examines relations between Great Britain and Germany critically, he cannot fail to see that the desire for European co-operation and understanding has increased during recent months. There are many difficulties still to be overcome before we achieve a real European community, but I believe that you in England have prepared the ground. In Germany only a minority show a similar readiness to co-operate. Your activities, your friendliness and the great trouble to which you went help us in Germany in our efforts at understanding.”

## BOOKS RECEIVED

*The inclusion of a book in this list does not preclude its review in a subsequent issue of "Parliamentary Affairs".*

BUTLER, PHILIP. Photographs by Derrick L. Sayer in collaboration with Guy Alan and John Livesey. *Houses of Parliament*. Lincolns-Prager. 9s. 6d.

COLE, MARGARET. *Makers of the Labour Movement*. Longmans, Green. 15s.

GLADDEN, E. N. *The Civil Service: its Problems and Future*. Second Edition. Staples Press. 10s. 6d.

GORE, JOHN (Editor). *Creevey*. John Murray. 21s.

GORER, GEOFFREY. *The Americans*. Cresset Press. 10s. 6d.

GREENWOOD, GORDON. *The Future of Australian Federalism*. Melbourne University Press. 17s. 6d.

HARRISON, WILFRID. *The Government of Britain*. Hutchinson. 7s. 6d.

ILBERT, SIR COURTENAY. *Parliament*. Revised by Sir Cecil Carr. Third Edition. Oxford University Press. 5s.

JENKINS, ROY. *Mr. Attlee*. Heinemann. 12s. 6d.

JENNINGS, SIR IVOR. *The British Commonwealth of Nations*. Hutchinson. 7s. 6d.

MABBOTT, J. D. *The State and the Citizen*. Hutchinson. 7s. 6d.

MCKENNA, STEPHEN. *Reginald McKenna, 1863-1943*. Eyre & Spottiswoode. 16s.

MULES, MARY, and BUTCHERS, A. G. Revised by H. C. McQueen. *A Bibliography of New Zealand Education*. New Zealand Council for Educational Research (London: Cumberlege). 5s.

ROSS, J. F. S. *Parliamentary Representation*. Second Edition. Eyre & Spottiswoode. 15s.

UREN, MALCOLM. *Land Looking West*. Cumberlege. 21s.

## GOVERNMENT PUBLICATIONS

*The Government publications listed on this page are mainly of parliamentary or constitutional interest. All Government publications, including Hansard for the House of Lords and House of Commons (daily parts, weekly editions or bound volumes) can be ordered through the Hansard Society.*

- Consolidation Bills, 1947-8.* Fourth Report by the Joint Committee (Agricultural Holdings Bill). (H.L. 60-III, 121-1, H.C. 183-1.) 9d.  
Fifth Report by the Joint Committee (National Service Bill). (H.L. 60-IV, 136-1, H.C. 188-1.) 4d.
- House of Lords Offices.* Fourth Report by the Select Committee. (H.L. 145.) 1d.
- House of Lords Standing Orders.* Amendments relative to Private Bills, etc. (H.L. 148.) 1d.
- House of Lords Standing Orders* proposed to be made under the Laying of Documents before Parliament (Interpretation) Bill. (H.L. 133.) 1d.
- Hybrid Bills.* Report from the Select Committee on procedure in Committee. (H.C. 191.) 3s.
- Justices of the Peace.* Report of the Royal Commission. (Cmd. 7463.) 2s.
- Kitchen and Refreshment Rooms (House of Commons).* Special Report from the Select Committee. (H.C. 187.) 2d.
- Laying of Documents before Parliament (Interpretation) Bill.* Amendments to be moved in Committee. (H.L. 127a.) 1d.
- Parliamentary Elections, England and Wales.* The Electoral Registration Officers and Returning Officers Order, 1948. 1d. Northern Ireland, The Returning Officers (Northern Ireland) Order, 1948. 1d.
- Public Bills.* Return for Session 1947-48. (H.C. 209.) 1d.
- Publications and Debates Reports.* Report from the Select Committee. (H.C. 207.) 6d.
- Representation of the People Bill.* Amendments to be moved in Committee. (H.L. 117a.) 2d. Marshalled list of Amendments to be moved in Committee. (H.L. 117\*\*) 2d. Amendments to be moved on Report. (H.L. 134a.) 1d. Marshalled List of Amendments to be moved on Report. (H.L. 134\*\*) 1d. Commons Amendments to certain of the Lords Amendments. (H.C. 146.) 1d.
- Standing Committees.* Return for Session 1947-48. (H.C. 210.) 3d.
- Standing Orders.* Report from the Select Committee. (H.C. 192.) 1s. 6d.
- Statutory Instruments, etc.* Minutes of Proceedings of Select Committee. (H.C. 185.) 2d. Ninth Report from the Select Committee. (H.C. 190.) 2d. Special Report from the Select Committee. (H.C. 197.) 2d. Minutes of Proceedings of Select Committee. (H.C. 198.) 1d. Reports from the Select Committee. (H.C. 201.) 1s. 6d.
- Statutory Instruments.* List, January to June, 1948. (72-12-6-48.) 6d.
- The British Way and Purpose.* Prepared by the Directorate of Army Education. (57-614.) 2s. 6d.

## BOOK REVIEWS

**Il Centenario Del Parlamento, 8 Maggio 1848-8 Maggio 1948.** Rome: Dal Segretariato Generale della Camera dei Deputati.

By a pleasing coincidence the first Parliament of the Italian Republic has come into existence just one hundred years after the Statute granted by Charles Albert to Piedmont and the setting up of a sub-alpine Parliament at Turin; and the occasion has been marked by a splendid volume produced under the general direction of Signor Ubaldo Cosentino, Secretary-General of the Chamber of Deputies. Signor Cosentino was a member of the delegation from the Italian Parliament which recently visited the Mother of Parliaments at Westminster, and the leaders of that delegation—Signor Giovanni Gronchi, President of the Chamber, and Professor Ivanoe Bonomi, President of the Senate—are among the contributors to this sumptuous volume, well printed on good paper, which it is a joy to see in these days of austerity, with many appropriate illustrations of persons and places; it needs only a good English binding to be worthy of any library.

The year 1848 saw, not only the Statute of Charles Albert, but the attempt to create Parliamentary institutions in other parts of Italy; and admirable scholarly accounts are given of the attempt of the General Parliament of Palermo to win a constitutional Statute for Sicily (Cesare Spellanzon), of the Neapolitan Parliament of 1848-9 (Guido De Ruggiero), of the Council of Deputies at Rome in 1848 (A. M. Ghisalberti), of the Constituent Assembly of the Roman Republic in 1848-9 (Ivanoe Bonomi) in which Garibaldi and Mazzini played so noble a part, and of the contribution of Parma to the Constituent Assembly of 1848 (Guiseppe Micheli). These attempts were crushed, but Signor De Ruggiero rightly notes that the failure of such men as Poerio, by provoking

Mr. Gladstone's famous letters to Lord Aberdeen, was a stepping stone to eventual success. An essay by Signor Guido Porzio on the Anglo-French mediation in the war of 1848-9 is of special interest to English readers for the part played by Palmerston in creating the unity and independence of Italy.

It was only in Piedmont that the seed of constitutional growth then germinated, but from Turin the plant spread over the whole of Italy. In 1860 the unity and independence of the greater part of the country was achieved, though Rome, Venice and Trento were still unredeemed, and the seat of Parliament was removed a few years later to the Palazzo Vecchio at Florence. In 1870 the preoccupations of the French made possible the entry into Rome, and from that day to the present Rome has been the parliamentary as well as the religious capital of Italy, the Chamber meeting in the Palazzo di Montecitorio (the subject of a valuable note by Signor Giovanni Bach) and the Senate in the Palazzo Madama. As Signor Gronchi notes in his presidential speech to the Chamber, which is included in this volume, the Italian Parliament has ever since been the guardian of democratic liberty in Italy; and as Signor Umberto Terracini, who was President of the Constituent Assembly, points out in his introduction, independence, unity and liberty, which were the watchwords in 1848, are still the watchwords today.

The action of Parliament at notable periods is traced out by several writers. Signor Gaetano Natale deals with Parliament and the social crisis of 1890-1900, when Parliament seemed in a general disorientation to be out of touch with the nation; and Signor Luigi Gasparotto shows how Parliament in 1914-15 contributed to the refusal to side with the Triple Alliance and the decision to join the Allies. There followed the unhappy period when Mussolini seized power. Signor Tupini does not regard the "Aventine secession", when the Socialist Deputies walked out of Parliament in protest against the murder of Matteotti, as being a cause of Mussolini's dictatorship, so much as a symbol of Parliamentary weakness at the time; but it is going too far to claim it as a "proud and dignified moral protest". Matteotti, Amendola

and Gramsci are commemorated as Parliamentary martyrs by Signor Enrico Molè, and the transmogrification of Parliament under Fascism is dealt with, sadly but patiently, by Signor Piero Calamandrei.

Now a new chapter opens, and the place of Parliament in the new constitution is ably treated by Signor Meuccio Ruini. There is also an essay by Signor Giuseppe Grassi on the place of the magistracy in the new constitution, in which the British practice and Lord Jowitt's views on the separation of the judiciary and the executive are quoted with approval; and an essay by Signor Michele La Torre on the Constitutional Court provided for in the Constitution. The whole is rounded off by lists of high officers throughout the hundred years of Italian Parliamentary history.

IVOR THOMAS.

(*Mr. Thomas has been M.P. for Keighley since 1942. He was on the Editorial Staff of The Times, 1930/7, and was Chief Leader Writer to the News Chronicle, 1937/9. He was Parliamentary Secretary, Ministry of Civil Aviation, 1945/6, and Parliamentary Under-Secretary of State for the Colonies, 1946/7.*)

**The Life of William Cobbett.** By G. D. H. Cole. Home and van Thal. 16s.

**Makers of the Labour Movement.** By Margaret Cole. Longmans Green. 15s.

**Mr. Attlee.** By Roy Jenkins. Heinemann. 12s. 6d.

These three books are interlocking pieces in the jig-saw of British history.

Professor Cole's *Life of Cobbett* has been unobtainable for some years but is now reissued as a third edition. In it we are given a vivid picture of Cobbett, so appropriately born at "The Jolly Farmer" Inn. The book corrects the one-sided view of Cobbett as a man forever harking back to the supposed Merrie England of his youth; a view which is based on the disproportionate fame of his *Rural Rides*. It is true that Cobbett does look back rather than forward; he never accepted the Industrial Revolution. But he was prominent in many forward-looking

movements, such as that for Catholic Emancipation, and, above all, for the reform of the old House of Commons. Moreover, he initiated in his *Political Register* a new kind of political journalism, for this paper, which appeared almost weekly from 1802 to 1838, was the forerunner of the modern political review. Cobbett was also the founder of the Parliamentary Reports. Originally appearing in 1804 as *Cobbett's Parliamentary Debates*, the publication was sold to his printer T. C. Hansard to relieve the financial difficulties which attended Cobbett's imprisonment for sedition in 1811.

Cobbett sat in Parliament for less than three years, from the first Election after the Reform Act of 1832, until his death in 1835. He was sixty-nine when he was elected, but not so old as to have abandoned his life-long attitude of asserting his rights and speaking his mind. From the first day he took his seat on the Treasury Bench, and his maiden speech opened with the words: "It appears to me that since I have been sitting here I have heard a great deal of unprofitable discussion."

Mrs. Cole's book serves to bridge the gap between Mr. Cobbett and Mr. Attlee. Cobbett was no Socialist, but he believed firmly in the rights of working men and in their abilities. The keystone of the bridge is John Stuart Mill, son of the ultra-Benthamite, James Mill, who came to see that individualism was not enough. Mrs. Cole's account of James Mill's "education" of his son makes one's flesh creep. "At three years old he was learning Greek words from cards written out in Greek and English by his father; and by his eighth year he had read a number of Greek books, including the whole of Herodotus and a highly philosophical dialogue of Plato. . . ."

There are fifteen essays in Mrs. Cole's portrait-gallery. The style is somewhat irritating; for instance, on page 8 we read that Paine had "commenced agitator": on page 177 William Morris "commenced public man": and almost every person in the book is made to commence this, that or the other. There may be a good literary precedent for this phrase, but the reviewer neither knows nor approves of it. But the book does give a vivid picture of these fifteen men, and rouses one's likes



and dislikes to a marked degree. Of the two comparatively unknown men in the book, John Mitchell, the Co-operator, and Robert Applegarth, the Trade Unionist, the first seems to the reviewer quite repelling, the second delightful. Robert Owen is most attractively drawn, as also is William Morris. Mrs. Cole shows that Morris was by no means the mere dilettante he is sometimes supposed, as witness the setting-up of his own business, "William Morris & Co.", to make the beautiful household furnishings that he so passionately believed in. Robert Blatchford stands out as the gay cavalier of Socialism: as Mrs. Cole says, his paper, *The Clarion*, "made Socialism seem as simple and universal as a pint of bitter". There is an interesting similarity between Blatchford's career and Cobbett's.

With Keir Hardie we approach the modern Labour Party. Here at last was the independent Labour Member come to Westminster, riding to the House of Commons on a cart, wearing his cloth cap and escorted by a brass band. Behind Keir Hardie's showmanship lay an integrity seldom matched in politics. Following Keir Hardie come vivid sketches of Sidney Webb, "Uncle Arthur" Henderson, George Lansbury, and finally—and rather surprisingly—H. G. Wells.

In Mr. Jenkins's "interim biography" of the Prime Minister we are shown a man who like earlier Labour leaders believes firmly in the rights of working men. But he is himself of the middle-class, and we are shown his conventional early life at Haileybury and at Oxford. On an October evening of 1905, Mr. Attlee, newly started at the Bar, went to the East End to look at a Boys' Club, and stayed there—apart from his absence during the first War—until his marriage in 1922. Life in Stepney converted Attlee to Socialism. In his own words: "I was not converted by the logic of Karl Marx. . . . Most of us become Socialists through our hearts first and our heads afterwards. It was certainly so with me. I felt there was nothing in the world so worth doing as trying to alter conditions." Mr. Jenkins tells us in an illuminating (but clumsy) passage that "Middle-class society was not claustrophobic to him (Attlee). It was the horrors outside it, and not those within, that made

him wish to break down its walls. It was a desire, not to destroy his social background, but to extend to all the benefits that he himself had enjoyed which impelled him."

Hard slogging at propaganda, war service and local politics (he was Mayor of Stepney in 1919-20) prepared Attlee for Parliament. In 1922 he was elected for Limehouse at the age of thirty-nine. This seat he has never since lost, not even in the landslide of 1931.

We are given a glimpse of Attlee as Under-Secretary at the War Office in 1924; as one of the Temporary Chairmen of Committees, an appointment which caused him to make a thorough study of Parliamentary procedure; as a member of the Simon Commission on India, from which he gained a now shattered reputation as a reactionary on Indian affairs. Then in the second Labour Government he became Chancellor of the Duchy of Lancaster, and later Postmaster-General.

It was after the Labour eclipse of 1931 that Attlee became Deputy-Leader of the Party. With so small a Labour Party in the House there was cast upon him an incredible burden of debate. Following the stormy Brighton Conference of 1935, Lansbury resigned the leadership and Attlee succeeded him. For the moment this seemed merely a stop-gap arrangement, but after the Election of 1935 Attlee was re-elected Leader, in spite of the return to Parliament of many prominent Socialists who had been exiled in 1931.

Mr. Attlee emerges with considerable credit from the confused years leading up to the Second World War, and of course from the War itself. We leave him returning to Potsdam as Prime Minister.

The reader gets a sense of three main qualities in Mr. Attlee; liberalism, competence, and a complete absence of self-seeking. The author tells us "Attlee was never a Liberal". One feels this is true only in the technical party sense. His competence may be summed-up in Lansbury's comment at the time of his election to the leadership of the Party: "Clem is well able to handle anything that comes up." Of his selflessness the whole book is eloquent.

"The Grayson Incident" and even "Poplarism" are terms

too esoteric to remain unexplained as Mr. Jenkins leaves them, but happily they are explained in passing by Mrs. Cole.

The men portrayed in these books are bound together in sharing the sentiment of Colonel Rainboro, who, in debate with Cromwell, declared: "The poorest he that is in England has a life to live as the richest he."

RONALD DAVIES.

(*The Hon. Ronald Davies, M.A., is a  
Barrister-at-Law, Gray's Inn, 1948.*)

**Parliamentary Representation.** By J. F. S. Ross. Eyre & Spottiswoode. 15s.

The main value of the revised edition of *Parliamentary Representation* lies in the new Part IV which supplements the information and statistics relating to Members of Parliament elected between the wars with similar facts about Members elected in 1945. Many interesting points emerge from this new section.

The Parliament which came to an end in 1945 was, for a variety of reasons, composed of a high proportion of elderly Members. The average age of Members at dissolution was over 60, whereas the average age of the adult population of the country was about 45. Much has been said and written about the exceptional youthfulness of the Parliament elected in 1945, but Dr. Ross disposes of this myth. The average age of Members after the 1945 election was only two months short of 50, which is higher than the average age of the adult population and, more surprisingly, higher than the average age after the five inter-war elections. Further, the average age of Labour Members was higher (as it always has been) than that of either Conservatives or Liberals.

What was unique about the House of Commons elected in 1945 was the high proportion of *new* Members—324 compared with 79 after the previous election ten years earlier.

The broadened appeal of the Labour Party in the last decade is shown in the changed educational background of Labour M.P.s. Dr. Ross wrote in 1943: "The figures provide ample justification for calling the parliamentary

Conservative Party the public-school party, the Liberals the secondary-school party, and Labour the elementary school party." Yet it is interesting to notice that 23 per cent. of the Labour M.P.s in the present Parliament have had a public school education, whereas the corresponding figure for the adult population of the country is only 2 per cent. Furthermore, the proportion of Labour M.P.s with a public school education is two-and-a-half times greater in the present Parliament than the inter-war average for Labour M.P.s. Similarly, one third of the Labour M.P.s elected in 1945 had been to university, and this figure is more than twice the inter-war average for Labour M.P.s.

When we turn to the normal occupations of Labour M.P.s we find a similar situation. In the present Parliament there is a 400 per cent. proportionate increase compared with the inter-war average in the number of Labour M.P.s who are solicitors, a 175 per cent. increase in barristers, and a 90 per cent. increase in teachers and lecturers. The occupations showing a decrease are all of a manual nature (metal workers, wood workers, miners, and textile operatives). On the other hand, there is little change in the occupations of Conservative M.P.s in the present Parliament compared with the inter-war period.

A point about the Parliamentary Labour Party which is worth notice is the reduction of the proportion of trade union officials from half the total Members in inter-war Parliaments to less than one-third to-day. It is also significant that 56 per cent. of the present Labour M.P.s have served on local authorities, the corresponding figures for both Conservatives and Liberals being 25 per cent.

All who are interested in parliamentary affairs will profit from a study of the information which Dr. Ross has collected. Whether all will agree with his conclusions is much more doubtful. Dr. Ross believes that our parliamentary institutions are conducted in such a way that "the elector is precluded from using his vote in a way that is consistent with his natural dignity as a thinking human being or consonant with his rights as a citizen". He suggests as remedies certain financial

reforms and the institution of proportional representation by means of the single transferable vote. Dr. Ross believes that by this method the maximum number of electors will be represented in Parliament. Few will quarrel with this conclusion, but some will ask if this is the essence of parliamentary democracy. It may well be that at the present stage of political education the electors prefer to choose every four or five years not a House of Commons that reflects every shade of public opinion but a government which will pursue a clearly defined policy. It may be that in time these two objects will be found to be compatible.

S. D. B.

\* \* \* \* \*

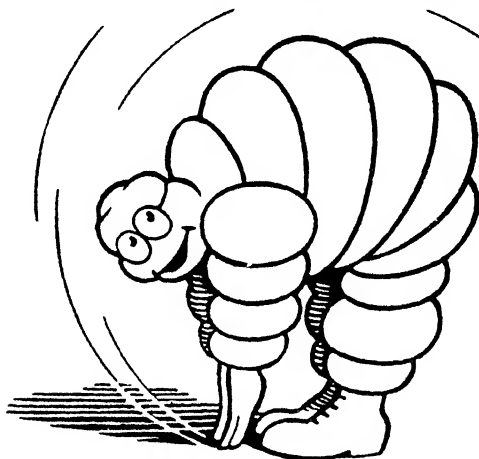
### IMPORTANT ANNOUNCEMENT

**Covenants:** As mentioned on page 38, it has now been established that members of the Hansard Society can pay their subscriptions in the form of seven-year Covenants, a method of great benefit to the Society. Please write at once for particulars to the Assistant Director.

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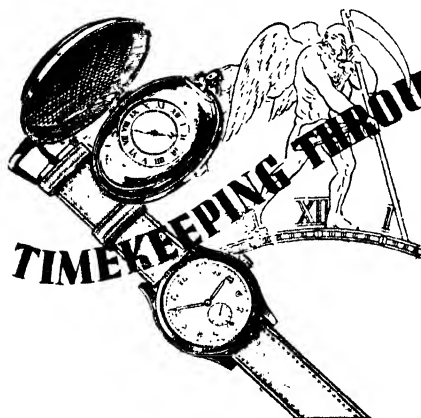
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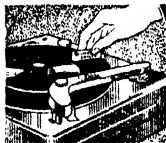
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## MORE LAURELS FOR BRITAIN

Once more the world 'hands it' to British films. Listed below are some of the 1948 awards gained by British films and film actors, together with a few of the encouraging things said by the critics.

**Venice Film Festival**—HAMLET awarded the International Grand Prix as the best film of the year.

**National Board of Review (U.S.A.)**—HAMLET and THE RED SHOES—the only British pictures included in the 'best ten of the year.'

**New York Film Critics' Circle**—HAMLET—the only British film named in the poll for 'the best of 1948.'

**HAMLET** (Two Cities) *'A man who can do what Laurence Olivier is doing for Shakespeare is certainly among the more valuable men of his time.'*—*Time Magazine.*

*'The film of the year.'*—*The Times.*

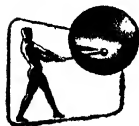
**OLIVER TWIST** (Cineguild) *'With HAMLET it is the second greatest picture of the year.'*—*Evening Standard.*

**SCOTT OF THE ANTARCTIC** (Ealing) *'Epic . . . All of the screen's great potential in sight and sound has been splashed into the job to give the story a setting that is heroic and surpassingly beautiful.'*—*Daily Mail.*

**MIRANDA** (Gainsborough) *'Unquestionably the best British light comedy that has emerged since the war.'*—*Sunday Chronicle.*

**THE RED SHOES** (The Archers) *'Brings new prestige to our pictures, worthy of a place with HAMLET, OLIVER TWIST, GREAT EXPECTATIONS, and HENRY V.'*—*Evening News.*

**XIVTH OLYMPIAD** *'A triumph.'*—*Reynolds News.*



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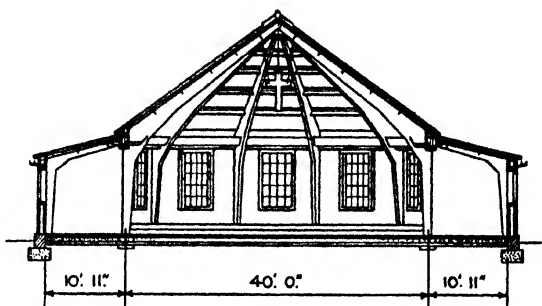
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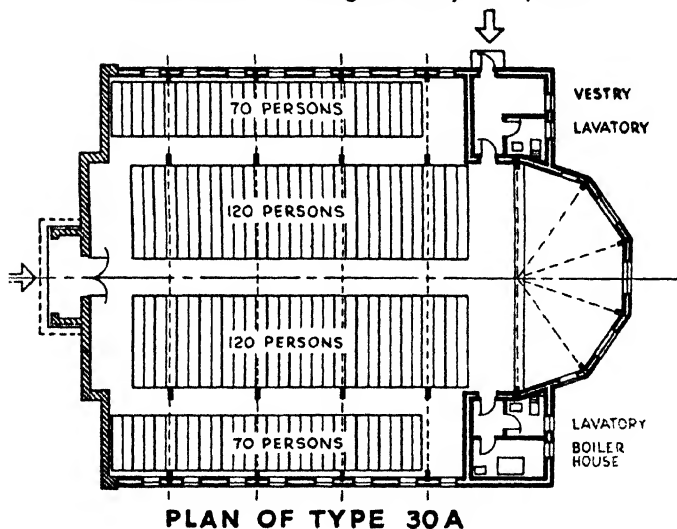
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Spring 1949



Vol. II No. 2

# PARLIAMENTARY AFFAIRS

## JOURNAL OF THE HANSARD SOCIETY

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## HANSARD SOCIETY NEWS

by STEPHEN KING-HALL

*Chairman of the Council and Honorary Director*

IF you should ever find yourself in the position of being chiefly responsible for the purchase of a house in London as headquarters for a learned society, you will be entitled to call on me for sympathy and (perhaps) some useful information. On pages 8 and 9 of Vol. I, No. I of *Parliamentary Affairs*, you will find the outline of a dream, and in that dream our Society was housed in its own headquarters. "A dream itself is but a shadow", and the Council have been exerting themselves to give that shadow the reality of substance. Thanks to the generosity of Mr. Guggenheim and the widespread response of members and others to our national appeal, we obtained enough money to justify searching for a small house. We found 11 Catherine Place, Westminster, a freehold property. Then we had to get a licence, and this quest involved an appeal to the Minister of Health. In due course we received the following letter, which should be recorded in our journal:

MINISTRY OF HEALTH,  
WHITEHALL, S.W.1.  
21st December, 1948.

Dear Stephen,

You wrote to me on the 2nd November appealing against the Westminster City Council's refusal to grant consent under Defence Regulation 68 CA to the use of 11 Catherine Place, S.W.1, as offices by the Hansard Society.

I have carefully considered your representations and also those of the City Council, and you will be glad to know that I have decided to allow the appeal.

The appeal is therefore hereby allowed.

Yours sincerely,

(Signed) ANEURIN.

Even now, as this issue goes to press, there are still some complications to sort out, but I am not without hope that the Hansard Society will soon have a home of its own, and will no longer be dependent upon the generosity of *National News-Letter* for offices.

And here I must tell you an extraordinary tale. I have discovered, and not only from one source, that the fact that our Society used the same address as that of a publishing company which I own led some people to suppose that there was some commercial connection between these two activities! I know we live in a suspicious world, but I confess I was reduced to amazed silence when a business man, whom I was trying to persuade to support the work of the Society, indicated to me that he was under the impression that in some way or other I made a personal profit out of the publication and sale of *Hansard*, so why should his firm support us?

**Our German Guests.** The following German politicians visited London under our auspices from 27th October to 5th November, 1948, in order to study the place of Parliament in British life:

Herr Max Emke (Christian Democratic Union), of Kiel; Herr Heinrich Hellwege (Deutsche Partie), of Neuenkirchen (Hamburg); Dr. Erich Köhler (Christian Democratic Union), of Wiesbaden; Dr. Heinz Krekeler (Free Democratic Party), of Schötmar in Lippe; Herr Herbert Kriedemann (Social Democratic Party), of Frankfurt; Herr Kühn (Social Democratic Party), of Cologne; Frau Susanne Rader-Grossmann (Social Democratic Party), of Berlin; Herr Anton Schöpke (Liberal Democratic Party), of Berlin; Herr Fritz Schmidtchen (Social Democratic Party), of Hamburg; Herr Karlfranz Schmidt-Wittmack (Christian Democratic Union), of Hamburg; Herr Johannes Siemann (Free Democratic Party), of Hanover.

I think you may be interested to read the following speech which Herr Krekeler made during the last visit at a luncheon presided over by Lord Henderson:

“My Lord, Ladies and Gentlemen: My friends have asked me to answer on their behalf the speech you have kindly made to us. But first I feel I must apologize for not addressing you in what you would style ‘The King’s English’, but in an idiom only resembling in some ways English.

“In this time of plight and distress one looks back to the great

spiritual leaders of the past. Here we are in some sort of competition with you, because we regard your Shakespeare also as part of our own culture. When I am reading Shakespeare I think that this line in *Hamlet* is a very appropriate motto for our days:

'The time is out of joint; O cursed spite,  
That ever I was born to put it right!'

"It seems to me our task is not only a 'cursed spite', but also a task great enough to fill a man's life. We are here as representatives of different parties, but widely as our opinions may differ on some issues, that which unites us all is the earnest desire to set up democracy again in Germany. We thank you very much that you are giving us your help in this task, and I regard also this journey which was kindly organized by the Hansard Society as part of this help, and also the many occasions on which we had the opportunity to discuss our problems with representatives of the British Government.

"Further, I think I would misinterpret the purpose of this journey if I thought it aimed at taking over or suggesting to introduce some special forms of democracy to our country. I think the essential is not the form; it is the spirit in which democracy is carried out. The spirit of co-operation and arbitration which we found so often here has impressed us, and we are grateful for this experience, which will not only help us to perform our task, but which is certainly also a contribution to mutual understanding.

"For this and for all the kindness extended to us I thank you very much, in the name of my friends and in my own name."

We are about to welcome the fourth group of German political leaders. This project would require a separate article—and it would be a very interesting one—if a full report were printed. Here I have only space to tell you that the visits are proving highly successful and are the subject of a mass of radio and Press reports in Germany, all of a very complimentary character.

**The Information Department.** This title is a misnomer. We have not yet been able to establish a properly equipped and staffed Information Department. This does not prevent the inquiries arriving in the office from members of the Society and from such bodies as—to pick out a few inquiries during the past three months—the House of Commons Library, *Time Magazine*, the National Coal Board, the Gauge and Toolmakers' Association, the National Society of Painters, the Ford Motor Company, the Administrative Staff College, Wisconsin University, the Bureau of Current Affairs, the Royal Commission on Population, the Royal Institute of International Affairs, Government Departments,

constituency associations, and schools. We do our best to answer the questions, some of which are very complicated. I believe it to be my duty to impress upon members the toughness of the task we have undertaken in this Society and to show you clearly what the targets are. We are not "just one of those societies"; we are engaged in a day-to-day, active crusade for democracy, and part of our fighting equipment ought to be a first class Information Department. This would cost £1,500 *per annum*. We ought to have it now; we must have it by 1950. If once we can get it established, it will earn some of its keep by charging fees for lengthy and complicated inquiries.

**Our Membership.** The membership of the Society has stuck for six months at a figure in the region of 2,100, of whom approximately 300 are corporate members.

Among new members during the past three months were:

The Sun Engraving Company Ltd.; Thomas Bolton & Sons, Ltd.; The National Society of Painters (Westminster Branch); Major C. P. Mayhew, M.P.; The Ministry of Supply; New Scotland Yard; The Headmaster of Stowe; The Headmaster of Wrekin; The School Library, Eton College; The Principal, Hendon Technical College; Sir Roderick Jones, K.B.E.; The Clerk to the House of Representatives, Ceylon; The General Secretary, Y.M.C.A., Hong Kong; Professor Carl J. Friedrich (Harvard).

The latest renewal percentage is 86 per cent., which is exceedingly good. But the pause in the growth of membership is exceedingly bad, and it has happened simply because we have not had the money to send out our literature to potential members. We have a list of 60,000 names, and it would cost £500 to communicate with these persons.

**The Library.** The Library now includes the following:

Books and Pamphlets .. .. .	300
<i>Parliamentary History</i> .. .. .	60
<i>Hansards</i> , loaned by Brooks's .. .. .	620
Other <i>Hansard</i> Volumes .. .. .	600
<i>Hansard</i> Daily Parts and Weekly Editions	

The Public Relations Officer in the U.K. for the *Encyclopædia Britannica*, a member of the Hansard Society, has informed us

that a new set of the Encyclopædia will be presented to our Library.

Will anyone lend or give our Library a complete set of the *Dictionary of National Biography*?

**Parliamentary Affairs.** Nos. I to IV of our journal are now being bound, with an index, into Volume I. The price of these volumes will be 15s. net, or 10s. to members of the Society. The edition is strictly limited, and orders should be placed immediately. We are printing a limited number of copies of the Index, and these can be ordered from the office, price 1s., post free. I have no doubt whatsoever that in years to come this first volume of the only quarterly journal in the world in any language devoted to every aspect of the institution of Parliament will be much sought after and fetch a high price.

The journal has now established itself, and it only remains to do two things in order to make it a source of revenue to the Society. These are more sales to non-members and an increase in our advertising revenue. We must persuade more of our corporate members to take advertising space in its pages. The journal was founded in the summer of 1947 with £1,000 capital (provided as an interest-free loan by Mrs. King-Hall and myself, repayable at the Council's option) and at the end of the first twelve months we had used £519 of this capital in issuing approximately 8,000 copies free to our members.

**Other Publications.** Two thousand copies of the third revised edition of *Our Parliament* have been disposed of. Stocks of our pamphlets are now almost exhausted, and we would like to reprint and bind five of them up in one volume. This will involve a capital expenditure of £170. I have no doubt we shall regain all this with a profit in the course of eighteen months, but it is the same old story of lack of working capital. The price will be 6s. a volume, with the usual 33½ per cent. discount for members, and if I were sure of 500 advance orders, I would go ahead without hesitation.

The National Book League has published *Parliament*:

*A Reader's Guide*, with an introductory essay by Quintin Hogg, price 1s.: we are in a position to supply copies of this bibliography.

**Covenanting Subscriptions.** One of our members, a young student, laid information before the Council which indicated that it was in order for members to enter into seven-year Covenants for the payment of their subscriptions. This has been confirmed, and a number of members have begun to use this method, to the great financial advantage of the Society and with no extra trouble or expense to themselves. The thanks of the Society are due to the enterprising young member who drew our attention to this important new source of income. May I urge all members to enter into Covenants as their subscriptions fall due for renewal?

**Visitors from Overseas.** Within the limits of our resources we try to keep in touch with visitors to these islands who are likely to be interested in our work. During the Conference of Commonwealth Prime Ministers and the Commonwealth Parliamentary Conference in the autumn, Mr. Bailey, the Assistant Director, was able to discuss our activities with several leading parliamentarians from the Commonwealth, including the Prime Minister of Ceylon and the Speaker of the Indian Parliament. We have also been visited by a number of leading educationists from the United States. In November, 1948, a party of French journalists touring Britain under the auspices of the Central Office of Information (on behalf of the Western European Information Department of the Foreign Office) visited our office, and Mr. Bailey told them something of our work. Members of the delegation were: M. Paul Fleury (Director of *Le Courrier de l'Ouest*—Angers), M. Jean Marie Audibert (Editor of *Toulon Soir*), M. Georges Rucheton (Director of *Le Rouègue Républicain*—Rodez), M. Moisy (Director of *Liberté de Normandie*—Caen), M. Béziès (Director of the Paris Office of *Le Républicain Lorraine*—Metz), M. Wagner (Editor of *Le Républicain du Haut Rhin*), and M. Augustin Davaine (Chief leader-writer of *La Résistance de l'Ouest*).



**Overseas Societies.** *Canada.* Mr. Willson Woodside (the Director of the Canadian Society) writes: "Everyone I have spoken to agrees that the Youth Conference was a big success. A Speaker who flew 1,500 miles, in the middle of a court case, said it was the most satisfying day he had had in a long while.

"We did not fill our hall, but managed to get out over 800 students. And mind you, this was a Saturday, not a school day, and each student was there as a result of his or her own decision, as none were brought in groups by school-masters.

"The local papers all gave us half a column or more. Canadian Press sent out a dispatch across the country. The C.B.C. broadcast excerpts, with a few words by me on the Society's aims, later the same day. And we have had editorials on our press release and from personal approaches by myself, in good newspapers in all parts of Canada.

"Letters on the Conference to a score or more of leading parliamentarians have brought in some good memberships. And, in general, we have made some small mark on the general public for the first time.

"If I could say that our finances had also been benefited, it would be a happy ending. Unfortunately, they have shrunk. . ."

In connection with Mr. Woodside's last remark, I expect to make a tour in Canada from 17th February to 3rd March to raise funds for the work of the Canadian Society.

*France.* I visited Paris early in December and met M. Jacques Chapsal, Director of the Institute of Political Studies of the University of Paris, and M. André Siegfried, President of the National Foundation for Political Science. It was arranged that the National Foundation for Political Science should be our corresponding centre in France.

*Belgium.* The Belgian Society continues to progress, and it is hoped soon to have a paid secretary to assist Madame Bohy, who reports that, with the extension of the suffrage to Belgian women, the women's associations are taking an interest in the work of the Society.

**Acknowledgments.** It is impossible to mention by

name all who have helped our work during the past three months, but I would specially thank Mr. Herbert Morrison, who donated to the funds of the Society his fee for writing the article on the Privy Council in the last issue of *Parliamentary Affairs*; Sir Leslie Scott, who has presented to our Library an almost complete set of the House of Commons' *Hansard* from 1911-1929; Mr. J. D. Lambert, who has addressed nearly a dozen meetings on our behalf during the past three months and has been of great assistance to the Information Department; Mrs. Barbara A. Castle, Lord John Hope, Mr. E. M. King, and Commander Maitland, who were members of a Hansard Society Brains Trust at Sandhurst in December; Major C. P. Mayhew, Parliamentary Under-Secretary of State for Foreign Affairs, and Mr. Geoffrey de Freitas, Parliamentary Under-Secretary of State for Air and Vice-President of the Air Council, who, in spite of their many official duties, spared time to try and gain increased support for our work in the business world; the Lord Chancellor (Viscount Jowitt), the Speaker of the House of Commons (the Rt. Hon. D. Clifton Brown), the Bishop of London, Lord Reith, the Minister of Civil Aviation (Lord Pakenham), the Parliamentary Under-Secretary of State for Foreign Affairs (Lord Henderson), the Home Secretary (the Rt. Hon. J. Chuter Ede), the Minister of Health (the Rt. Hon. Aneurin Bevan), the Gentleman-Usher of the Black Rod (Vice-Admiral Sir Geoffrey Blake), the Sergeant-at-Arms (Brigadier Sir Charles Alfred Howard), Mr. Kenneth Lindsay, the Clerk Assistant of the House of Commons (Mr. E. A. Fellowes), and the many others who contributed to the success of the last visit of German politicians; and to the following who provided accommodation for the German visitors, in a number of cases declining the modest sums of money available to cover out-of-pocket expenses: Mr. and Mrs. S. D. Bailey, the Hon. Mrs. Eden, Major and Mrs. C. J. Evans, Mrs. C. Corbett Fisher, Alderman and Mrs. J. Fitzgerald, Mr. and Mrs. D. W. S. Lidderdale, Mrs. Beatrice Palmer, Mr. Lancelot Spicer, Mr. and Mrs. C. E. Page Taylor, Sir Frank and Lady Tribe, and Mr. F. Whelen.

## PARLIAMENTARY INSTITUTIONS AND BROADCASTING

by SIR WILLIAM HALEY, K.C.M.G.

(*Sir William Haley has been Director-General of the British Broadcasting Corporation since 1944*)

THE Editor of *Parliamentary Affairs* has asked me to give a factual account of the relationship between parliamentary institutions and Broadcasting. I propose to do so under three heads:

- (1) Broadcasting's responsibility to Parliament.
- (2) The broadcasting of public affairs insofar as it affects Parliament.
- (3) Broadcasting as a means of spreading information about Parliament.

### I

Parliament is the keystone of the arch of our democracy. Broadcasting is the most comprehensive, simultaneous, and ubiquitous means yet invented of communicating with the people. It is natural that from the very beginning they should have taken a lively interest in each other. The coming of Broadcasting in 1922 raised far-reaching and fundamental problems. What is not always realized is how early their general solution was found. From the very beginning it was clear Parliament would have to assume ultimate responsibility for Broadcasting because of the part Broadcasting promised to play in the national life. Parliament, at the same time, has never wanted to control the actual broadcasting service. The Crawford Committee, which in 1925 recommended the creation of the British Broadcasting Corporation, proposed

“that the prestige and status of the Corporation should be freely acknowledged and their sense of responsibility emphasized; that, although Parliament must retain the

right of ultimate control and the Postmaster-General must be the parliamentary spokesman on broad questions of policy, the Governors should be invested with the maximum of freedom which Parliament is prepared to concede.”

Parliament has always been prepared to concede great freedom, while always retaining the right to be vigilant, to review the relationship or its working from time to time, to criticize, and to encourage.

In general, Broadcasting can be brought before the House for debate in three ways:

- (a) The Government can introduce a Motion with the object of getting Parliament’s approval for Government decisions; e.g., a renewal of the B.B.C.’s Charter.
- (b) The Opposition can initiate a debate if it desires to criticize broadcasting policy, either by putting down a Motion or by discussing in Committee of Supply the Vote granting money for the service.
- (c) Individual Members can deal with Broadcasting in a Motion on the Adjournment, or by putting questions to the appropriate Minister. The Lord President of the Council deals with major issues invoking the Charter, the Postmaster-General with other matters of policy.

Such debates and such questions are generally confined to broad matters of policy. But Members of Parliament are like most other listeners in having their individual preferences and dislikes and at the end of a debate there have generally been a multitude of counsels. This is not always the case, of course, and if a debate reveals a consensus of opinion on any matter related to Broadcasting it is then for the Governors of the B.B.C. to consider their policy in the light of the debate. Questions about the individual content of programmes and details of administration are not normally answered in Parliament as they would be if they concerned a Government department. There is no firm demarcation line, however, between what is policy and what is day-to-day working. It is a matter of judgment.

Each year the Governors of the B.B.C. make a report to the Postmaster-General who presents it to Parliament as a White Paper. The accounts of the Corporation come before the Public Accounts Committee; and its finances are subject to comment by the Select Committee on Civil Estimates.

Constitution lovers may feel the relationship between Parliament and Broadcasting is unprecise. In actual fact it has worked well. There is never any doubt that the B.B.C. is unreservedly and perpetually answerable to Parliament. At the same time, a great sense of responsible independence for the Corporation, of freedom to initiate and to experiment have been engendered.

## II

Broadcasting being such a pervasive and (potentially) such a persuasive medium, the greatest attention has always been paid to the B.B.C.'s broadcasting on public affairs. From the earliest days of the British Broadcasting Company and, indeed, during the first two years of the British Broadcasting Corporation the broadcasting of controversy was one of the two general prohibitions enforced by the Postmaster-General by virtue of his powers under the Licence. (The other was against the expression by the B.B.C. of any opinions of its own.) It was not until 1928 that the ban on controversy was removed. Five years were allowed to pass and then the whole question of the extent to which the B.B.C. should broadcast controversial views was the subject of an important debate on February 22, 1933 (*Hansard*, Vol. 274, Cols. 1811-1870), when the House of Commons resolved

“That the House, being satisfied that the British Broadcasting Corporation maintains in general a high standard of service, is of opinion that it would be contrary to the public interest to subject the Corporation to any control by Government or by Parliament other than the control already provided for in the Charter and the Licence of the Corporation; that controversial matter is rightly not excluded from broadcast programmes, but that the Governors should ensure the effective expression of all

important opinion relating thereto; and that only by the exercise of the greatest care in the selection of speakers and subjects can the function of the Corporation be fulfilled and the high quality of British broadcasting be maintained."

The overriding requirement of all broadcasting by the B.B.C. on public affairs is absolute impartiality. The Corporation has no views of its own. Its role is to be a means of communicating the views of others. It strives with the greatest possible care to do so without bias. The undertaking naturally presents many problems. They concern both speakers and subjects. So far as Parliament is concerned, one of the first considerations is that no political party shall derive unfair advantage.

Party political broadcasting is regulated by an agreement between the main parties and the B.B.C. It provides that the Corporation shall provide facilities for twelve broadcasts a year, to be allotted between the parties in proportion to the total votes cast at the last General Election. (The present allocation is Labour six, Conservative five, Liberal one.) The parties choose the dates and speakers for the broadcasts. The Corporation reserves the right, after consultation with the party leaders, to invite to the microphone a Member of either House of outstanding national eminence, who may have become detached from any party.

The agreement also takes cognizance of the necessity for non-controversial Ministerial broadcasts. Broadcasting is now a means of communication no Government can disregard when it needs to inform the public on matters of national interest. The parties, therefore, agree it is proper for Ministers to come to the microphone from time to time, to give information, to explain new legislation, to inaugurate administrative measures. The Minister must seek to obtain no party advantage from the broadcast. Should the Opposition consider he has overstepped the bounds of fairness they may approach the Government in the first instance. If Government and Opposition agree that the broadcast was controversial, even inadvertently, then the B.B.C. automatically provide opportunity for a reply.

If they do not agree then it is for the Governors of the B.B.C. to decide whether a reply should be given or not.

Outside Ministerial broadcasts and party political broadcasts there are all the other appearances by M.P.s at the microphone. Here, too, it is necessary to maintain impartiality. As any appearance at the microphone can give publicity and engender popularity—and, indeed, some entirely non-political broadcasts can be far more powerful in this respect than some purely political ones—the B.B.C. regulates all M.P.s' appearances at the microphone in its internal services so that over reasonable periods of time the same party proportion is maintained (six: five: one) as in the party political broadcasts.

The B.B.C. has the responsibility of ensuring that Broadcasting does all it effectively can to inform the public on matters at issue. At the same time, it would be highly undesirable for it to become a simultaneous debating arena with Parliament. There should be explanation, debate, controversy before, and possibly after, Parliament has dealt with an issue. But Parliament is the only grand forum of the nation. Once the matter at issue is under active discussion there, it should not also be being contested on the ether. In order to avoid this danger the Corporation a few years ago established a rule that no controversial or *ex parte* statement should be broadcast on a matter upon which a debate in Parliament is imminent. So far as possible "imminent" is construed as a fortnight before a debate in either House.

M.P.s are not invited to broadcast on matters while they are the subject of legislation.

General Elections naturally present special broadcasting problems. The present procedure, which appears to have won general acceptance both within Parliament and outside it, is based on an agreement which was reached between the B.B.C. and the three main parties in 1939, by which time experience had been gained in the course of the three General Elections of 1929, 1931 and 1935, when difficult problems had had to be overcome in circumstances which were still novel. Under this agreed arrangement:

- (1) Twelve periods were to be made available by the B.B.C.

and agreement was reached between the parties as to how the time should be allocated between them.

- (2) The Government was to speak first and last.
- (3) Three clear days (Sunday not being included) were to be left between the last talk and Polling Day.
- (4) No other talks of a political nature or with political implications were to be given by the B.B.C. during the election period, i.e. from the Dissolution to Polling Day.
- (5) The claims of minority parties were to be considered after Nomination Day and any party with more than twenty candidates was to be given a shorter period at a less important hour.

These arrangements were in line with the recommendations of the Ullswater Committee, which first laid it down as a principle that the B.B.C., as the trustee of the nation's broadcasting, should first offer for election speeches such time as seemed appropriate, after which it would retire temporarily from the proceedings, and leave it to the parties to share the broadcasts among themselves, deciding by agreement not only the proportions, but also the order of speaking. The B.B.C. can, of course, be asked if it will alter the total allocation in order to enable agreement to be reached. This has occurred and the Corporation at once complied.

In 1931 the total number of broadcasts allotted was ten; and in 1935 the number was 12. In 1945, in view of the fact that there had been no election for ten years, the figure was finally fixed at 24; this does not include the two additional broadcasts that were given at less important times to minority parties having more than 20 candidates in the field on Nomination Day. (The endeavour to check up on the claims of minority parties on this occasion made one aware of the interesting fact that, in any General Election, there is no official central register of nominations. One has to depend on lists issued by the news agencies or newspapers).

The rule that there should be three clear days between the last General Election broadcast and Polling Day was based on a recommendation by the Ullswater Committee designed



to avoid any last minute effort to stampede the electorate. It gives time for answer by other means, for reflection, and for public judgment to be exercised.

The rule that no political talks or comments, other than the election addresses, should be allowed during the election period, i.e., from the Dissolution to Polling Day, involves the B.B.C. in the duty to exercise a careful vigilance throughout its programmes, but the advantages of such a rule are clear during the period when a direct appeal is being made by the rival parties to the electorate.

The suggestion has been made from time to time that candidates and prospective candidates should in some way be regulated as broadcasters before Nomination Day, but this has never seemed desirable or practicable. The Corporation takes great pains, however, to see that Broadcasting is not allowed to build up political reputations outside those established in Parliament and by normal party processes.

There are many other aspects of Broadcasting on public affairs, but they fall outside the brief of this article, which is related to Parliament.

### III

In the course of the years the B.B.C. has sought increasingly to interest its listeners both at home and throughout the world in the proceedings, traditions, history, and constitution of Parliament. It does not seek to broadcast Parliament itself. The view of the parties has been expressed more than once, that the introduction of broadcast transmission from either Chamber, would in the long run, imperil the whole traditional tenor of debate.

That the broadcasting of Parliament has never commended itself to either House is generally known. It is not perhaps realized that the strength of the objection extends also to any recording of the most historic parliamentary proceedings, even with the proviso that the records should be immediately handed into the custody of the House to be preserved for archival purposes only. The Corporation did make an informal suggestion of this kind on one occasion

but it was kindly but firmly declined. Perhaps quite rightly. It is one thing to speak with posterity in mind. It is another to have it present in the form of a recording microphone. It would be hard to prevent self-consciousness creeping in.

In one matter, Parliament has relaxed. In view of the success of the B.B.C.'s daily report of the proceedings of both Houses, "Today in Parliament" (and the fact that although spontaneously started by the B.B.C. itself on 9th October, 1945, it is now a requirement specified in the Licence), it is strange to recall that it was not until September, 1941, that B.B.C. reporters were given regular facilities in the House of Commons for taking notes of the proceedings. In May, 1940, the House of Commons authorities promised to keep one seat free each day in the Members' Gallery for a B.B.C. representative. But the taking of notes was not allowed. Before that, there were no regular facilities at all. Happily it has now become a part of the established practice in both Houses, that the B.B.C. should be given facilities for its reporters, and the authorities in both Houses have shown the greatest sympathy with the B.B.C.'s extending needs, within their serious limitations of space.

"Today in Parliament" has so generally commended itself both to Members and listeners, that it may be of interest to explain how it is compiled. Already in 1935 the Ullswater Committee had recommended that the B.B.C. "experiment" of sending a reporter to a parliamentary debate should be pursued. Mr. Attlee, who was a member of the Committee, made a reservation on this point. He did not agree with the practice. When, in the closing stages of the war, the B.B.C. began to consider its post-war plans for reporting Parliament it, too, felt that the practice of broadcasting daily reports of Parliament by a single individual observer would be open to serious objections. At the same time it felt that good as the special extended report which it commissioned from one of the news agencies was, it had one important defect. On occasion, it missed "the sense of the House". The relative amounts of space accorded to the different speakers did not always accord with the House's broad feeling of the con-

tribution they had made to the debate. It is almost impossible for the parliamentary *reporter* both to get down what is said, and to assess its relative importance. The B.B.C. has sought to bring both functions into its report by separate means. The basis of "Today in Parliament" remains the extended news agency report. But the team of B.B.C. sub-editors who prepare it for broadcasting do so in consultation with the B.B.C.'s representative in Parliament, who can listen to the debates without having to report them and who can give valuable first-hand guidance. The scheme has worked well.

One other feature of "Today in Parliament" should be mentioned. It is broadcast every day Parliament sits. It does not confine itself to the more important debates or the outstanding occasion. It is not merely an affair of headlines. If Parliament has met, no matter how apparently humdrum its business, the B.B.C. broadcasts a report to the people. "Today in Parliament" is also repeated the following morning.

Another means of giving listeners a view of parliamentary business is "The Week in Westminster", broadcast on Saturday evenings. This is now in its twentieth year, having begun on 6th November, 1929. The speakers are Members of one or other of the two Houses. They are asked to give a personal but objective impression of the week's proceedings. The speakers are chosen by the Corporation after informal consultation with experienced parliamentarians. In order to maintain a proper balance between the parties, the B.B.C. allots these talks in the same ratio as the party political broadcasts, with the inclusion from time to time of a space for an Independent or a member of a small party.

It can be held, however, that valuable as these direct methods of reporting of Parliament are, and large as their audiences have grown, they serve mainly those who are already interested. The work of spreading a knowledge of parliamentary institutions has therefore been taken up vigorously in various other ways. Talks and discussions about legislation, programmes about Parliament as an institution, authoritative information about parliamentary procedure, the historical development of Parliament; above all, talks on

Parliament to schools, all play their part. I have recently been looking at a list of such broadcasts in the B.B.C. home services. They total close on a hundred programmes during the last three years. In addition there have been innumerable similar broadcasts in the B.B.C.'s overseas services.

#### IV

This factual record does not pretend that everything that has been done has been perfect, or that there will not be developed other and better means of using Broadcasting to keep the people informed about Parliament and to appreciate the full meaning of Parliament. But it does show, I hope, that the task has been approached constructively, that the years have seen a steady development in methods, and that a deep sense of responsibility, and a constant seeking after objectivity, impartiality, and accuracy, have inspired the task throughout. Whatever has been achieved would not have been possible without the kindness and help of Mr. Speaker, Members and officials of both Houses. To them the B.B.C. and its listeners owe many debts of thanks.

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#### **"THE SCIENCE OF BROADCASTING"**

" . . . the science of broadcasting makes real democracy possible for the first time in this country. The representative system is a makeshift system and is not the system which we intended to have. It is the system we have because we cannot get real democracy, for real democracy presupposes all the citizens meeting together as they did in Athens and hearing speeches. Now for the first time by means of broadcasting you can get the whole community associated with your Parliament and give it the power to hear speeches, just as in Athens of old they heard the views of their representative citizens."

MR. L. HORE-BELISHA,  
*speaking in the House of Commons, 15th November, 1926.*

## ATHENIAN DEMOCRACY

by RUSSELL MEIGGS

(*Mr. Russell Meiggs is a Fellow of Balliol College and  
Lecturer in Ancient History in the University of Oxford*)

THOUGH other elements have made powerful contributions, the main heritage of Western European civilization derives from Greece and Rome. When democracy is discussed, it is common and natural to trace its roots to the democracies of the Greek city states, and particularly to Athens, whose democracy left the greatest mark on ancient political thinking. On Athenian democracy there has been a wide range of judgments. Mitford, writing with strong Tory convictions under the shadow of the growing excesses of the French Revolution, saw in Athenian democracy the irresponsible play of an unstable mob. Grote, writing against the background of the confident development of Victorian democracy, saw in Athens the prototype of many of the institutions and principles which were the life-blood of British politics. The Marxist analysis of history tempted some to apply the doctrine of the class war to Athens; but the existence of slavery made rigid application difficult, for the working class at Athens was largely composed of slaves who had no voice in government. More recently the clear emergence of two entirely different conceptions of democracy has made us ask again what democracy is. It is pertinent to review once more the first great democracy, for the ideological battle may yet be extended to editions of Aristotle's *Politics*.

The most important governing factor in Athenian democracy is the extremely small size of the political unit. The state of Attica, centred on Athens, occupied some 1,030 square miles, the size of Derbyshire. The population in the middle of the fifth century totalled roughly 316,000, of whom some 180,000 were citizens, 28,000 resident aliens, the rest slaves. About half the population lived in the city

and its harbour, the Piraeus, corresponding approximately to the population of Portsmouth; the rest were distributed in small communities, mostly agricultural, over the countryside. The harbour was the busiest in the Greek world and with the city provided scope for a wide range of crafts and trades. But the land was intensively farmed and the farming population remained an important element in politics as well as in the armed forces.

Athens had slowly developed constitutionally from monarchy, through feudal aristocracy and then a temporary absolutism which quickened social and economic ferment, to advancing democracy which reached virtually its final pattern in the reforms of the middle of the fifth century. Athenian democracy was most vigorous in the second half of the fifth century; in the leaner days of the fourth century, following defeat in war, it became more stable, more efficient technically, but less resourceful.

The first essential of Athenian democracy was that sovereignty lay in practice as well as in theory with the people. Major decisions on foreign and domestic policy were taken by a vote of the popular Assembly which all citizens over eighteen were entitled to attend, and which met on appointed days, roughly four times a month, though special meetings could be called. For certain important decisions, such as the imposition of a property tax, a minimum quorum of 6,000 was established by law, but even for ordinary business attendance ran into thousands.

A large popular assembly cannot initiate policy and transact business unless an agenda is first prepared and digested. This was the task of the Council, an annually changing committee of the Assembly. Careful precautions were taken to ensure that it was fully democratic and not the monopoly of any particular local or political interest. It was composed of 500 members holding office for a year. Any citizen over thirty who had not served more than once before was eligible to stand as a candidate, and the places were filled by lot, on the assumption that any citizen who was willing could fulfil the duties of office. The total of 500 was secured on

a representative basis, 50 being appointed from each of the ten tribes, and these tribes had been ingeniously devised to eliminate the faction-breeding influence of local grouping. For each tribe was composed of three groups of demes, or small communities, coming from three different parts of Attica, from the city, from the coast lands, and from the interior of the country. The tribe was the basis for all representation and it provided a fair cross-section of the community. The 500 Councillors selected by lot were subject to an official scrutiny by the outgoing Council to ensure that they had the necessary qualifications of birth and age and a clean record in their relations to the State.

The primary duty of the Council was to prepare business for the Assembly, to formulate proposals in a form which could be ratified, after discussion, by the people. But though no measure could be discussed in the Assembly without such formulation through the Council, any citizen could have access to the Council. His proposals, if accepted by a majority, were formulated by a Councillor and duly presented to the people. In the same way foreign envoys wishing to negotiate with Athens came first before the Council and were then introduced to the Assembly. The duties of the Council were not confined to preparing business for the Assembly; they had also executive duties and were responsible for supervising the work of the magistrates.

The full Council of 500 could not be expected to meet every day, for if it was to be fully democratic it had to be open to citizens who had other work to do to earn their living. The year was therefore divided into ten periods, prytanies, and each of the ten tribal divisions of 50 Councillors represented the Council in turn. During their period of responsibility the Councillors of the tribe on duty, prytanes, were in continuous session and were maintained at the State's expense in a public building next to the Council House. One of them, changing daily, acted as president and presided also over the meeting of the Assembly. In devolving so much responsibility on a small committee of 50, the democracy instituted certain safeguards. Each tribal committee had a secretary, but the

secretary had to be chosen from a different tribe. To avoid collusion between prytanies, the order in which each tribe should serve during the year was decided by lot, but the lots were not drawn until the last day of the outgoing prytany. The prytanes carried on the day to day routine business. For the preparation of business for the Assembly and all important matters the full Council was responsible.

The annually changing Council of 500 was the nerve centre of the democracy. Since only two years of service were allowed it could never become a professional body. Nor was there the hidden power of a permanent Civil Service in the background; there were clerks in the record office and in the Council, but their duties were unimportant. Nor were there drafting committees. The decrees that have been preserved from the fifth century are the compositions of individuals of varying abilities; and it is not perhaps fanciful to see, sometimes at least, in the contrast between shapely measures logically developed and others which have no apparent order and no tightness of expression a difference in social class and educational background.

The business prepared by the Council was submitted to the Assembly, meeting on the Pnyx, the open slope of a rocky hill. There was no cover from sun or rain and, except for the prytanes, there were probably no benches. In many of their theatres the Greeks sat on steps cut in the rock; it was no greater hardship to sit on the Pnyx, though doubtless the more sensitive brought cushions. The prytanes of the day sat in front on benches; their president acted as chairman, putting the vote when the moment came. The people sat in no special order, wherever they could find a place, though the practice developed of partisans grouping together to make an impressive demonstration at the right time. After due sacrifice had been made, a herald, requiring the qualities of our town-criers, read out the first resolution. "Who wishes to address the people?" At this point any citizen could speak to the proposal. He could support it, he could denounce it, he could propose an amendment. Such amendments might be trivial concerning points of procedure; but they could be



radical, involving a complete change of policy. An example may be cited from a decree embodying regulations for the despatch of a colony to Brea in Thrace. "Phantokles proposed the following amendment concerning the colony to be sent to Brea. The tribe of Erecthes in prytany shall bring Phantokles before the Council at its next session. The colonists to go to Brea shall be drawn from Thetes and Zeugitai." Through oversight or deliberately the Council's proposal had left unspecified from what classes the colonists, who would get good land in the new settlement, were to come. Phantokles wished to ensure that only the two poorest classes benefited. He also no doubt made a long speech offering various other suggestions. They were not of sufficient importance to be embodied in the decree, but he was to have a hearing before the Council, who would supervise the project.

The speaking done, the president put the vote which was taken by a show of hands. Of the management of this vote we know nothing. Normally the decision would be at once apparent, but a narrow vote must have required careful organization and probably much noisy excitement. On one occasion an earthquake occurred before the vote could be taken, enforcing an adjournment. No doubt there could also be appeals against bad light.

When the resolution had been adopted it was binding on the people, and if the measure was of some consequence it was the responsibility of the secretary of the Council to have it inscribed on stone and set up in a public place where all could see it. Many such public records have been preserved and the standard form of the decree illustrates well the procedure described. "It was resolved by the Council [who had submitted the decree to the people] and by the People [who had ratified it]; Kekropis was the tribe in prytany, Mnesitheos [from a different tribe] was secretary, Eupeithes [of the Kekropid tribe] was President, Kallias [a Councillor or general] introduced the decree."

Proposals submitted to the Assembly were not confined to important questions of foreign policy and social reform. The building policy which within a generation transformed the

Acropolis was hammered out in the same way. The inspiration came from Pericles and the architects, but the erection of each building, the choice of architect, and of the commission to supervise the work rested on decisions of the Assembly; and it is clear that even Pericles had to struggle hard and did not always win his way. We can still see how the plans of the Propylaea, the monumental entrance to the Acropolis, were modified by the opposition. The architect's original design could not be carried out because it would have encroached on certain sacred reserves. The Propylaea of Mnesicles as completed represents but a torso of the original scheme. The full logic of popular control was carried out in this field too. The record of each building was inscribed in stone. All Athenians could see how much money had been spent on the great Parthenon, and under what main heads.

In decisions by a large Assembly there was always the danger of irresponsibility and inconsistency. The British provide for continuity of government by their system of parties, elections, cabinet; the Athenians had no such safeguards. But two institutions modified the inherent dangers. Any citizen could prosecute the proposer of a bill before or within a year of its enactment if it was inconsistent with previous enactments. More important was the institution of Ostracism, or Sherding, which provided for banishment from the state for ten years. Ostracism had been introduced to counter the threat of absolutism, as a means to be rid of a potential autocrat by vote before he seized power. Later, when the fear of absolutism had receded, it was used to decide between leading public men advocating opposing policies. At a stated meeting each year the Assembly was asked to decide whether an Ostracism should be held. If an Ostracism was voted every citizen on an appointed day was required to procure a scrap of broken pottery, write on it the name of the citizen whom he wished to remove, and bring it to the market place. If not less than 6,000 sherds were cast the man with most votes against him had to leave Athens for ten years, after which he could return to the full exercise of his rights.

The Assembly wielded real power. Its composition is therefore important. Were the men who attended the meetings ignorant and illiterate, the pre-ordained victims of a persuasive speaker, or were they highly intelligent and responsible? Both extremes have been urged; on both sides there has been exaggeration. The citizens of Athens were certainly not all intellectuals, but it is equally misleading to regard them as an ignorant mob. Since no man could serve more than two years in the Council, considerably more than half the citizens must have served at some time and had therefore seen the detailed administration of public business. A smaller number, but not an insignificant proportion, had held office of some kind. Most could appreciate what they heard in the theatre and the inference to be drawn in this respect, particularly from Greek comedy, is important. For the comic playwrights were not writing for the intelligentsia; they wanted to win the prize, and the prize was decided not by experts but by the votes of the audience. This is clear enough from the plays of Aristophanes who makes no bones about asking for the people's vote. The horse play and coarse humour may have been stressed to satisfy the popular palate, but Aristophanes was no buffoon. He could write exquisite poetry without losing popular favour and he could attack the popular figures of the day with subtlety as well as bluntness. His detailed parodies of Euripides imply in his audience a considerable knowledge of the tragedies, which is further witnessed by the tradition that many of the Athenian prisoners, after the disastrous defeat before Syracuse, won their freedom by reciting Euripides' verses. The Assembly was certainly not an ignorant mob and it was certainly politically minded. On any major political issue very few Athenians would have responded to a Gallup Poll enquiry with a "don't know". Knowledgeable they certainly were, but it was knowledge picked up in the streets, in the barbers' shops, in the theatre, not in the study of informed criticism. Most of them were workers—farmers, shopkeepers, traders and craftsmen. For slave labour did not free the citizen body from hard work. A minority of families had sufficient landed or other property

to free them from the necessity of earning a living. The great majority had to work hard, and in working conditions there was in most trades little distinction between slave and free. It was for this reason that State pay was essential for State service and was introduced by the fully developed democracy for magistrates, councillors, and, first in time and first in importance, for jury service.

For jury service also was a fundamental feature of Athenian democracy. In early days the administration of justice had been in the hands of the nobility. Harsh laws were modified with the development of society, an appeal to the people was introduced by Solon, but for long the power of decision in legal cases rested with magistrates drawn from the upper classes. It was not until the fifth century democratic reforms that full control over the law courts passed to the people. From this time the magistrate was only a presiding chairman: the decision rested with a lot-selected panel of jurors. Each year a roll of 6,000 citizens was drawn up from whom the various panels for individual cases were taken by lot. The panels were large to guard against bribery; the court which tried Socrates consisted of 501, and courts of 1,001 are known. The prosecutor and defendant made their speeches, often prepared by a professional speech writer, witnesses were heard, documents produced, and the jurors cast their pebbles. This popular control of the courts was particularly important in political cases. In British democracy it is a cardinal principle that the Judiciary should be independent of politics. The Athenians had no such confidence in the expert, and no such fear of prejudice, provided the prejudice was of the right flavour. Evidence was required, but the substance of the argument was directed to democratic sympathies. In days of crisis an oligarch had little hope of a fair hearing, and for sound democrats failure was almost as dangerous as illegality.

In any consideration of Athenian democracy, the magistrates should logically be considered last, for they were in a very real sense the servants of the people. In earlier times office had meant power and had depended on birth and wealth. It was vital to full Athenian democracy that

office should not be the monopoly of a few, but open to all. This principle was most clearly expressed by the general application of the lot. The president of the State was the archon who gave his name to the year. Once the office had been the storm centre of family rivalries: now it was open to all but the lowest property group, and appointment was by lot. So, too, with almost all other magistrates. To this general rule there was one important exception. The ten generals, normally chosen one from each of the ten tribes, led the forces in war. For this special responsibility the principle of election was maintained and while the archonship fell to chance appointment, the office of general was long filled by men of inherited wealth and influence. It was on his continuous re-election as general that Pericles' commanding position in the State rested. But though Thucydides describes the period of Pericles' dominance as the rule of the first man in the state rather than democracy, there was nothing unconstitutional or undemocratic in Pericles' position. Each year the people were free at the elections to reject him, nor while general was he outside their control. The generals had indeed the right of attending the Council and could bring forward proposals through the Council to the Assembly, but the carrying of these proposals rested on the people's consent. The generals had little power of initiative: all major decisions on war, peace, campaigns, and alliances rested with the Assembly. At any meeting Pericles was open to attack. When, in his old age, the people grew restless under his military leadership in war, they deposed and fined him.

The officers of State were under strict popular control. Before entering office they were subject to scrutiny in the courts to ensure that their public record was sound. At the end of their year of office they had to submit a formal account of their expenditure of public funds and any citizen could bring a charge against them for misappropriation, corruption or illegality. During their year of office they were subject to a monthly financial scrutiny by the Council who also generally supervised their work at every stage. The control of the Council over magistrates may be illustrated

from a typical decree: "The 30 public auditors now in office are to calculate accurately the sums due to the gods, and the Council is to exercise full control over their computation. And the prytanes are to hand over the money in the presence of the Council." The attitude towards magistrates is better illustrated in a violent war-time decree which provided for a sharp increase in the tribute assessments of the cities of Athens' empire. "The assessors shall enrol the name of the cities within five days from the time they are selected, or for each day each one of them shall pay a fine of 1,000 drachmas. The administrators of the oath shall swear in the assessors on the same day that they are selected, or each one of them shall be subjected to the same fine. The introducers shall care for the adjudications on matters of tribute when the people so vote. These cases shall be received of necessity by the archon and the polemarch in the Eliaia. . . . If they do not take action at once each one of them shall be subject at his examination according to the law to a fine of 10,000 drachmas." The proposer of this decree intended to ensure that political opponents did not weaken his policy in execution.

So much for the mechanics of Athenian democracy: a briefer word on the spirit. The most flattering portrait is painted by Thucydides in his record of Pericles' funeral oration over those who died in the first year of the Peloponnesian War. "It is true that we are called a democracy, for the administration is in the hands of the many and not of the few. But while the law secures equal justice to all alike in their private disputes the claim of excellence is also recognized. . . . There is no exclusiveness in our public life. . . . An Athenian citizen does not neglect the state because he takes care of his own household; and even those of us who are engaged in business have a very fair idea of politics. We alone regard a man who takes no interest in public affairs not as a harmless, but as a useless character; and if few of us are originators, we are all sound judges of a policy." Others painted a very different picture. Among the works that have come down to us under the name of Xenophon is an interesting though poorly expressed political pamphlet by a confirmed oligarch.

He hates Athenian democracy, but is fascinated by its efficiency in ensuring its own maintenance. It is a bad system because the good are ruled by the bad, but it is a logical system because the people do really rule and ensure that their rule will not be upset. "I say that the people of Athens judge which of the citizens are good and which bad. Some they find friendly and sympathetic, and these they love even if they are evil. The good they hate; for they consider that their 'virtue' is not directed to the good of the common people . . . I pardon the people for their democracy; for it is pardonable for any man to benefit himself. But any man who voluntarily chooses to live in a democracy rather than an oligarchy has prepared the way for an unjust life and made up his mind that bad practices are less noticeable in a democracy than in an oligarchy. . . . In the law courts they care less for justice than their own interest." His cynical analysis is a needed corrective to the idealism of the funeral oration. Free discussion was certainly vital to Athenian democracy and free criticism was allowed. Aristophanes' ridicule and abuse of leading public figures can stand comparison with the most virulent political cartoons of a modern free press. But Athenian tolerance should not be over stressed. Oligarchs had fought the democratic revolution and though many of them were won over by Pericles, there remained an underground movement anxious for change, ready to seize power when opportunity offered. The people took good care to prevent the opportunity, and in critical days they were prepared to use foul means as well as fair. Trumped up charges of conspiracy were easily brought, and the large popular jury panels were easily inflamed. During the Peloponnesian War there are indeed traces of something very like a class war. After the disaster of the Sicilian expedition the oligarchs seized their chance and lost their opportunity. They seized power but their reaction was too violent to undo history. When the emergency was over and Athens, defeated, had to set about reconstruction, full democracy was once again established and never again challenged while Athens remained free.

## PARLIAMENTARY INSTITUTIONS IN CANADA THEIR HISTORY AND PRESENT STATUS

by CLARIS EDWIN SILCOX, M.A., D.D.

*(Dr. Silcox has had a wide experience in religious, social and political affairs not only in Canada, but also in the United States, Latin America, and Europe.)*

ON the palace of the former Viceroy of India, there is inscribed this motto: "Liberty will not descend to a people; a people must rise to liberty"—a truism, perhaps, to be learned in bitter experience by many newly-emancipated nations. For the course of true democracy and of parliamentary institutions seldom runs smoothly. As Lord Acton put it in his review of Goldwin Smith's *Irish History*: "The acquisition of real definite freedom is a very slow and tardy process." This, Canadians have discovered in the three or four hundred years of their history.

The course of democracy and parliamentary institutions in Canadian history can be considered in a few very clear epochs. In the French regime which came to an end in 1759, there were no parliamentary institutions of any kind. Government was directly under the kings of France who did not hesitate to affirm that they were the State. Through a Governor, an Intendant and a Bishop, who were assisted in some fashion by a legislative council, they ruled directly, and nothing important was undertaken without the definite approval of "His Most Christian Majesty", the King of France. Thus, when Quebec fell to General Wolfe, Great Britain added to her domain some fifty or sixty thousand French Canadians who had no experience whatever in democratic or parliamentary institutions of any kind, and certainly nothing comparable to the compact signed in the cabin of the *Mayflower*, or the assembly of the Commonwealth of Massachusetts, or the town meeting characteristic of the New England community. Some of the American colonials who came to Canada after the fall of Quebec were over-eager to establish certain representative institutions which they could dominate, but they dismissed every suggestion that the French



should enjoy such representation, while the military governors sent by Britain had no desire to be led around by ambitious Bostonians and New Yorkers, and hence made haste most deliberately.

Indeed, the first representative institutions in what is now the Dominion of Canada were not established in the original colonies of Canada at all, but in Nova Scotia (1758) where the New England spirit was strong and insistent, and in Prince Edward Island (1773). When New Brunswick was separated from Nova Scotia in 1784, it received a representative assembly. Not until 1791, when the Constitutional Act separated Canada into Lower and Upper, did the original Colonies have an assembly. But while these primitive representative assemblies were not unimportant, they were, for the most part, extremely limited in their powers. They could pass laws, but an irresponsible Governor and his Legislative Council could ignore such laws; they might vote on money to be raised by taxation, but certain moneys were received by the Governor directly from the Mother Country for defence or kindred purposes, and this made him partly independent of even that particular check on his arbitrariness. All this created the anomaly referred to by Sir Robert Borden in his lectures on "Canadian Constitutional Studies", when he pointed out that in the early years of the nineteenth century Canada had representative government when Britain was still struggling to free itself from the power of those who controlled the rotten boroughs and thus to achieve truly representative government, but that Canada did *not* have responsible government while the United Kingdom did have it. So, the next great struggle in Canada and in the maritime Provinces was for responsible government, and this was achieved in the years following the revolution in 1837 and before Confederation in 1867.

But neither representative government nor responsible government were enough to create a unity in the British North American colonies, or to overcome the sharp difficulties encountered in the clash between the French and English patterns of life, or to provide adequate defence for colonies which had been grievously invaded in 1812, subjected to

annoying sallies by groups of Americans between 1837 and 1867, and threatened by dire possibilities when the war between the States (1860-1865) had come to an end, or to take the Herculean but necessary action not only to hold but to develop the great Northwest for Britain when the rights granted to the Hudson Bay Company should be terminated. In addition to all this, there was the experience of the United States of America to ponder. The Americans had established a federal government of sovereign States and had been extending their sway west and south and even threatening (as in the Oregon affair) to absorb what is now the Canadian Northwest. Hence, the next step for British North America was confederation.

But despite the strong and unassailable arguments supporting confederation, it ran into difficulties, and without the infinite patience and remarkable political acumen displayed by the Founding Fathers the movement would have failed. As it was, Prince Edward Island, the tiniest of the Provinces, declined to be a charter member and postponed her entrance into the union until 1873 (just as Rhode Island, the smallest of the American States, was the last to ratify the federal constitution). Newfoundland, too, withdrew from the plan although the door was kept open for her reconsideration. She did reconsider in 1893, but again declined to become a part of Canada. The difficulties were, of course, those usually associated with particularism and the fear on the part of the smaller Provinces of being inundated by the larger Provinces.

It has been said that the articles of agreement submitted to the Imperial Parliament for incorporation in the British North America Act had been drawn up not by lawyers but by Canadians with a less theoretical and more practical bent. This, if true, may have been an advantage; or it may also have been responsible for some of the provisions in the Act which have later proved so difficult to harmonize. At all events, the Act was finally passed, confederation became a reality and the Dominion of Canada was launched on the course she has since followed for eighty-one years. Almost immediately afterwards, Canada acquired Rupert's Land and the Northwest Territory and, from these, new Provinces were carved out—Manitoba as

early as 1870 and later, in 1905, Alberta and Saskatchewan. Confederation had barely become a reality before the small colonies west of the Rocky Mountains united, made provision for representative government, and on their own petition were incorporated as British Columbia in the new Dominion. Canada thus came into possession of a considerable portion of the land surface of the world. She had room and more than she needed for expansion. Since the incorporation of Rupert's Land and the Northwest Territory, no new areas were added to the Dominion, although there were boundary adjustments involving Alaska and Labrador, until the inclusion of Newfoundland, the first large territorial expansion since 1870.

The eighty-one years of Confederation have witnessed the consolidation of this far-flung empire, the building of a fairly adequate basis for a steadily improving standard of living, the development of more amicable understanding between the two old Canadian races—the French and the English—and between both of these races and the newer Canadians who have come to Canada in more recent years as immigrants (incidentally helping to adjust the losses sustained by emigration of the native-born to the United States), the working out of the Constitution in the light of the interpretations of the Privy Council, and above all the emergence of Canada from its colonial status to that of complete independence and practical sovereignty within the British Commonwealth of Nations.

The participation of Canada in two world wars from their outset has raised many difficult problems in national unity and in the relations of this vigorous young nation with the United States and other countries in the Pan-American Union. It has also sharpened many of the constitutional problems involving (1) the respective powers of the Dominion Parliament and the Provincial legislatures, especially in their responsibilities for social welfare; (2) the status of civil liberties and a more exact definition of the rights and obligations of Canadian citizenship; (3) the danger arising from the tendency of the Executive to transfer from war-time to peace-time government by orders-in-council, thus by-passing Parliament; (4) the complications created by the emergence of several political parties, some of

which have significant followings, outside the two old and traditional parties—the Liberals and the Conservatives; (5) Canada's relations with the British Commonwealth, the United States, Western Europe, Latin America, and the United Nations.

Some of these new problems will be treated briefly later. Others, such as the existing impasse in the field of Dominion-Provincial relations, require for their exposition a special article. But in all these changes, Canadians are conscious that the hand of destiny is on their shoulders, and that in their struggle to secure representative and responsible government, to achieve confederation (within the British family of nations) of Provinces with populations differing in race, language and religion, and to win the recognition of our autonomy and sovereignty not alone from the Colonial Office in London but also in the eyes of the whole world, they have an experience of value to all who are seeking to create unity out of multiplicity of nations and races and creeds, an experience with some notable failures but also with much success. They are not disposed to yield the freedom they have already achieved at no little cost, but are prepared to do their part in the building of a world community in which the whole will maintain a decent respect for the divergent needs and desires of the several parts.

It is a solemn thought to Canadians that they have achieved this recognition of their sovereignty just when, on every hand, voices are raised urging the nations to surrender aspects of their sovereignty; they have attained at least the status of a "middle Power" just when the future of small nations in a world of power politics is becoming more and more problematic. Indeed, if Canada has come of age, she has attained it just when the times demand the submergence of some measure of her alleged sovereignty to strengthen a bloc sufficiently able to provide a modicum of security in a most precarious world. As Mr. Amery said in his address delivered in 1940 on a "European Commonwealth": "whatever else may result from this war there will be no more room in Europe for entirely self-regarding, irresponsible small neutrals." And to those who speak so blithely of World Federation now, Canadians

can point out the persistent difficulties which they have encountered in creating such a unity in even a small section of the human family.

On the whole, the institutions established at Confederation have served well and provided an unusual political experience. It would be foolish to attribute the great progress made by Canada to her institutions alone, but without them she could have achieved but little—indeed, she would probably have been absorbed more or less painlessly in the American Republic. But she also owes her great strides to the fact that she was a member of the British family of nations and that in her adolescence and infancy she had the protection of the British fleet—no nation could do her serious damage with impunity; to the good-neighbour policy which, despite some lapses, has inspired the relations between the United States and Canada; and to the extent of her natural resources, scattered over a vast area and not always readily accessible or in the places where they could do the most good, but available for those who had the courage to exploit them.

In regard to the constitutional provisions, it may be said that Canadians generally are perfectly satisfied with the institutions of a constitutional monarchy. As a people they are loyal to the King. Their convictions regarding the monarchy are not founded on mere traditionalism or even on love of pageantry. Only once have their King and Queen come to visit them in person, and they therefore have had to enjoy the pageantry more or less *in absentia*. Nor is their faith in the monarchy due to a frantic desire to retain the one remaining and necessary link that holds them to the British Commonwealth—although they recognize the importance of that fact. It is more probably due to their nearness to the United States and their sober conviction that a constitutional monarchy has many advantages over a republic. They prefer the head of their State to be one who is above all partisan politics, neither revered for his views, nor hated, but the symbol of dignity, grace and compassion—the ideal of the nation.

Canadians are therefore not only satisfied with the monarchy but they take pride in it without fanaticism. And

they are quite satisfied with the office of the Governor-General. They know that no Governor-General is inflicted on them against their will, that he is named by the King only on the advice of His Canadian Ministers. One suspects that the real reason why the Canadian Government has never asked the King to name a Canadian as viceroy, is the feeling that the people would know too much about the political partisanship of any Canadian who might thus be named. He could hardly be regarded dispassionately as the representative of the Crown. Some Governors-General may have been rather colourless, but for the most part they have been men who have made important contributions outside the field of politics to the life of the Dominion, perhaps most notably Lord Dufferin and Lord Tweedsmuir. Few Canadians chafe under the monarchy or its representatives in Canada.

As to the Cabinet, Canadians generally prefer the system of responsible government, for which their fathers fought vigorously and triumphantly, to the system in the United States which makes possible a frequent deadlock if not a prolonged vendetta warfare between the executive and the legislative branches of government. Nevertheless it does not necessarily follow that a man with great administrative skill will have either the interest or the capacity to fight an election. It is, moreover, probable that any Member of the House of Commons who has accepted a Cabinet position will have little time in which to acquaint himself with the particular interests of the constituency which has elected him and so in some respects may fail to represent it worthily. Inevitably, too, when the House is in session and the presence of the Cabinet Minister is demanded to answer questions and parry blows, the supervision of his department must be largely left to his deputies. Still, on the whole, there is much to be said for a Minister who is required to rise in the House at any time and defend his stewardship. Such discussions, when intelligently followed by the public, have an educational value and ought to acquaint the whole people with the reasons, good or bad, for the existing state of affairs.

It is generally recognized that in war-time, govern-

ments must act promptly and often on matters of greatest importance without recourse to Parliament, but in peace-time there is often a tendency on the part of the Cabinet to carry over their war-time psychology and to issue ukases over the air on a Saturday night after the banks and exchanges are closed, thus upsetting the normal course of business and without permitting that preliminary public discussion of the issue involved which might make the people more resigned to their decisions. Such reliance on orders-in-council have ruffled the feelings of the Canadian people increasingly, and many Members of Parliament have come to feel that they are being unnecessarily ignored and confronted too often with *faits accomplis*. Canadians fought hard for responsible government and intend to maintain it.

The Dominion Parliament and one of the Provincial legislatures (Quebec) are bicameral. The Upper House at Ottawa is called the Senate and there is considerable uncertainty concerning its usefulness. It was created as a Canadian parallel to the House of Lords, but Canada had repudiated the hereditary principle and the idea of an aristocracy of birth. On the whole, however, the Founding Fathers disapproved of a second *elective* chamber as in the United States. They preferred an appointed body, and determined to provide for such a chamber a certain security and freedom by making the appointments for life.

While the British North America Act does specify that legislation requires the concurrent action of both the Senate and the Commons, there seems to be no particular duty or function especially designated for the Senate. As a result, there has been no little dissatisfaction with it and from time to time suggestions are made that it be reformed or abolished. The real difficulties arise in the composition of its membership. Appointments by the Governor-General are in reality appointments by the government in power. Hence, while it was intended—though vaguely—that equality of representation in the Senate between the major territorial divisions which came into Confederation would serve to protect the interests of the smaller Provinces, the Senate has actually become what

has been called "a reservoir of party patronage". At the present time, due to the fact that a Liberal administration has been in power for nearly twenty-two of the last twenty-seven years, the overwhelming majority of the Senators are Liberals, and an administration of any other party would have to be in power a very long time in order to achieve a majority in that Chamber.

As for the Commons, which is elective, there are problems not unlike those which confront all democracies in securing the consent of the ablest men in the community to stand for election, and in persuading the electorate to exercise the franchise. To run for Parliament is a precarious business and the modern age seems to demand security for everybody from the cradle to the grave—except for legislators! But in recent times, special problems have developed with the rise to importance of new political parties. It is often said that the British system operates best where there are but two recognized parties, not too far apart in their prevailing ideology, so that at election time an unsatisfactory government can be turned out and give place to a clear alternative without running too great a risk of serious discontinuity. When, however, there are more than two parties having important followings and indulging in a multiplicity of incompatible ideologies and even of fanaticisms, the problem confronting the voter is highly difficult. Moreover, under these conditions, a party may come into power when it has no plurality of votes and actually is favoured for first choice by only a minority of the people.

In a sense, it may be said that in Canada at the present time there is government by a minority. At the last Federal Election, the Liberals retained control of the government by a bare majority of seats, based on less than 40 per cent. of the popular vote. They secured 56 of the 65 seats allotted to Quebec and 605,832 votes in that Province, but the Conservatives, with 109,755 votes, secured only one seat. It is a curious anomaly that the Province of Quebec, which is the most tenaciously conservative Province in the Dominion, is the stronghold of the Liberal Party and by its relative unanimity decides the main lines of national policy. Yet, in this Liberal



stronghold, in the last Provincial elections held in 1948, the Liberals were completely smothered.

At the present time, the situation is everywhere anomalous. In British Columbia and Manitoba, the Provincial Governments are coalitions of Liberals and Conservatives; that of Alberta is all but unanimously Social Credit; that of Saskatchewan is overwhelmingly Co-operative Commonwealth Federation (Socialist); that of Ontario is Conservative; that of Quebec is Union Nationale. Only in the three small Maritime Provinces are Liberal Provincial Governments in power. Yet, at Ottawa, the Liberals hold the majority. Mr. Mackenzie King, even in war-time, expressed his un readiness to consider coalition.

It is well to mention another factor in Canadian life which makes the course of government extremely complex and on the whole discourages strong and aggressive leadership in any party. Canada has neither racial nor religious nor linguistic homogeneity. Political leaders, therefore, always walk softly lest they give offence to the French in Quebec, to the English-speaking in the other Provinces, to the New Canadians in the West, to the Roman Catholics with over 42 per cent. of the population, or to the non-Roman Catholics. There is no common spirit of Canadianism, no Canadian soul to which they can appeal, no basic concept of a Canadian culture and way of life which strong leaders can always trust. One Canadian leader who has enjoyed long tenure of power has frankly admitted that he has found it inexpedient ever to commit the Government to any policy in advance of clear, popular sentiment. Thus, the Government tends to follow rather than lead. While Canada may seem to be a country abounding in opportunity for men of ability, the safe man usually has been preferred to the audacious.

Out of such experiences in racial, religious and linguistic heterogeneity, Canada has much to contribute to the building of parliamentary institutions in the world federation of the future, but her experience should help other countries to know better not only what to emulate but also what to avoid.

## THE ORIGIN AND ESSENCE OF HYBRID BILLS

by R. W. PERCEVAL

*(Mr. Perceval is a Clerk in the House of Lords)*

THE purpose of this article is, first, to show briefly the historical origin of hybrid bills, and secondly, to consider, as a matter of principle and in the abstract, which bills should be classed as hybrid and which should not, and why.

But before we can start, we must precisely define the difference between a public and a private bill. A public bill, then, is one which is to issue in an act which will apply, *by description*, either to everyone subject to the authority of Parliament, or to certain classes of those persons. And for this purpose "classes" may include people living in an area large enough to be called a "country"—areas such as India, Ceylon, Scotland or Wales, and sometimes even London and the Isle of Man. A private bill, on the other hand, is a bill, promoted by some person or body outside Parliament, for an act which will apply, *by name*, to particular individual persons or groups of persons,<sup>1</sup> and which will be in the strict sense of the word, a "*privilegium*", a private law; and which alters the law for the advantage or disadvantage of such persons or groups, by enabling or compelling them to do something which, in the ordinary course of law, they could not do or could not be compelled to do.

In many ways the distinction between a public and a private bill is analogous to the distinction between a common

<sup>1</sup> I had almost added here "or areas"; but, of course, laws do not, strictly speaking, apply to areas. They may apply to persons living in, or owning, or having other rights or duties connected with areas or things. And so, for our purposes, amongst the possible methods of "naming" persons, we shall have to include "identifying by reference to a particular thing or piece of land to which they stand in some relation". For instance, a bill applying to a man *qua* owner of No. 4 Acacia Road, Hoxton, or *qua* borough councillor of Bootle, would be, *pro tanto*, a private bill.

and a proper noun. The public bill and the common noun apply, by description, to classes of people; the private bill and the proper noun apply, by name, to particular existent individual persons or groups of persons. Strictly, a private bill should not apply to any person not named (or otherwise identified—e.g., by reference to his ownership or other connection with a certain particular piece of land) in the bill. When therefore the British Transport Commission proposes to take powers by private bill to stop and search for stolen goods any person or vehicle near any of the Commission's property, it seems to be stretching to the extreme limit the theoretical scope of legislation by private bill. But of course the distinction between public and private bills, if strictly and logically refined, becomes more a matter of metaphysics than of politics; and in practice the line between them is drawn more or less by rule of thumb.

The distinction between public and private bills, and the difference in the procedure they follow, are nearly as old as Parliament. In 1320, for instance, the King refused his Assent to a private bill because "this petition has already been answered in a Common Petition (i.e., a public bill) . . . which deals with the point referred to therein, and contains several other articles touching the commonality of the Realm". And in 1393 Robert atte Mulle, having had a clause inserted in a public bill letting him off a £600 fine he had incurred for not declaring treasure trove, was told to promote a private bill as this was "not a matter for a public bill".

During the fourteenth and fifteenth centuries, most bills originated on petition—private bills on the petition of the person concerned, and public bills on the petition of the Commons, or very occasionally the Lords. But since Parliament consisted of *King*, Lords and Commons, there was a third possible originator of legislation; and in the fifteenth century we begin to find bills like this:

"The King, considering the great misgovernance of Eleanor, that was the wife of his late uncle the Duke of Gloucester, hath ordained, by authority of this present Parliament, that the said Eleanor be excluded" from any

part of the said Duke's possessions or estates (1447). This bill did not receive the Royal Assent, since it originated with the King.

Between 1450 and 1500 such royal bills became increasingly common, and began to deal not only with matters of personal concern to the King but of public interest, such as the punishment of traitors, the management of the national finances and the payment of the army. Eventually, the royal origin of such bills was forgotten, and they received the Royal Assent (in the form "Le Roy le veult") exactly as though they had been petitions from the Commons. About 1500, then, there were two types of public bill—the petitionary, which began "Prayen the Commons . . ."; and the non-petitionary, beginning "Forasmuche . . ." or "The King remembering . . ." or simply "Where . . ." (i.e., "Whereas . . ."). In time, the second type superseded the first, and the non-petitionary public bill had become, by the end of the sixteenth century, the normal type for all purposes. The Petition of Right, of 1628, was, I suppose, the last true petitionary public bill.<sup>1</sup>

*Prima facie*, one would have expected the same sort of development to take place in private bills—one would have thought a new class of Royal non-petitionary private bill would have come into existence about 1500. If it had, no doubt it would have superseded the petitionary private bill, as its counterpart did among public bills. And if Henry VIII's private life had been less stormy, possibly this might have come to pass. But Henry VIII, when he came to Parliament, was concerned not with the "misgovernance" of his aunts, but with the adultery and divorce of his Queens and the alteration of the succession to the Throne by declaring his daughters alternately legitimate and illegitimate. Clearly

<sup>1</sup> I have since found a later example, from 1816—an Act for the naturalization, on his marriage to Princess Charlotte of Wales, of Prince Leopold of Cobourg, afterwards King of the Belgians, and Queen Victoria's uncle. It is odd that this, which by mediaeval standards ought to have been a Royal Bill, beginning "The Prince Regent (on behalf of the King's Most Excellent Majesty) remembering . . ." was in fact drafted, I suppose by a misplaced antiquarianism, as a public petition from "We Your loving Subjects. . . ."

these were not suitable subjects for private bills, and it is possibly for this reason that all royal bills remained public bills, and that no class of non-petitionary private bill has arisen. To this day all private bills are petitionary in form—their preamble ends with the words: “May it therefore please Your Majesty that it may be enacted, and be it enacted by the King’s Most Excellent Majesty, by and with the advice and consent, etc., etc.”.

But though many of Henry VIII’s private affairs were matters of public concern, it is none the less true that many even of his royal bills were of a purely private character: he promoted, for example, a number of bills to exchange lands with his subjects. And when the Government began to infiltrate into the House of Commons, so that the non-petitionary bills originating there became, not royal bills, but government bills, it continued to be true that many of them were of the nature of private bills.

This did not greatly matter during the seventeenth and eighteenth centuries, when proceedings on public and private bills were in any case not greatly different, and when each House was accustomed to interview every kind of person at the Bar in the normal course of business. In 1728, for instance, when it was proposed to dismiss by a government bill<sup>1</sup> one Thomas Bambridge, Warden of the Fleet Prison, from his post for incompetence and corruption, he was heard by Counsel at the Bar on the Second Reading; two whole days, in fact, were taken up in the Lords by the hearing of Counsel for and against the Bill.

But when, in the nineteenth century, private bills in effect left the floor of the House and were as good as handed over altogether to Committees, it became essential to make some new provision for those government bills, or parts of government bills, that were analogous to private bills. And accordingly such bills began to be termed hybrid bills, and to be treated, during a part of their passage through Parlia-

<sup>1</sup> It may be thought rash to call a bill of this character in 1728 a government bill. But it was at least taken up by the government in its later stages, for the judges were ordered by the Lords to draft a new bill.

ment, in the same way as private bills. They were referred, that is to say, to committees; and the justification for this proceeding was, that just as the work of interviewing the interested parties for and against private bills had been taken over by committees, the House having no longer any time to spare for such work, so the parties interested in those government bills, or parts of government bills, that were private in nature should not be deprived, by this increasing pressure of business on the floor of the House, of the opportunity of being heard, but should appear and state their case before committees.

And that brings us to the present day, when hybrid bill procedure is a matter of topical interest. With the details of procedure I am not concerned, and so I shall pass to consider, purely in the abstract, the nature of hybrid bills and the principles that should, in theory, govern the procedure applicable to them. Our historical conclusions may, I think, be summed up in the following series of propositions:

All private bills are, in form, petitions from outside Parliament to the King in Parliament.

But the King, and the government which is carried on in the King's name, cannot so petition the King.

Therefore the government cannot promote private bills.

But some government bills, or parts of them, are by nature indistinguishable from private bills.

In order to safeguard the private interests affected by them, private bills have to comply with certain Parliamentary requirements.

Therefore such government bills (which are called hybrid bills) should comply with the same requirements.

Now let us see how many sorts of hybrid bills there are. First, there is the "wholly private government bill". The best example of this is the Post Office (Sites) Bill, used by the Post Office to buy up compulsorily various shop sites for post offices. It is not, to my mind, true to say that there is any element of public policy involved in the question whether the post office shall be at No. 44, instead of No. 46

or 42, in the High Street. This therefore is a type of government bill that, if it had not been introduced by the government, would undoubtedly have been simply a private bill. The only thing that differentiates it from private bills is the fact that it is introduced by the government; it is even printed, when passed, among the Private Acts. Further, the use of a government bill for the purpose of acquiring post office premises is to some extent merely the result of fashion in nationalization. The mails, the inland telegraphs and the telephone were all nationalized many years ago, and were, as the fashion then was, incorporated into the Post Office. But the foreign telegraphs, or "cables", were only recently nationalized, and are organized, in the new fashion, as a state corporation. Now suppose the Postmaster-General wanted to buy two sites in the Strand, for inland and overseas telegraph offices; he could obtain the latter by means of a private bill promoted by Cable and Wireless Ltd., the state corporation; but the former he would have to acquire by hybrid bill. Yet surely there would be as much, or rather as little, public policy in the one bill as in the other?

The next class of hybrid bill is the "partly private government bill". And of this class there are, unfortunately, two kinds. The first is the simple kind, where, in a public bill, a clause or two affect named private interests in a particular way. If, for instance, in a bill to compel all golf-courses to be ploughed up and planted with potatoes, there were a clause permitting cabbages to be grown at St. Andrews, and one compelling Brussels sprouts to be grown at Hoylake, then those two clauses, if passed, would make a private law for Hoylake and St. Andrews, singling them out from their fellows and making an exception, in their favour or to their disadvantage, in the general law relating to golf-courses. Those two clauses, therefore, are of the nature of a private bill, and on their account our hypothetical Golf-courses Bill would have to go through certain parts of the procedure appropriate to private bills.

Now there is, unfortunately, a second type of "partly private government bill"; and it is this second sort which

gives rise to controversy. If the government, in the course of the execution of their policy, wish to change the law relating to one or several named individuals or corporations, as by taking over the Bank of England or Cable and Wireless Ltd., or stopping Lord Nelson's pension, then we should at first sight be tempted to say that here is a government bill which is wholly private in nature but which is backed by considerations of public policy. We should be tempted, I say; but I think we ought to resist the temptation. For strictly speaking the three bills I have mentioned above, so far as I have described them, do not fall squarely within the definition of a private bill—there is, as yet, an element missing. We defined a private bill as one which, among other things, altered the law *for the advantage or disadvantage* of one or more named persons or corporations. Now let us suppose that, by some miracle of adjudication, the owners of the Bank of England were perfectly compensated for the nationalization of their Bank—that some form of recompense were found which was, for each of them in every respect, exactly the equivalent of his share in the Bank. Then, if the owners and everyone else agree that their compensation is perfect, the bill is not of the nature of a private bill at all, because it does not propose an alteration of the law for the advantage or disadvantage of any named person or corporation. This line of reasoning will be thought far-fetched, and so of course it is, for even in this case Parliament would still have to satisfy itself that all concerned did agree to the provisions of the bill, and for this purpose would treat the bill, at any rate in its early stages, as though it were of the nature of a private bill. In saying, therefore, that when a bill of this type is agreed to by all concerned it does not partake of the nature of a private bill, I am making a distinction without a difference. But the distinction does at least enable us to see that, in deciding whether and how far a government bill is of the nature of a private bill, we must look mainly at this point, "Does it single out named individuals, companies, etc., from the general run of their fellows, and confer benefits or impose hardships on them?" The great nationalization



bills of the last two sessions were held not to do so, because although some of them had lists of names in the schedules, yet in the main they took over concerns *by description*, and not by name. Therefore they were not adjudged to be, even partly, of the nature of private bills.

We may now, I think, define our second type of "partly private government bills" as bills which, though they are in the main expressions of public policy, yet impose incidentally an advantage or disadvantage upon named persons or corporations. They are bills which have not one or two private clauses but one or two private consequences. Their private provisions are not localized in any particular clause, but arise out of the whole bill—only incidentally, it is true, but still they flow from the whole bill.

We may then sum up, and classify government hybrid bills into two main genera, the second of which has two species, as follows:

- I. "Wholly private government bills".
- II. "Partly private government bills", which may be either:
  - (1) "government public bills which have one or two private clauses", or
  - (2) "government public bills which incidentally operate to the advantage or disadvantage of one or more named persons or corporations".

Are there then any other sorts of hybrid bills? Yes; there are non-government, or Private Member's, hybrids. But of these there is no genus corresponding to the "wholly private government bills"—there are no "Private Member's wholly private bills", for it is not in order for a private member to introduce as a public bill a bill that ought to be private. Nowadays it is forbidden by a Standing Order of the Commons; in 1370 that House took the more draconian step of disqualifying lawyers from membership of the House altogether, on the ground that they were in the habit of inserting into public bills provisions for the private benefit of their clients. For a few years in the nineteenth century, it is true, when certain local authorities had no power to promote private bills, the practice was winked at; but it is undoubtedly

contrary to the best Parliamentary traditions for a private bill to be introduced by a Private Member as a public bill, and so there is no Private Member's hybrid of class I.

Private Members may, however, introduce hybrids of either of the species in class II. Mr. Maxton, for example, introduced in 1926 a Bank of England (Nationalization) Bill, which was very similar to the present Government's bill of two years ago. Had it been proceeded with, it would have been a hybrid analogous to my class II (2) above, but it failed on a technicality—the promoters had failed to comply with certain Standing Orders. And it is easy to see that any Private Member's bill might fall into class II (1), simply by having one or two of its clauses of the nature of private bills.

Hitherto I have distinguished between government and Private Members' hybrids for two reasons. First, because historically the hybrid owes its origin to, and is descended from, a particular sort of government bill. And secondly, because the vast majority of hybrid bills at this day are, and I have no doubt always have been, government bills. But there is, at the present time, no need to distinguish between government and other hybrid bills; it makes no difference nowadays.

## PROCEDURE ON HYBRID BILLS

by W. CRAIG HENDERSON, K.C.

**B**ILLS introduced in the House of Commons belong to one or other of three classes, viz.—Public Bills, Private Bills and Hybrid Bills.

Public Bills are introduced by a Minister or by a Member of the House and relate to matters which affect generally the community as a whole. Private Bills are promoted by persons or bodies outside the House, who lodge petitions asking for legislation to confer on them some special franchise or rights.

Hybrid Bills are introduced in the House, usually by a Minister, but may be introduced by a private Member, and relate to matters affecting the rights of property or the private interests of particular individuals, bodies, or authorities, as distinct from the community generally or from the whole class of the persons or bodies in the category to which those affected by the Bill belong. They are in their nature akin to Private Bills, although in fact they are introduced by Members in the House. They have therefore been properly described in Erskine May's work as "Hybrid or *quasi-private* Bills".

Hybrid Bills may be of very different types. One of the most common type is a Bill by which the Postmaster-General or the Minister of Works seeks to acquire compulsorily land or buildings in private hands as a site to be used for the purposes of his Department. On the other hand, the London Passenger Transport Bill was a Hybrid Bill. Promoted by the Minister of Transport it did not seek to "nationalize" the transport industry of the country but was limited strictly to creating a public authority to take over London passenger transport. The Cable and Wireless Bill is another instance of a Hybrid Bill.

Having regard to the "quasi-private" character of these Bills, it is not surprising to find that there has been a long established practice for the procedure on Hybrid Bills to follow

closely that laid down for Private Bill Legislation. After the first reading, such a Bill is submitted to the Examiners of Petitions for Private Bills for their report whether or not the pertinent Standing Orders have been complied with. If they report non-compliance, their report goes to the Standing Orders Committee who recommend whether or not compliance should be dispensed with. If they recommend that there be no dispensation, the order for the second reading is discharged and the Bill disappears. If Standing Orders are complied with or compliance is dispensed with, the Bill goes to the House for second reading. After second reading, it is referred to a Select Committee, sometimes to a Joint Committee, and persons or bodies whose interests are prejudicially affected may lodge petitions against the Bill.

The main purpose of this article is to discuss the procedure on Hybrid Bills when they come before a Select Committee, as there has been issued very recently the Report of a Select Committee<sup>1</sup> on this subject, containing recommendations which, if adopted, will seriously alter the established practice.

When a Private Bill comes before a Committee, the petitioners against the Bill who have established their *locus standi* are entitled to challenge the whole object of the Bill, and to give evidence tending to show that it is inexpedient in the public interest that the Bill should be allowed to pass. In the case of a Hybrid Bill, the practice has generally been the same. Counsel for the Bill therefore usually opens by expounding the policy, if any, underlying the Bill: but the Select Committee on Procedure now recommend that the second reading should be considered to remove from the promoters the onus of proving the expediency of the Bill unless a special instruction be given by the House referring that question to the Committee, and that petitioners should not have the undisputed right to challenge expediency. It is worth while to consider the line of argument which has led the Committee to adopt this view.

The basis of the argument is that as a Public Bill relates

<sup>1</sup> Report from the Select Committee on Hybrid Bills (Procedure in Committee) together with the Proceedings of the Committee, Minutes of Evidence, and Appendices. H.M.S.O., 3s. net.

to matters of public policy and is introduced by Members of the House, a Hybrid Bill is therefore a Public Bill; and the second reading of a Public Bill decides once and for all on the policy, which cannot thereafter be questioned at the Committee stage. But this strains in its application to many Hybrid Bills the true meaning of "public policy" and overlooks the fact that a Hybrid Bill is, by its very name, distinguished from a true "Public Bill"; and it assumes that on second reading of these Bills, all the facts bearing on expediency are made known to the House, which is certainly not the case.

It may be admitted that the Cable and Wireless Bill, for instance, raised a question of Government policy: but what question of public policy, in the true sense, was raised by the Public Offices (Site) Bill of 1947? Yet in both cases petitioners against the Bill had evidence to bring forward, tending directly to prove that it was inexpedient *in the public interest* to pass the Bill as it stood. In neither case were the facts which these petitioners were prepared to prove made known to the House on second hearing.

By the Public Offices (Site) Bill, the Minister of Works sought to acquire compulsorily the site of the old Westminster Hospital for the purpose of erecting thereon a new building for the Colonial Office. It was, no doubt, selected on account of its proximity to the Houses of Parliament and to other Government buildings, but some other site would have equally served the purpose, and there was no real "public policy" involved in the Bill. Yet the plans for the proposed new building showed that the works would go deep down into the earth and the walls at a great depth would be only seven feet from the wall of the tunnel of the Underground Railway. In these circumstances the L.P.T.B. asked the promoters for a protective clause to be put in the Bill, but the Ministry definitely refused this request: so that the Board were compelled to petition against the Bill and to ask for its *rejection* unless a proper protective clause were inserted. Before the Committee the Minister, when cross-examined, agreed that the Board should have protection, and a clause was thereafter agreed upon and inserted in the Bill as passed. Now, on the

second reading debate not one word was said by anyone about the possible danger to the underground railway except by the Minister in his speech *closing the debate* when, in one sentence, he remarked that the site "raised complications due to the fact that the underground railways tunnels are adjacent". The Board petitioned against the Bill in the public interest, and if protection had been refused, and the deep excavations for the new building would, or might, break down the tunnel wall and so deprive the London public of necessary transport, what other course could a Committee properly adopt than to report against passing the Bill?

On the Cable and Wireless Bill the position was much the same. There was a lengthy debate on second reading, but facts were known to the petitioners, *and to them alone* which, if proved, might well lead Parliament to reconsider the expediency of passing the Bill. Unfortunately, as the Select Committee sits in public, some of these facts showing international difficulties which might arise if the Cables were nationalized, could not be openly mentioned.

Surely the true position is this. In its legislation Parliament should never shut out any evidence and argument which, if accepted, bear directly on the expediency of passing a particular measure. In a "Public Bill", in the true sense, such as the Coal Nationalization Bill or the Electricity Bill, each of which took into Government hands the whole industry, it can be reasonably expected that a second reading debate will disclose all the points bearing on policy; but on a Hybrid Bill that can never be assumed. The particular person or corporation whose property is to be compulsorily taken may have knowledge of facts which are very relevant to the question of expediency but which are unknown to Members of the House and therefore not disclosed in a second reading debate. Can the British Legislature properly refuse to allow a petitioner to disclose those facts, and to relate them to the public interest?

It will be noticed that the argument of the Committee classifies Hybrid Bills as, in the full sense, "Public Bills", as against the classification as "quasi-private" by Erskine May,

who thus lays emphasis on their closer relationship to Private Bills than to Public Bills, and in this matter surely Erskine May, as one would expect, has been right. It will be difficult to find any one, experienced in practice before Parliamentary Committees, ready to accept the recommendation of the Select Committee, and it is interesting to find Sir Alan Ellis, C.B., First Parliamentary Counsel, giving this evidence before the Committee (p. 30): "It appears to me that, where the principle of a Hybrid Bill rests on matters which cannot be assumed to be known to Members, there is risk of injustice unless opponents have, at some stage, an opportunity of impugning its principle on proving undisclosed facts or contraverting facts alleged by the promoter." That expresses the only course to adopt if risk of injustice or of inexpediency is to be avoided in our legislation.

The right of a petitioner against a Hybrid Bill to claim to put forward objections in the public interest is directly challenged by the Chairman of the Select Committee in a series of questions put by him to Sir Alan Ellis, when giving evidence with reference to the Public Works (Site) Bill of 1947 and the Cable and Wireless Bill. The questions and answers are too long to be set out here—they will be found in the Minutes of Evidence at p. 41, Q. 295 to p. 43, Q. 317—but the Chairman's view is at the end summed up and made clear in this Statement in Q. 317 at p. 43:

"The only facts that the petitioner can adduce are the detriment to him. The petitioner surely is in no position to urge or even to assess the value to the community. Quite obviously, the purpose of the Hybrid Bill committee is to enable the petitioner to state his detriment, it is not for him to state the public advantage. That is surely for us in the House of Commons to decide."

This is an astounding statement. In the first place when a Bill is sent to Committee it is the whole Bill and not part only which is so referred. And to say that a person or body entitled to be heard before a Committee of Parliament, and knowing facts not as yet disclosed to Parliament, is not to be allowed on proof of those facts to go on to show that, if

they are accepted, they challenge the whole policy of the Bill, is surely to claim for Members of the House of Commons a position of omniscience on all matters of policy and a freedom from criticism of their proposals for legislation which have never yet been accorded to them. The petitioner is not attempting to criticize an Act of Parliament: he is anxious, on the strength of facts known to him, to show by argument that it is not in the public interest to pass the proposed legislation. If he can do so, how can a Committee with any desire to act really in the public interest refuse to hear those arguments and to give them due consideration, merely because the House, without knowledge of these special facts, has given a second reading to the Bill?

The rule against challenging policy at the Committee Stage on a Public Bill is natural because the whole discussion at that stage is still restricted to Members who could have said all they wanted to say on policy on second reading. But when a Hybrid Bill is sent to Committee, it is referred for the express purpose of hearing those directly affected by the Bill, who have no right of audience in the House, and who may have good reasons for objecting in the public interest to the proposed measure.

More than once in the examination of Sir Alan Ellis, the Chairman suggested that the only concern of the L.P.T.B. on the Public Offices (Site) Bill was compensation for damage done to their railway, and at Q. 301 he said: "Assuming they get adequate compensation, we must assume that it is immaterial to them whether the Bill goes through." This is a strange view when it is remembered that Parliament created the L.P.T.B. and imposed on it the "duty" to "secure the provision of an adequate and properly co-ordinated system of passenger transport for the London Passenger Transport Area," and the power to "maintain" its services. The Board would have failed in its duty had it not appeared before the Committee to show the danger *to the public interest* unless proper protection were given for its works. The question of compensation was never discussed. Sir Alan expressed the true position when he said at Q. 295: "I can



so very easily see that it would have been necessary somehow for the committee to bring it about that the Westminster Hospital site should not have been acquired if the result of it would have been the cessation of the Underground Railway"; and that possible result could only be expounded by the Board's representatives, and expounded in the public interest.

The reasoning, therefore, which appears to have led the Select Committee to its main recommendation is entirely unsatisfactory and such statements as are quoted above are open to grave challenge.

Further recommendations of the Select Committee are expressed in the following terms:

- "(2) A petitioner against a Hybrid Bill, who can only be heard by virtue of his *locus standi*, may not argue on matters which cannot give him a *locus standi*;
- (3) Provided that his arguments do not exceed his *locus standi*, a petitioner may traverse the principle of the Bill;
- (4) The limits of the *locus standi* of each petitioner and, therefore, of the arguments which he may properly adduce should be decided, where necessary, by the select committee to which the Bill is committed."

By these recommendations it is intended to restrict severely the scope of argument allowed to a petitioner who is given a *locus standi* to oppose a Hybrid Bill. Such *locus standi* is based on the fact that the petitioner's rights or property are to be compulsorily taken away, and the argument of the Committee is that he should not be allowed to put forward objections which, "if they were the only ones he had to urge, would not entitle him to be heard" (S. 20). But they are not the only ones he has to urge. His rights are to be taken away and he is at present, and should always be, entitled to object to the Bill on any relevant ground which can be linked with the fact that his rights are to be compulsorily usurped or abolished.

On the actual text of recommendations Nos. 2 and 3 above, there should be no change in the present procedure,

for it is the matters which give a petitioner a *locus standi* which entitle him to put forward every relevant argument, including that of expediency: but the text of the Report shows clearly that that is not the intention of the Committee, who desire that rights hitherto granted to petitioners should now be taken away.

Finally, the fourth recommendation would leave it to the select committee to decide on the "limits of the *locus standi*" to be allowed to petitioners, i.e., to restrict the scope of evidence and argument to be allowed to a petitioner. No one with practical experience of the work before such committees will be found to approve of such a proposal. It would lead to a waste of time, as more time would be occupied, in many cases, in hearing arguments for and against the *right* to raise the issue of policy than would be required to hear and dispose of the actual contentions on policy, and as on Hybrid Bills promoted by a Minister the Government Members are always in a majority on the committee, there would be no assurance that a decision against a petitioner's claim to be heard on expediency, in the public interest, would be unbiased; whereas, if the committee is bound to hear such arguments, the petitioner can feel, even if the decision is adverse, that he has had a full and fair hearing. It is vital that Members of Parliament who sit on committees should realize how important that aspect of the matter is. If ever any question of restricting the limits of discussion to be allowed to petitioners against a particular Bill had formally to be decided, that should be done by Mr. Speaker.

It is earnestly to be hoped that the House will not accept these recommendations.<sup>1</sup>

<sup>1</sup> On the 14th February, the House of Commons approved by 204 votes to 89 the recommendation contained in the report, subject to the qualification that a Bill against which no petition has been lodged may be committed either to a committee of the whole House or to a Standing Committee, and the Select Committee stage dispensed with.

## CONSTITUTIONS OF THE BRITISH COLONIES

Information prepared by SYDNEY D. BAILEY

with a prefatory note

by the Rt. Hon. A. CREECH JONES, M.P.

*(Secretary of State for the Colonies)*

*Sir John Seeley said that Britain acquired her Empire in a fit of absentmindedness. There are critics to-day who allege that British administration in the Colonies suffers from lethargy and negligence for much the same reason. But at no previous time was there a livelier interest in colonial welfare and development or were colonial administrations more conscious of their problems and more anxious to carry forward the plans for the economic, social and political development of their territories. It is to some extent true that British colonial policy does not fall into a neat pattern, because of the great variety of conditions and stages of development in the territories. Nevertheless there are consistent principles of growth—the establishment of orderly administration and even justice, the movement to self-government and responsibility and the creation in London of central services of immense importance for colonial advance.*

*The approach in the nature of things must, however, be empirical. My work brings me into touch with units of the Colonial Empire varying in size from Tanganyika, with an area of about 350,000 square miles, to the tiny Cocos-Keeling Island with an area of 1½ square miles. Nigeria has 22,000,000 inhabitants; Pitcairn Island has a population of about 100. In the Colonies are Christians and Jews, Hindus and Moslems, Buddhists and Confucianists, animists, agnostics and atheists. Parts are highly industrialized, parts are used mainly for agriculture, parts consist almost entirely of jungle and desert. Living in the Colonies are Dukes and dustmen; scholars, scientists and saints; rich men, poor men, beggars and thieves.*

*In spite of this diversity, the Colonies are all progressing, though at varying speeds, towards self-government. Political responsibility depends less on the creation of the right institutions and machinery of government but more on the experience and enlightenment of the peoples,*

*their conception of social responsibility and public duty, the spirit of tolerance and integrity brought by them to public life, and the establishment of the tradition of service. Constitutional changes are accordingly taking place all the time, a constant evolution from stage to stage—legislatures becoming more representative, executive councils passing to "cabinet" form with responsibility to the legislature, plural societies moving to common citizenship, authority being steadily devolved from London to the Colonial government, and organs of municipal and local government growing in functions and responsibility as the central territorial government develops. Because of this constant and accelerating process, it is difficult to set down at any given moment the stage in political progress reached in the respective territories. The following summaries of the constitutions of the colonial territories will, however, be useful not only to students of comparative government, but to civil servants, politicians and others who are concerned with the day to day working of the various organs of government in the Colonies.*

*A. Creech Jones.*

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**B**Y a series of historical and geographical accidents, England, the Mother of Parliaments, has no single document known as the Constitution. There are three main sources from which the Constitution is drawn—Statute Law (Acts of Parliament), Common Law (decisions of the Courts), and the unwritten Conventions of the Constitution. Because the Constitution has never been expressed in one document, it is relatively easy to change it to meet new circumstances.

This changing nature of the Constitution is so well known as to require no emphasis. What is not so often realized is that the Constitutions of the British Colonies are also constantly changing.

It is the purpose of this and succeeding papers to summarize the constitutional position in each of the British Colonies. It is hoped that these summaries will be useful to scholars, civil servants, and others whose work brings them into touch with governmental institutions in the Colonies.

Two words of caution are necessary. First, the need to

present the information in summarized form makes it inevitably incomplete. Secondly, events move rapidly these days and constitutional changes in the Colonies are frequent: I have described the constitutional position which was in force in January, 1949.

## I—COLONIES IN THE WESTERN HEMISPHERE

British Colonies in the Western Hemisphere consist of the Caribbean islands, Bermuda, and the Falkland Islands.

### A. The Caribbean

The islands of the West Indies stretch in an arc from the State of Florida in the U.S.A. to Venezuela in South America. The British West Indian Colonies, together with British Honduras in Central America and British Guiana in South America, have a total population of just over three million people at various stages of political development. The population is mainly African or mixed, but in British Guiana and Trinidad there are large Indian communities and in most other colonies there are European, Chinese, and other communities. A few Caribs still survive in Dominica and British Honduras.

English settlements were established in the West Indies early in the seventeenth century and by the end of the eighteenth century the islands were highly prosperous. During the nineteenth and early twentieth centuries, however, there was increasing economic disorganization and distress, and in 1938/9 a Royal Commission studied the whole problem and made recommendations on future policy.<sup>1</sup> A Comptroller for Development and Welfare was appointed to keep under continuing review the social problems of the West Indies and to be available to advise the colonial administrations on their problems. The periodical reports of the Comptroller on

<sup>1</sup> *West Indian Royal Commission, 1938-9, Report* (Cmd. 6607). 7s. 6d. *Recommendations* (Cmd. 6174). 6d. *Statement of Action Taken on Recommendations* (Cmd. 6656). 2s. These and all other publications mentioned in this article are published by His Majesty's Stationery Office and can be ordered through the Hansard Society.

development and welfare include much detailed information on conditions in the West Indies.<sup>1</sup>

In March, 1942, the Anglo-American Caribbean Commission was established "for the purpose of encouraging and strengthening social and economic co-operation between the United States of America and its possessions and bases in the area known geographically and politically as the Caribbean, and the United Kingdom and the British Colonies in the same area, and to avoid duplication of research in these fields". In December, 1945, the French and Netherlands Governments accepted an invitation to join the Commission, the name of which was changed to "Caribbean Commission".<sup>2</sup>

The possibility of a federation of some or all of the British West Indian Colonies has been under discussion for many years, but the idea has received specially careful consideration since the publication of a despatch dated 14th March, 1945, from the Secretary of State for the Colonies.<sup>3</sup> In this despatch Colonel Stanley stated that "the ultimate goal of self-government" continued to be the declared aim of British policy for the Colonies of the Caribbean area, but urged that "the larger project of their political federation" should not be overlooked. He suggested that the issue of political federation should be debated in each of the Colonial Legislatures prior to the holding of a Conference of West Indian delegates. In the Bahamas both Houses declined to consider participation in any form of closer association, but the Legislatures of the other Colonies concerned agreed to enter into a Conference of the kind proposed by Colonel Stanley. A Memorandum, which was intended to serve as a starting point for discussion, was circulated in February, 1947,<sup>4</sup> and the Conference assembled at Montego Bay Jamaica, on 11th September, 1947, with the Secretary of

<sup>1</sup> *Development and Welfare in the West Indies*. 1940-2. (Colonial No. 184.) 1s. 6d. 1943-4 (Colonial No. 189.) 2s. 1945-6 (Colonial No. 42.) 3s.

<sup>2</sup> See *An Agreement for the Establishment of the Caribbean Commission* (Cmd. 6972). 2d.

<sup>3</sup> Published as Appendix I to *Closer Association of the British West Indian Colonies* (Cmd. 7120). 9d.

<sup>4</sup> Published in Cmd. 7120.

State for the Colonies, the Rt. Hon. A. Creech Jones, M.P., as Chairman.

After general discussion of the principal issues, during which it became clear that majority opinion was in favour of federation, the Conference broke up into a main committee of the whole Conference to consider the political and economic implications of closer association, and two sub-committees of that committee to consider (a) customs, currency and other fiscal matters, and (b) the unification of public services.

On 19th September the Conference re-assembled to consider 14 draft resolutions<sup>1</sup> covering the issues with which the committees had been concerned. These resolutions were adopted unanimously except that the delegation from British Guiana explained that they must reserve judgment on the first resolution as they had no mandate from their Colony to accede to it.

The first resolution stated that the Conference "accepts the principle of a federation in which each constituent unit retains complete control over all matters except those specifically assigned to the federal government". A Standing Closer Association Committee was recommended, to be composed of 17 delegates appointed by the Legislatures of each unit of the British Caribbean area, to consider and to make recommendations in relation to fiscal, customs and tariff policy, the unification of currency and the public services, the form of a federal constitution and federal judiciary, and the means of financing the operation of federal services. It was recommended that the committee be asked to report to the governments concerned not later than 30th June, 1949. The Conference also recommended the appointment of a number of commissions or committees to make recommendations regarding such matters as the establishment of a customs union, plans for economic development, and the unification of public services.

All the Legislatures concerned agreed early in 1948 to

<sup>1</sup> The 14 resolutions are printed in the Report of the Conference (Cmd. 7291). 9d. The proceedings of the Conference were also published (Colonial No. 218). 3s.

participate in the work of the Standing Committee which was to hold its first meeting in November. Major-General Sir Hubert Rance, G.C.M.G., G.B.E., C.B., lately Governor of Burma, was appointed Chairman. At the same time the office of Comptroller for Development and Welfare was discontinued, Sir Hubert Rance accepting general responsibility for the Development and Welfare Organization with the assistance of a Chief Adviser.

It is likely that further progress towards a British West Indian Federation will be made in the near future, but at present the Colonies remain separate units with varying degrees of responsible governments. Representative government is by no means an innovation in the British West Indies, eleven of the Islands, together with Bermuda, having representative institutions at the time of the American Revolution.

### **B. Bermuda**

This Colony is sometimes mistakenly regarded as being a part of the West Indies, but it is, in fact, far removed geographically from the West Indian Colonies and regards itself as a separate entity.

### **C. Falkland Islands**

These, with their dependencies, lying about 500 miles north-east of Cape Horn, complete the picture of British territories in the Western Hemisphere.

## **Constitutions of the British Colonies in the Western Hemisphere**

ANTIGUA, including Barbuda and Redonda. *Presidency* of Leeward Islands. First settled in 1632 from St. Christopher.

*Population*: 43,442 (31.12.1947), mainly Africans.

*Administrator*: The Governor of the Leeward Islands appoints an Administrator for the Presidency.

*Executive Council*: The Council consists of three *ex officio* members (the Administrator, who presides, the Colonial Secretary, and the Attorney-General of the Leeward Islands) and such other persons as may be appointed by His Majesty or the Governor on His Majesty's instructions conveyed



through the Secretary of State. The Governor presides if he is in the Presidency while the Council is meeting.

*Legislature:* The Island Council consists of three official members (the Administrator, and two other persons holding office in the service of the Presidency), three nominated members, and five elected members. The duration of the Council is for three years, but the Governor of the Leeward Islands may prorogue or dissolve it before that time. Nominated members are appointed during His Majesty's pleasure and for the period until the next dissolution of the Council, but may be reappointed.

*Franchise:* British subjects of 21 or over of either sex, with certain residential and financial qualifications.

BAHAMAS. *Colony.* First settled in 1646/7.

<i>Population:</i> Africans	62,351
Europeans	12,932
Others	5,356

80,639 (1946 estimate)

*Governor:* Possesses veto powers.

*Executive Council:* Consists of the Colonial Secretary, the Attorney-General, the Receiver-General, and not more than six other members appointed by the Crown. Appointments are for five years. The Council possesses advisory powers.

*Legislative Council:* Consists of such members (not less than three) as the Governor shall appoint on His Majesty's instructions conveyed through the Secretary of State. At present there are nine members.

*House of Assembly:* Consists of twenty-nine elected members. The normal life of the House is seven years, but the Governor may dissolve it at any time.

*Franchise:* Male British subjects of 21 or over, with certain financial qualifications.

BARBADOS. *Colony.* First settled in 1627.

*Population:* 199,012 (1947 estimate), mainly Africans.

*Governor:* possesses veto, but no reserve powers.

*Executive Council*: The Governor presides, and the Council consists of two *ex officio* members (the Colonial Secretary and the Attorney-General) and such other persons as His Majesty or the Governor on His Majesty's instructions conveyed through the Secretary of State may appoint.

*Executive Committee*: The Committee consists of the Executive Council together with one member of the Legislative Council and four members of the House of Assembly appointed by the Governor at the commencement of each legislative session. The Committee is the principal instrument of Government and introduces all money votes, prepares the Estimates, and initiates all Government measures. The Governor invites the person who in his opinion is best able to command a majority in the House of Assembly to submit the names of members of the House of Assembly for appointment to the Executive Committee.

*Legislative Council*: The Council consists of not more than 15 persons appointed by His Majesty or the Governor on His Majesty's instructions conveyed through the Secretary of State. The Governor may appoint a Legislative Councillor to be President. Appointment is for not more than fifteen years, with provision for reappointment.

*General Assembly*: usually referred to as House of Assembly. The Assembly is an elected body and consists of twenty-four members. The length of session is two years unless dissolved by the Governor before that time. The Governor summons, prorogues or dissolves the Assembly.

*Franchise*: British subjects of 21 or over of either sex, with certain financial or occupational qualifications.

BERMUDA. *Colony*. First settled in 1612 by the Virginia Company.

<i>Population</i> : Coloured	22,534
White	13,026
	<hr/>
	35,560 (1947 estimate)
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*Governor*: Possesses reserve powers.

*Executive Council*: The Governor presides and the Council consists of four *ex officio* members (the Colonial Secretary, the Senior Military Officer, the Attorney-General, and the Colonial Treasurer) and such other members as may be appointed by the Crown—usually three—for a term of three years.

*Legislative Council*: Consists of three *ex officio* members (the Chief Justice, the Colonial Secretary, and the Attorney-General) and six unofficial members appointed by the Crown, three for an indefinite term and three for terms ranging from three to six years.

*House of Assembly*: Consists of thirty-six elected members. The life of the House is five years.

*Franchise*: British subjects of 21 or over, with certain property qualifications.

BRITISH GUIANA. *Colony*. Acquired from the Dutch by Treaty of Paris, 1814.

<i>Population</i> : Indians	168,921
Africans	139,326
Europeans	10,631
Chinese	3,677
Others	58,769

381,324 (1946)

*Governor*: Possesses reserve powers.

*Executive Council*: The Governor presides and the Council consists of three *ex officio* members (the Colonial Secretary, the Attorney-General, and the Colonial Treasurer) and such other persons not exceeding five unofficial members appointed by the Governor on His Majesty's instructions, conveyed through the Secretary of State. The latter must also be members of the Legislative Council. Appointments are for the duration of the Legislative Council, which is normally five years.

*Legislative Council*: The Governor presides and the Council consists of three official members (the Colonial Secretary, the Attorney-General, and the Colonial Treasurer) and

twenty-one unofficial members. The unofficial members are seven nominated members appointed by His Majesty or the Governor on His Majesty's instructions conveyed through the Secretary of State, and fourteen elected members. The Governor may appoint a member of the Council to be Deputy President. The duration of the Council is for five years but the Governor may prorogue or dissolve it before that time. Appointments of nominated members of the Legislative Council are for the duration of the Legislative Council.

*Legislative Council Advisory Committees:* These have been established for Agriculture, Education, Public Works, and Publicity and Information. The Chairman of each Committee is normally an unofficial member of the Executive Council. The membership of each Committee provides for four or five members of the Legislative Council together with the Head of the Department concerned. There is also a Legislative Council Advisory Committee for the Interior with a membership of twenty: five of these are members of the Legislative Council and the remainder are persons with special interest in, or knowledge of, the Interior.

*Franchise:* British subjects of 21 or over of either sex who are literate and possess certain property or financial qualifications.

**BRITISH HONDURAS.** *Colony.* Settled from Jamaica during seventeenth century. Jamaican Dependency until 1884.

<i>Population:</i> American Indians	10,030
White	2,329
Black	22,693
Asiatic	1,544
Carib	4,112
Mixed	18,360
Others	152

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59,220 (1946)

*Governor:* Possesses reserve powers.

*Executive Council:* The Governor presides and the Council consists of three *ex officio* members (the Colonial Secretary,

the Attorney-General, and such other officer as may be designated by the Governor) and such other members as may be appointed by the Governor on His Majesty's instructions conveyed through the Secretary of State. Appointments are for three years.

*Legislative Council:* The Governor presides and the Council consists of two official members (the Colonial Secretary and the Attorney-General) and such other officer (if any) as the Governor may appoint, together with ten unofficial members—four being nominated members and six being elected. The duration of the Council is for three years but the Governor may prorogue or dissolve it before that time.

*Franchise:* British subjects of 21 or over of either sex, with certain residential and financial qualifications.

**BRITISH VIRGIN ISLANDS.** *Presidency* of Leeward Islands. First settled in seventeenth century by Dutch, later by British. British possession confirmed by Treaty of Utrecht, 1713.

*Population:* 6,508 (1946), mainly Africans.

*Commissioner:* The Governor of the Leeward Islands appoints a Commissioner for the Presidency.

*Executive Council:* Consists of three *ex officio* members (the Commissioner, who presides, the Colonial Secretary, and the Attorney-General of the Leeward Islands) and such other persons as may be appointed by His Majesty or the Governor of the Leeward Islands on His Majesty's instructions conveyed through the Secretary of State. The Governor of the Leeward Islands presides if he is in the Presidency while the Council is meeting.

*Legislature:* There is no Legislature and the Governor is empowered to legislate for the Presidency.

**CAYMAN ISLANDS.** *Dependency* of Jamaica.

*Population:* 6,670 (1946), mainly of African descent.

*Commissioner:* The Governor of Jamaica is empowered to appoint a Commissioner to administer the Islands.

*Executive:* There is no Executive Council.

*Legislature:* This is a body known as *The Legislative Assembly*

*of Justices and Vestry*, consisting of twenty-seven Vestrymen from the seven districts, chosen as their representatives for two years, together with the Justices of the Peace. This body meets annually but the Commissioner may convene meetings for other purposes at other times. The Legislature of Jamaica can make laws for the Cayman Islands but, unless the Jamaican Legislature otherwise provides, the Legislative Assembly of Justices and Vestry may enact legislation governing their local affairs, with the consent of the Governor.

*Franchise*: There is no legal restriction upon the exercise of the franchise but by custom it is confined to male taxpayers between the ages of 18 and 60 years.

**DOMINICA. Colony.** Captured from French in 1756 and formally assigned to Britain by Peace of Paris, 1763.

*Population*: 47,624 (1946), mainly Africans, but a few Caribs and Europeans.

*Administrator*: Appointed by the Governor of the Windward Islands, who possesses reserve powers.

*Executive Council*: When present in the Colony the Governor presides; in his absence the Administrator presides. In addition, the Council consists of three *ex officio* members (the Administrator, the Crown Attorney, and the Treasurer) and such other members as His Majesty or the Governor on His Majesty's instructions conveyed through the Secretary of State may appoint. Appointments are for six years unless otherwise provided in the Instrument of Appointment.

*Legislative Council*: When present in the Colony the Governor presides: in his absence the Administrator presides. In addition, the Council consists of three *ex officio* members (the Administrator, the Crown Attorney, and the Treasurer), three nominated unofficial members and five elected members. The duration of the Council is for three years, but the Governor may prorogue or dissolve it before that time. Nominated members are appointed for the period until the next dissolution of the Council but may be re-appointed.

*Franchise*: British subjects of 21 or over of either sex, with certain residential and financial qualifications.

**FALKLAND ISLANDS AND DEPENDENCIES.**  
*Colony.* The Falkland Islands were discovered in 1592 and a European settlement was established in 1764. Of the Dependencies, South Georgia and South Sandwich were discovered in 1775 and South Shetland in 1819.

*Population:* Falklands 2,272 (1947 estimate), British.  
 Dependencies 393 (1947 estimate), British  
 and Norwegian.

*Executive Council:* The Governor presides and the Council consists of two *ex officio* members (the Colonial Secretary and Senior Medical Officer), one official, and two unofficial members nominated by the Governor.

*Legislative Council:* Under a new constitution recently introduced, the Council will consist of three *ex officio* members, three nominated official members, two nominated unofficial members, and four elected members. The Governor will preside, with a casting vote.

*Franchise:* Universal adult suffrage.

**GRENADA.** *Colony.* British possession confirmed by Treaty of Versailles, 1783.

*Population:* 72,387 (1946), mainly Africans but a few Indians and Europeans.

*Administrator:* Appointed by the Governor of the Windward Islands who possesses reserve powers.

*Executive Council:* When present in the Colony the Governor presides; in his absence the Administrator presides. In addition, the Council consists of three *ex officio* members (the Administrator, the Attorney-General, and the Treasurer) and such other persons as His Majesty or the Governor on His Majesty's instructions conveyed through the Secretary of State may appoint. Appointments are for six years unless otherwise provided in the Instrument of Appointment.

*Legislative Council:* The Council consists of the Governor, who presides, three *ex officio* members (the Administrator, the Attorney-General, and the Treasurer), four nominated unofficial members, and seven elected members. The duration of the Council is for three years but the Governor may

prorogue or dissolve it before that time. Nominated members are appointed for the period until the next dissolution of the Council but may be re-appointed.

*Franchise*: British subjects of 21 or over of either sex, with certain residential and financial qualifications.

**JAMAICA.** *Colony.* Captured from Spain in 1655.

*Population*: 1,340,395 (1947 estimate), mainly Africans.

*Governor*: Possesses reserve powers.

*Privy Council*: The Council consists of such persons as His Majesty may appoint. These are specified in the Royal Instructions as the Colonial Secretary, the Officer Commanding the Troops in the Colony, if not below the rank of Lieutenant-Colonel, the Attorney-General, and the Financial Secretary and Treasurer, together with two unofficial members. Appointment of the unofficial members is for three years.

*Executive Council*: The Council is the principal instrument of policy and prepares the Annual Estimates of Revenue and Expenditure and all Supplementary Estimates. All measures certified in writing by the Speaker of the House of Representatives to be money measures, and any measures designed to implement Government policy, can be introduced into the House of Representatives only with the approval of the Executive Council. The Council consists of the Governor as Chairman, three official members (the Colonial Secretary, the Attorney-General, and the Financial Secretary and Treasurer), two unofficial members who are nominated members of the Legislative Council, and five unofficial members who are elected to the Council by the House of Representatives from amongst its own number. The nominated members are appointed by His Majesty and hold their seats during His Majesty's pleasure.

*Legislative Council*: The Council consists of three *ex officio* members (the Colonial Secretary, the Attorney-General, and the Financial Secretary and Treasurer) and not more than two official members and not less than ten unofficial members appointed by His Majesty and holding their seats during His Majesty's pleasure. The President must be an unofficial



member who is not a member of the Executive Council and is elected to the Presidency by the Council. Nominated members are appointed for the life of the Legislative Council which is five years unless sooner dissolved.

*House of Representatives:* The House consists of 32 elected members. The Speaker is elected by the members from amongst themselves but must not be a member of the Executive Council. The life of the House of Representatives is five years unless sooner dissolved by the Governor.

*Franchise:* Universal adult suffrage.

*Note:* The above Constitution was introduced for a trial period of five years and is due to be reviewed at the end of 1949.

LEEWARD ISLANDS. See Antigua, British Virgin Islands, Montserrat, and St. Christopher and Nevis.

*Governor:* Possesses reserve powers.

*Federal Executive Council:* The Governor presides and the Council consists of four *ex officio* members (the Colonial Secretary, the Administrators of Antigua and St. Kitts, and the Attorney-General) and such other members as His Majesty or the Governor on His Majesty's instructions conveyed through the Secretary of State may appoint. Appointments are for three years.

*General Legislative Council:* The Council consists of the Governor, who presides, seven other official members (the Colonial Secretary, the Administrators of Antigua and St. Kitts, the Attorney-General, the Commissioners of Montserrat and the Virgin Islands, and the Federal Treasurer), and eight members elected by the Island Councils. The Governor has power to appoint two additional members, an unofficial member who is resident in the Virgin Islands, and an official member who is an official of the colony of the Leeward Islands. The duration of the Council is for three years subject to the right of the Governor to prorogue or dissolve it before that time. The Governor may make laws for the Leeward Islands on a number of specified subjects and on such other subjects in respect of each Presidency as its Legislature may declare to be within the com-

petency of the General Legislature. The Governor may, with the consent of the Legislative Body of any Presidency, make laws for the Presidency, but any island enactment relating to any of the specified subjects may be altered or repealed by the General Legislature, and is void, without any formal appeal, if repugnant to any law passed by that Legislature.

**MONTSERRAT.** *Presidency* of Leeward Islands. First settled in 1632 from St. Christopher.

*Population:* 14,329 (1946), mainly Africans.

*Commissioner:* The Governor of the Leeward Islands appoints a Commissioner for the Presidency.

*Executive Council:* The Council consists of three *ex officio* members (the Commissioner, who presides, the Colonial Secretary, and the Attorney-General of the Leeward Islands) and such other persons as may be appointed by His Majesty or the Governor on His Majesty's instructions conveyed through the Secretary of State. The Governor presides if he is in the Presidency while the Council is meeting.

*Legislature:* The Island Council consists of three official members (the Commissioner, and two other persons holding office in the service of the Presidency), two nominated members, and four elected members. The duration of the Council is for three years, but the Governor of the Leeward Islands may prorogue or dissolve it before that time. Nominated members are appointed during His Majesty's pleasure and for the period until the next dissolution of the Council, but may be reappointed.

*Franchise:* British subjects of 21 or over of either sex, with certain residential and financial qualifications.

**ST. CHRISTOPHER (ST. KITTS) AND NEVIS, with ANGUILA.** *Presidency* of Leeward Islands. First settled in 1624.

*Population:* 46,253 (1946), mainly Africans.

*Administrator:* The Governor of the Leeward Islands appoints an Administrator for the Presidency.

*Executive Council:* The Council consists of three *ex officio* members (the Administrator, who presides, the Colonial Secretary, and the Attorney-General of the Leeward Islands)

and such other persons as may be appointed by His Majesty or the Governor on His Majesty's instructions conveyed through the Secretary of State. The Governor presides if he is in the Presidency while the Council is meeting.

*Legislature*: The Island Council consists of three official members (the Administrator, and two other persons holding office in the service of the Presidency), three nominated members, and five elected members. The duration of the Council is for three years, but the Governor of the Leeward Islands may prorogue or dissolve it before that time. Nominated members are appointed during His Majesty's pleasure, and for the period until the next dissolution of the Council, but may be reappointed.

*Franchise*: British subjects of 21 or over of either sex, with certain residential and financial qualifications.

ST. LUCIA. *Colony*. Surrendered by France to Britain in 1803.

*Population*: 70,113 (1946), mainly Africans but some Indians and Europeans.

*Administrator*: Appointed by the Governor of the Windward Islands who possesses reserve powers.

*Executive Council*: When present in the Colony the Governor presides; in his absence the Administrator presides. In addition, the Council consists of four *ex officio* members (the Administrator, the Assistant Administrator, the Crown Attorney, and the Treasurer) and such other members as His Majesty or the Governor on His Majesty's instructions conveyed through the Secretary of State may appoint. Appointments are for six years unless otherwise provided in the Instrument of Appointment.

*Legislative Council*: When present in the Colony the Governor presides; in his absence the Administrator presides. In addition, the Council consists of three *ex officio* members (the Administrator, the Crown Attorney, and the Treasurer), three nominated unofficial members, and five elected members. The duration of the Council is for three years, but the Governor may prorogue or dissolve it before that time.

Nominated members are appointed for the period until the next dissolution of the Council but may be reappointed.

*Franchise*: British subjects of 21 or over of either sex, with certain residential and financial qualifications.

ST. VINCENT. *Colony*. British possession confirmed by Treaty of Versailles, 1783.

*Population*: 61,647 (1946), mainly Africans but some Indians and Caribs.

*Administrator*: Appointed by the Governor of the Windward Islands who possesses reserve powers.

*Executive Council*: When present in the Colony the Governor presides; in his absence the Administrator presides. In addition, the Council consists of three *ex officio* members (the Administrator, the Crown Attorney, and the Treasurer) and such other members as His Majesty or the Governor on His Majesty's instructions conveyed through the Secretary of State may appoint. Appointments are for six years unless otherwise provided in the Instrument of Appointment.

*Legislative Council*: When present in the Colony the Governor presides; in his absence the Administrator presides. In addition, the Council consists of three *ex officio* members (the Administrator, the Crown Attorney, and the Treasurer), three nominated unofficial members, and five elected members. The duration of the Council is for three years but the Governor may prorogue or dissolve it before that time. Nominated members are appointed for the period until the next dissolution of the Council but may be reappointed.

*Franchise*: British subjects of 21 or over of either sex, with certain residential and financial qualifications.

TRINIDAD AND TOBAGO. *Colony*. Trinidad captured from Spain in 1797. Ceded to Britain by Treaty of Amiens, 1802. Tobago ceded by France to Britain in 1763. Restored to France 1783. Returned to Britain after Napoleonic Wars.

*Population*: 586,700 (1947 estimate), the majority Africans but about 25 per cent. Indians and some Chinese and Europeans.

*Note*: On 10th January, 1949, the Secretary of State

announced in Parliament that a new Constitution would be introduced as soon as possible after arrangements had been made for a fresh delimitation of electoral districts. The present Legislative Council will then be dissolved and arrangements made for an early election on the new basis. The most important provisions of the new Constitution are as follows.

*Governor*: Possesses reserve powers, to be used only when a question of public order, public faith, or good government is involved.

*Executive Council*: The Council consists of three *ex officio* members, one nominated member (appointed by His Majesty on the recommendation of the Governor), and five members elected by the members of the Legislative Council. Arrangements will be made for the unofficial members of the Council to be actively associated in the work of administration of Government Departments.

*Legislative Council*: The Council consists of three *ex officio* members, five nominated, and eighteen elected members, presided over by a Speaker appointed by the Governor from outside the Council. The Speaker will have neither an original nor a casting vote.

*Franchise*: Universal adult suffrage.

**TURKS AND CAICOS ISLANDS.** *Dependency* of Jamaica.

*Population*: 6,455 (1947), mainly of African descent.

*Commissioner*: The Governor of Jamaica is empowered to appoint a Commissioner, who administers the Dependency assisted by a Legislative Board.

*Legislative Board*: The Board consists of the Commissioner, who presides, together with five other persons appointed by the Governor of Jamaica, of whom two are official and three unofficial members. Appointment is for three years. The Board has power to make Ordinances for regulating taxation, expenditure, and matters of purely local character, with the assent of the Officer Administering the Government of Jamaica. No law passed by the Legislature of Jamaica applies to the Turks and Caicos Islands unless expressly made applicable thereto.

*(The next paper will deal with British Colonies in Africa.)*

## THE MAKING AND FORM OF BILLS

by one of the Parliamentary Counsel to the Treasury

THE making of laws, if it is not necessarily the most important function of Parliament, yet gives Parliament its distinctive role as the Legislature and must command a big share of the attention of those who are concerned to encourage interest in its proceedings, even of such of them as may be more diverted by a debate on food policy or by a clash of personalities at question time. Most readers of *Parliamentary Affairs* will be familiar enough with the procedure and stages by which a Bill passes, and a reader who has forgotten how many votes it requires to carry the closure in a Standing Committee, or the difference between a Privilege Amendment and an amendment involving a question of privilege, has a choice of text-books to refer to. What he is less likely to find in a text-book is any description of how a Bill which is introduced into Parliament ever came into existence as a Bill, or what determines the form in which it appears--a form which he probably regards as unpalatable. It is to those questions that an answer is attempted in this article.

Certain limitations of the answer must be made clear. First, it is concerned only with Bills promoted by the Government, and not with Private Members' Bills or with the important volume of local legislation which reaches the statute-book every year. Secondly, it is concerned only with the way in which Bills are prepared, and with their form; it is not concerned with the way in which the decisions of policy are made which call for their preparation. A complaint that a Bill is badly drafted may mean one of three things; it may mean that the critic finds the Bill difficult to understand, it may mean that he believes its machinery ill-adapted to achieve its purpose, but it often in fact means that he thinks that purpose undesirable. The last criticism has nothing

to do with the preparation of a Bill as described in this article, the first everything; the second lies on that frontier between a decision of policy and the form of giving effect to it which can never be precisely drawn.

All Government Bills (with the exception of Bills relating only to Scotland, and certain formal Bills) are prepared in a department of the Civil Service known as the Office of the Parliamentary Counsel to the Treasury. The position of the Office is unique in the Civil Service inasmuch as, though it is directly and essentially concerned with matters of the first political consequence, its distinctive functions are not under the control of any one Minister. For establishment purposes it is a subordinate department of the Treasury, but in the preparation of each Bill it acts for the Minister responsible for that Bill. Obviously this system involves measures for co-ordinating its services to different Ministers, and that is secured partly by the formulation of the Government's legislative programme as a whole by the Legislation Committees of the Cabinet and partly by a rule under which the consent of the Treasury, as the central department of the Government, is required for the employment of the Parliamentary Counsel on any Bill. On technical matters the individual draftsmen are naturally in close and constant touch with the Lord Chancellor and the Law Officers.

The relations between the Parliamentary Counsel on the one hand, and the Minister for whom a Bill is being prepared and his officials on the other hand, present elements of potential difficulty. It is of course for the Minister to ordain what he wants in his Bill, but the duty of a member of the Office cannot be discharged simply by following the Minister's directions, for the Office has wider responsibilities. It is concerned with fitting the provisions of a particular Minister's Bill into the structure and form of the statute-book as a whole, and it has a duty, the need for whose discharge was indeed one of the main reasons for its being set up, to study the fitting of a particular Minister's requirements with those of other Departments. Again the Office stands, by accepted and salutary practice, in a position of trust to the House and its officials, in the discharge

of which a duty devolves on Parliamentary Counsel to be meticulous in securing avoidance of any circumvention of the rules of Order and of any framing of a Bill in a form which would embarrass effective debating of its provisions. Furthermore, the draftsman's outlook may sometimes give him a perception of the need, for the workability of a measure hereafter, of provisions whose insertion will cause the Minister difficulty in present debate. It is therefore to the credit of the British genius for adjustments that there is in fact no case on record of a difference between a Minister and the temporary pilot of his ship with whom the Office supplies him which has called for a decision on how such a difference should be resolved.

The drafting establishment of the Office is seven Parliamentary Counsel and eight assistants. Among the seven Parliamentary Counsel Bills are allocated by the First Parliamentary Counsel, each of the seven being responsible (subject to the general superintendence of the Head of the Office) for the drafting of the Bills allocated to him; and a total for allocation of sixty to seventy Government Bills in a Session is not at the present time unusual. Bills are not all of equal length, complexity or importance, but the preparation of a big first-class Bill is an immense task, and the work of preparing any Bill is on the scale of that needed for writing a book, be it long or short, on a technical subject. Thus the ration of eight to ten Bills in a Session for each of the Counsel, which is likely to include at least one big Bill and must in the case of one or more of them include the whole, or a share, of the annual Budget and Finance Bill (representing three months continuous work under a rigid time-table), means that their job is arduous. The eight junior draftsmen are allotted among the Parliamentary Counsel, mainly as apprentices when they first come into the Office but after a year or two as very valuable assistants. Pressure of time sometimes makes it necessary for the Parliamentary Counsel and his "devil" (to use the traditional expression) to work independently, either on different Bills or on different parts of the same Bill; but the problems to be solved are so frequently perplexing, and the danger of



error is so great, that it is wisely made the rule for the pair to work together whenever possible, for purposes of discussion and still more in order that they may pick up each other's mistakes.

The advantages of having Government legislative drafting concentrated in one office are obvious. Uniformity of drafting technique, which is important both from the point of view of Parliament and from that of the Courts, is a natural result of concentration, as a comparison of present-day legislation with that of a hundred years ago (when a central drafting office did not exist) will plainly show. Next, modern legislation ranges over so wide a field that it is quite common for two Bills in preparation at the same time to be dealing with different aspects of what is in substance the same matter; accordingly it is requisite that the different draftsmen should be in day-to-day contact with one another. Further, parliamentary time is in "short supply" and Ministerial competitors for an allocation numerous; the fact that Bills are drafted in one office enables the order of their preparation to be controlled, and the time at which they will be ready to be predicted, as would not otherwise be possible.

Yet it was not till after the middle of the last century that the need for a central drafting office was recognized. It was set up by a Treasury minute in 1869. Before then, though the Home Office had had its own draftsman, the bulk of Government legislation had been prepared by practising members of the Bar who were not Government servants and who undertook the drafting of Bills as they might undertake any other drafting. No doubt certain barristers specialized in this sort of work, but inevitably they lacked the variety of experience in legislative drafting which the modern draftsman finds essential. Any one member of the Parliamentary Counsel Office, in the course of a few Sessions, is likely to range over most of the field of Government activity; and he thus acquires not only a general view of the law governing administration and a facility for picking up (and subsequently forgetting) the detail of the particular branch in which he is interested for the time being, but also a knowledge of the policy, attitude of

mind and personalities of the different Departments which greatly facilitates his work.

The importance of this equipment, in addition to dry legal technique, appears as soon as the process of preparing a Bill is examined. It might be supposed to be straightforward enough. A Department, one might suppose, would send to the draftsman a written statement of the result their Minister wants produced, and the draftsman would prepare a Bill to produce that result. But the matter does not work out as simply as that. The Department is generally (though not always) clear enough when the drafting stage begins as to the general principle of policy to be embodied in the Bill. When, however, the principle comes to be crystallized into something as accurate, detailed and comprehensive as a piece of legislation, what seemed a straightforward proposal will inevitably be found to comprise the overcoming of obstacles not foreseen, and indeed not relevant for consideration, at the stage of general formulation. There will ensue a process in which the keel of a Bill is first laid and then the main features of the hull built up in successive drafts and at the same time the decking and fittings and contents of the different compartments are being devised and collected and fitted in as places become ready for them in the principal structure. Examination of drafted matter, correspondence, discussion of stubborn cruxes, conciliation of objectors in other Departments and amongst "interests" outside on whose support the Government relies, brisk exchanges with the Treasury as to finance, will proceed and intermingle, and at each of the many meetings by day and by night in which the draftsman and the departmental officials will be involved the eyes of each and all will be ever on the clock, for in all parliamentary processes of today the time factor rules all. It is easy to understand how valuable it is in these conditions to the draftsman, who must hold all the strings in his hand, to know to whom he must turn for this or that and to be on Christian name terms with those to whom he must turn.

The course of construction of a Bill sketched summarily in the preceding paragraph will have been mainly concerned with the pedestrian but indispensable task of trying to see that

it will work practically and smoothly as a machine, and that it will work not only in its main impact on the generality of its subject matter but also in outlying and exceptional cases. It is likely, no doubt, that the process will have thrown up also issues of policy and of political importance, and these will have been referred to Ministerial decision, not only in many cases of the Minister in charge of the Bill but of Ministers of other Departments. But these decisions will have been on particular points only, and when the draftsman and the departmental officials can report that the Bill is ready (or more probably when the Minister in charge or the Government Whips pronounce that they will wait no longer) it falls to be submitted for examination as a whole by a Cabinet Committee. Approval by that Committee is anything but a formality. Their scrutiny covers both form and substance, the draft being circulated to Ministers of all Departments and, as particularly concerns the draftsman, to the Lord Chancellor and the Law Officers. Direction for extensive revision at this stage is unusual, but direction for revision on, say, three or four points is common, and may well modify the general conception of a proposal as the draftsman has pictured it and tried to express it. Nevertheless the Bill by now has almost certainly got a fixed date in the Whips' programme and introduction after only a very short interval is imperative. The draftsman's experience during that interval is unenviable. He is charged with half a dozen technical duties incident to introduction in any of which a slip is both easy and very highly embarrassing—giving notice in the proper names, ensuring that the title of the Bill as set out in the notice covers all its contents in its latest form, reading final proofs for misprints, agreeing with the House officials what passages must be printed in italics as involving public money, arranging that circulation may be at a time conformable to the Minister's publicity arrangements; and it is not simple amidst these preoccupations for the draftsman to frame with quiet deliberation and pellucid clarity the provisions needed to give effect to the Cabinet Committee's direction for changes in clauses 3, 17 and 54 and the fifth schedule, to trace their reactions on far distant passages, to ask for a teleprint Northern Ireland

adaptation, to reprint the whole Bill with altered sectional references throughout, and to lay the whole before the House as a model of what a Bill should be.

In describing the course of the framing of a Bill up to the point at which at last it is laid before the House indications have been given of some of the influences which bear on the other topic with which this article was to deal, namely what determines the form of a Bill and why that form is so often, as it was mildly put at the beginning, "unpalatable", since it has been made apparent (and has indeed been so emphasized as to indicate some uneasiness in the conscience of the author of this article) that the circumstances in which Bills are prepared are not conducive to scholarly work. One other matter of circumstance (as distinct from certain characteristics inherent in legislation which, it will be suggested, exact some ungainliness of form) remains to be referred to. There is no doubt that a Bill, as presented to the House, could be more shapely at that stage, whatever might subsequently occur in the storms of the committee and report stages, if there were a considerable interval between final approval by Ministers and introduction. For the only way to improve the form of any draft is to wait till it is settled in substance with absolute finality, then to put it away until the draftsman can come to it with a fresh mind, and then to recast; the present writer was highly gratified when a lawyer friend said to him: "I like the War Damage Act: it reads straight on with a coherent plan" and, if his friend was at all justified, the explanation is that that is a consolidation Act the Bill for which was settled with a fresh mind six months after the latest amendment of substance. But it is wholly impracticable for the Government to bottle Bills for the winter, and, if they decided to do so, the cooks would most certainly want to alter the ingredients during the time intended for storage.

On the form which legislation commonly assumes, the argument of the remainder of this article is to be that, apart from considerations of time and circumstance, certain characteristics of legislation render illusory the hope that legislation can normally be made readable and easy to understand. This is a

contention which Sir Ernest Gowers has argued, in the second chapter of his *Plain Words*, with a discernment and felicity which it would be foolish to hope to rival, but perhaps something can usefully be added on some aspects of the matter with which he did not deal.

There is first a large range of topics which cannot be dealt with comprehensibly in a Bill, if by "comprehensibly" is meant that the Bill should be understood by any intelligent person who reads it once with the care with which he reads an important letter. Very many of the matters dealt with by legislation are of their nature extremely complex. To expect, for example, the provisions of recent Finance Bills for preventing evasion of sur-tax to be understandable on first reading is to expect the impossible. It is not too much to say that the comprehensibility of legislation must in general be rather the comprehensibility of Bradshaw than of Macaulay's *Essays*, and that to attempt simplicity in legislation is likely to be as profitless as to attempt to turn a Yale lock with a penknife blade. Legislation is commonly concerned with matters of interacting detail and it can be useful only to him who studies rather than reads.

Secondly, it is the rarest thing in modern circumstances for a Bill to deal with a new topic which could be handled comprehensively. Its general character is commonly the insertion of a new part in a long-worked machine. The result is that the draftsman must assume in his readers a knowledge of the existing statute and case law on his subject as a whole, and he must limit his provisions to the part of it that is to be altered, not only because to re-tell the whole story would lead to intolerable length, but also because to open the other parts to parliamentary debate by repeating them would lead to intolerable expenditure of parliamentary time. Thus criticism of obscurity comes not seldom to be assignable in fact to lack of the requisite background knowledge in the critic. Criticism of legislation by reference is sometimes of this category and it can sometimes be answered in parable by the observation that to the regular traveller between Waterloo and a suburb a Bank Holiday time-table which says "Saturday service omit-

ting the 8.47 and 9.47” is more immediately informative than a full setting out of the trains; in a sense the draftsman’s public is the regular traveller, those on whom the Bill will operate and who will know its subject well, not forgetting, it is true, that it includes also members who must debate the Bill before it operates without necessarily having previously had to concern themselves with its subject.

One may, however, well imagine the critic of form who has been assailed with the two preceding paragraphs replying that they amount to little more than assertions, capable of being called offensive, of his being first indolent and secondly ignorant, and that it remains for the draftsman to account for the still undeniable difficulty of grasping the meaning of Bills which is experienced by those who have only too good cause to study them with diligence, and with a better knowledge of their subject matter than the draftsman himself could possibly claim. The reply would be wholly justified. No one has to read more Acts of Parliament than the Parliamentary Counsel and no one knows better how difficult they are to understand. The root causes are more subtle and more ineluctable than indolence or ignorance. No more than a suggestion for an analysis of the causes can be made here by merely stating three considerations.

First an Act has to express what in ordinary speech or writing is left to obvious inference; the first fault of any inexperienced draftsman is that he omits the obvious. For example, an advocate of road safety measures would say in a speech, quite intelligibly, “cyclists ought, and must be made, to carry rear lamps” and it would be pedantic for him to say more; but the draftsman must add “during the hours of darkness” and then add a definition of those hours (and of a cyclist), and immediately the simple proposition begins to be submerged in length and obscurity.

Secondly an Act must avoid the phrase that is familiar and homely, because its edges are never clear cut. The Rent Restrictions Acts have given rise to record trouble largely because the original Act contained homely language which left all the details loose; what was to become a new system of

land tenure, which would have been certain in operation (but difficult to understand) if it had been properly put in the technical phrases to be found in the index to *Platt on Leases*, was built instead on the apparently forthright statements that no order for possession of a dwelling house to which the Act applied was to be made, and that the Act applied to a house or part of a house let as a separate dwelling. These are good simple words, but, when one comes to think, is a flat in a block of flats a house or a part of a house or neither, and what is a separate dwelling, and has a time-expired tenant who has no right to occupy, but whom the court cannot eject, the capacity to sell or bequeath to another his irremovability?

Lastly, an Act must speak in generalities, because it has to cover the whole ground, and exhaustive enumeration of each particular case is manifestly ruled out by its being humanly impossible to foresee all cases—and by paper shortage; the plain necessity is to formulate a general principle correctly and to rely on the soundness of its logical basis for the covering of every case that can arise. But psychologically generalities are elusive and in every-day life people do not deal in them; the business letter is about a particular transaction, the novel is about a particular set of characters, and the ten lines of the parable of the Good Samaritan are more expressive than the most perfectly phrased homily on practical sympathy with suffering. It is from this above all that it commonly results that the reader of an Act fails (in the most literal sense) to be able to see what it is about.

## BOOKS RECEIVED

*The inclusion of a book in this list does not preclude its review in a subsequent issue of Parliamentary Affairs. Any of the books in the list or reviewed on pages 187 to 202 can be ordered through the Hansard Society.*

- ASHLEY, MAURICE. *Mr. President*. Jonathan Cape. 21s.
- BLOSSOM, ALFRED C. *Our House*. People's University Press. 7s. 6d.
- COCKS, T. G. B. *The Parliament at Westminster*. Edward Arnold. 3s.
- EVATT, HERBERT VERE. *The United Nations*. Oxford University Press (London: Cumberlege). 10s. 6d.
- FOGARTY, M. P. *Town and Country Planning*. Hutchinson. 7s. 6d.
- HADFIELD, E. C. R., and MACCOLL, JAMES E. *British Local Government*. Hutchinson. 7s. 6d.
- HASKINS, GEORGE I. *The Growth of English Representative Government*. Oxford University Press (London: Cumberlege). 10s. 6d.
- HOGG, QUINTIN. *Parliament: A Reader's Guide*. National Book League (7 Albemarle Street, W.1). 1s.
- HOWARD, JOHN ELDRED. *Parliament and Foreign Policy in France*. Cresset Press. 10s. 6d.
- JENNINGS, SIR W. IVOR. *Principles of Local Government Law*. Third Edition. University of London Press. 8s. 6d.
- JENNINGS, SIR W. IVOR. *The Law and the Constitution*. Third Edition. University of London Press. 8s. 6d.
- JOYCE, MICHAEL. *My Friend H.* John Murray. 21s.
- MADOE, H. R., in collaboration with A. W. DE RUSSETT and LESLIE R. ALDOUS. *The United Nations Yearbook, 1948*. Hutchinson. 25s.
- MANSERGH, NICHOLAS. *The Commonwealth and the Nations*. Royal Institute of International Affairs (10 St. James's Square, S.W.1). 8s. 6d.
- MURPHY, J. T. *Labour's Big Three*. The Bodley Head. 15s.
- PATMAN, WRIGHT. *Our American Government*. Chicago: Ziff-Davis Publishing Co. \$1.50.
- SLESSER, SIR HENRY. *The Administration of the Law*. Hutchinson. 7s. 6d.
- TOYNBEE, ARNOLD J. *Civilization on Trial*. Oxford University Press (London: Cumberlege). 12s. 6d.
- TURNBULL, LAURA SHEARER. *Woodrow Wilson: a Selected Bibliography of his published writings, addresses and public papers*. Princeton University Press (London: Cumberlege). 11s. 6d.



## GOVERNMENT PUBLICATIONS

*The Government publications listed on this page are mainly of parliamentary or constitutional interest. All Government publications, including Hansard for the House of Lords and House of Commons (daily parts, weekly editions, or bound volumes) can be ordered through the Hansard Society.*

*British Broadcasting Corporation.* Annual Report and Accounts for the year 1947-48. (Cmd. 7506.) 6d.

*Central Office of Information.* Annual Report for the year 1947-48. (Cmd. 7567.) 1s.

*European Co-operation.* Report submitted to the O.E.E.C. (Cmd. 7572.) 1s. 3d.

*Germany.* An account of the Events leading up to a Reference of the Berlin Question to the United Nations. (Cmd. 7534.) 1s.

*His Majesty's Ministers and Heads of Public Departments.* December, 1948. 6d.

*His Majesty's Most Gracious Speech to both Houses of Parliament, 14th September, 1948.* 1d.

*His Majesty's Most Gracious Speech to both Houses of Parliament, 26th October, 1948.* 1d.

*House of Lords Offices.* First Report by the Select Committee. (H.L. 14.) 1d.

*Law of Defamation.* Report of Committee. (Cmd. 7536.) 1s.

*Legal Aid and Advice Bill, 1948.* Summary of Proposed New Service. (Cmd. 7563.) 3d.

*Legal Aid and Solicitors (Scotland) Bill.* Explanatory Memorandum. (Cmd. 7562.) 4d.

*Ministry of Works.* Summary Report for the period 1st January, 1947, to 31st December, 1947. (Cmd. 7541.) 9d.

*National Museums and Galleries.* Third Report of the Standing Commission. (73-2-3.) 1s. 6d.

*Roll of the Lords Spiritual and Temporal.* (H.L. 1.) 9d.

*Select Committee on Estimates.* First Report, Session 1948-9. (H.C. 25.) 9d.

*Social and Economic Research.* Report of the Inter-Departmental Committee. (Cmd. 7537.) 4d.

*Staffs Employed in Government Departments.* (Cmd. 7571.) 1d.

*Standing Orders of the House of Commons.* (H.C. 211.) 5s.

*Statutory Instruments.* First Report from the Select Committee (H.C. 6.) 3d. Minutes of Further Proceedings. (H.C. 12.) 1d. Minutes of Further Proceedings. (H.C. 34.) 1d.

*Temporary Laws.* Register. (H.C. 13.) 6d.

*The Historical Development of Private Bill Procedure and Standing Orders in the House of Commons.* Volume I. By O. Cyprian Williams. 17s. 6d.

*Treaties.* Catalogue of an Exhibition at the Public Record Office. (44-1035-1-1.) 1s.

*University Development from 1935 to 1947.* (70-152-0-48.) 2s.

## BOOK REVIEWS

**The Constitutional History of Mediæval England.**

By J. E. A. Jolliffe. Second edition, 1947, reprinted 1948. Black. 25s.

The dust-cover to this reprint of Mr. Jolliffe's well-known survey of English mediæval constitutional history suggests that the second edition is revised, but the book itself wisely omits the word "revised" from the intimation that this is the second edition. For it is clear enough that if this edition was in fact revised at all, the revisions were of a trivial character. The pagination remains identical with the first edition, and there is no indication of any corrections or amendments. This omission of any serious revision or any indication of the author's views on contentious points is unfortunate, for during the ten years' interval between the editions, a number of well-justified criticisms have been levelled at parts of the book, and the progress of research has not stood still in that time.

The fact is that Mr. Jolliffe's book has great merits and also great defects. There can be no doubt that when first published in 1937, the book represented a remarkable advance in the very difficult art of expounding mediæval English constitutional history. Unlike other works of the kind, including Stubbs's, it strictly confined itself to the history of the Constitution, and refrained from filling up space or distracting the reader's attention with bits and pieces of political, social, economic and other sorts of history. In thus concentrating upon the genuinely constitutional, Mr. Jolliffe performed a service of great value, and, it is to be hoped, permanently influenced the teaching of constitutional history. Unhappily, however, he went rather too far in his endeavour to exclude the irrelevant. It is no doubt very desirable to keep our expositions of ecclesiastical history very distinct from our constitutional history, but it is quite impossible to expound the latter without taking into account not only the relations of Church and State but also

the contributions of the Church to the machinery of secular government, throughout the Middle Ages and up to the Tudor Reformation at least. Yet in all the five hundred pages of Mr. Jolliffe's survey, the Church as such is barely mentioned—according to the index, it receives mention on only two pages. It is understandable that considerations of space would restrict treatment of the ecclesiastical side in a work of moderate size covering a thousand years of intricate history, but to ignore it altogether is simply to falsify the story and to mislead the reader. This defect alone would have prevented the book from becoming something like a classic exposition, which it might easily have become.

But there are other defects which have diminished the book's value and which cannot be passed over in silence. It is perhaps not too harsh a criticism to say that Mr. Jolliffe never seems quite to have made up his mind on the question of what class of reader he intended to write for. Presumably the principal objective was to produce a very high-class "text-book" for advanced university students and other more average readers, but it can hardly be said that this objective was kept at all steadily in mind. The result is that sometimes we are given very detailed expositions more appropriate for the learned journals, and at other times highly generalized statements of trends and tendencies. It is perhaps not altogether unreasonable to devote very nearly one third of the whole book to the Anglo-Saxon period (the author's speciality), but there is none the less a certain lack of proportion about the whole survey that is apt to be very disconcerting to the student and reader. The proof of the pudding is in the eating, and many times competent students, young and old, have told the present writer how difficult they find it to get a grasp of the contents of the book and to see the wood for the trees within it. The inherent difficulty of the subject is enhanced by the author's omission to furnish the reader with any assistance. The ten chapters are of excessive length and too few in number; there are no sub-sections; the index is of very moderate help. True, marginal rubrics are provided, but since these are nowhere collected together to supply an analysis of the

contents, they offer little succour to the reader who wants to understand the plan and structure of the book as a whole. The bibliography is almost useless, being arranged neither alphabetically nor in any lucid way, and, worst of all, without the slightest attempt to supply dates of publication; to the novice, such a string of book references is practically valueless. It is not surprising, therefore, that students do not view the book as an unmixed blessing.

Furthermore, it is certain that a number of rather serious errors, especially in the Anglo-Saxon parts, were incorporated in the first edition, and still remain in the second. As Sir Frank Stenton discreetly remarks (in the *Oxford History of England*, vol. II) "Anglo-Saxon scholars have shown that the texts will not always bear the interpretation put upon them" [by Mr. Jolliffe]. As some of these interpretations very materially affect the exposition of pre-Norman Conquest history, Mr. Jolliffe's early pages form a somewhat dangerous ground for the unwary.

But when all is said and done, Mr. Jolliffe's book contains many brilliant expositions and some fine pieces of writing, and will always be a most important contribution to our understanding of the mediæval period of our constitutional history. He is perhaps at his best in his summaries of development appended to each chapter, and some of these for their insight and vigour are without parallel in modern historical writing. The book is throughout written from the original sources, and consequently is both fresh and refreshing, avoiding vain repetitions of out-worn opinions. If what we are given as received doctrine is often no more—and, be it said, no less—than Mr. Jolliffe's view, we have little reason to complain on that score. For he has put into perspective and ordered exposition the long and highly complex history of those mediæval institutions and principles which lie at the root of our modern parliamentary constitution. He who wishes to understand the origins of the monarchy, the foundations of the Houses of Parliament, the forms of local government, the basic idea of the supremacy of the law, the ingenuity and creative energies of mediæval men in the sphere of government, will find these

things recounted here in all their richness and variety. An abundant harvest awaits the reaper in this field.

S. B. CHRIMES, M.A., PH.D.

(*Dr. Chrimes was a temporary Principal in the Ministry of Labour and National Service from 1940 to 1945. He is at present Lecturer in Constitutional History in the University of Glasgow.*)

**Parliament: A Reader's Guide.** By Quintin Hogg.  
National Book League. 1s.

Readers of *Parliamentary Affairs* may already possess N. W. Wilding's *Books About Parliament* (Hansard Society Pamphlet No. 1; rev. ed., 1946. 1s.). They will therefore be familiar with nearly all the 61 titles in this new list, which has been compiled by F. Seymour Smith, Chief Librarian of Finchley, in consultation with Mr. Hogg. But they will certainly want to read a characteristic and learned preface by Mr. Hogg, and they may also wish, by comparing the list of 1946 with that of 1948, to see how far the ravages of war have receded from the world of publishing. They will obtain some immediate gratification. Sir Gilbert Champion's *An Introduction to the Procedure of the House of Commons*, 1929, was revised in 1947, and Sir Cecil Carr, Speaker's Counsel, has recently published a revision of Ilbert's *Parliament: Its History, Constitution and Practice*. But a simple reprint is nowadays almost as important a publishing event as a revision, and it is misleading to find recommended Sir W. Ivor Jennings's *Cabinet Government* in the original edition of 1936—an edition, *experto crede*, exceedingly difficult to obtain—when it was in fact reprinted in 1947. Exactly the same thing applies to Jennings's *Parliament*, 1939 (1948). Another odd recommendation is *Standing Orders of the House of Commons*, H.M.S.O., 1947. His Majesty's Stationery Office is staffed by methodical people, and if asked specifically for this edition they would very probably supply it, even though they knew it to be less immediately useful than the edition of July, 1948, or that now ordered to be printed. It is invidious to search for omissions in so short a list, but room might reasonably have been made for R. B. McCallum and A. Readman's *The*

*British General Election of 1945* (Oxford University Press, 1947), an original analysis of high interest to anybody curious about elections in general, or preparing to set up as a prophet about the course of the next one.

DAVID C. L. HOLLAND.  
(*Mr. Holland is a cataloguer in the  
Library of the House of Commons.*)

**Parliaments and Councils of Medieval Ireland.** Vol. I.

Edited by H. G. Richardson and G. O. Sayles. Dublin:  
Stationery Office. Irish Manuscripts Commission. £1 5s.

The collaboration of Sayles and Richardson is now widely known as one of the most active elements in the medieval constitutional studies of our day. Under their guidance the reader feels that he can at last discern the medieval parliament at work, still dimly perhaps, but at least no longer through the distorting spectacles of a seventeenth century lawyer or a nineteenth century democrat. The popular conceptions of the medieval parliaments of these islands, summed up in such phrases as "no taxation without representation", still derive from the mistaken interpretations of such historians in the past, who tried to read back into the Middle Ages the constitution they saw or wished to see in their own time. In the work of Sayles and Richardson these distortions are exposed for what they are and in their place comes a much less well defined picture, but one which bears the stamp of genuineness. Pieced together from a perfect and, doubtless, painfully acquired knowledge of the sources, it shows a sympathetic appreciation of the background and needs of those composing and directing a medieval parliament.

This picture lacks a great many of the easily made but unhistorical distinctions which made the work of their predecessors so readily assimilable. A medieval parliament was not necessarily composed of king, lords and commons. All these elements might be present, though their relative importance was very different from what it was in a seventeenth century parliament, but some of them might not. The core of a medieval parliament was the king and his council, or in

the case of Ireland the chief governor and his council, with a number of the greater magnates; to this body lesser magnates, knights and burgesses, especially from the area in which parliament was held might be added, but to the contemporary mind a parliament could still be a parliament without them. Medieval parliaments were, perhaps, primarily courts of justice, but not, of course, in the exclusive sense a modern reader would attach to that term. Besides offering judicial relief to petitioners, parliaments provided a suitable medium for the discussion of legislation and taxation, though the incidence of the latter was as often settled out of parliament as in.

What is true of medieval parliaments in England is also largely true of those in Ireland, there being no evidence that the latter were ever in any way influenced by Irish law, which during this period flourished side by side with English law and even operated over the same area. Such a duality of legal systems, which seems unintelligible and anarchic to us, was in no way abnormal for our medieval ancestors. Because Ireland, or the part of it that remained subject to the Crown, was usually run by English administrators and because of the constant use of the English parliament (which on account of the king's presence in it had a certain superiority over that of Ireland) by Irish petitioners, it was inevitable that the constitutions of the two parliaments should develop along parallel lines. Where they diverged it was generally because the Irish parliament tended to retain features already shed by that of England. The best known example is, probably, that of the clerical proctors who continued to be summoned in Ireland until the Reformation.

Not so well known is the persistence of the great council in Ireland. This body can hardly yet, perhaps for lack of research on the subject, be said to exhibit a sufficiently distinct outline making it readily distinguishable from a parliament whose functions it seems in so many ways to have duplicated. The composition and method of summoning a great council seems to have been settled *ad hoc* and, as in the case of parliament, representatives of the commons might be summoned.

Similarly, subjects that came in the later Middle Ages to be regarded as peculiarly the prerogative of parliaments, legislation and taxation, were apparently discharged with equal competence by great councils.

This book is a collection of documents illustrating the functioning of parliaments and great councils in Ireland in the fourteenth and fifteenth centuries. Because of the scantiness of the sources, the history of the medieval Irish constitution can never hope to be as fully told as will that of England. The documents now published are taken from manuscripts in the Public Record Office and from such remnants and transcripts as survive in the Public Record Office of Ireland. In a few cases the documents have been previously published and are included only because the editors are able to supply a better text and because the original publication is not easily accessible outside a great library. The introduction, which is most scholarly, attempts to work out the nature of great councils and contains a very illuminating analysis of the incidence of taxation on the counties and crosses of Ireland. There are two indexes, one of persons and places, the other of subjects.

WILLIAM O'SULLIVAN.

*(Mr. O'Sullivan is a research worker in Irish history at present engaged on an index of the Civil Survey, 1654.)*

**The Commonwealth and the Nations.** By Nicholas Mansergh. Royal Institute of International Affairs. 8s. 6d.

**The British Commonwealth of Nations.** By Sir Ivor Jennings. Hutchinson. 7s. 6d.

Why the Royal Institute of International Affairs (Chatham House), which is not a University, should have professors is one of those minor mysteries that make British institutions so endearing a study. If, however, it enables scholars of the calibre of Mr. Mansergh to make large scale contributions to the literature of their subject without the distractions of teaching and administration that fall to the lot of ordinary professors, that does seem to be a very important point. Mr.



Mansergh's chief task at Chatham House is to take up the great task so brilliantly initiated by Professor W. K. Hancock and bring the latter's Survey of British Commonwealth Affairs down to the year 1949. The present little volume of essays may be considered as a sort of *hors d'oeuvre* and is likely to whet the appetite for the main meal. Since the subjects here treated are largely topical, Chatham House should be complimented on publishing the book itself, and not through a regular publisher. This has meant publication in something like six months—a period which anyone with experience of current publishing habits must regard as very satisfactory.

Yet so fast do events move that, even so, Mr. Mansergh's subject has outstripped him, particularly in the decision of the Irish Government to repeal the External Relations Act, and the interpretation by Great Britain of the legal consequences that must ensue. For the major problem of the present stage in Commonwealth Relations—Mr. Mansergh wrote before the Conference of Prime Ministers which saw "British" disappear from our vocabulary—is the effect upon the older system of the appearance on the scene of the Asiatic Dominions. Mr. Mansergh holds that Dominion Status, with its persistent preference for unformalized relationships, is unsuitable for these countries of non-British stock. He would regard "external association" in some form preferable either to this or to the complete secession that Burma has chosen, and that India and perhaps Pakistan may still choose.

The relationship between Great Britain and the original Dominions which has shown its strength would thus not be impaired by making concessions to countries with a different outlook and background. It remains, however, questionable whether external association, which has not provided a formula for Ireland, is likely to meet the case of countries whose need of something more than independence seems inescapable.

Mr. Mansergh seems to believe that the threat of Soviet Communism may yet heal the breach between Great Britain and Ireland, and even looks forward to the ending of "partition" in some unspecified manner. But it is not easy

to see why the Irish reaction to the distant danger of Russia should be more realistic than that to the closer danger from Hitler. Mr. Mansergh seems unaware of how the most recent evidence about the war at sea, not only from British but also from American sources, emphasizes the heavy losses sustained by the Allied cause through Irish neutrality.

Possibly the Asiatic peoples may be more conscious of their common danger. Mr. Mansergh rightly sees that the indigenous political and social movements around the Indian Ocean will determine these things, and not the paper niceties of Commonwealth or treaty relationships. Among the best things in the book are his description of the "Asian Conference" at Delhi in 1947 and his impressions of "The Last Days of British Rule in India". But the talk of a neutral *bloc*, which was as near to a discussion of defence and foreign policy problems as the Conference got, was not very cheering. Few indeed are the statesmen of this region who seem to have grasped the idea that the corollary of independence is local self-reliance for defence. But in view of the time it has taken for public opinion in the older Dominions to get out of the habit of expecting Great Britain to bear the major burden of peace-time defence, this is perhaps not surprising. It is Britain alone that is even now enforcing peace-time conscription.

One must have every sympathy with Mr. Mansergh's plea to realize that the forces of Asiatic nationalism have their constructive side, and that it is only by working with these forces that lasting results can be achieved. Any other system is only papering over the cracks. But one must perhaps make more allowances than he does for the vulnerability of civilization in these areas, and for the ability of a small number of Communists, by dislocating production, to create the conditions for their own success. The first essential in these regions is ordered government; and the first test of the "successor States" of the British and other Empires is that they should be able to guarantee it. Events in Burma since Mr. Mansergh wrote are as disquieting in one respect as the dissent of the Indian judge in the Tokyo War Guilt Trial is in another.

Events in China have fortified the claim of India to take the lead in Asiatic development—a claim that Mr. Mansergh emphasizes. Do we yet fully know what this implies? Is Mr. Mansergh, so at home with the national impulses of his own Ireland, quite as sound a guide to the deeper turbulence of Asia—is he not a little too civilized, a little too optimistic?

The merit of Mr. Mansergh's book is, above all, that it discusses live issues in a live fashion. Sir Ivor Jennings's book fails by this standard. To the admirers of Sir Ivor's earlier works, it will come as a revelation that he can be dull; and one suspects that the fault lies with the task the editor of the series has set him. As the honourable history of the "Home University Library" shows, it is possible to have short books written for an educational series, which are at the same time stimulating reading in themselves, and, on occasion, a major contribution to their subject. But the attempt in this book, in the space provided, to discuss the whole range of problems of the modern Commonwealth, and at the same time to give the geographical and historical facts needed for their comprehension, has proved beyond the powers even of so learned and experienced a writer. It is just not possible to keep the general pattern in view, while giving accounts of such things as the economic problems of Newfoundland, the history of the colonization of South Africa (with no map), the problems of imperial defence and migration, and the constitutional development of Ceylon, to mention but a few. For those who want the information, the book will be too concise and too scrappy; those who want to know Sir Ivor's views on the subjects upon which he himself is an authority will find he has too little space in which to develop them. The book was largely written before Burma left the Empire and before the coming into being of the three Asiatic Dominions. Some changes have been made in proof; but recent developments in Newfoundland do not come in, while the results of the South African elections in 1948 hardly substantiate some of the author's optimism about that country's politics. And has it ever been true that the "English

minority in South Africa determines which section of Afrikanders shall govern the Union"?

MAX BELOFF.

(*Mr. Max Beloff, B.Litt. (Oxon.), M.A., is Reader in the Comparative Study of Institutions, Oxford University, and a Fellow of Nuffield College.*)

**The Future of Australian Federalism.** By Gordon Greenwood. Melbourne University Press. 17s. 6d.

**Land Looking West.** By Malcolm Uren. Cumberlege. 21s.

There is little to justify the linking of these two books in a single review. They have only this in common, that both deal with matters of Australian interest and both are much concerned with Western Australia—Mr. Uren exclusively, and Mr. Greenwood in the context of the particular problems of Western Australia in the Commonwealth.

Mr. Greenwood's book has a strongly partisan flavour. It is clear that he is fully in agreement with Professor Laski, with whom he worked in the preparation of the book, that a federal structure of government is a step on the path to unitary government, and that Australia has lingered far too long on that step. The point is made again and again—the emphasis often becomes rhetorical—that many factors, principally economic, have made Australia *one* country, and that this makes it manifestly necessary that the constitutional framework of the Commonwealth should be adapted so that there is power vested in the centre to deal with all the problems which, in Mr. Greenwood's view, manifestly call for national action. At very least, this means that there is pressing need for constitutional reform which would confer upon the central authority a measure of power sufficient to regulate the economic life of the nation. This, of course, would involve the transference of great powers, now vested in the States, to the Commonwealth, and Mr. Greenwood feels that rather than leave "untidy remnants of the federal system", it would be better to vest complete control in the central parliament and to leave that central authority to delegate such powers as it deemed appropriate to local authorities.

Mr. Greenwood provides an interesting account of the negotiations and debates which took place in the Federal conventions which prepared the Bill which finally became the Constitution Act. He examines the various factors which led to federation and stresses what was undoubtedly—and not surprisingly—the case that there were strong particularist forces operating in the conventions. The result was that federation was achieved only upon the basis of the retention of very extensive powers by the States. Yet in many ways that intention has been defeated. The Senate, constituted as a States' house, has failed to protect State interests. Party affiliations have cut across State boundaries, and the weak financial powers of the Senate have detracted from its authority. Again, the small representation of certain States—for example, Western Australia—has meant that their interests are insufficiently represented in the Commonwealth Parliament. Again the fact is that the substance of financial power has increasingly been vested in the Commonwealth, and the result is that the States are often, in Deakin's prophetic words of 1902, financially bound to the chariot wheels of the Commonwealth. In early years, the invocation of doctrines of implied prohibitions and allied principles served to protect the States to some degree, but the majority decision of the High Court in the *Engineers' Case* dealt a severe blow to State hopes in this direction, although, as Mr. Greenwood notes, that case has not completely laid the ghost of dual sovereignty.

The net result is that the States have declined in importance, although there has been a persistent refusal to accord substantial legal powers to the Commonwealth so as to enable it to deal directly and comprehensively with what, in Mr. Greenwood's view, are national problems. Attempts to confer wider powers on the Commonwealth by referenda have generally resulted in dismal failure. Mr. Greenwood is very unhappy about the referendum machinery in Australia, and submits the referendum of 1944 to protracted and searching criticism.

Everywhere, in the author's view, the division of powers has led to wastefulness and frustration. Both the centre and

the States have embarked on developmental policies, and the attendant overlapping and lack of common plan have been extremely wasteful. Again, the division of powers in industrial matters, particularly the Commonwealth's limited powers in respect of industrial arbitration and conciliation, has led to undesirable results. Since the Commonwealth's power in this field is limited to inter-State disputes, the tendency is often to extend disputes in order to produce an inter-State element so that the Commonwealth may assume jurisdiction. In the field of finance, while the Financial Agreement of 1927 gave the Commonwealth great power—as became clear in the depression years—it made obvious the results of the division of powers, by establishing the Loan Council, which has produced an abdication of authority by the Commonwealth and States in a very important sphere.

Mr. Greenwood makes a searching analysis of the clause which greatly hampers the enactment of comprehensive marketing legislation. This is section 92 of the Constitution which provides in effect that inter-State trade and commerce shall be absolutely free. What absolutely free means is not free from doubt, but it seems clear enough that it makes general marketing legislation virtually impossible. The author makes a powerful plea for a provision which, at least, would provide that this section did not bind the Commonwealth. This would involve legislative enactment to get rid of that part of the decision of the Privy Council in *James v. the Commonwealth* which established that the section bound the Commonwealth.

The author discusses many other aspects of federalism in Australia. Perhaps the best section of the book is Chapter V which deals with the financial position of the States within the Commonwealth and the work of the Commonwealth Grants Commission. He also reviews the constitutional problems arising out of the recent war. A vast national effort was called for, and the interpretation of the scope of Commonwealth defence powers by the High Court showed that those powers were indeed vast, although not unlimited or even certain. One of the most striking of the war cases was the decision in the

*Uniform Tax Case*, that the Commonwealth could concentrate the substance of direct taxing powers in its own hands. Here the important thing was that this was supported *not* by the relatively *temporary* defence powers, but by the *permanent* taxing powers.

The book suffers from a number of defects of detail. Mr. Greenwood is not a lawyer, but, of necessity, his work leads him often to the cases. There is an exasperating lack of uniformity in his references to the Commonwealth Law Reports. On p. 14 footnote (32) we have C.L.R., xliii, 386-426; on p.53 footnote (7), 21 C.L.R. 433; on p.61 footnote (25), 4 C.L.R. (1906) 488; while on p.62 footnote (38) the date changes its place: 28 C.L.R. 129 (1920). This suggests careless proof reading. On p.59, *Commissioners of Taxation (N.S.W.) v. Baxter* has no reference. On p.53 the date of *Farey v. Burnett* should be 1916. The statement on p.223 that "so far, section 92 has not operated to invalidate Commonwealth legislation" is not correct, since *Gratwick v. Johnson* (1945) 70 C.L.R.1, was decided early in 1945. The chapter on the Commonwealth at War is not very satisfactory. Mr. Greenwood devotes an altogether disproportionate amount of space to the proposals for amendment of the Constitution and to the referendum of 1944. All the detail he musters seems hardly necessary, and the point could be made in very much less space.

However, it is on points of substance that our main comments must be offered. Mr. Greenwood, as we have seen, is a convinced unificationist and musters every argument to support the attack on federalism. At least one of these is beside the point. Sec. 92, which requires that inter-State trade and commerce shall be absolutely free, has been construed by the Privy Council as imposing a limitation both on the States and on the Commonwealth. As such it has nothing to do with the allocation of powers between the centre and the States which is, of course, the essentially federal element in the constitution. A sec. 92 could exist equally as a limitation upon a non-federal structure. If it is a bad provision—and it has certainly been a troublesome one—it could be removed or modified without affecting the federal principle.

Mr. Greenwood, in his zeal to make his case, fails to make this clear. However, it is true that the great majority of the author's criticisms are attacks on the results of the federal distribution of powers, and many of his points are telling ones.

But it is apparent from the history of constitutional referenda held both in the period covered by Mr. Greenwood, *and subsequently*, that there is almost unwavering opposition to any large scale increases in Commonwealth powers. It may be, as the author suggests, that the issues are often imperfectly presented, that the referendum is not an altogether satisfactory method of effecting constitutional change. But the fact remains that the jury almost invariably refuses to convict the system. In this light it may appear to be a somewhat academic exercise to emphasize how guilty the prisoner is. Mr. Greenwood may assert again and again how the economic facts have put the constitutional framework out of joint, but the Australian people are curiously unconvinced. It follows therefore that a more profitable line of approach would be to investigate the possibilities of co-operative action. The author, it is true, does not ignore this, but in a few pages he contemptuously dismisses the experiences of co-operative action between Commonwealth and States, and rejects the possibility of satisfactory development along this line.

Yet co-operation must be the path, however rough, since, at least for the foreseeable future, Mr. Greenwood's centralism is not for Australia. However, there is little doubt that Mr. Greenwood has produced a valuable study and has made it manifest that there are many unsatisfactory features in the existing constitutional structure of the Commonwealth.

Mr. Uren's book *Land Looking West* is an account of the foundation and early days of Western Australia. The book is primarily a study of the part played by Captain James Stirling, R.N., the first governor of the settlement, in the exploration of the Swan River area and in the subsequent settlement of the territory. Stirling explored the Swan River in 1827, and it was his persistent advocacy, coupled with fears of French expansion, which stirred a sceptical and indifferent Colonial Office into providing meagre assistance



in the foundation of the colony. There is evidence that Stirling acted precipitately, and without sufficiently careful plans; the original land grant policies were badly devised and encouraged speculation, and little careful thought was given to the selection of proper immigrants. The proposal to establish the colony provoked great and often misguided enthusiasm. The wild hopes of great prosperity produced a "Swan River mania". These hopes were sadly disappointed and the early days of the colony were characterized by bitter struggles against adverse conditions. One of the principal sufferers was Thomas Peel, cousin of Sir Robert, who lost a fortune in a miserably unsuccessful scheme of settlement in the colony. Through the ten years of his governorship, Stirling struggled against the local difficulties, and against the indifference and parsimony of the Colonial Office, whose view of Empire was summed up in the statement that "Colonies ought to pay the cost of their Civil Establishment or they are not worth keeping up". The book concludes with a summary of Stirling's career after his retirement from the governorship of the colony at the end of 1838 and with a very brief survey of the subsequent history and problems of Western Australia.

While Mr. Uren has provided a useful account of the early days of Western Australia, it must be said that the book is not very attractive. The style is dull and rambling and the material presented could have been adequately treated in a much shorter space. Since the book is biographical only so far as it deals with Stirling in relation to Western Australia, the accounts of the lives of Stirling's descendants, several of whom had no connection with Western Australia, seem rather pointless. So far as the book is biographical it hardly succeeds in bringing to life the personality and character of Stirling. The book is painstaking, but uninspired.

#### ZELMAN COWEN.

*(Mr. Cowen, B.C.L., M.A.(Oxon.), LL.M.(Melbourne), is a Barrister-at-Law, Gray's Inn, and a Fellow of Oriel College, Oxford. He was a Rhodes Scholar for Victoria, Australia (elected 1940), and is Vinerian Scholar in the University of Oxford.)*

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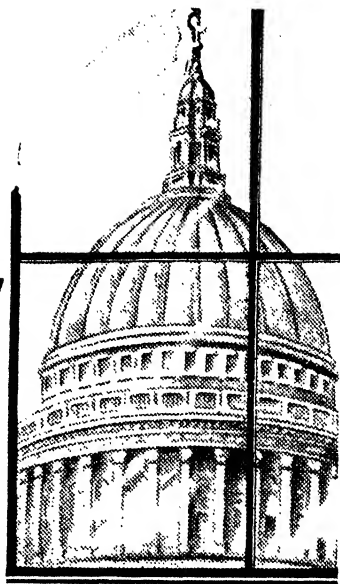
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*Son of the Earl of Cork, he was born at Lismore Castle, in Ireland, in 1627. At the age of eight, he was sent to school at Eton. Thence he proceeded to Oxford, and spent much of the rest of his life at the university carrying out scientific work which covered a vast field. Amongst his achievements were the invention of the first efficient air pump, the preparation of methyl alcohol from wood, and the propounding of Boyle’s Law, which is still used to describe how the volume of a gas varies with pressure. Before Boyle’s time, chemistry was the happy hunting ground of the quack physician and alchemist. His work at Oxford raised it to the status of a dignified branch of natural science. It is not without good reason, therefore, that Robert Boyle is regarded throughout the world as “the father of chemistry”.*



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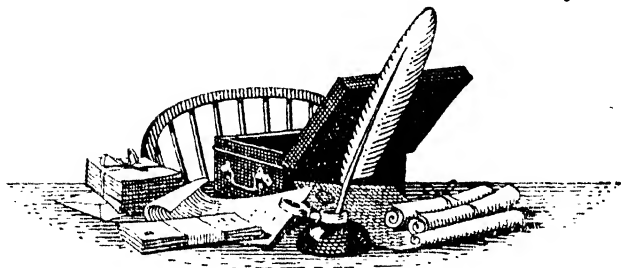
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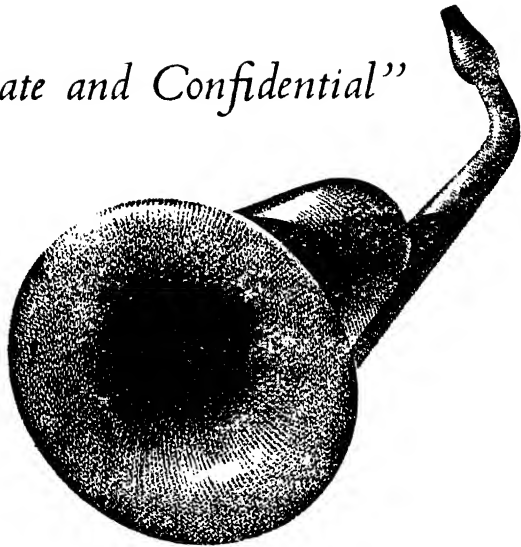
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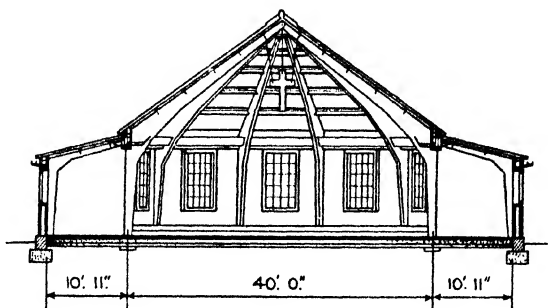
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*Though Mayow produced some remarkably shrewd theories on chemical affinity and was one of the first chemists to explain how nitric acid is produced by the action of sulphuric acid on nitre, his reputation rests on his work as a practical experimenter. He was born in Cornwall in 1641 and entered Wadham College, Oxford, in 1658. He died at Bath at the early age of thirty-five, a few months after his election to the Fellowship of the Royal Society. John Mayow, English physician, was one of several chemists who helped to solve the riddle of combustion—one of the most fundamental reactions in chemistry.*



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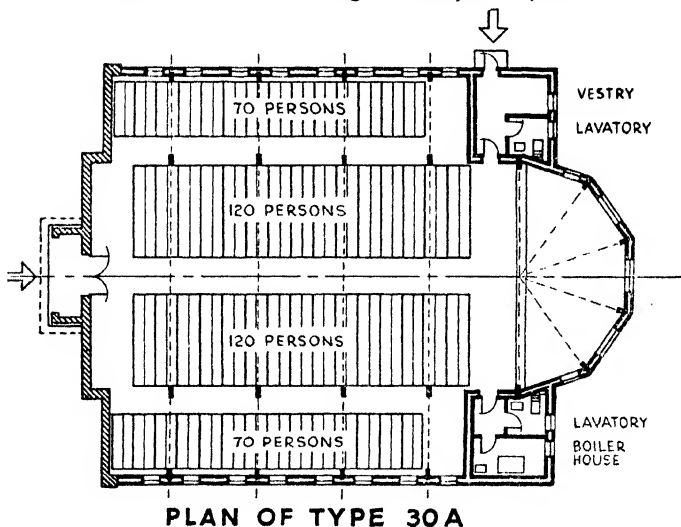
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Summer 1949



Vol. II No. 3

# PARLIAMENTARY AFFAIRS

**THE JOURNAL OF THE HANSARD SOCIETY**

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## HANSARD SOCIETY NEWS

by STEPHEN KING-HALL

*Chairman of the Council and Honorary Director*

THE progress of the Hansard Society movement cannot be expected to continue without set-backs, and I have to report two events of a disappointing character.

The first concerns our hopes of purchasing a house as headquarters for the Society. After long search we found premises which were suitable. Our national appeal raised approximately £8,000 which was not far short of the purchase price. The Minister of Health granted an appeal we made to be allowed to use the premises as the Society's headquarters. The house in question is in Catherine Place, Westminster, where many houses are now used as offices. We then applied for a licence to the L.C.C. (under the Town and Country Planning Act) and were only granted a licence for a period of six years, at the end of which period, unless the licence were renewed, the house would have to be used for residential purposes. This restriction—in the opinion of our advisers—substantially reduced the value of the property and made it improper for us to pay the price which we should have been justified in paying for an unrestricted freehold.

This event has been a severe blow to our plans. I cannot over-estimate our need for headquarters. Frankly, we are housed in inadequate accommodation placed at our disposal at a low rent by a publishing firm as a contribution to the work of the Society. Our landlords need the premises we occupy and we need more space and a proper headquarters at which to receive visitors, hold small meetings and house our library. What is to be done?

We have resumed the hunt for premises. We need at least 2,000 square feet—preferably in the form of a small house in the Westminster area. One line of attack is to raise more

money, for if we had £20,000 we could probably find what we need and let part of the house. It has been a great disappointment, but in the circumstances there is nothing more to be done except to keep on trying to find headquarters and to appeal to members to help us in any way they can.

The second set-back concerns the Hansard Society of Canada. In February I proceeded to Toronto at the invitation of the Canadian Society, in my capacity as their Honorary Adviser, in order to look into their affairs. After examining the position I reached the conclusion that the membership of the Canadian Society was too small to support the expenses of an office and secretary in Canada. In its one year of life the Canadian Society had done excellent work. It had greatly increased interest in the Canadian *Hansard*, it had stimulated the formation of discussion groups, and it had conducted an extraordinarily successful Youth Conference on Parliament which received most favourable notices in the Canadian Press. But none of these activities had produced money, and it became clear that the Hansard Society of Canada—bearing in mind the technical difficulties of administration of any national society in that Dominion, difficulties chiefly due to the great distances—had been founded with insufficient capital.

To continue the Society would have led to financial disaster, whereas on my arrival I ascertained that the funds in hand plus a donation from Mr. Rupert Bain (a member of the Canadian Committee) would enable the Society to be closed down in a solvent condition. I therefore recommended that the Society be wound up and that existing members be offered the option of transferring to the books of the Hansard Society. I travelled to Montreal, Ottawa and Toronto and made personal contact with about one-fifth of the Canadian members. They all agreed that the course proposed was the best open to us. A resolution to this effect was carried unanimously at a General Meeting of the Society held in Toronto. In order to complete this story it should be mentioned that, through a fortunate delay, the Canadian Society had never been legally and formally constituted.

A further very interesting point emerged as a result of this



episode, and one which in my judgment will prove to be of great value to the future of our movement.

An examination of our rules shows that there is nothing in them to indicate that the Hansard Society is a British society. We have always welcomed as members those foreign nationals who wish to support the work of promoting *the institution of Parliament*, and indeed our membership includes such people as His Excellency President Einaudi of Italy, several Indian Premiers, several French, Danish and other western European personalities and politicians, and universities, schools and individuals in all the Commonwealth countries and the British Colonies. A glance at the recent new members on pages 207-8 bears out this point. We now expect an influx of members resident in Canada. Should we not, therefore, think of the Hansard Society as a world society operating admittedly most actively in Britain where its headquarters are situated, but a society looking to the day when it will have branch offices in other lands staffed by persons recruited locally, and with local committees, depending upon a central council whose membership would be elected (as it is now) by the whole body of members? If this view is correct, it is a mistake to attempt to found autonomous sister societies. Furthermore, our work is international and cuts across frontiers, for the cause we exist to promote is world wide.

I write these words before I have been able to lay these considerations before the Council, but I submit them for consideration on my own responsibility. I do so as an introduction to the information that in Chicago, Washington and New York I found great interest in our work and recruited a number of members, including some Congressmen and members of the State Department. I am of the opinion that we should have no difficulty in adding a considerable number of representative U.S. citizens to our membership. In this connection it is worth noting that 38 American Universities subscribe to our Journal or are members of the Society.

**The German Visits.** These visits are suspended at the moment of writing but there have been two visits since the last issue of this journal appeared. The following German

political leaders have been the guests of the Society at the request of H.M. Government:

Dr. Rudolf Amelunxen, Minister for Social Affairs, North Rhine-Westphalia (Centre Party); Dr. Thomas Andresen, Deputy Chairman of the Christian Democratic Union in Schleswig-Holstein; Frau Dr. Theanolte Bähnisch, *Regierungspräsident* for Hanover (Social Democratic Party); Herr Peter Blachstein, Political Secretary of the Social Democratic Party in Hamburg; The Rev. Adolf Cillien, Chairman of the Christian Democratic Union group in the Lower Saxony *Landtag*; Herr Walter Damm, Minister of Social Affairs, Schleswig-Holstein (Social Democratic Party); Herr Werner Jacobi, Minister for Fighting Corruption in Economic Life, North Rhine-Westphalia (Social Democratic Party); Herr Kurt Knodt, Chairman of the Dillenburg District Council in Hesse (Social Democratic Party); Herr Alfred Kubel, Minister for Health and Social Welfare, Lower Saxony (Social Democratic Party); Frau Käthe Lange, Vice-Chairman of the Hamburg Senate (Free Democratic Party); Herr Eugen Lechner, Parliamentary Secretary to the Ministry of Health and Social Welfare, Schleswig-Holstein (Social Democratic Party); Dr. Heinz Lücke, Mayor of Uelzen and a member of the Lower Saxony *Landtag* (German Party); Herr Karl Meitmann, Chairman of the Social Democratic Party in Hamburg and a member of the Hamburg Senate; Dr. Jens Nydahl, *Landesdirektor* for Schleswig-Holstein (Social Democratic Party); Herr W. M. Rademacher, Chairman of the Free Democratic Party, Hamburg; Dr. Bernhard Reismann (Centre Party), member of the North Rhine-Westphalia *Landtag*; Professor Dr. Karl Schiller, Senator for Economics and Shipping, Hamburg (Social Democratic Party); Dr. Walter Schreiber, Chairman of the Christian Democratic Union in the Berlin City Assembly; Dr. Georg Strickrodt, Minister of Finance, Lower Saxony (Christian Democratic Union); Baron Achim von Beust (Christian Democratic Union), a member of the Hamburg Senate and Chairman of the Christian Democratic Union Youth Group in Hamburg; Frau Dr. Wuesthoff, President of the *Frauenring* in the French Zone.

As in the past I want to express my thanks to the Ministers, officials, Members of Parliament and others who gave generously of their time to help our German visitors.

**Membership.** New members during the period January to March numbered:

Individual Members:	89
Corporate Members:	17

Among the new members were:

Abbey School; Arnos Secondary Modern School; Associated Electrical Industries Ltd.; Australian National University; Max Beloff; Bermondsey Labour Party; British Industrial Plastics Ltd.;

Dame Elizabeth Cadbury; Lady Clayton; Director of Education, Jamaica; Senator Paul Douglas; Sir Alan Ellis; Sir William Haley; Helston Liberal and Unionist Association; Information Office of the Government of India in Singapore; Senator Estes Kefauver; Sir Ben Lockspeiser; Lycée de Jeunes Filles, Nice; Primrose League; H.R.H. Prince Tungi of Tonga; Prior's Field School, Godalming; H.R.H. Queen of Tonga; St. Paul's School; Superheater Co. Ltd.; Professor K. Takashi Itoh of Tokyo.

**Publications.** The sale of our publications continues to be fairly satisfactory. We have sold our first printing of *Papers on Parliament*, but a reprint will be available by the time this journal reaches you. It is a useful little book and has been favourably reviewed. It costs 6s., but members of the Society receive the usual discount of  $33\frac{1}{3}$  per cent.

There is a steady demand for English copies of the third edition of *Our Parliament* by Strathearn Gordon. The French and German editions are now exhausted, but the Spanish edition is at present being distributed. An Italian edition is in course of preparation, and negotiations are in hand for Chinese and Japanese editions. We can supply single copies or bulk orders of the English edition, price 8s. 6d. (5s. 8d. to members of the Hansard Society).

We still have about a hundred copies of *The Independent Member of Parliament* by Harold Nicolson, price 1s. (8d. to members). The article on the Palace of Westminster on pages 259-273 of this issue has been reprinted as a pamphlet and costs 1s. (8d. to members).

Will members please draw the attention of any libraries where they have influence to the existence of the bound volume I (1947-48) of *Parliamentary Affairs* of which there are only a limited number of copies. This book will be of great value in 25 years' time. It costs 15s. (10s. to members). We can also supply copies of the index for the first four issues, price 1s. *Parliamentary Affairs* now goes to most countries in the world. Subscriptions have reached us during the past three months from Tel Aviv, Warsaw, Belgrade, Chicago, New York, Hamburg, Alberta, and Iowa. Copies of the journal have been included in British Council exhibitions in Norway, Portugal and Greece. The Central Office of Information reprint some of our articles in their foreign language publi-

cations. German citizens can now order *Parliamentary Affairs* and pay for it in marks through Ausland-Zeitungshandel W. E. Saarbach, Köln-Junkersdorf, Frankenstrasse 14, Germany. I can now announce that the first issue of the next volume (Winter issue, 1949) will be larger than usual and will be mainly devoted to various aspects of American government. Distinguished American and British authorities on the subject have agreed to contribute articles, and I expect a heavy demand for this issue from the United States. May I urge prospective advertisers to book space at once.

**Overseas Visitors.** I conclude this news about the work of the Hansard Society during the past quarter by mentioning three episodes which illustrate the varied nature of the day to day work of the Society.

Example I. We arranged for Mr. R. W. Perceval, a Clerk in the House of Lords, to lecture on "How Britain is Governed" to a group of fifty European doctors and social workers brought to London by the United Nations International Children's Emergency Fund.

Example II. We were asked to provide a lecturer on "The Relationship of Central and Local Government" for one hundred teachers from the Commonwealth. We arranged for Mr. Eric Fletcher, M.P., to give this lecture.

Example III. The Deputy Speaker of the new Legislative Assembly of Malta, Mr. Joseph Attard Bezzina, visited this country under the auspices of the British Council. He visited the office of the Society and we arranged for him to meet Major Milner, M.P. (Deputy Speaker) and Mr. E. A. Fellowes (Clerk-Assistant of the House of Commons).

We have to turn down many requests of this nature, and shall have to do so until the happy moment arrives when we shall have adequate premises and that modest income of £10,000 per annum which we need for our work.

Will existing members please recruit new members and bear in mind that the annual subscription of one guinea can be paid by United Kingdom residents in the form of a seven-year covenant, thereby almost doubling the value of the subscription to the Society.

## THE BIRTH OF A BILL

by the Rt. Hon. R. A. BUTLER, M.P.

(As Minister of Education, Mr. Butler was responsible for piloting through the House of Commons the Bill which became the Education Act of 1944)

**B**EFORE the opening of Parliament in 1864 the Prime Minister, Lord Palmerston, was asked what reference should be made in the Queen's Speech to "domestic affairs and legislation". He answered, "rubbing his hands with an air of comfortable satisfaction: 'Oh, there is really nothing to be done. We cannot go on adding to the Statute Book *ad infinitum*. Perhaps we may have a little law reform, or bankruptcy reform; but we cannot go on legislating for ever' ". Three years later Walter Bagehot, in a classic exposition of the realities underlying our constitutional forms, listed the functions of the House of Commons and, while admitting that it would be preposterous to deny its great importance, chose nevertheless to mention the function of legislation last. Such were views held eighty odd years ago, just before the opening of the Disraeli-Gladstone era of reform. Today there is still a considerable body of opinion which would agree with Bagehot that legislation is a less vital and fundamental function of Parliament than either the maintenance, criticism and control of government or the provision of a sounding-board for public opinion. But whatever our constitutional theories may be, Lord Palmerston's remarks can provoke only a smile. For in our day it appears almost axiomatic not only that Parliament can but that it will in fact go on legislating for ever. In the decade before the outbreak of the Second World War six hundred Public Bills received the Royal Assent and were placed upon the Statute Book. There have been about the same number in the past decade.

What happens to these Bills at the various stages of their passage through Parliament may or may not be general knowledge, but this information is readily available in a very

great number of both learned and popular treatises, and there is no necessity to repeat it here. But when a new Bill is presented to Parliament and is formally read a first time, it already has a history. Bills do not spring like Athene of old, fully fashioned from the head of some ministerial Zeus. They are conceived, they have an embryonic stage, and they are born. For what reasons and in what manner these things take place are proper questions to ask. But they are not simple to answer, for the reasons are manifold and the manner complex.

Some Bills are almost permanent features of the Parliamentary scene, cropping up year after year. The Finance Bill and the Consolidated Fund Bills, for example, are modern legislative symbols of that ancient financial power from which arose the predominance of the House of Commons in the Constitution. The ordinary work of government could not proceed without these measures. It is laid down by the Bill of Rights, 1689, "That the raising or keeping of a standing army within the kingdom in time of peace unless it be with consent of Parliament is against law", and so every year that consent must be sought in the Army and Air Force (Annual) Bill. The most controversial measures of any session naturally have their origin in the particular doctrines of the political party in power. The tariff measures introduced after 1931 and the nationalization Bills of the last few years come under this heading. Other major legislation derives from government recognition that the time is ripe for another step forward in that social reform in which we lead the world. Bills of this kind usually command, by their very nature, much wider support, as was so with the Bill which became the Education Act, 1944. Again, all Departments tend to accumulate from experience a list of usually smaller reforms which are desirable but for which it is not easy to find time in crowded Parliamentary sessions. Every year a good number of these "Departmental" Bills find their way on to the Statute Book, either by themselves or as part of some larger and more comprehensive measure sponsored by the Department concerned. But governments, like all mankind, are creatures of circumstance, international and domestic, and a fair proportion of the Bills they present to

Parliament can be neither foreseen nor forecasted. In recent years governments have introduced Bills to give statutory authority for financial provisions connected with Marshall Aid, for enabling the trustees of the British Museum to lend a copy of Magna Carta for exhibition in the Library of Congress of the U.S.A., and for indemnifying a Secretary of State who had issued regulations establishing a National Fire Service without having laid them before Parliament. These are "occasional" Bills, and the occasions, it will be seen, vary considerably. Finally we should not, in Disraeli's words, forget "an influence too much underrated in this age of bustling mediocrity—the influence of individual character". Even in our day a Bill may originate in the mind of a Minister. More demonstrably it may originate in the mind of an active Private Member. For while most legislation is introduced on the government's behalf, Private Members' time, whose reintroduction has received such a general welcome, has seen in the past the start of several notable measures of which the Marriage Bill (later called Matrimonial Causes Bill) associated with the name of Sir Alan Herbert, is the most celebrated example.

Private Members' Bills, however, and Private Bills—that is Bills relating to matters of individual, corporate or local concern—are both subjects in themselves. Here we must be content to discuss only Public Bills introduced by the Government. These are, of course, the vast majority. We have seen how they may originate. Now we must examine how the idea of a Bill or the need for a Bill is translated into a document which is in effect the draft of a proposed Act of Parliament.

Government in Britain is government by consent of the governed and we have developed as a basis for a very large part of our legislation numerous techniques of public inquiry and consultation. Sometimes this prior consultation will be a matter simply for Members of Parliament, and this is especially true if it is a constitutional change which is anticipated. A Speaker's Conference now normally precedes most changes in electoral law. Two Select Committees of the House of Commons reported before the Ministers of the Crown Bill, making provision for ministerial salaries and limiting the number of

Ministers sitting at any one time in the Commons, was introduced in 1937. The Government of India Bill, which became an Act in 1935, largely followed the recommendations of a Joint Select Committee of Lords and Commons on Indian Constitutional Reform. Other major problems may be referred to a Departmental Committee consisting of experts appointed by the head of the Department concerned or, for weightier or more contentious matters, to a Royal Commission appointed by royal warrant, again from experts and men and women with long records of public service. Thus a recent court case, which greatly stirred public conscience, emphasized the pressing need to re-examine the social problem of the child lacking parental care. A Departmental Committee—the Curtis Committee—was set up, and its main recommendations formed the substance of the Children Bill which passed into law in 1948. At the moment of writing the report of the Royal Commission on Population is about to be published. No single long-term problem is more important to this country today than the threat of a shrinking population, and the report will assuredly be followed in due course by legislation as well as by administrative action. Again, there are a whole host of more permanent consultative and advisory committees appointed at the discretion of a Minister or because of some statutory obligation on him, and their recommendations are often the basis of legislation. This is especially true of the very numerous committees which have been associated with the Ministry of Health. Even where there is no formal committee appointed or in existence, consultation with interested bodies will almost always precede an important Bill. Major changes in the law relating to education, for example, will involve discussion with education authorities, teachers' associations, representatives of religious communities, and parents also. Normally a committee will be expected simply to produce proposals, and similarly consultations will take place on the basis of draft proposals. But there are precedents both for a committee to be asked to produce a draft Bill and for the publication of draft Bills for criticism. Lastly, we must remember a different category of Bills where mutual interest,



convention or the terms of the Statute of Westminster, 1931, require the assent of other Dominions. Thus the Dominions were consulted before the introduction of His Majesty's Declaration of Abdication Bill in 1936, though two of them introduced their own legislation dealing with this.

Every Bill presented to Parliament must be approved by the Cabinet. Where any big piece of legislation is involved the Minister concerned will prepare with the senior officers of his Department a written memorandum which he will then circulate to the Cabinet. If the measure involves considerable expenditure, as most big measures do, the Chancellor of the Exchequer may at the same time circulate a memorandum on these financial implications. The issues involved may then be referred to an *ad hoc* committee which will prepare and circulate a detailed report to the Cabinet. If the Cabinet then approves the main lines of the proposed measure, it will authorize the drafting of the Bill and sometimes the *ad hoc* committee will remain in existence to supervise this work. Then the Bill will come before a standing committee of the Cabinet, known as the Home Affairs Committee. Here, with the help of senior officers of the Department concerned who may attend, technical difficulties are thrashed out, legal aspects are discussed with the Law Officers, and the views of other Departments are examined. The minutes of this Committee containing its recommendations are circulated to the Cabinet, by whom the Bill is finally approved. To the man in the street this may seem an unduly elaborate method of reaching decisions. It is, however, a method which, like all our governmental techniques, has not been conceived in theory, but has been evolved to meet practical needs in a practical way. More than lack of space precludes the giving of specific detailed examples of this process. The inner workings of contemporary Cabinet government are very properly secret; also they differ to some extent from occasion to occasion and Ministry to Ministry so that no ex-Cabinet Minister can be quite certain that his information is not a little out of date.

A Bill represents the draft of an alteration or a restatement of law. It must therefore be written in the language of the law

to be interpreted by lawyers. This may be said with assurance in all one's cool and reasonable moments; yet there can be few non-lawyers in public life who have not once bitterly doubted it when confronted in a Bill with some more than usually incomprehensible passage of legal English. Most Government Bills are drafted in the Office of Parliamentary Counsel to the Treasury.<sup>1</sup> This was established by a Treasury Minute in 1869, though the title dates from earlier drafting arrangements made by William Pitt at the close of the eighteenth century. The staff consists of First and Second Parliamentary Counsel, five counsel and two deputy counsel, and ten assistant draftsmen of whom three are senior men. The initial formal instruction to draft a Government Bill is sent by the Treasury to the Parliamentary Counsel, and is not received direct from the Department concerned. More specific instructions from the Department may, however, accompany the formal Treasury instruction, and in any case, unless the Bill is of a very simple or minor character, there is a preliminary consultation with a senior official of the Department. With a very important and complex Bill the process of drafting may be a long one extending over several months. Sir Courtenay Ilbert has described how "it is often necessary to prepare memoranda stating the existing law, tracing the history of previous legislative enactments or proposals, or raising the preliminary questions of principle which have to be settled. The first draft may take the form of a rough 'sketch' or of 'heads of a Bill'. The original draft, whether in the form of a Bill or otherwise, is gradually elaborated after repeated conferences. . . ." Very many Bills involve the repeal or amendment of some of the "previous legislative enactments" that Ilbert refers to, and for anyone with a sense of history the Schedule listing these enactments is not infrequently the most interesting part of the Bill. A glance through the public Acts of the past few years show that modern Bills have necessitated the repeal of part of the Act originally establishing the position of the Bank of England in 1694, of part of the Act of 1829 under which Peel gave us the London

<sup>1</sup> See *The Making and Form of Bills* by one of the Parliamentary Counsel to the Treasury, *Parliamentary Affairs*, Vol. II, No. 2, Spring 1949.

“Bobbies”, who were called after him, and the whole of an enactment entitled “The King’s Tenant his Debtor” passed in the twenty-fifth year of the reign of Edward I—1297. Parliamentary Counsel remain responsible for supervising the form of the Bill even after it has been presented to Parliament. Scottish Bills, we may note, are drafted by counsel in the Lord Advocate’s Department.

“The massacre of the innocents” is no longer a feature of parliamentary life. It was wont to occur when, at the end of a session of Parliament, Bills which could not be passed before the prorogation were dropped *en masse*. Now customarily the Home Affairs Committee of the Cabinet meets at the beginning of the session, and, usually on the basis of a rough time-table drawn up by the Chief Whip, recommends Government Bills for the session for the approval of the Cabinet. What this really means is that the “innocents” are massacred in the decent privacy of a Cabinet committee before which Departmental heads champion the particular Bills they hope to introduce.

These, then, are some of the principal features in the process we have called “the birth of a Bill”. And yet, having set them down on paper, one is immediately aware that as far as any really big Bill is concerned—a Bill, that is to say, effecting some major adjustment in our national life—only a part, and perhaps not even the most important part of the story has been told. It is not only that a catalogue of fact and an explanation of machinery can give no idea of the ordinary human side of the picture: the intense activity throughout the Department promoting the Bill, the burden of work on the Minister and his senior advisers, the loss of what vestige of ordered routine can ever be left the public servant. It is something transcending all this that simple exposition can never properly reveal. For the birth of a major Bill represents both an act of creation and an act of faith. Sometimes, it may be, the creation turns out to be a poor thing, and the faith misplaced. Of every human endeavour that is true. But few servants of the public, I dare avow, have been intimately connected with the birth of a major piece of legislation without being fired by a tremendous

uplifting enthusiasm for the work they were trying to do. And not only for the work they were trying directly to do. Here one must tread cautiously, for no less an authority than Professor Brogan has assured us that it is true political science and true realism to assert with Burke that "no reasonable man ever did govern himself by abstracts and universals". Perhaps that is so—or at least for most of the time. Yet reasonable men in Britain, even when they are immersed in the intricacies of legislative proposals, even when they are worrying perhaps for days over some tiny detail of a problem possibly not demonstrably connected with the main purpose of their Bill, are none the less conscious, now dimly, now with the utmost clarity, of one "abstract", one "universal". It is one they like to think has inspired our men of State throughout the seven centuries in which measures have been put on our Statute Book and will go on inspiring them in all the years to come. Aristotle best expressed it when he wrote: "The State was formed that men might live, but exists that they may live nobly."

Though we may differ about means, this is the end to which we all work. And if in truth we cannot "make men good by Act of Parliament", yet Act of Parliament is one way we have found to give them the chance to be better.

\* \* \* \* \*

#### LEGISLATION IN THE EIGHTEENTH CENTURY

"If we look back to the greatest statesmen which the country has ever produced—to those whose names are most regarded for the genius and ability which they displayed in the direction of affairs—if we look back to Sir R. Walpole, to Lord Chatham, to Mr. Pitt, and to Mr. Fox—if we refer to the administrations of those great men, and then cast our eyes on the statute book, for the purpose of seeing what laws they have placed there, and what were the legislative measures they recommended and carried through Parliament, I fear we shall meet with but a meagre return, indeed, for our labour. It is not, that those Ministers did not answer all that was required of them in their time—it is not that they were not fully equal to the conduct of affairs, according to the principles they professed—but that the usages of the constitution did not then require, that those at the head of the Government should bring forward legislative measures."

Lord John Russell, leader of the House of Commons, speaking on a resolution of no-confidence in Melbourne's Government on 4th June, 1841. (*Hansard*, 3rd series, vol. 58, col. 1195). The resolution of no-confidence was carried by 312 to 311, and Parliament was dissolved.

## THE OFFICIAL REPORT: MR. SPEAKER'S RULING

**R**EADERS of this journal may have wondered what is the correct way of describing in simple language the publication which has inscribed on the title page the words "Parliamentary Debates (Hansard) House of Commons Official Report". To remove any confusion we print below two extracts from Question Time in the House of Commons last February.

16th February, 1949.

**Lieut.-Colonel Elliot:** Mr. Speaker, I desire to draw your attention to an entry in the Official Report to-day which I think will require correction. It is in Column 1018, and the entry is made there, about three parts down the column, "Amendment negatived". . . The question, I think, was put by the Deputy-Chairman and was agreed to by the Committee, and the Amendment was, in fact, made but the Official Report indicates that the Amendment was not made.

We are fortunate in having also *The Times* report of this which gives, I think, the accurate statement. It says:

"The first amendment, permitting a landlord to appear before a tribunal, was agreed to. The second amendment was negatived by 269 votes to 97."

I think the confusion may have arisen owing to the growing practice of including a number of Amendments in one discussion, and subsequently dividing upon them separately. . . .

**Mr. Speaker:** I can assure the right hon. and gallant Gentleman that the mere fact that he has raised that point will automatically put the matter right. I think the right hon. and gallant Gentleman said that it was a mistake in the Official Report. *Hansard* is not an Official Report. It is, I hope, as accurate an account of our proceedings as possible. The

Official Report is one which it is my duty, the House remembers, by Resolution passed at the beginning of every Session, to peruse daily. I did peruse the official report, which is the accurate one, and it says "Another Amendment made", which is the correct wording. Therefore, officially the Amendment is correct and in order, and I hope that what I have said, and what the right hon. and gallant Gentleman has said, will ensure that the matter is put right in *Hansard*.

**Earl Winterton:** May I call your attention, Mr. Speaker, to the fact that there is obviously a mistake in the description of *Hansard*, because it is always published as the "Official Report". In view of what you have said, perhaps you will call the attention of the Editor to the fact that it is not the Official Report?

**Mr. Speaker:** I am obliged to the noble Lord for drawing my attention to that fact. There is no question about it. *Hansard* is not the Official Report. This is the official record—the Votes and Proceedings—which I have in my hand.

17th February, 1949.

**Mr. Churchill:** May I ask you, Sir, whether you have anything to add to the statement which you made yesterday concerning *Hansard* and the Official Report?

**Mr. Speaker:** I really have very little to add. It is one of the difficulties of the English language that one word can really have two shades of meaning. That is perfectly true of the word "official".

*Hansard* is the Official Report of Parliamentary Debates. That means, it is a report by gentlemen, and in one case by a lady, who have the very difficult job of reporting what is said in this House. It is a report by people who are officially appointed as part of the staff of the House of Commons. That is the extent of the official position of *Hansard*. . . It is official in this respect, that it is the report of officers who are appointed by this House to report what is said in the House.

But if we are going to take "official" in another sense . . . it would be perfectly simple merely to ask the question if the

Official Report, which was in the Votes and Proceedings, showed whether the Amendment had been passed. *Hansard* said it had been negatived. The only thing was to ask that the words "agreed to" should be substituted to show that the Amendment had been carried.

However, let us go a little bit further than that, because I want to point out that *Hansard* has no effect whatsoever on the proceedings of this House and no authority whatsoever. Neither is *Hansard* accepted in the courts of law. I am advised that the courts take judicial cognizance of the order and course of proceedings in Parliament. Under the Evidence Act, 1845, copies of the Commons Journals are admitted in evidence without proof of the printing. Copies of *Hansard*, however, are not so admitted as evidence of facts therein stated.

May I add, as further proof of that, that there was a case in 1917 where a common informer sought to recover a penalty from a Member of the House on the alleged ground that he had sat and voted whilst disqualified. The learned judge refused to allow the Member's presence in the House to be proved by the publication of what he called "the Official Debates of the House of Commons". Witnesses had to be called in to prove his presence in the House. This explanation, I hope, will prove the two shades of meaning of the word "official" and the meaning which I put on to it when I was replying yesterday to the right hon. and gallant Gentleman.

**Mr. Henry Strauss:** Is it not completely accurate to say that the document you referred to yesterday—the Journal—is the official record which is received in courts of law as evidence of the acts of the House with which the courts are generally concerned, such as Amendments, Divisions and so on, but that, in so far as anything is a report of what is said in the House, *Hansard* is that report?

**Mr. Speaker:** *Hansard* is that report but it is not accepted in the courts of law. That is the advice I have received.

**Sir Peter Macdonald:** In view of the fact very large numbers of people and businesses in this country subscribe to *Hansard*, is it not true to say that *Hansard* is a pretty accurate

record of the Debates in this House and is called the Official Report?

**Mr. Speaker:** I should like to say to the Hon. Member that I agree that *Hansard* is extraordinarily accurate. It very seldom makes a mistake. It is not any ordinary reporter who can become a reporter on *Hansard*. He has to write down the words of some Hon. Members here who speak very, very fast. He has not only to do that; he has to be able to name the Member, to say who is speaking and also to have a good knowledge of procedure, to know whether an Amendment has been withdrawn or accepted or what has happened to it. It is not every reporter, however skilled he may be at shorthand, who can become a *Hansard* reporter, and I should like to pay my tribute to them.

**Hon. Members:** Hear, Hear.

**Mr. Chetwynd:** Would it not remove all doubt if the word "official" were dropped from the front page of the Parliamentary Report?

**Mr. Speaker:** I think not. I have looked into it very carefully. "Parliamentary Debates, Official Report", I think, really means Parliamentary Debates—what has been said, and not procedure.

**Mr. Churchill:** Your explanation, Mr. Speaker, makes matters very clear. I should like to say we all have great confidence in *Hansard*. Its early publication is an immense convenience to Members, who are glad that there is, as it were, a further check, in case large questions of law are involved.

**Mr. Gallacher:** May I, as one who does his very best to speak English, pay tribute to *Hansard* for the way they report my speeches?

**Mr. H. Strauss:** Is it not a fact that, while *Hansard* could not in any event be accepted as evidence in a court of law on account of the rule against hearsay, no court has ever raised the least objection to it being described as the Official Report?

**Mr. Speaker:** I do not think I have raised any objection to that. I have merely pointed out that one report is more official than the other.



## THE LIBRARY OF CONGRESS

## A STATEMENT WITHOUT A CONCLUSION

by DAVID C. MEARNS

*(Mr. Mearns has been with the Library of Congress for thirty years and has been Director of the Reference Department since 1943.)*

IF the uneasiness which besets our days has produced new cynics and new shames, it has, at the same time, displaced some ancient sceptics and replaced the vanities of neglect with the realities of requirement. Intuition, for example, as a basis for decision lies buried beneath the rubble of Berlin. Instead, stark and homely verities, masked for a time by sentimentality and honoured into invisible impotence, have reassumed their rightful contours and their proper dimensions. It is clearer now than in the past it was ever clear that there is nothing so important as the commonplace, that the future will be fashioned by the success or failure of information combined with understanding. These two forces, won or forfeited, heeded or ignored, balanced or imbalanced, applied or unexploited, developed or destroyed, are inseparable from the fortunes of the race. From this acceptance is derived a compelling interest in institutions dedicated to enlightenment.

The Library of Congress, at Washington, D.C., was founded nearly a century and a half ago to provide members of the national legislature with materials essential to responsible action. It provides such materials today, its purpose is the same purpose, but modern invention has multiplied the media of knowledge, and an altered civilization has imposed increasing obligations on public office. As long as the United States occupied a relatively inconspicuous place in the world's affairs, as long as America was isolated by its bordering seas, as long as the principal objects of legislative concern were domestic objects, as long as representative government implied advocacy of, or opposition to, issues as simple as they were

familiar, as long as books were few and critics were competent to distinguish between them, the Library grew by processes of calculable attrition. But as the land was peopled, as derivative cultures gave way to indigenous traditions, as provincial society became a republican society, as intellectual timidity was overcome and discredited and finally superseded by assurance and example, as independence was followed by integration, as common perplexities and common aspirations found expression in a national literature, the Library of Congress emerged as a national library.

It emerged as a national library for reasons both tangible and intangible. Among the tangible reasons must be reckoned such factors as its establishment as the single depository for literary property, its encouraged growth, its mandatory participation in national and international relations, its maintenance from national investment, its far-flung exchanges, its directed services; among the intangible reasons for its emergence as a national library it is possible to adduce its hold upon the popular imagination, the notable and frequently munificent gifts it has received from private benefaction, its recognition as a national resource and, perhaps most significantly, the gradual realization on the part of Members of the Congress, that to be fully informed they must represent an informed constituency, that to be, in the best, the most exclusive, sense the Library of Congress it must be also the Library of the whole American community. Thus Congress, while preserving its own convenience and mindful of its own primary claims upon it, has, conditionally at least, extended the Library far beyond its old, out-moded concept. Because its powers are arbitrary Congress declines to exercise them; because mere permissiveness is halting it insists on sharing its facilities; because, in the United States, the people govern, whatever is government's must be the people's too.

Out of these considerations, pronounced and tacit, the Library of Congress has become the largest library in the world. Indeed its very size has sometimes obscured its actual design. To the historian, for example, intent upon the study of source materials as represented by the private correspondence of

American statesmen, military commanders, social reformers, business men, poets, playwrights or magicians, the Library of Congress appears to be *his* Library. The student who finds inspiration in the holograph scores of great composers or in listening to a public concert presented in the Library's auditorium may come to think that the Library exists for music. The blind reader, whose book, transcribed in Braille or reproduced in sound, is issued from a distributing library acting on behalf of the Library of Congress, may confidently conclude that the nation's Library is a collection organized only for the service of the handicapped and the afflicted. The lawyer, with characteristic conceit, regards the institution and all the works within it as a professional facility. The scientist, driven to desperation by the difficulties inherent in mastery of the proliferated and refractory reports of his craft, considers the Library in terms of its preoccupation with bibliographical control. And so it goes, through every form of material, and every discipline of learning, and every type of reader, the sense of proprietorship, whether collective or individual, stemming from the encyclopedic coverage of the collections and the absolute freedom of access to them.

As to the nature of the collections, it may be said that they consist of books and pamphlets, broadsides, manuscripts, maps, microfilms, motion pictures, music, newspapers, periodicals, phonograph recordings, photographs, prints and other categories, and that currently they are received at a rate of more than 7,000,000 pieces annually. Some are acquired through the operations of copyright, others (in excess of half a million) through purchase, others through transfer from the several agencies of government, others (about a quarter of a million) through gifts from organizations and private citizens, but the principal sources of accession are the "treaties", carefully negotiated and formally observed, which are usually described under the head of "exchange". Many of the States in the Federal Union are instructed by their statutes to send copies of official publications to the Library of Congress; the Department of State of the United States has arrived at "international agreements" with the foreign offices of other Powers

for the interchange of documents in the Library's interest; the Smithsonian Institution, acting as agent for the Library, secures for it (by bartering its own issuances) the transactions, proceedings, journals and monographs of learned societies and academies throughout the world; and the Library itself maintains a number of direct and similar arrangements with corporate bodies of various sorts. Implementing the Library's programme, the Superintendent of Documents is directed to provide the product of the Government Printing Office in sufficient quantities to secure a considerable and equitable return.

By midsummer, 1948, the Library possessed 8,387,385 books and pamphlets, 124,619 bound volumes of newspapers, 8,896,597 manuscripts, 1,186,911 maps and views, 71,060 reels of microfilm, 64,451 reels of motion pictures, 1,788,449 volumes and pieces of music, 287,414 phonograph recordings, 1,708,247 photographic negatives, prints and slides, 578,765 engravings, and 624,163 items of miscellaneous character such as broadsides and posters. Its Chinese library was the largest outside the Orient, its Russian library was the largest outside of Russia, its music holdings were unsurpassed, its manuscript resources (including selected transcripts and reproductions of materials in foreign archives relating to America) unparalleled for the study of American civilization, its fifteenth century imprints numbered nearly five thousand examples, its photographs depicted almost every aspect of life in the Western Hemisphere, its maps were believed to chart the globe, its Hispanic-Americana were outstanding in scholarly and in numerical scope, its law library sought completeness, its books were catalogued, classified and arranged in accordance with the highest standards of technical precision, it occupied two buildings equipped with ingenious, mechanical, devices for service, it employed a large, proficient, skilled and devoted staff, and by those Cartesian laws of limitation as demonstrable in institutions as in mathematics, it approached but could not quite reach its goal. As a consequence, complacency is impossible, striving a spur, shortcoming an intolerable humiliation and a danger. For this reason it must constantly adapt

itself and its resources to the changing situations which confront the United States.

Conspicuous among its services are those performed for other libraries throughout the nation. It extends their resources through a system of inter-library loans, and registers their resources in the National Union Catalogue. It engages with them in cooperative undertakings calculated to ensure the acquisition and appropriate allocation of materials important to research. By distributing at cost its printed catalogue cards and the cumulative records of its holdings, it reduces the expense of their operations by more than a million dollars annually. Its technical developments are made available to them through the constant revision of classification schedules and lists of standard subject headings. It sends to them, upon request, the compilations of its bibliographers.

The Library's facilities include a modern Photoduplication Service, where (unless considerations of copyright or conditions of deposit prevent) any item in the Library's collections can be reproduced for a nominal charge, and a Recording Laboratory for making phonographic transcriptions. As a special service to scholars, whose studies involve an intensive use of the collections, more than two hundred small rooms, each furnished with a desk, typewriter table, chairs and a bookcase, are set aside.

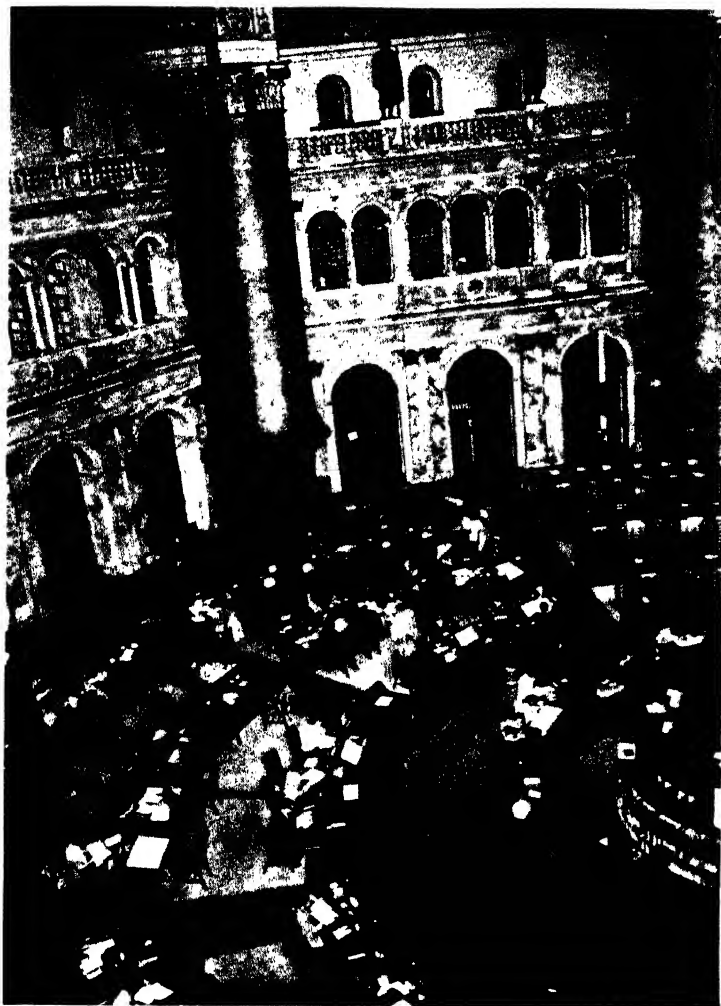
But although the Library of Congress is a people's reference library and the libraries' library and a scholars' and specialists' library, it is, as its name implies, first of all and most of all a Congressional and Governmental Library. Materials needed for the prosecution of official projects and the conduct of official business are made available to all agencies of the Federal Establishment; most of the bibliographies issued by the Library are compiled in the first instance in response to governmental request; and, to the extent that conditions permit compliance, it renders a reference service on behalf of the several bureaux. When another agency wishes the Library to undertake a particular, exclusive, and more or less protracted enterprise beyond its routine and fiscal abilities, it is not unusual for the Library to accept a transfer of funds for the

purpose and to carry out the assignment on a contractual basis. There are a number of such contracts currently in force, which, incidentally, include special services to the United Nations and its subsidiary organizations. From time to time the Library details members of its staff to assist the Executive Departments in studies of their departmental libraries and to make recommendations for their organization or reorganization. In addition, the Library takes an active and affirmative part in the cultural relations programme of the Department of State. One of its principal publications, the *United States Quarterly Book List*, is designed to inform the other nations of the world of the most significant contributions made by American citizens to the common heritage of scholarship.

But it is for the use of Congress that the Library fundamentally exists, and the members of the national legislature have a prior claim on every one of its services. Only to the extent that it can satisfy their expectations, and only in terms of their continuing approval, can it discharge any other function. The Library is connected with the Capitol by direct telephone communication, by a pneumatic tube for the transmission of instructions, and by a subterranean conveyor for the mechanical delivery of books. On the first floor of the Capitol, in a chamber once occupied by the Supreme Court of the United States, is the law library, and in each of the buildings where members of the House and Senate have their offices the Library has established stations, equipped with standard reference compendia, for the delivery and collection of materials. Trucks carry books to Congressional residences. In the main building of the Library a special reading room is reserved for Congressional visitors.

The Legislative Reference Service, founded in 1915, and grown from an appropriation of twenty-five thousand dollars annually to an appropriation of half a million, is the chief research reliance of the Legislative Branch. It began as an indexing centre; it continues as an indexing centre for Federal Statutes and State Laws; in addition it prepares and distributes digests of public general bills, briefing the content and provisions of resolutions awaiting consideration and detailing

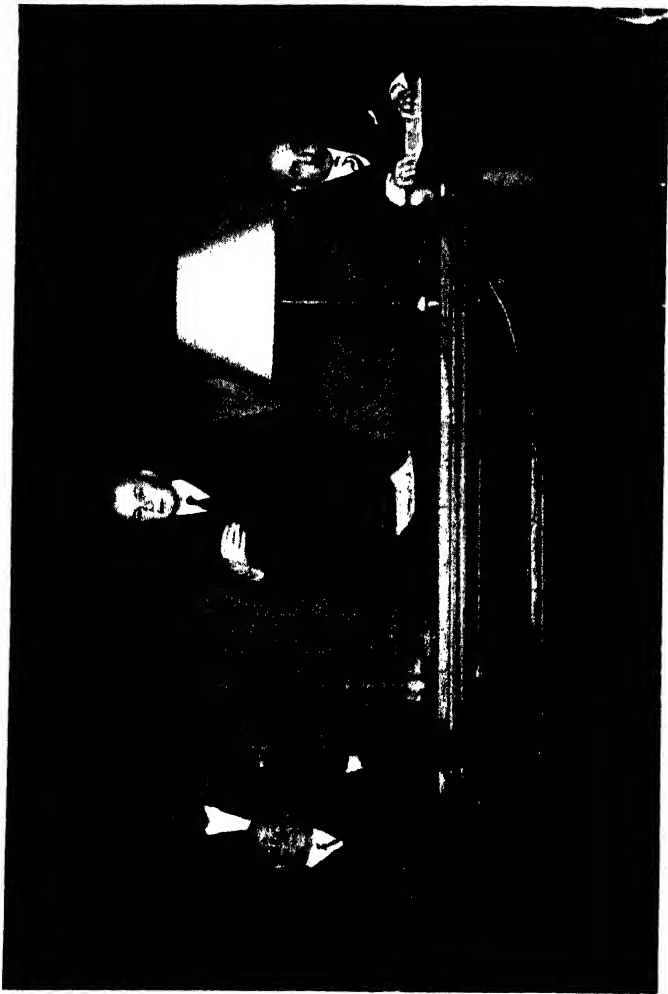
their status in the legislative process. It presents, in abstract form, the evidence secured at important hearings. It organizes in an extensive file of clippings, the exposition of, and editorial comment on, the more pressing issues of the moment. It assembles material in response to specific requests, identifies quotations, acts as intermediary with other sources of information where anonymity is in the national or personal interest, exercises a jealous guardianship of confidence and good taste, and, within the circumscription of rigid propriety, it counsels, suggests, and explains. Its most notable and distinguishing feature is its complete objectivity. Its purpose is only to *present*, and it follows naturally that it must never *represent*. It takes no sides; it champions no cause; it avoids advocacy. On the contrary, it searches after implication, foreseeable result, and ranges the arguments for adoption in opposition to the countervailing propositions which urge rejection. Such studied impartiality, such meticulous evasion of partisanship or politics is, of course, beyond the limited power of any single individual, however earnest and honest he or she may be. It is attained only through a careful screening process by which preference, predeliction, and unconscious bias are isolated and removed. Heading the research corps are eminent authorities on every important subject of legislative concern. Sometimes they are assigned to chairmen and minority leaders of committees. Occasionally they superintend the inquiries pursued by a committee's investigative personnel. Or, again, they may produce exhaustive and definitive reports for individual Members of the Congress. These may appear as Congressional documents or as public affairs bulletins issued by the Library; but much of the work must necessarily go unidentified. Yet, increasingly it is discernible in the history of our time. The justification, the goad, the compensation, the seeking of the Library on Capitol Hill is identity with the generation which sustains it.



The Library of Congress, Washington

*Courtesy: U.S. Information Service*





Colonel the Rt. Hon. Douglas Clifton Brown, M.P., Speaker of the House of Commons, addressing Members of the Italian Parliament at Montecitorio, 10th January, 1949

THE BRITISH PARLIAMENTARY SYSTEM<sup>1</sup>

by Colonel the Rt. Hon. DOUGLAS CLIFTON BROWN, M.P.  
(*The Speaker of the House of Commons*)

THE British Parliament has a life of five years. It can, of course, extend this period, and it has done so in both world wars. The reason is that it was impossible to hold a General Election with so many people away from their homes; men were away fighting and others away from home engaged on war work. This is never likely to happen in peace. This does not mean that every Parliament will last for five years. Few do, and some Parliaments have lasted for some months only. The life of a Parliament depends on the support which M.P.s give to the Prime Minister of the day and his Government. If he fails to receive the confidence of the House of Commons and if there is no one whom he can recommend as his successor, he has the right to ask the King for a dissolution, and this entails a new General Election. For example between 1919 and 1935 there were seven General Elections and seven different Parliaments with an average life of considerably less than three years each. This present Parliament may run its full five years; if so, it will be the first peace-time Parliament to complete its full term for very many years.

The present Parliament consists of 640 M.P.s—of whom Wales provides thirty-six, Scotland seventy-four, and Northern Ireland thirteen. A new law has been passed which reduces the total to about 620, and the object of this law is to equalize as far as possible the number of voters in each constituency with due regard to its territorial character, so giving each vote an equal value. In the new Parliament each M.P. will represent approximately 60,000 voters. All men and women over twenty-one years of age have a vote, provided that their names are recorded on official registers. No one

<sup>1</sup> This article is based on an address given to Members of the Italian Parliament at Montecitorio on 10th January, 1949.

may vote more than once, even if registered in two different constituencies. There is no property qualification.

There is no system of proportional representation and no second ballot. The candidate receiving the largest number of votes is elected M.P., no matter how many other candidates have opposed him. Each candidate has to pay £150 before he can stand for election. If he receives one-eighth of the total votes cast this money is returned to him, but if he does not the money is forfeited. This is to stop frivolous candidatures.

I should add that the expenses of a candidate seeking election are carefully regulated by law, and any infraction of this law involves severe penalties, including the annulment of the election if the winning candidate is found guilty.

The Chamber itself is oblong in shape. At one end sits Mr. Speaker, in wig and gown: in front of him at a fairly long table sit three Clerks in gowns and small wigs, and at the end of this table are two square boxes and the mace.

Government supporters sit in rows in tiers on the Speaker's right hand; the lowest row is reserved for Ministers, and the Prime Minister's place is opposite the box. The table is about two metres wide and four metres long, and on the left hand of the Speaker are grouped the Opposition, with ex-Ministers on the lowest row and Mr. Churchill at the other box exactly opposite the Prime Minister. Beyond the table Government supporters and Opposition Members sit facing each other with nothing between them except a floor space about four metres in width.

Members do not come to a rostrum to speak but do so standing in their places, and speeches are not supposed to be read from a prepared document though notes are allowed. You may have heard the expression "catching the Speaker's eye" and wonder what it means. When a Member has finished his speech and has sat down, all those still wanting to speak stand up and look towards Mr. Speaker who then calls one of them by name; the rest sadly resume their seats, but the one who has been called is said to have caught the Speaker's eye.

The approximate position of parties in this Parliament is as follows:

Government (Labour and Socialist) ..	396
Opposition (Conservatives and National Liberals) .. .. .	220
Independent Liberals .. .. .	12
Independents .. .. .	10
Communists .. .. .	2

It is worth noting that all these groups are divided not on economic grounds, except for the two Communists; there are found in all the others M.P.s of every class, of every creed, of poverty and of wealth. I think that my country is very fortunate in this respect, but this has only been achieved after many years of political struggle. When I take the Chair, the Mace is laid on the table in front of me, and this means that both sides have laid down their arms and the battle is one of argument and not of weapons, not of fisticuffs, not even of unduly provocative words in debate.

At the beginning of every Parliament and of every annual session the Government give an outline of their programme for the year and this is read by the King, with all our historic ceremony, to both Peers and Commons together assembled. The debate on this announcement lasts for over one week and is ended by a vote of confidence.

Thereafter the Bills sponsored by the Government are introduced and debated in four stages before going to the House of Lords, who have limited powers of amendment or rejection: powers which latterly have been used, I think with general assent, in the spirit of revision and not of opposition.

The stages of Bills put forward by the Government are, firstly, Second Reading (the First Reading is formal and means that the Bill is printed). This Second Reading is a wide debate covering matters relevant to, but not actually contained in, the printed Bill. In further stages the debate is more strictly confined. The Committee stage follows; sometimes with very important Bills this takes place in the House of Commons itself—without the Speaker in the Chair, but with the Chairman of Committees in a lower chair at the

table. Normally, however, the Bill goes to a Committee of about fifty M.P.s who sit in a separate chamber and discuss the Bill in detail, a discussion which often lasts many weeks.

When this stage is finished the Bill as amended is reported back to the House itself with Mr. Speaker in the Chair, and amendments of revision or those which in his judgment are of importance are debated. When these are disposed of, the Bill comes to its Third Reading, when the Bill itself and its reactions are alone in order, and matters which some would have liked to have seen included in the Bill are not in order; this is usually a short stage and the Bill then goes to the House of Lords.

There are other methods of debate which I think are common to all Parliaments: challenges by motions of no confidence by the Opposition, motions on particular subjects of importance, etc. All these are subject to the agreement of the Leader of the House to find time. He is a member of the Government and is responsible for the arrangement of debates and the time allotted.

Now a word about finance because this is subject to a different procedure. I take the budget, which in its initial stages is presided over by the Chairman of Ways and Means with the House in Committee. The budget is introduced by a series of resolutions imposing new or altering existing taxes, and it gives rise to several days' debate. Several weeks after the final approval of the resolutions has been given, a Bill is introduced giving legal form to the proposals and thereafter the Bill takes the normal course described above. In addition, our Standing Orders lay down that twenty-four days shall be devoted to the granting of money to the various departments. This provides a means for M.P.s to discuss in detail the administration of various Ministries.

All these proceedings might well take unlimited time, but we have fixed hours and, unless the House approves a motion for extended time, moved by the Government without any permissible debate, we finish at 10.30 p.m. There are some exceptions to this rule, mostly in financial affairs, but these are normally not prolonged far into the night.

The House of Commons meets at 2.30 p.m. and, after prayers, which last for five minutes, we spend the first hour in Questions to Ministers. These are written down, given to the Clerks, and are printed on the Order Paper of the day, and no answer can be demanded unless forty-eight hours' notice has been given—except for special ones of urgency subject to the Speaker's consent. Question Time is one of the outstanding features of the British Parliament. Questions are governed naturally by strict rules, but nevertheless each Minister has to show by his answers, not only to the Question on the Order Paper but to Supplementary Questions asking for further explanation, that he knows all about the problem. I have often noticed that those who know most give the shortest answers and those who know little the longest! This hour, of course, is one of the most important for Mr. Speaker who has often to intervene to control irrelevant and discursive Supplementary Questions and Answers.

This naturally leads me to the position of Mr. Speaker, because you will realize from what I have said and from what I am now going to say that Mr. Speaker has to exercise, at times, almost dictatorial powers. It is a definite rule that Mr. Speaker must be obeyed; when he speaks, all must remain silent, and when he rises to his feet, every M.P. must remain seated. His duty is to keep order, to rebuke M.P.s if necessary, and in extreme cases he can call upon the House to suspend an offender for a period. He selects those who wish to speak, and when in his view the subject has been adequately debated, he may accept a motion which is not debatable to close the debate and to vote on the main question.

Another very important power is that of certifying a Money Bill. If he is satisfied that the Bill relates to finance and finance only, he certifies it, and this means that the House of Lords cannot alter or reject it, and in this way the right of the House of Commons to be the sole master of money matters is assured.

This powerful position has been arrived at after many centuries of Parliamentary Government, and it is successful

because Mr. Speaker is entirely independent of all political parties and also of the Government. Unlike the Lord Chancellor in the House of Lords, who is a member of the Government, Mr. Speaker is chosen by back bench Members of the House of Commons. In times past he was the King's nominee, later on he was the Government's nominee, but now and for nearly the last 100 years he has been the nominee of the House of Commons itself. His duties are to safeguard fair play in debate, free speech, liberty of opinion and to protect the right of minorities to have their views heard.

If he fails in these duties, the House of Commons can control him by a vote of censure, but in my thirty years' experience of the House of Commons I have never known of such a debate.

It may be of interest to know that while Mr. Speaker is an M.P. he cannot fight an election on political lines if he is opposed; neither, if he were not re-elected Speaker by a new House of Commons, could he revert to the duties of an ordinary M.P.: he would have to resign. In order to preserve complete impartiality, he lives a life apart; does not enter a political club, neither may he mix with his fellow M.P.s either in the Dining Room or Smoking Room. He has his own residence, and Members have to ask permission should they want to come and see him, and this is most punctiliously observed even by the Prime Minister and Mr. Churchill.

Mr. Speaker stands in a very special position in the eyes of my countrymen. He is to them the symbolic guardian of their liberties, their right to free speech and to free opinions—the real pillars of true democracy. Were he to fail in his trust and allow these rights to disappear in the House of Commons, they feel that it would not be long before they disappeared from their homes, their clubs, and no true Englishman wants this to happen.

In our Constitution, therefore, Mr. Speaker stands first and foremost as the guardian of our liberties, the defender of the rights of the Common People.

## THE CONSTITUTION OF THE REPUBLIC OF CHINA<sup>1</sup>

by BIN CHENG, Lic. en. droit (Geneva)

THE Constitution of the Chinese Republic was one year old last Christmas. This Constitution marks the culminating point of the Chinese republican revolution whereby the people formally assume the power and duty of their own government.

Although new in its kind, this, however, is by no means the first Constitution in the history of China. It has been said with much truth that China had her first Constitution in the adoption of Confucianism as the State creed in the beginning of the Han Dynasty (Emperor Wu, reigned from 140-84 B.C.). This explains the eminently democratic character of the Chinese body politic throughout the ages, notwithstanding a monarchical form of government until the year 1911; for in Confucianism one finds the clearest recognition of the sovereignty of the people and the supremacy of the rule of law. Mencius (372-289 B.C.) whose words share the same sanctity as those of the Master, said for instance: "[As regards a nation] The people is the first in importance, the State the next, and the ruler the last" (VII, ii, 14). Professor H. A. Giles in his *The Civilization of China*, when referring to this passage, said: "This classification has sunk deep into the minds of the Chinese during more than two thousand years past" (p. 41). Indeed the democratic teachings of Confucianism have their effect not only on the Chinese political

<sup>1</sup> Since this article was completed in 1948, there have been important developments in China. One of the Communist terms for ending the civil war was the abrogation by the Chinese Government of the Constitution described in this article. For purposes of historical record, however, I think the article should be published as originally prepared. Furthermore, it is likely that any future Chinese Constitution will include many of the features described in the article. All Chinese political parties have, at one time or another, claimed to be loyal to the teachings of Sun Yat-sen which, according to Mr. Cheng, form "the basis of the Constitution".—S. K-H.



system, but also very probably have contributed to the theoretic basis of the French Revolution through the introduction of Chinese literature, essentially Confucian philosophy, into Europe, and particularly France, from the seventeenth century onwards.

But there was an important feature in the traditional Chinese body politic which constituted, at the same time, both its distinctive virtue and its heel of Achilles. It was governed by a system of ethics rather than by law. Confucius said, for instance: "If the people are governed by laws, and compliance therewith is enforced by punishments, they will try to avoid the punishments, but will have no sense of shame. If they are governed by ethics, and compliance therewith is secured by moral rules of correct conduct, they will have the sense of shame and will become good citizens" (Lun-Yu, II, iii). The superiority of such a system of government can hardly be denied, but it has the danger of leaving too much to the hazards of human virtue, sometimes leaving the people remediless at the hands of the unscrupulous—save recourse to the *ultima ratio* of revolution. Moreover, such a system of government is possible only where the entire community, or at least the majority thereof, shares the same conception of virtue and enforces, by social ostracism and public opinion, the necessary ethical standard. The required cultural homogeneity and ethical standard on the whole existed in traditional China, when Confucianism, alone given official recognition, formed the basis of education of the people, with the result that no person from the emperor downwards would dare openly to defy the rules of conduct it prescribed. But when the gates of China were forced open about 100 years ago, the prerequisites of such a political system were threatened. For better or for worse, extraneous ideas, ideals and idiosyncrasies, theories, doctrines, and fallacies, ranging from all the ages and coming from all lands, tumbled into China in an overwhelming avalanche, shaking the whole social fabric to the core and destroying the cultural homogeneity of the country. To arrest this cultural disintegration and establish an essentially new

Chinese social philosophy and outlook suitable to the tradition and temperament of the people, embodying what is best in the East and in the West, seems the most important and urgent task facing modern China.

The most important reception of Western ideas in the new Chinese Constitution may be said to consist in the adoption of two things of a methodological or procedural character. The first is the guarantee of the rights of the people by enforceable law. The second, the introduction of the majority rule.

First, the very idea of having a written Constitution as the supreme law of the land is to ensure that the people should have proper remedies for the enforcement of their rights, thus obviating a serious drawback in the traditional system, to which we have already alluded. More specifically the new Constitution opens with a bill of the rights and obligations of the people (Chapter II). The people are guaranteed the political rights of election, recall, initiative and referendum (Article 17). The Constitution further guarantees equality of sex, religion and race (Article 7), freedom of person (Article 8), of belief (Article 13), of speech, information and assembly (Articles 11, 14), of correspondence (Article 12), of domicile (Article 10), and it guarantees the people's right of life, of work and of private property (Article 15). The Constitution further devotes special sections to the establishment of a system of social security (Chapter XIII, 4), protection of labour (Article 153), and universal free primary education (Chapter XIII, 5). In fact, the framers of the Constitution, in their solicitude that the rights of the people should be effectively protected, inserted the following article to cover any oversight:

"All other freedoms and rights of the people that do not jeopardize the social order or general welfare shall be guaranteed under the Constitution" (Article 22).

The rights of the people thus guaranteed have, *inter alia*, two very effective sanctions. First, in virtue of the Constitution, laws or ordinances that are in violation of the Constitution shall be null and void (Article 171, 172). Secondly, the

Constitution establishes the responsibility of the State to indemnify any individual whose guaranteed rights or freedoms have been infringed by a public functionary in violation of law; this in addition to the personal responsibility of the functionary himself, both civil and criminal (Article 24).

Let us now turn to the second important reception of Western method, namely, the majority rule. It is a curious historical development that in no walk of life was there a habit among the Chinese to meet in assemblies and decide matters by a numerical majority. In so far as such practice has developed in China during the last 50 years, it is of alien origin. The establishment of a number of assemblies and councils in the Constitution wherein the majority rule necessarily applies is therefore an important innovation. Yet more novel is the introduction of the popular vote which in turn constitutes but a special application of the majority rule. Mention has already been made of the right of election, recall, initiative and referendum. The exercise of all these rights will involve extensive use of the ballot box. As the vote constitutes now the main lever whereby the people operate their government, it is indeed vital to the success of Chinese constitutional government that they should thoroughly master the technique and fully understand the meaning of its use.

Although the Constitution is known as a Five-Power-Constitution, for reasons which will be explained, it may be true to say that the primary distinction made by the Constitution is between two powers, viz., the legislative and the governmental, or, if one prefers, the legislative and the political. Thus in the Central Government, one finds two directly popularly elected organs, the Legislative *Yuan* (*Yuan* means House, Assembly, or Department) and the National Assembly. While the Legislative *Yuan* is the highest legislative organ of the State (Article 62), the National Assembly exercises the political powers of the people on behalf of the whole body of citizens (Article 25). It is the National Assembly which has created the Constitution and it is this Assembly that holds the power of amending it (Article

27 I (3)). Similarly, in the Provincial Government and in the District (*Hsien*) Government, there are respectively the Provincial Council (Article 113 I (1)) and the Provincial Assembly (Article 112), the District Council (Article 124) and the District Assembly (Article 122), all elected directly by the people. In their respective territorial circumscriptions, the councils exercise the legislative power (Articles 113 II; 124 II); while the Assemblies exercise the political power by establishing the respective local constitutions (Articles 112, 122). In this respect, the only difference between the Central Government and the Local Governments lies in that in the former the Chief Magistrate is elected by the National Assembly, while in the latter he is elected directly by the people (Article 113 I (2); Article 126 *in fine*). Bearing this exception in mind, it may be said that both in the Central and in the Local Governments, there are only two directly elected organs, one essentially political and the other legislative. All the other organs of the State are created either by, or through the instrumentality of, these two elected bodies.

The Constitution only defines, and we shall therefore limit ourselves to a very brief review of, the organization of the Central Government. It has been mentioned that on this level there are two popularly elected bodies; the Legislative *Yuan* and the National Assembly. It is not necessary to elaborate further upon the Legislative *Yuan* beyond pointing out that it is elected for three years and is unicameral.

As for the National Assembly, it is a body elected for six years. As provided in the Constitution, it shall exercise the political powers on behalf of the whole body of citizens (Article 25). Being thus the political mandatory of the people, it holds the important right of amending the Constitution (Article 27 I (3)), having originally created it. As long as its mandate lasts, therefore, it may be called the political oracle through which the *vox populi* is expressed.

The National Assembly holds also the important function of electing both the President and the Vice-President of the Republic (Article 27 I (1)). This method of Presidential election vaguely resembles the double presidential election

provided in the American Constitution. While the original purpose of the double election has now in practice been defeated in America because the President is in fact elected by a popular vote, it would seem that this pitfall can be avoided in the practice of the Chinese Constitution; for, first, the Chinese National Assembly is returned not from such large electoral districts as an American State, but is constituted by representatives from small electoral districts—the *Hsien* (a small administrative district). Secondly, while the personality of the American presidential Elector has come to be of no consequence since he is now no more than a messenger forwarding the popular vote to the Congress, whose work is finished when the message has been delivered, the Chinese National Assembly does not disband after it has elected the President. As has been pointed out, it functions continuously for six years as the political mandatory of the people. The heated contest in the National Assembly for the Vice-Presidency in the last Presidential election seems to indicate that the Chinese double presidential election should reap the real benefit of a double election.

The President of the Chinese Republic is the Head of the State both externally and internally (Article 35). He is the chief civil and military officer of the land (Article 36). His powers are comparatively large, but he does not exercise them without control. For example, while the President makes a number of important appointments, these always have to receive the consent of some other organ. Although the President may, in case of national emergency, proclaim martial law and issue emergency decrees, these may be rescinded by the Legislative *Yuan* (Articles 39, 43. *Cf.*, however, Temporary Provisions During the Period of National Crisis, April 18, 1948, Articles 3, 4, whereby the procedure of 57 (2) is substituted for that of Articles 39, 43). For a rough comparison one may say that he stands somewhere between the President of the French Republic and the President of the U.S.; for under the Chinese President is the Executive *Yuan* which is the real administrative organ of the State.

The President of the Executive *Yuan* is nominated by

the President of the Republic with the consent of the Legislative *Yuan* (Article 55 I). In the Executive *Yuan* there are a number of ministers, some with, some without, a ministry. They are appointed also by the President of the Republic, but on the recommendation of the President of the Executive *Yuan* (Article 56). Roughly speaking, the position of the Executive *Yuan* is similar to that of the Cabinet in Britain, or rather the Government, in its restricted sense, in English constitutional parlance, and the position of the President of the Executive *Yuan* similar to that of the Prime Minister. He assumes therefore the role of Chief Administrator of the land, thus permitting the President of the Republic a more impartial attitude than would be possible for a Head of the State who is the Chief Administrator.

The Executive *Yuan* differs, however, from the British Government in that its members do not form part of the Legislative *Yuan*. Nevertheless, it is held politically responsible to the Legislature (Article 57). This control, held by the Legislative *Yuan*, is exercised by means of approval or disapproval of the administrative policies submitted for examination, by interpellating the President of the Executive *Yuan* or his various ministers, by passing or rejecting the necessary bills and, above all, by the "power of the purse". In case of irreconcilable disagreement between the Executive and the Legislative *Yuans*, the Executive *Yuan* has either to bow to the wishes of the latter or resign (Article 57). In this connection it is worth while to point out again that, whereas the President of the Republic is elected for six years, the Legislative *Yuan* is re-elected every three years. This reminds one of the U.S. Constitution where the President is elected for four years while Congress is renewed every two years, or at least partially renewed every two years.

So far, only two branches of the Government have been mentioned, the Executive and the Legislative. Through the appointment of the President of the Republic, with the consent of the Control *Yuan* (a Department which will be discussed later), two other branches of the Government are created to stand on the same footing as the Executive *Yuan*

and the Legislative *Yuan*. These are the Judicial *Yuan* and the Examination *Yuan*.

The Judicial *Yuan* is the "highest Judicial organ of the State" (Article 77) and has jurisdiction over civil, criminal, administrative and disciplinary matters (Article 77). Beside the normal judicial organization of local courts, high courts and a supreme court, there is provided in the Constitution a College of Grand Judges (Article 79) competent to interpret with binding authority all the laws and decrees of the country, including the Constitution itself (Article 78). Article 171 of the Constitution provides that "Laws that are in contravention of the Constitution shall be null and void". Those who remember the duel between President Roosevelt and the Supreme Court at the beginning of the New Deal policy will realize the importance of the power of the Judicial *Yuan*.

The above division of the governmental machinery into legislative, executive and judicial, is admittedly an adoption of western constitutional science. The indigenous contribution to the system of government consists in the existence of two other departments of the same standing as the above, viz., the Examination *Yuan* and the Control *Yuan*.

From the beginning of the seventh century A.D. onwards, if not earlier, there existed in monarchical China a system of State examinations, conducted with stringent safeguards against political interference, whereby academic degrees were awarded by the State. Normally, officials of the State were appointed only from holders of these degrees, and naturally the higher the degree they held, the higher in rank would be their appointment. This traditional system whereby State officials were recruited constitutes the historical precedent of the Examination *Yuan*. Article 85 of the Constitution provides that: "In the selection of public functionaries, the system of examination by open competition shall be enforced. . . . No person may be appointed to a public office without having passed an examination." The present Examination *Yuan* differs, however, from the traditional State examinations in that the Examination *Yuan* now recruits only civil servants but not the executive members of the Government. Its

scope is wider, on the other hand, in that it determines and registers through examinations also qualifications for practice in specialized professions and as technicians (Article 86 (2)). It differs further in that it is concerned also with the registration, work records, salaries, promotion and transfer, pensions, etc., of the Civil Servants (Article 83).

The creation of the Examination *Yuan* is similar to that of the Judicial *Yuan*, that is to say, the President and the Vice-President of the *Yuan* together with the members of the Examination Board are appointed by the President of the Republic with the consent of the Control *Yuan* (Article 84). They differ, however, in that, while Judges are by the Constitution irremovable and appointed for life (Article 81), the executive members of the Examination *Yuan* serve only for a determined number of years (*Vide* Organic Law of the Examination *Yuan*, 31.III.1947, Article 3 II, Article 10. By this Organic Law, the term of office has been fixed at six years. The Constitution is not opposed, however, to their office being held for life). Members of both *Yuans* have to be independent of party affiliations, and they are guaranteed independence in the exercise of their functions (Articles 80, 81, 88). The obvious purpose is to secure an independent Judiciary and an impartial recruitment and control of the Civil Service.

We may now come to the Control *Yuan*, a permanent, independent governmental authority, the sole function of which is to supervise the working of the entire governmental machinery, central and local. Already in the Chou Dynasty (1012-255 B.C.) the Court Historiographers had the duty of criticizing the Emperor and censuring his officials. After the Chou Dynasty, the governmental machinery through successive Dynasties was usually divided into the Civil, Military and Censorial Departments, with always the existence of an independent Censoriate. The Censoriate received great expansion in the Ming Dynasty (1368-1643) and the activities of the *Yu Shih* ("His Majesty's Commissioners") covered almost the entire public life of the nation.

The Control *Yuan* in the present constitution is a body



elected for six years essentially through the instrumentality of the Provincial and Municipal Councils (Articles 90, 91). It is empowered to investigate the administration of any governmental department (Article 96), to propose measures of improvement where necessary (Article 97 I), and to impeach any public functionary who may be found neglectful of duty (Article 97 II). The members of the Control *Yuan* are accorded special safeguards so that they may express their opinion and perform their duty without fear or favour (Articles 101-102).

To sum up, the Legislature, the Executive, the Judicature, the Civil Service, and the Censoriate constitute the five pillars of the Government. These are considered as five distinctive powers of government which should be kept autonomous of one another, yet within a general frame-work of check and balance—hence the name of Five-Power Constitution.

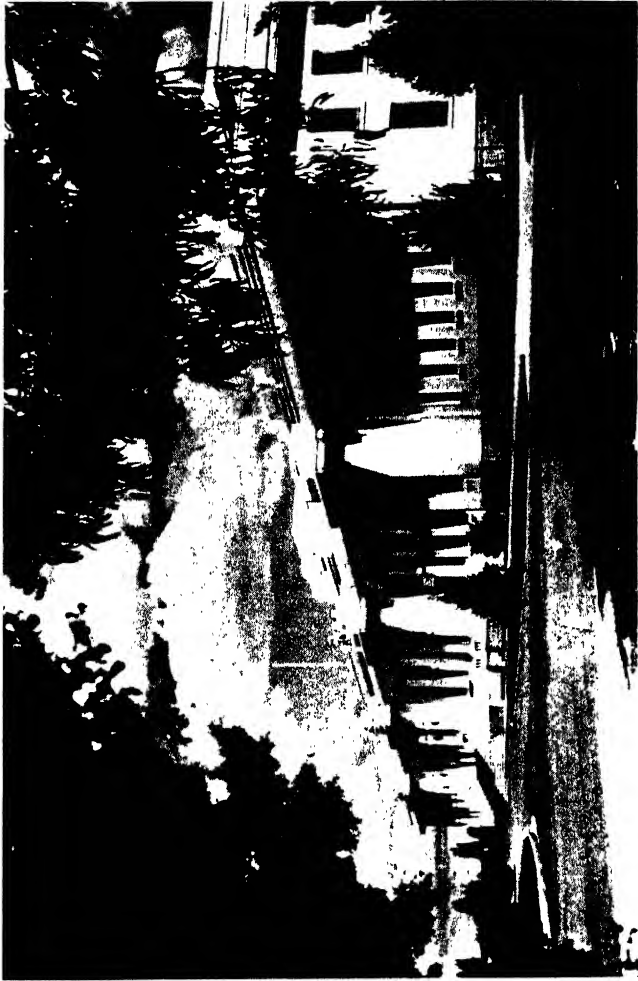
The elaboration of a doctrine of Five-Power-Government may be considered as the most distinctive contribution of Dr. Sun Yat-sen in his attempt to evolve a new Chinese political philosophy. Both in the preamble and in Article I, the teachings of Dr. Sun are recognized as the basis of the Constitution. In his *San-Min-Chu-I*, which *grosso modo* may be interpreted as National-Democratic-Socialism, Dr. Sun concluded his Chapter on Democracy by saying:

“We should adopt what is best at home and abroad and avoid all their pitfalls. We should, therefore, adopt the Western separation of the legislative, executive and judicial powers, and retain our traditional independence of the Civil Service and Censoriate, woven into a perfect whole to form a government of five powers. Such a system may be considered as ideal, and it is only with such a system of governmental machinery, that we can achieve a government of the people, by the people and for the people.” (Democracy, Lecture VI *in fine* C.F. Article I: “The Republic of China founded on the *San-Min-Chu-I* is a democratic Republic of the people, governed for the people and by the people.”).



Chinese voters waiting to receive their ballots from the polling clerks. November, 1947

*Courtesy: China News Service*



Parliament House, Canberra

*Courtesy: Commonwealth of Australia News and Information Bureau*

## PARLIAMENTARY GOVERNMENT IN AUSTRALIA

by J. D. B. MILLER, B.Econ.

(*Mr. Miller is a Staff Tutor, Department of Tutorial Classes, University of Sydney*)

**A**USTRALIAN Parliaments all derive from the Parliament of Great Britain, but they differ considerably from it in methods and sometimes in spirit. Nearly a hundred years of parliamentary development in a country differing widely from Britain in geography and economics, and lacking a "governing class", have resulted in the creation of some parliamentary institutions which are novel by British standards, and in the adaptation of certain British models until they have become almost unrecognizable. The purpose of this article is to describe some of the especially distinctive features of parliamentary government in Australia.<sup>1</sup>

In the first place, Australia is a Federation. This means that she has not one sovereign Parliament but seven—a Commonwealth Parliament and six State Parliaments. These, in accordance with K. C. Wheare's definition, "are each, within a sphere, co-ordinate and independent".<sup>2</sup>

The State Parliaments of New South Wales, Victoria, South Australia, Tasmania and Queensland achieved responsible government in the 1850's, that of West Australia in 1890, and the Commonwealth Parliament came into being in 1901. Up to that latter date the State Parliaments had been supreme in law-making power. Under the stimulus of public opinion, they gave up certain of their powers to the new Commonwealth (or Federal) Parliament, these limited powers being embodied in a written Federal Constitution which was

<sup>1</sup> An important topic omitted from consideration here is the relationship between the Parliaments and the State Governors and the Commonwealth Governor-General. It is treated exhaustively in H. V. Evatt, *The King and His Dominion Governors*, Allen and Unwin, 1936.

<sup>2</sup> *Federal Government*, O.U.P., 1947, p. 11.

approved by the people of each State at a referendum. Since 1901 the Commonwealth has operated within the limits of this Constitution.

The main effect of Federalism is thus that the Commonwealth Parliament, unlike the British Parliament, must always consider whether it is acting legally when it makes laws. If the laws which it makes are outside the limits set by the Constitution,<sup>1</sup> they may be challenged in the High Court which, like the Supreme Court of the United States, has the right to declare them invalid. Since the Court has often declared legislation invalid, its attitude towards Commonwealth legislation, e.g., the recent attempt to nationalize the private trading banks, is a matter of constant speculation.

The Commonwealth Parliament has consistently sought to increase its powers in various ways. Its greatest success has been attained through administrative channels, especially in finance, and through certain High Court decisions which have enlarged the previously understood circle of Commonwealth powers. Officially, however, the Constitution can be changed only by referendum.

The makers of the Constitution recognized that some means would be required to bring it abreast of changing conditions. But they were reluctant to leave the power of change in the hands of the Commonwealth Parliament itself, because "the disability of a Federal legislature to alter the Federal Constitution is one of the organic features and a prominent characteristic of every federal system. If the Federal legislature could change the Constitution it might transform itself from a subordinate law-making body into an organ of sovereignty; it might destroy the federal system altogether, and substitute a consolidated form of government".<sup>2</sup> Accordingly, they adopted the Swiss system whereby an amendment to the Constitution becomes law if it is approved at a referendum by a majority of the electors in the country and by majorities in a majority of the States.

<sup>1</sup> The constitution is reprinted in each issue of the *Official Yearbook of the Commonwealth of Australia*.

<sup>2</sup> Quick and Garran, *The Annotated Constitution of the Commonwealth of Australia*, Angus and Robertson (Sydney and Melbourne), 1901, p. 988.

The Swiss have shown more trust in their Federal Parliament than the Australians.<sup>1</sup> All parties in the Commonwealth Parliament have found the electors reluctant to grant extra powers, even when the Government proposing the changes has itself received majority approval at elections. Out of twenty-three referendum proposals so far, only four have been successful.

The use of the referendum to decide changes in the Federal Constitution has led to its use in other directions. Although there is no constitutional warrant for such practices, Governments have sometimes taken refuge in a referendum when they were not prepared to take the responsibility for action: e.g., the Commonwealth Government held referendums on whether Australians should be conscripted for military service overseas in World War I. Other referendums have been taken to test public opinion on hotel closing hours, while West Australia held one in 1933 to test opinion about secession from the Australian Commonwealth.

In none of these cases did the referendum have *legislative* force; it was merely an expression of opinion. But in New South Wales and Queensland a place is specifically provided for referendums on the nature of the State Parliament: in New South Wales the Upper House cannot be abolished unless the people approve at a referendum, while in Queensland, where the legislature is unicameral (see page 248), the opposite is the case—no second House can be created without a favourable referendum. These two contrary instances reveal the *political use* of the referendum—Australian Governments, being conscious of the electors' reluctance to vote "yes" at referendums, are inclined to safeguard their legislation by demanding that a referendum be held before that legislation can be changed.

All Australian Parliaments except that of Queensland have two Houses, of which the Lower is invariably elected by universal adult suffrage with no provision for property or educational advantages. The Upper Houses, however, display a bewildering variety of forms.

<sup>1</sup> See Wheare, *op. cit.*, pp. 134-6 and 233-5.

In the Commonwealth Parliament, where the Upper House is called the Senate, ten members are elected from each State,<sup>1</sup> the whole State voting as one electorate. They serve for six-year terms, half the members retiring at each three-yearly general election. The original purpose of the Senate was that Senators would be elected, and would act, as representatives of *State*, rather than *party*, interests; but although State interests, in the widest sense, still remain distinct, Senators have been consistently elected on a party basis for the last forty years. The Senate has thus become largely redundant when its party majority corresponds with that in the House of Representatives, and obstructive when the vagaries of elections give the two Houses different party complexions. It does serve to some extent as a revising chamber. It cannot reject money bills, and in the case of constant disagreement between the two Houses on other matters there is provision for a double dissolution. This has been exercised only once, however, in 1914.

In the States, the general position is different. After an abortive attempt to create a Peerage in New South Wales, the original State Constitutions provided for Legislative Councils as Upper Houses, those in New South Wales and Queensland being filled by nomination for life, the rest by election on restricted property franchises. All these Upper Houses have proved stumbling blocks to the legislation of the Labour Party, which is pledged to abolish them. It succeeded in abolishing the Queensland Legislative Council in 1922, by nominating members who were pledged to vote for the abolition of the House once they became members.

In New South Wales the Labour Party twice came close to abolishing the Legislative Council by the same device. In 1934, however, a non-Labour Government succeeded in dropping the "nominee" system and substituting another whereby the sixty Legislative Councillors are "elected by the members for the time being of the two houses—the only example of indirect representation in Australia. Members

<sup>1</sup> The number has so far been six, but with the enlargement of the Parliament at the 1949 elections, the number will be ten.

hold office for twelve years, fifteen retiring every three years".<sup>1</sup> This tortuous method of election has meant that in New South Wales since 1941, a constant Labour majority, re-elected in 1944 and 1947 at Lower House general elections, has been faced by a declining non-Labour majority in the Upper House, which in 1949 will become a Labour majority; if Labour is defeated at the general elections for the Lower House in 1950, it will probably retain its Upper House majority for a number of years more. In this way the two Houses can remain out of step for a considerable period.

In the other States, where Legislative Councils are elected on property franchises (which are widened in some cases to include returned soldiers, university graduates and other special groups, the sum total of which make Upper House electors about a third as numerous as those for the Lower Houses), the Upper Houses act as guardians of property and preserve permanent non-Labour majorities. They adopt a selective policy in considering the legislation of Labour Governments, and customarily veto only those Bills which they consider go beyond the electoral "mandate" of the Government in question. In the last two years, however, Upper Houses in Victoria and Tasmania have taken the unusual step of denying a Labour Government Supply in order to provoke an election for the Lower House. (In such cases the Upper House itself does not have to face the electors.) What results will follow from these actions are still not clear.

It must be confessed that experience with Australian Upper Houses has been that it is impossible to keep party politics out of a "house of review". Perhaps this applies only in the particular conditions of Australia; but to many people in Australia the various plans for a reformed House of Lords in Britain, with their emphasis on the "non-party" nature of the proposed House, seem quite unreal. Politics, like Mark Tapley's cheerfulness, will keep breaking in.

The seven Parliaments employ different methods in dividing the electors into Lower House constituencies. In

<sup>1</sup> Geoffrey Sawer, *Australian Government To-day*, Melbourne University Press, 1948, p. 18.



the case of the Commonwealth, Tasmanian and Queensland Parliaments the principle of "one vote, one value" is aimed at by dividing the number of constituencies into the total number of electors to form a "quota", electoral boundaries then being drawn to make each constituency roughly equal in numbers to the quota. A margin of 20 per cent. above or below the quota is allowed, and this usually operates to the benefit of rural constituencies.

In the other States a deliberate effort is made to enhance the value of rural votes by making the numbers smaller in rural electorates than in city ones. The reasons given to justify this practice are usually that rural electorates, being much greater in area than city ones, demand a greater effort on the part of both elector and Member; and that the farmer, being "the backbone of the country", deserves a greater weight to his vote than the city-dweller.

At elections, the weighting of the rural vote has different effects in different States. In West Australia, where the Labour Party has a hold on the sparsely-settled mining and pastoral constituencies, it operates to favour that Party at the expense of others. In South Australia, it operates against Labour and in favour of the Liberal-Country League, its sole rival. In Victoria, on the other hand, where Labour has two rivals, the Liberal and Country Parties, it operates largely to the benefit of the Country Party: this brings the normally antagonistic Labour and Liberal Parties, both of which are predominantly "cities" parties, into occasional unanimity in demands for "redistribution" to give greater weight to the city vote. In New South Wales, where the system gives less weight to the rural vote than in Victoria and South Australia, and where the Labour Party is better entrenched in rural constituencies, complaints about the distribution of electorates are rare.<sup>1</sup>

All Australian Parliaments have made it compulsory for electors to vote at elections for the Lower House, and the same applies to the Commonwealth and Tasmanian Upper

<sup>1</sup> See *The Round Table*, September, 1947, pp. 401-2, for a good account of the State electoral systems.

Houses. Introduced first by a Labour Government in Queensland in 1915, compulsory voting was made the rule for Commonwealth elections in 1925 by a non-Labour Government and is now accepted by all parties.<sup>1</sup> Before compulsory voting was introduced in Commonwealth elections, between 56 and 78 per cent. of voters enrolled had come to the polls; at the 1943 elections 96 per cent. did so. Much the same can be said of the State elections.

Criticisms commonly made against compulsory voting are that it leads to an excessive amount of informal voting and to an undue weight being placed on the votes of the lazy, feckless and improvident. The first charge is hard to prove, and is of little more than academic importance, although it would be worth discovering what proportion of informal votes are due to incapacity on the part of the elector and what proportion to dissatisfaction with the candidates offering. The second charge is more a matter of values which each democrat must work out for himself. The parties support compulsory voting because it decreases their expenses at elections: the problems of "getting out the vote", which parties experience in Britain and the U.S.A., are solved in Australia by compulsory enrolment and by a universal recognition that one will avoid a £2 fine by going to the polling booth. However, it can be contended that many people, whose original impulse in determining to vote is to avoid the fine, go beyond this point and take the trouble to acquaint themselves with the issues involved in the election, so as to cast their votes wisely. In this sense compulsory voting may be credited with the same virtues, at a lower level perhaps, as compulsory education.

Australians have experimented widely with voting systems, and enthusiastic propagandists will be found in almost any assembly, private or public, for three systems: "first past the post", proportional representation, and preferential voting. Of these the first (the same as in British Parliamentary

<sup>1</sup> Compulsory voting has recently been applied to *local* government elections in New South Wales, but in this case there has been considerable opposition to it.

elections) is the least favoured. Only the Parliament of Queensland uses it, and in that State it produces the phenomenon of a Government with a comfortable majority in the House, but a distinct minority in the State at large.

Proportional representation (or P.R.) has been in operation in Tasmania since 1909, is used in the election of New South Wales Legislative Councillors (see pages 249-50), and will be used at and after the 1949 Federal elections for the Senate only. In Tasmania it has not meant the growth of a multitude of parties, as it is elsewhere accused of: its main fault has been that a Government rarely has a decisive majority in the Lower House, the parties being usually so evenly matched. However, this may also be connected with the fact that the House has only thirty members. In New South Wales P.R. was used between 1918 and 1926, but was said to lead to the detachment of Members from their constituencies. No adequate study of its operation has ever been made.

Preferential voting seems to meet with the approval of most Australians. It applies to elections of all the Lower Houses except the Tasmanian and Queensland. The voter must mark his range of preferences among the candidates by putting "1" against the one he most favours, "2" against the one he next favours, and so on until he has marked every name. The vote is informal if he does not mark every one. The first preference votes are then counted, and if one candidate has an absolute majority he is declared elected; but if none has an absolute majority the candidate lowest on the list is eliminated and his second preferences allotted as additional votes for the candidates for whom they were cast. This process of elimination continues until one candidate is credited with an absolute majority.

Such a system means two things:

(a) That a party can afford to put up more than one candidate in the same electorate, if it can be certain that there will be an "exchange of preferences" between them; and

(b) That a party which is "split" can still muster a

good array in Parliament, so long as the "breakaway" groups give it their second preferences at an election.

Broadly speaking, Australian Parliaments all use much the same rules of debate and procedure as the British Parliament, but Australian conditions have brought about certain changes in the way some parliamentary institutions operate. Party feeling has always been high in Australian Parliaments, Members have normally been self-made men rather than men of inherited property and university education, and local issues, such as the demand for railways, roads and schools within the M.P.'s electorate, have always been prominent. Australian Parliaments are thus "rough and ready" in comparison with the staid traditions of the House of Commons. Here we can deal only briefly with three examples of distinctive parliamentary habits: the position of the Speaker, the use of committees, and the remuneration of M.P.s.

The Speaker in an Australian Parliament is elected under the banner of a party, carries on all the functions of an ordinary Member (attention to constituency matters, attendance at Party meetings, etc.), is opposed in his constituency like any other Member, and is replaced by a new Party nominee when a change of Government occurs. In the Commonwealth Parliament it is not unusual for the Speaker to take part in discussions when the House is in Committee,<sup>1</sup> although this has not occurred in the House of Commons since 1870. The Australian habit of the Speaker taking part in debate was well established in the 1870's, when Trollope heard the New South Wales Speaker making a speech "not simply on the clause under discussion, but with considerable party violence on the subject of the Bill at large".<sup>2</sup>

Apart from speaking in Committee, the Speaker is sometimes called on to vote directly for his Party: Sir Littleton Groom, the Federal Speaker in 1929, was violently opposed

<sup>1</sup> Speakers MacKay, Bell and Nairn, the nominees of non-Labour Governments, spoke in Committee eight times between 1932 and 1942; the present Labour Speaker, Mr. Rosevear, often speaks in Committee.

<sup>2</sup> Anthony Trollope, *Australia and New Zealand*, Robertson (Melbourne), 1876, p. 158.

and defeated in his constituency by his own Party after refusing to vote with it in a Committee division; and Sir George Knox, Speaker of the Victorian Legislative Assembly, refused a request from the Joint Liberal and Country Party Conference in September, 1947, that he should resign in order to dislodge a Labour Government with a precarious majority.

Australian Parliaments make less use of Committees than does the House of Commons. It is usual for Bills to be considered in Committee of the Whole, rather than by Standing or Select Committees. Standing Committees on Public Works and Broadcasting exist in the Federal Parliament, but their function is more to supervise administration than to consider legislation. It has been suggested that Australian Parliaments incline towards Committees of the Whole because they are so much smaller than the House of Commons<sup>1</sup> and are, in effect, equivalent to Standing Committees of the Commons. But there is little doubt that the wider use of Committees would make for better legislation, and might help to make the discussion of Bills less acrimonious: it is now most unusual for the Government to accept opposition amendments in Committee of the Commonwealth House of Representatives, and the trend towards the absolute and unalterable division of the House is most marked.

Australia was early in the field with payment of M.P.s. Victoria having instituted it in the 1870's; the only unpaid House remaining in an Australian Parliament, the New South Wales Legislative Council, lost that status recently when an Act conferred an allowance of £300 p.a. on Councillors. Members of the Commonwealth Parliament receive £1,500 p.a., and the tendency is now for State M.P.s to receive about £1,000 p.a. The Australian Member of Parliament is frankly looked upon as a "professional", in the sense that he is engaged in a full-time job. His electorate is usually more widespread than a British one, and he is con-

<sup>1</sup> Numbers in the Lower Houses are: Federal, 75 (to be increased to 123 in 1949); N.S.W., 90; Victoria, 65; Queensland, 62; South Australia, 39; West Australia, 50; Tasmania, 30. According to Jennings (*Parliament*, p. 270) House of Commons Standing Committees "consist of miniature parliaments of between 30 and 85 members".

stantly called upon to show himself a "good local Member". The traditions of pre-Federation politics, when the State Governments were solely responsible for roads, railways, schools, bridges, irrigation works, etc., have left their mark on the present-day Australian politician. His constituents tend to regard him as an employment broker, a "fixer" for permits, a man who sees that the Government, whether of his own political colour or not, makes improvements to the district.

A Member in such a position has little time to cultivate his own affairs; and so a demand has arisen among parliamentarians for "pensions" on defeat or retirement. Such schemes are now in operation in the New South Wales and Commonwealth Parliaments. In the latter case a member with eight years' service in the Parliament becomes eligible for a pension if he retires, is defeated at an election, or loses the "pre-selection" of his party and thus loses his seat; if he dies his wife receives a special pension.

Australian Parliaments do not observe the British distinction between the "Cabinet" and the "Ministry", largely because fewer Ministers are required to carry on the Government's business, and so all can be accommodated within the Cabinet. The Commonwealth Cabinet, which is the largest, now has nineteen members. Although Honorary and Assistant Ministers are to be found in some of the Parliaments, it is usual to have only Ministers who directly administer departments.

Two conventions of the British Parliament—the supremacy of Cabinet and the principle of Cabinet solidarity—have been considerably affected by the practices of Australian Parliaments, and especially by the Party relationships which exist, both within and between Parties. Although Cabinet is normally supreme in its administrative decisions, e.g., in the appointment of high officers of state, it normally (in the case of the Labour Party, at any rate) refers its proposals for legislation to a Party meeting before bringing them into the House. Cabinet solidarity suffers attack from two directions—from the difficulties of coalition between the Liberal and Country Parties (see pages 257-8), and from the practice of

Labour Party Ministers of publicly criticizing Cabinet decisions with which they disagree. In the main, however, the two conventions continue to operate unless some acute Party difference appears.

It will already be apparent that political parties are of great importance in setting the tone of parliamentary government in Australia, and that party strife is, and has traditionally been, very strong.

The Labour Party has been the main initiator of special Party institutions within Parliament. Apart from its methods in the selection and pledging of parliamentary candidates, for which we have no space here, its main contribution to parliamentary life has been the caucus—which, however, has ancestors in Parnell and in the organization of American political parties. The Labour caucus is the whole body of Party members within the Parliament, which meets regularly and has the task of selecting the Party leader, electing the members of a Labour Cabinet, and deciding the Party's policy on issues which are to come before Parliament. Members are not bound to vote in Parliament as a majority of the caucus decides, except on matters affecting the Labour "platform" or questions determining the fate of a Government; but a Member who flouts important caucus decisions is likely to be expelled from the Party or lose his Party endorsement at the next election.

The tendency has been for other parties, as well as Labour, to adopt this "solidarity" and to discipline members who vote against the party line. More important, perhaps, is the caucus function of electing the Cabinet. When Labour is to take office, the leader announces to a Party meeting the number of posts there will be in the Cabinet. Nominations are made, and an exhaustive ballot (sometimes occupying hours) is taken to elect the members of Cabinet. The allocation of portfolios remains in the hands of the leader. Although he may make it known indirectly that he does not want particular members in his Cabinet, he cannot refuse to accept those whom caucus has chosen, once the ballot is concluded. Thus, in complete variance from standard

British practice, a Prime Minister loses his power to decide and change his Ministry at will; furthermore, if a Prime Minister wishes to dismiss one of his Ministers, he must take the matter to caucus for a decision and the election of a substitute.

The system is designed by Labour to keep a Ministry responsible to its Parliamentary Party. In this it is largely successful. Labour Ministers, aware that they owe their positions to the goodwill of their fellow-Members, do not neglect to make Cabinet policy known to caucus and to gain approval for important moves before they are made in Parliament. Since caucus meets regularly during a parliamentary session, this means that Government measures are debated twice, once in caucus and once in Parliament; and of the two debates, that in caucus is the more likely to affect the legislation. If it does not meet with final caucus approval, it will not reach Parliament.

The disadvantages of such a method (apart from its break with tradition) are that legislation may be either condemned or, in effect, finally approved by an actual minority of the House—i.e., by a bare majority of the caucus. Its advantages are that Ministers can test out legislation before it reaches the public and Parliament (although newspapers usually find out what has happened in caucus), and that the Party as a whole has an opportunity to keep a check on the Ministry.

The remaining topic concerning parties which is of importance here is that of coalitions. A non-Labour Government in Australia is normally a coalition between Liberal and Country Parties in which, although the Country Party is usually in a minority, it often claims the right of veto over Government legislation. A Liberal Prime Minister in such a situation, although he has the traditional British right of selecting the *Liberal* members of his Ministry, must accept those *Country* Ministers whom the Country Party itself selects. The Liberal Premier of Victoria in late 1948,<sup>1</sup> Mr. Holloway,

<sup>1</sup> A "Prime Minister" in Australia is the leader of the Commonwealth ministry. "Premiers" are the leaders of State ministries.



on refusing to include within his Cabinet Sir Albert Dunstan, a Minister nominated by the Country Party, was deserted altogether by the Country Party on the ground that it could not give up its right to select its representatives in the coalition.

Naturally, such a situation constantly produces friction, especially when the two Parties are near the same size. The whole problem of coalition Government, relatively unknown in Britain in its mature form, despite the experiences of the National Government in the 1930's, has important implications for parliamentary convention which extend beyond Australia. It embraces the question of a possible "third party" which, in Britain and the U.S.A., has been alternately feared and hoped for by political scientists as a modifier of the traditional methods of governing on a two-party basis. In Australia the problem has been dealt with empirically by treating the parties sometimes as two, sometimes as three; but the solution is certainly neither satisfactory nor permanent.

It would seem presumptuous to suggest that Australia could teach Britain much in the sphere of parliamentary government. Yet, in a sense, Australian politics are in advance of British politics: Labour Governments have been in power in all Australian Parliaments during the last forty years, while in Britain a Labour Government *in power* is a phenomenon so recent as 1945, and still problematical. Two things which have long been a commonplace of Australian politics—the relationship of Parliament to nationalized industries, and the relationship between a Labour Government and its trade union organization—are only now becoming important issues in Britain. Questions of voting systems, Upper Houses, coalitions, and the relationship between a Cabinet and the Party which supports it, may all be the cause of acute discussion in Britain during the next decade. Parliamentary procedure and institutions are largely the product of the issues which Parliament considers; and Australian experience may at least be able to indicate some pitfalls to be avoided, if not some methods to be adopted.

## LEGISLATIVE BUILDINGS OF THE WORLD—IV

THE PALACE OF WESTMINSTER<sup>1</sup>

by SYDNEY D. BAILEY

## I

TO write the history of the Palace of Westminster is to write the history of England. The Palace is, in a sense, our greatest national monument. It is the home of the British Parliament, the Lords and Commons being technically the guests of the Sovereign whose high office is, of course, an integral part of Parliament.

In 1242 the word *parliament* (or *parlement*, a parley or conference) was first used to describe a great council to which the King summoned prelates, earls and barons to discuss "our difficult business touching the state of us and our whole kingdom". In the thirteenth century the great councils often met at Westminster (probably in the Great Hall), but also at Oxford (1158), St. Albans (1261), Windsor (1283), Salisbury (1297), or wherever was most convenient for the King.

The emergence of the Commons as a separate Chamber is believed to date from 1327, when they presented their first common petition. During the 1340's it became customary for Parliament to assemble in the Painted Chamber at Westminster and, after the declaration of the cause of the

<sup>1</sup> This article forms one of a series concerned with the world's legislative buildings. For more than a thousand years the Palace of Westminster has been at the centre of our national history. This article, however, is concerned with the buildings, not with what happened in them. Limitations of space have made it impossible to give even the briefest description of the many historic events which make the Palace unique among the legislative buildings of the world. In preparing this article, I have found *The Houses of Parliament*, edited by K. R. Mackenzie, extremely useful. I am also indebted to J. D. Lambert, formerly head of the Information Department of the Hansard Society, for his willing help. For the accuracy or otherwise of the article I alone am responsible.

summons, for the Lords to proceed to the White Chamber. The Commons held their deliberations in various places. Sometimes, as in 1341, they remained in the Painted Chamber. In 1352 they were ordered to withdraw to the Chapter House. In 1368, after the usual opening ceremonies in the Painted Chamber, they retired to the White (or Lesser) Hall. In 1376 they met in the Chapter House, which was described as "their former place". In 1397 the Refectory of the Abbey is mentioned as being used by the Commons, and this seems to have been their usual place of meeting until 1416. Where they met for the next 130 years is uncertain. In 1547 the Second Chantries Act of Edward VI suppressed St. Stephen's Chapel and other free chapels, and from then until the great fire of 1834 the Commons met in the former chapel, to-day known as St. Stephen's Hall. The Lords seem to have used the White Chamber regularly until 1801 when the White Hall became their place of assembly.

## II

The story of the Palace of Westminster begins just over thirteen centuries ago when a religious community in search of solitude established a settlement on the marshy piece of land beside the Thames called the Isle of Thorney. These monastic buildings were badly damaged during the Danish invasions, but in the second half of the tenth century King Edgar, on the suggestion of Dunstan, had them rebuilt and, according to William of Malmesbury, "brought thither twelve monks of the *Benedictine Order*". This was the spot, soon to be called Westminster, chosen by King Canute for a royal residence, apparently in order to enjoy the wit and eloquence of the local Abbot whose name was Wulnoth. Here, according to one tradition, Canute refused to order back the tide.

Edward the Confessor, a simple and pious man, wished to make the royal residence a centre of religious enlightenment and he had an Abbey built near Canute's palace. Sulcardus says that he spent "a tenth of his entire substance" on this

building. West Minster (so named to avoid confusion with St. Paul's in the East) was consecrated on Holy Innocents' Day, 1065, the year before the Norman invasion. Edward, who was frail and delicate, played a prominent part in the dedication ceremony but the effort cost him his life. Abbot Aelred of Rievaulx records that when he returned to his palace "he laid his head upon the couch, and began to be sorely pained". He died within a week and was buried in the newly consecrated church.

William the Conqueror, though a Norman, wished to pose as a King who respected English traditions and he was crowned in the new Abbey near to Edward's tomb on Christmas Day, 1066. He showed his respect for Edward by having his remains re-interred in a more elaborate tomb.

William Rufus, the Conqueror's son, was also crowned at Westminster and built the Great Hall between 1097 and 1099 as the nucleus of an extensive new palace. It was used as the official residence of most English Kings until the sixteenth century. When someone complained to William that the Hall was too large, he is said to have replied that it was not as large as it should have been and that it was only a bed-chamber in comparison with the palace he intended to build.

King John had various improvements effected to the Great Hall. £10 was spent in 1205 for general repairs, and 100s. in 1207 for restoring the roof. A bath was installed in 1213 at a cost of 6d., and there is an entry in the Close Rolls in 1214 stating that the tin lavatory (*stagneum lavatorium*) which was used by the King at Westminster had been removed to the Convent of the Holy Cross at Waltham.

Henry III undertook extensive repairs and new construction at Westminster from 1217 onwards. He was married in 1236 and the nuptial feast was held in the Great Hall. In 1244 he had erected "a new chamber near to our Hall at Westminster" at a cost of £1,949 13s. 5½d.

Holinshed records a serious fire in 1263 which destroyed many of the buildings at Westminster. In the same year an angry mob did further damage, and four years later some

drunken and insurgent soldiers again attacked the royal residence.

King Stephen had St. Stephen's Chapel built in 1141. The Crypt Chapel was begun in 1292. Work was interrupted by the fire of 1298 which caused much damage. Parliament had to meet at the palace of the Archbishop of York (on the site of the later Palace of Whitehall) where the King was residing. The Crypt was completed in 1327. Edward III had the upper Chapel completely rebuilt in Gothic style at great cost, the design being the work of one Thomas of Canterbury, a master mason, who received six shillings a week in wages.

The Cloisters attached to what was formerly St. Stephen's Chapel were built about 1356, and rebuilt between 1526 and 1529 under the direction of Dr. John Chambers, the King's physician who was also Dean of the Chapel. They were restored after the fire of 1834 in the original style.<sup>1</sup>

Richard II had the Hall at Westminster remodelled, the architect being Henry Yevele. The magnificent hammer-beam roof was the work of Hugh Herland, Edward III's master carpenter. In 1389 Richard II appointed Geoffrey Chaucer, the poet, to be Clerk of Works at Westminster.

Richard III started extensive work at Westminster in 1484, the workmen being conscripted in various parts of the country. In 1512 another great fire did considerable damage to the buildings, and since then the Palace of Westminster has not been used as a royal residence. An Act of Parliament of 1536 stated that the Palace had been for a long time "in utter ruine and decaye", and it was not until 1570, in the reign of Queen Elizabeth, that rebuilding was undertaken.

The famous plot to blow up the House of Lords occurred in 1605, two years after the accession of James I. The story is well known. The Catholics had hoped that James would redress some of the grievances brought about by the Protestant

<sup>1</sup> In 1885, the Fenians placed a bomb in this part of the Palace of Westminster, but a policeman picked it up and carried it as far as Westminster Hall where it exploded. The Cloisters were badly damaged on 8th December, 1940, by a high explosive bomb.

severity of Queen Elizabeth. A few hot-headed conspirators, including a certain Guy Fawkes, filled a coal cellar under the House of Lords with gunpowder which they intended to explode when Parliament assembled. One of the conspirators warned Lord Mounteagle, a Catholic Peer, to absent himself from Parliament, and the plot was discovered. Guy Fawkes was found on the night of 5th November *in flagrante delicto* and in accordance with the delicate custom of the times was tortured on the rack, and was subsequently hanged, drawn and quartered.

With the accession of Charles I, Westminster became the main battle-ground of the political struggle between King and Parliament, and it was in the Great Hall in 1649 that Charles was sentenced to death as "a tyrant, traitor, murderer and public enemy".

No important changes to the buildings took place between the sixteenth and nineteenth centuries. Repairs and improvements to Westminster Hall were effected in 1680 (under the direction of Sir Christopher Wren), 1732, 1793, 1820 and 1822/6.

There does not seem to have been any consistent arrangement in the seating of those present in Parliament. The picture facing page 260 of a thirteenth century Parliament shows Edward I on the throne, and on a lower seat in front of the throne the King of Scotland, the Prince of Wales, and the Archbishops of Canterbury and York. There are four wool-sacks on which sit the Judicial officers. Spiritual and temporal peers sit on benches on each side of the King, with the Commons seated on a bench facing him.

In the sixteenth century the arrangement had become more formal, as the picture facing page 261 of the opening of Parliament in 1523 shows. The bishops sit on the right of the throne and behind them sit the abbots. On the left are the temporal peers. The Commons stand, grouped around the Speaker, at the Bar: after the opening ceremony they would withdraw to deliberate separately as they do today.

By the eighteenth century, the arrangements in both Houses had become settled in much the same form that we know to-day.

## III

Dissatisfaction with the accommodation provided in the House of Commons Chamber had been growing for about a century before the fire of 1834. A Select Committee sat during 1831 "to consider the possibility of making THE HOUSE OF COMMONS more Commodious and less Unwholesome". The Committee came to the conclusion that the existing House was inadequate, but that no alterations or improvements could be effected. All that they could recommend was the construction of a new House of Commons.

Another Select Committee sat during 1833 under the chairmanship of Joseph Hume. The Committee consulted several eminent architects, and recommended "the erection of a new House of Commons", but the fire of 1834, which destroyed the major part of the Palace of Westminster, solved the problem of rebuilding.

The cause of the fire is well known. On 16th October, 1834, Mr. Weobley, the Clerk of the Works, ordered some workmen to burn two cartloads of tallies<sup>1</sup> in an ordinary stove in the House of Lords near Black Rod's box. He directed them to burn only a few at a time. Evidence as to what happened is conflicting. The workmen claimed that they put on only ten or twelve tallies at a time, damping them occasionally with water. Another witness told a very different story and spoke of "an astonishing blaze". The workmen finished burning the tallies and went home. The stove, which had become overheated, apparently set fire to some panelling, and in a few hours the Palace of Westminster was a heap of smouldering ruins.

<sup>1</sup> In the Harcourt Corridor there is a glass case in which are exhibited samples of these tallies. The inscription is as follows: "Exchequer Tallies for recording payments between the Crown or Government and others were introduced shortly after the Norman Conquest. They had the advantage of providing a perfect check for both parties and were easily understood by illiterate persons. . . . Tally Sticks were used officially, in spite of Burke's Act for the abolition in 1782, until the death of the last Chamberlain of the Exchequer in 1826. When vast numbers of Tallies were being burned in 1834, overheating of the flues caused the conflagration which destroyed the buildings of the old Houses of Parliament. . . ."

Temporary accommodation for the two Houses of Parliament had to be found while rebuilding was going on. On 23rd October, a week after the fire, the Lords met in their Library and the Commons in a Committee Room, and Parliament was prorogued. It was finally decided that a new roof should be fitted on the Court of Requests for the temporary use of the Commons, and that the Peers should meet in the old Painted Chamber after repairs had been undertaken.

William IV was anxious that Parliament should find a permanent home in Buckingham Palace, an extravagance which he had inherited from George IV. Sir John Hobhouse, who was in charge of the Department of Woods and Forests and was therefore responsible for the care of public buildings, wrote: "He seemed delighted at having an opportunity of getting rid of Buckingham Palace; said he meant it as a permanent gift for Parliament Houses, and that it would be the finest thing in Europe."

On 2nd March, 1835, on the proposal of Sir Robert Peel, a Select Committee was appointed to decide what should be done about a permanent building. In spite of the suggestion of William IV, the Committee recommended that designs for new Houses of Parliament should be open to general competition: the use of the old site and a building in Gothic or Elizabethan style was advocated. Ninety-seven architects submitted designs and that of Mr. (afterwards Sir) Charles Barry was accepted: this design was in the Gothic style of the Tudor period and was felt to be in keeping with the style of Westminster Hall and the ruins of St. Stephen's Chapel which had survived the fire.

Barry had much assistance from A. W. N. Pugin, a gifted but eccentric and quarrelsome young architect. The broad conception of the plan—which was modified during construction—was Barry's, but much of the detailed work was done by Pugin.

The foundation stone of the new building was laid on 27th April, 1840, by the architect's wife, and the building was completed in 1852. The cost was £3,200,000. The



building is constructed in magnesian limestone from Yorkshire. It has proved susceptible to the corrosion of the atmosphere, and in 1928 renovating work was begun. This was suspended upon the outbreak of war in 1939. The whole is built on a ten-foot bed of concrete and covers an area of eight acres. There are four storeys. The main floor includes the two Chambers, the libraries, dining-rooms, and Ministers' rooms. On the first floor are the main committee rooms and offices. The top floor provides office accommodation, press rooms, and storage.

Considerable damage was done to the Palace of Westminster during the last war. During fourteen different air raids bombs fell on the Houses of Parliament. The most serious attack occurred on 10th May, 1941, when twelve separate incidents were recorded in various parts of the building and three people were killed. The Commons Chamber was entirely destroyed and fire spread to the Commons Lobby. The roof of Westminster Hall was set on fire. The clock tower was damaged, and the House of Lords was hit by a bomb which penetrated the floor of the Chamber but failed to explode. A number of smaller rooms were damaged or destroyed.

#### IV

The visitor approaching the Palace of Westminster from Whitehall first reaches New Palace Yard, the open court between the famous Clock Tower and Parliament Square. It is through this Yard that Members pass to reach their Entrance. It was first called "New" in the eleventh century or soon after, to distinguish it from the Old Palace Yard about 150 yards to the south.

Probably the most widely known part of the Palace of Westminster is the 320-foot Clock Tower. The clock is the largest in the world, each dial having a diameter of 23 feet and containing 365 panes of opal glass, one for each day of the year. The minute spaces are about a foot square. The clock was designed by Professor George Airey, Astronomer Royal, and Mr. E. B. Denison, Q.C. (afterwards Lord

Grimthorpe) and was constructed by E. J. Dent of London. It was finished in 1854, but the Tower was not ready, so for five years the clock was kept in Dent's factory.

The largest of the five bells is named after Sir Benjamin Hall, the burly First Commissioner of Works, who was popularly known as Big Ben. Hall had made a speech urging that the bell be called St. Stephen, and when he sat down, someone shouted "Why not call it Big Ben?" And Big Ben it has been ever since.

On the first floor of the Tower is the room in which Members can be imprisoned for gross contempt of the Speaker's authority.<sup>1</sup>

Old Palace Yard lies to the south of St. Stephen's Entrance and Porch, through which members of the public enter the Palace of Westminster. The Peers' Entrance (100 feet to the south-east of the Statue of Richard I), the Chancellor's Gate, and the Royal Entrance all open out on to Old Palace Yard.<sup>2</sup>

The visitor usually enters the Palace of Westminster by St. Stephen's Entrance, and passes through the Porch into St. Stephen's Hall. On this site, as we have seen, St. Stephen's Chapel stood from 1141 to 1547 when it became the Commons Chamber. It is a long, imposing room, containing statues of famous parliamentarians and early Kings and Queens. At each end of the Hall is a mosaic panel, one depicting the founding of the Chapel by King Stephen and the other its rebuilding by King Edward III. The walls are decorated with eight panels illustrating significant events in English constitutional history. Brass studs in the floor mark the position of the Speaker's Chair and the Table when the Hall was used by the Commons. A brass tablet near the

<sup>1</sup> Charles Bradlaugh was the last Member to be confined in the Clock Tower, in 1880.

<sup>2</sup> In former times the Old Yard contained a tavern called "The White Rose", a chapel, and simple wood dwellings to accommodate the thousands of servants who worked in the Palace. In 1399 Geoffrey Chaucer took the lease of a house in the Old Yard. It was here that Guy Fawkes and his fellow conspirators plotted to blow up the Houses of Parliament, and here Sir Walter Raleigh was executed in 1618 under a sentence of treason passed 15 years previously.

West end marks the place where Spencer Perceval, the Prime Minister, was assassinated in 1812.

The visitor passes from St. Stephen's Hall to the Central Hall. This is an octagonal room with a vaulted stone roof, and is the rendezvous where visitors and Members usually meet. The roof is decorated with carved bosses and Venetian mosaics. Statues of Kings and Queens stand at the sides of the four arched doorways, each of which is surmounted by a stained glass window and a large mosaic panel. There are several statues of famous parliamentarians. The windows were destroyed by enemy action during the last war.

A corridor, containing eight frescos illustrating the Stuart period, runs from the Central Hall to the Commons Lobby.

To the north of the Members' Lobby is the site of the House of Commons Chamber which was entirely destroyed by fire on the night of 10th May, 1941. It was a rectangular chamber 68 feet long by 45 feet wide. It had accommodation for 346 Members on the green leather benches, and the galleries provided accommodation for about 150 Members, officials and reporters, and 265 strangers. The Chamber was similar in shape to St. Stephen's Hall, in contrast to the semi-circular design of many foreign legislative buildings. The Speaker's Chair stood at the north end. The Division Lobbies were along either side of the Chamber, the Ayes going to the Speaker's right and the Noes to his left.

The new House of Commons Chamber at present being built was designed by Sir Giles Gilbert Scott, O.M., R.A., and will be similar in design to the old one. At the suggestion of Mr. Churchill, the war-scarred entrance arch will be incorporated in the new building. There will be slightly more accommodation for Members, officials, reporters, and strangers, and there will be improved systems of heating, ventilation, and lighting. There will be secretarial accommodation and interviewing and conference rooms not previously available. The design was approved by the Royal Fine Art Commission and described as "dignified and satisfactory". The foundations were completed in 1947 and



The Palace of Westminster and the Abbey in 1826. From an engraving by A. Pugin

Considerable improvements were effected at Westminster between 1822 and 1826 under the auspices of King George IV, the designs being the work of Mr. (later Sir) John Soane. The Old Prince's Chamber or Robing Room and the Old House of Lords were demolished. A new royal entrance to the House of Lords was provided, and other additions included the King's Staircase, the Royal Gallery, the Lords' Library and various committee rooms and offices. The royal entrance was designed by the King himself who considered the old entrance "altogether unworthy."



### The Palace of Westminster

*Courtesy: Ministry of Works. Crown copyright reserved.*

This photograph was taken from the South bank of the river Thames in July, 1947. Round Victoria Tower can be seen scaffolding needed for repairing war damage. Victoria Tower is the tallest part of the building, being 396 feet to the top of the flagstaff, compared with the 320 feet of the Clock Tower, and the 300 feet of the Central Tower. The East or river front of the Palace is 872 feet long, and the South front from Victoria Tower to the river is 323 feet long.

the Chamber is expected to be ready for occupation after the summer recess of 1950. The cost is estimated at £1,779,050.

To the south of the Central Hall lie the Peers' Corridor and the Peers' Lobby, both now used by the Commons. The Peers' Corridor is decorated with 8 pictures illustrating the Stuart period. The Lobby is the place where newspaper correspondents seek information and advice from M.P.s, and the verb "to lobby" has now become part of the English language. The Lobby is a fine square room with decorated stonework and a tiled floor. The windows were destroyed in an air attack during the last war.

From the Lobby, one passes into the House of Lords' Chamber, used by the Commons since the destruction of their Chamber in 1941. It is 80 feet long and 45 feet wide. The throne is placed at the southern end, and a temporary Speaker's Chair stands at the opposite end. The carved oak Speaker's Chair designed by Pugin, which had been in use since 1852, was destroyed in the 1941 air raid.<sup>1</sup> Behind the Speaker's Chair is a green bag for petitions. The Chairs of State and the Woolsack have been removed. The Table of the House, at which the three Clerks sit, stands in front of the Speaker's Chair. At the end of the Table farthest from the Speaker are the two pairs of brackets for the mace.<sup>2</sup>

On either side of the Table is a dispatch box, that on the right of the Speaker marking the place of the Prime Minister

<sup>1</sup> Before 1834, it was the custom for each Speaker to keep his Chair upon retirement. From 1706 onwards each new Chair was a copy of the one designed by Sir Christopher Wren. One of these Chairs is now in use at Canberra.

<sup>2</sup> It is thought that maces were originally clubs used by ecclesiastics who did not wish to break the canonical law by shedding blood with a sword. The mace was adopted by the royal bodyguard during the lifetime of Richard I. There was a mace in use in Parliament before the Restoration. In 1649, a committee of the Commons was ordered to consider the design of a new mace. A design was decided on, and one Thomas Maundy, a goldsmith, was entrusted with its manufacture. The bill for the work came to £146 11s. 8d. Four years later, Cromwell dispersed the Long Parliament and referred contemptuously to the Mace as a "Shining Bauble". The present mace is about 300 years old: it is just under 5 feet in length and is silver-gilt.

and that on the left the seat of the Leader of the Opposition. The boxes contain copies of the New Testament, the Old Testament in Hebrew, the oath which Members take, and the affirmation made by Quakers and others who object to taking oaths. There are five rows of benches on each side of the Chamber, separated by two gangways. A strip of carpet runs along each of the front benches, as in the old Commons' Chamber. No Member may pass beyond this carpet when addressing the House, a reminder of the days when Members carried swords which they were tempted to use when the debate became heated. Before the damage to the Cloisters during the war, the Members' Cloakroom contained pegs with loops of red tape on which Members of former days hung their swords. In more recent times these have been used for umbrellas and other more prosaic impedimenta.

The stained-glass windows in the Lords' Chamber were destroyed by blast during the war and have been replaced by plain cathedral glass. Between the windows are eighteen bronze statues of barons who forced King John to sign the Magna Charta. There are three archways at each end of the Chamber filled with frescos. Beneath the galleries are armorial bearings of Sovereigns, Lord Chancellors, and other eminent men of former days.

South of the Lords' Chamber is the Prince's Chamber, an ornate room which serves as an ante-chamber to the House of Lords. It contains twelve bronze bas-reliefs commemorating important events of the Tudor period, and portraits of Tudor royalty. The Chamber also contains a massive marble statue of Queen Victoria seated on the Throne.

The large Royal Gallery lies to the south of the Prince's Chamber. It is used for a variety of purposes, including the trial of Peers, official banquets, and conferences. The two side walls are adorned with large pictures of the battles of Waterloo and Trafalgar. There are also several portraits and gilded statues.

The King's Robing Room, which adjoins the Royal Gallery and overlooks Victoria Tower Gardens, has served

as the Lords' Chamber since May, 1941, when the Commons' Chamber was destroyed by enemy action. Previously this was the room in which the King donned his robes of State before the opening of Parliament. It is much smaller than the normal Chamber of the House of Lords and becomes crowded on important occasions. It is decorated with oak panelling depicting the legend of King Arthur, and five frescos illustrating the virtues of chivalry. The inlaid floor is bordered with heraldic devices. On one side of the marble fireplace is a metal statuette of St. George. The stained glass windows were destroyed by enemy action during the war. At the present time the King's Robing Room contains the two Chairs of State and a replica of the red ottoman known as the Woolsack. There are three rows of red upholstered benches for the Peers. Wooden screens behind the benches provide temporary Division Lobbies.

Both Houses of Parliament have their own libraries. The Lords' Library is housed in four rooms overlooking the Terrace at the south end of the Palace of Westminster. The five rooms of the Commons' Library are at the north end overlooking the Terrace. The Commons' *Journal*, which dates from 1547, used to be kept here but is now in the Public Record Office. One room contains panels listing the names of all the Speakers of the House from Sir Thomas Hungerford,<sup>1</sup> to the present Speaker. One of the rooms contains the mahogany Table of the House which was provided in 1706 by Sir Christopher Wren when St. Stephen's Hall was reconstructed.

Between the two Libraries and overlooking the Terrace are dining-rooms, the Members' smoking room, and a chess room in which is a carved ivory chess set presented to the House of Commons in memory of a cabled chess contest between the House of Commons and the U.S. House of Representatives in 1897. For many centuries Members could not obtain proper meals on the premises, but in 1773

<sup>1</sup> The rolls of Parliament for 1377 contain this entry: "Monsieur Thomas de Hungerford, Chevalier, qui avait les paroles pour les Communes d'Engleterre en cest Parlement."



John Bellamy opened a small room for supplying food.<sup>1</sup> In 1848, a Committee was appointed to control the Kitchen and Refreshment Rooms. In the centre of the Members' Dining Room is a large oval table which is traditionally reserved for members of the Government.

Between the Dining and Smoking Rooms and the Central Hall is the Lower Waiting Hall in which Members can interview their constituents and other visitors. A stone staircase leads from this Hall to the 16 Committee rooms of various sizes which overlook the Terrace. In 1924 a picture, representing Viscountess Astor (the first woman Member to take her seat) being introduced by Mr. Lloyd George and Mr. Balfour, was hung on the staircase leading from the Hall. A storm of protest arose against a portrait of a living politician being hung in the Palace, and it was removed.

Within the precincts of the Palace are private residences for the officials, the chief of which are those of the Speaker and Serjeant-at-Arms at the north end, and of the Lord Chancellor at the south end.

There is a series of open Courts along the length of the Palace, parallel to the Terrace. From north to south, these are the Speaker's Court (lying in front of his residence), the Commons' Court (adjoining the destroyed Commons' Chamber), the Commons' Inner Court, the Peers' Inner Court, the Peers' Court (adjoining the Lords' Chamber), and the Royal Court (adjoining the Royal Gallery and the King's Robing Room).

The 678-foot Terrace overlooking the river extends from the Speaker's residence to the Lord Chancellor's residence. The Terrace is reserved for Members of the two Houses of Parliament and their friends.

<sup>1</sup> Near Old Palace Yard were formerly two public houses known as "Heaven" and "Hell" which, says J. T. Smith, "were frequented by low company, especially lawyers' clerks". Another tavern existed for a time in the Great Sanctuary of the Abbey: the place was leased by the Dean and Chapter to a Quaker who sold wine by draught, with the result that the place was usually known as "Quaker's Tavern". The Lobby was at one time frequented by orange girls of doubtful respectability. Alice's coffee-house in Westminster Hall and "Jacobs's" in Old Palace Yard also provided refreshments for Members.

Westminster Hall lies between St. Stephen's Porch and New Palace Yard. It is an imposing chamber, 240 feet long and 68 feet wide, with a hammer-beam roof of oak. Part of the roof was destroyed by fire in the air raid on 10th May, 1941, and the oak for repairs was provided from the Wadhurst estate from which the original oak had come. As the Great Hall of a royal palace, it has been used for a variety of purposes. The Law Courts, which spring from the same source as Parliament, sat in Westminster Hall or adjacent buildings from early in the thirteenth century until 1882. It was in the Hall that Simon de Montfort's Parliament of 1265 and the Model Parliament of 1295 assembled. The Hall has also been used for State trials and impeachments, including those of Guy Fawkes, Charles I and Warren Hastings, as well as for coronation feasts and other State ceremonies.

## V

It is, I suppose, typical of the largely empirical development of parliamentary institutions in this country that our two legislative assemblies should meet in a royal palace. Little did Canute realize when he selected Westminster for his residence that, at the beginning of each session of Parliament, another King—separated from him by a thousand years of time—would enter a Palace on the same site to play his constitutional role in the proceedings of Parliament. The association of Parliament with Westminster is, indeed, close. When the Palace of Westminster was not used during those periods during the last war when London was subjected to heavy air assaults, there was general satisfaction that the sittings of Parliament in Church House maintained the Westminster tradition.<sup>1</sup> "Hitler may have thought that by destroying our Chamber he was delivering a blow against democracy", said the Prime Minister on the occasion of the laying of the foundation stone of the new Chamber. "But the House of Commons is not a building. It is a living fellowship, renewed through the ages, changing in its membership, but always in essence the same."

<sup>1</sup> For seventeen weeks in 1940, 1941 and 1944, both Houses sat at Church House, the building in which the Church Assembly meets.

## PROPERTY QUALIFICATIONS IN THE HOUSE OF COMMONS

by W. L. BURN

*(Mr. Burn has been Professor of Modern History at King's College in the University of Durham since 1944. He is a Member of the Bar and formerly practised on the North-Eastern Circuit)*

IN theory every disqualification affecting membership of the House of Commons is an abridgement of the free choice of the electors who might conceivably wish to entrust their interests to the care of an unnaturalized alien, an undischarged bankrupt, a minor or a government contractor. This they are not permitted to do. Their freedom of choice is subordinated to national policy which fears the disloyalty of unnaturalized aliens, distrusts the prudence of minors and bankrupts, and dreads the contaminating presence of government contractors. Felons who have not been pardoned or served their sentence fall under the same ban as Church of England clergymen, Church of Scotland ministers and Roman Catholic priests. Formerly Roman Catholic laymen were prevented from taking their seats by the necessity of subscribing to the oath of supremacy and the declaration against transubstantiation, and Jews by the necessity of swearing "on the true faith of a Christian". In effect, the nation as a whole has said to the constituencies: "You may not elect members whose loyalty or prudence we cannot be sure of or whose presence, for one reason or another, might prove embarrassing."

These rules were all expressed in the negative form: "thou shalt not be a minor", or a felon, or whatever it was: they were disqualifications. Positive qualifications (so far as they are not simply the other side of disqualifications) have been much rarer. In the reign of Henry V residence in the constituency was made a qualification for membership,

but although it was not abrogated until 1774 it had ceased to be operative by the reign of Queen Elizabeth. The most ambitious and devastating scheme, but at the same time the logical conclusion of the Victorian passion for examinations, was that put forward in 1856 by Lovett, the ex-Chartist. Lovett wanted to see the establishment of intellectual and moral qualifications for membership of the House and proposed the granting by a Court of Examiners of a diploma which would qualify a man to be a parliamentary candidate and, after he had held his diploma for seven years, to be a Minister of the Crown.

The other positive qualification is the subject of this article, the ownership of a certain amount of property of a certain kind. It can, of course, be regarded purely as a "class" measure; what young Barnacle would have called a device "of the nobs to keep out the snobs". In fact, it was rather more than this. At the bottom of it was a desire for that great ambition of our own generation, security. Most Englishmen in the eighteenth century were strongly and habitually suspicious of the government. They were afraid that it might fall under the control of mere adventurers with everything to gain and nothing to lose. The ownership of property, on the other hand, though it was no guarantee of probity, seemed to make probity more likely. An owner of property was the less likely to play fast and loose with the national interest and the national wealth, because he had a tangible share in them.

Property, however, fell broadly into two classes, real and personal; and it was in the distinction between them that the chief conflict arose. Did they connote equal degrees of reliability? The school of thought which carried the day held that they did not; that only real property could provide the requisite degree of security. Why was this distinction made? There are a good many reasons. For one thing, although we are accustomed to imagine that the Reform Acts of 1832 were passed in favour of the unrepresented towns as against the over-represented countryside, the chief complaint against the constitution of the Commons which was

made in the eighteenth century (and which found expression in 1832) was that the countryside was under-represented and the towns, including the small towns, over-represented. As the House contained 403 M.P.s for English boroughs and only 82 for counties there was substance in this complaint. It was also pointed out that the chief form of direct taxation was the land-tax which fell on owners of real property. The main argument, however, for making the ownership of real and not of personal property a qualification was that the former was so much more tangible and so much more easily valued. Land could be seen; its value was fairly stable; it could only be transferred by a slow and tedious process; it did not, as the saying was, "run away" and its owner was the less likely to run away. On the other hand, how was personal property to be assessed? How could one accurately value a share in a London business? And even if one could, what guarantee of stability was there? The business might fail tomorrow or the value of shares tumble to nothing in some financial panic or the holder of them might turn them into cash, pocket the proceeds and take them to France. In the eyes of the provincial Englishman, fearful that some plot was being hatched in London against his interests, real property was something he understood, something that he could see with his own eyes; but personal property was a more mercurial thing, here to-day perhaps and gone to-morrow. As Swift put it, "There could not be a truer maxim in our Government than this, That the Possessors of the soil are the best judges of what is for the advantage of the Kingdom".

It was in the later seventeenth century that the conflict between real and personal property as qualifications for membership of the House of Commons became acute. The reason for this lay in those commercial and financial developments which created great masses of fluid wealth and with it the prospect of unscrupulous lobbying and corrupt influence on a large scale. The revelation that as much as £170,000 had been expended to secure the renewal of the East India Company's charter provoked a revulsion against the moneyed interest comparable to the revulsion against the "profit

motive" which we have ourselves seen of late years. Over and above that, the conflict between the landed and the moneyed interest had become a party conflict. It is a gross over-simplification to say that the Tories represented the one and the Whigs the other. There were many Tory merchants and there were many Whig landowners: indeed, the Whigs, including the Whig dukes, probably owned more land than the Tories. Nevertheless, the majority of country squires and small landowners tended to the Tory side and the larger capitalists to the Whig.

The first of the qualification Bills, providing that country Members must have an income of £500 a year from real estate and borough Members an income of £200, was introduced in 1696, passed through the two Houses and was vetoed by William III. Similar Bills were passed by the Commons in 1703 and 1705 but rejected by the Lords, whose members were apprehensive about the position of their sons. In 1710, following the Tory victory at the polls, yet another Bill was introduced, to become the Qualification Act of that year (9 Anne, c.5). It applied only to England, Wales and Berwick-upon-Tweed; subsequently, after the Act of Union of 1801, its provisions were extended to Ireland but they were never extended to Scotland. By this Act a county Member, a knight of the shire, must be the owner of real property, freehold or copyhold, in England to the value of £600 a year and borough Members, or burgesses, must hold the same qualification to the value of £300 a year. The voters could call upon a candidate to swear that he possessed the requisite qualification and no Member refusing to take the oath could take his seat in the House. The House of Lords was conciliated by exemptions to the heirs and eldest sons of temporal and spiritual peers, and a similar exemption was allowed to University Members.

If the Act had been meant to consolidate the political position of the Tories, its failure in this respect was shown by the Whig triumph of 1714. And in its broader aspect the Act was also a failure. It may possibly have encouraged some moneyed men to expend their capital in purchasing land,

but the desire for security and social prestige were probably more powerful motives. There were two things in particular which the Act failed to reckon with. One was human ingenuity, the same quality which was capable of making the usury laws a dead letter long before they were formally repealed. Not only were the great Whig landowners ready to assign the necessary qualification to landless relatives and friends, but it became the practice to make temporary conveyances, against the spirit but within the letter of the Act, so that a candidate could take the qualification oath without committing perjury although he re-conveyed the real estate in question to the donor later that same day. In 1722, 1731, 1732, 1733, 1734, 1735 and 1739 Bills were introduced to make the provisions of the Act more stringent and effective: the first of these Bills passed the Commons and was rejected by the Lords; the others were beaten in the Commons. The fact was—and this was the second thing which the purists failed to appreciate—that the Act, if it had been strictly complied with, might well have made government impossible. One of its main objects was to secure the election of Members who should be independent. But although the position of an independent county Member was one of great prestige, the presence of many more of them would have been embarrassing to any eighteenth century government. From the official point of view they were too independent. Most of them had no intention of accepting office and most of their constituents would have been shocked if they had accepted. They were sent to London to act as permanent critics of the Government, to sit as a perpetual jury, now voting for the Government, now for the opponents of the Government. When a highly-organized party system exists as it does today the Government, formed from the majority party, is sure of carrying its measures because (as happened in 1945) its supporters have been elected much less for their own virtues than for the virtues credited to their party. They have been sent to the House to support their party and not to parade their independence. In the eighteenth century and well into the nineteenth there was no such highly-organized party system.

The Government of the day was rarely secure and it could only attain a minimum of security by using the political spoils, the places and pensions, which it had at its disposal. For this reason the presence of a large number of Members who were impervious to such appeals would have been embarrassing.

After the failure to pass the 1739 Bill the subject languished in Parliament for a score of years although it was kept alive by pamphleteers. In 1760, however, an amending Act (33 Geo. II, c. 20) was passed, subject to the same exemptions for Scottish Members, University Members and the eldest sons of peers as in the Act of 1710. The most important new provision was that which obliged Members to hand to the Clerk of the House a signed statement of the nature and location of their qualifying property. This statement or schedule, moreover, had to be kept up to date and the Member was bound to swear that he was the true owner of the land in question, which had not been granted to him *ad hoc* for qualifying purposes.

The object, of course, was to stop up the loopholes which had been discovered in the original Act. This object, apparently, was not attained, for a Committee of the House of Commons reported in 1780 that the Act was being constantly evaded. In that year a Bill was introduced to raise the qualification, to extend it to Scottish seats and to increase the penalties for contravention. It made no progress at all and the reasons for this are fairly obvious. For one thing, the strict enforcement of the Act would almost certainly have deprived Parliament of some of its most brilliant Members. It was a matter of common assumption that such men as Pitt, Fox, Burke and Sheridan possessed no qualifications which could bear examination: indeed Fox said quite candidly that the enforcement of the Act "would exclude talents from obtaining entrance into the House". Had the question of qualifications fallen to be examined by a High Court judge (as it would have done from 1868 if the qualifications had still existed then) the Act would no doubt have been rigorously enforced. But by Grenville's Act of 1770 such examinations were conducted by select committees of the House. Were they



really to be expected to conduct an investigation which, according to the *Political Register* of 1806, would have resulted in 100 Members losing their seats? The answer was that they were not. They might be obliged to act in a particularly scandalous case or in one where the objection was very persistently maintained—a Member for Coventry was found to be disqualified in 1802 and a Member for Middlesex in 1805—but usually they preferred the policy of “Live and Let Live”. The only amending Act passed in this period was that of 1819 which allowed Members for English seats to qualify on the basis of the ownership of real estate in Scotland.

With the increasing, though intermittent, demand for parliamentary reform in the eighteen-twenties the question of the qualification was bound to be reconsidered. The earlier reformers such as Cartwright, as fearful as country squires of the moneyed interest, had inclined to make the qualifications effective, but the second generation was against the existence of any qualifications at all. The Birmingham Political Union, for instance, petitioned in this sense in December 1830, and, as is well known, the abolition of qualifications was one of the “six points” of the “People’s Charter” of 1838. It may seem curious at first sight that the Reform Acts of 1832 did not interfere with qualifications. The explanation probably lies in the constitution of the reform party. The struggle for parliamentary reform which culminated in 1832 is usually represented as one between the rising commercial and manufacturing interests and the old landed interests. This is another of the numerous over-simplifications of our history. The landed interest, so far as it was represented by the county Members, was on the whole in favour of parliamentary reform in 1832. In one aspect that reform was its triumph in the long struggle which it had waged against the moneyed interest, the “nabobs” from the West and the East Indies, the City men whom Pitt had so assiduously courted. Many of the pocket boroughs which were abolished had been particularly susceptible to the influence of money, whereas 26 counties had their representation doubled in 1832; Yorkshire, which had possessed four seats since 1821, received

two more and the Isle of Wight received one. The country interest played altogether an important and well-rewarded part in securing parliamentary reform and it was hardly likely that the qualifications which it believed in should be altered, although a proposal to extend them to Scotland was defeated.

The Radicals, who formed the other great wing of the reform movement, were naturally dissatisfied and in the following years a number of Radical motions were introduced for the abolition of qualifications. Hume introduced one in 1835 and Molesworth in 1837, in each case without success. An important change was made, however, by the Act of 1838 (1 and 2 Vict., c. 48) which, though it made no alteration in the exemptions and the oaths, allowed the qualifications (maintained at £600 a year for counties and £300 for boroughs) to be in either real or personal property. This qualification was far more of a "class" measure than the old one which had a basis in political theory deeper than the mere possession of money. The attacks were continued by such Radicals as Sharman, Crawford and Duncombe, and when Lord John Russell introduced his own Reform Bill in February, 1852, it was found to contain a provision for the abolition of property qualifications for M.P.s. "No good end", said Russell, "was attained in retaining the present property qualification of Members of Parliament, seeing that it was so constantly evaded". Russell's Bill came to nothing and when he introduced another in 1854 it left the question of qualifications alone, though it met with no more success. Bills for the abolition of qualifications were introduced by Sir Benjamin Hall in 1854, Murrough in 1855, and by that assiduous reformer Locke King in 1857. All three were beaten in the Commons but in fact success was very near.

It was achieved as the result of a curious and rather tragic event. Beverley was a notoriously corrupt borough—Trollope, who contested it unsuccessfully in 1868, depicted it as "Percy-cross" in *Ralph the Heir*—and in 1857 it was won by one E. A. Glover. Glover's qualification was objected to and the select committee upheld the objection. There was nothing

remarkable about this. What was remarkable and indeed unique was the recommendation by the committee that the evidence be put before the Attorney-General with a view to his instituting proceedings against Glover for perjury. Such action had never been taken before. It is not quite clear why it was taken in this case. Glover may have been personally unpopular or the House may have wished to clear itself of the accusation that it took the whole question of electoral corruption—with which fictitious qualifications were connected—too lightly. Be that as it may, Glover was prosecuted, convicted and sentenced (as he was almost bound to be for such an offence as perjury) to a term of imprisonment. At that the conscience of the House awoke. It was one thing to regard the qualifications as the rules of a game which were broken with impunity in dozens of cases and never, hitherto, had been visited with a heavier penalty than the loss of the seat. It was quite another matter if violation was to result in imprisonment and disgrace. Many Members felt that poor Glover had been chosen as a scapegoat: others, no doubt, began to wonder what would happen to them if their own qualifications were investigated. When Locke King re-introduced his Bill in April 1858 it met with little opposition in either House and became law (21 and 22 Vict., c. 26) on the 28th June, 1858.

In the previous year Locke King had argued that so long as the suffrage was not universal the existence of property qualifications for membership of the House of Commons was unnecessary. Certainly the abolition of those qualifications made little immediate or direct difference in the type and social standing of Members elected. The fact was that a property qualification continued to exist in fact though not in law. Only men with some amount of wealth, or men who were backed by some wealthy organization, could afford to contest elections, to subscribe to innumerable "causes", and to spend most of the year doing unpaid work in London. One approach to the problem was that of the payment of M.P.s, not by their constituencies as was done as late as the seventeenth century, but from national funds. The salary

of £400 a year, instituted in 1911, was raised to £600 in 1937 and to £1,000 in 1946; while the effect of successive statutes has been to diminish the amount of money which may be spent by a candidate, or on his behalf, during an election.

Property qualifications are one of the things which it is very easy, in our day, to be contemptuous of. It is tempting, when the doctrine of private property is much less-strongly held than it was, to dismiss property qualifications as absurd or "reactionary". One usually finds, however, that the fundamentals of any constitutional problem have a habit of remaining much the same. What changes is the solution proposed. The problem in this case is that of securing men and women of character and ability for work which is often tedious, which may involve a number of personal disadvantages and which, except for a minority, is unlikely to lead to great fame or fortune. We have examined one line of approach which was abandoned in 1858 and we have noticed briefly what has been done since. The point to be remembered is that there is no perfect and permanent solution. Such success as is attainable is bound to be achieved by steering a careful course to avoid various rocks and shoals. The possession of wealth as the qualification for membership (whether in law or in fact) is clearly undesirable; yet the possession of wealth may sometimes, though not invariably, connote some degree of education, ability and experience of the world. There is a strong, perhaps an overwhelming, case for the payment of Members, but it is much less easy to discover the sum which allows a poor man to serve in the Commons, but will not tie him hand and foot to the party, trade union or other organization which has sponsored him or make him impervious to principles when they might conflict with the retention of his seat. Moreover, there has to be a good deal of empiricism in steering a successful course through such waters. The Qualification Acts which we have examined attempted to prescribe a rigid course and were largely ineffective because the ingenuity of ambitious men and the good-natured tolerance of the majority were too much for the *doctrinaires*.

## THE SELECT COMMITTEE<sup>8</sup> ON ESTIMATES, 1946-8

by F. B. CHUBB, M.A.<sup>1</sup>

(*Mr. Chubb is Lecturer in Political Science, University of Dublin, Trinity College.*)

ON the 18th October, 1945,<sup>2</sup> Mr. Morrison rose in the House to tell a questioner that the National Expenditure Committee would not be reappointed, that next year normal Estimates would be available, and that the Government intended to appoint an Estimates Committee to examine them. His announcement meant the end of a notable series of war-time committees and the beginning of the third series of Select Committees on Estimates.

For Estimates Committees are, of course, no new feature. During the nineteenth century, isolated committees were appointed from time to time, though the first attempt to set up a permanent series did not occur until 1912. The first experiment from 1912 until 1914 was not a success. The war cut short an unpromising career. The second series started in 1921 and continued until 1939. It, too, was a partial failure. Successive Procedure Committees heard unfavourable opinions of it, and the 1932 Committee said bluntly that it had "failed as an effective instrument".<sup>3</sup>

The Committee appointed in March, 1946, had terms of reference very like those of its unsuccessful predecessors. Although the Government's motives are not clear, Mr. Morrison's evidence to the Select Committee on Procedure, then sitting, suggests a frank antipathy to the work of the war-time Expenditure Committee.<sup>4</sup> A strong Committee,

<sup>1</sup> *Acknowledgment.* I wish to thank Mr. Basil St. G. Drennan, Clerk of Financial Committees, and Mr. H. R. M. Farmer, Clerk to the Estimates Committee, for their willingness to answer many questions of fact. The opinions expressed and the inferences drawn are, of course, my own.

<sup>2</sup> H.C. *Debates*, 18.10.1945. Col. 1369-70.

<sup>3</sup> H.C. 129 (1932). Para. 9.

<sup>4</sup> See H.C. 189-1 (1945-6) Evidence Q 3203 ff. See especially Q 3229.

such as that, with wide terms of reference which allowed it to spread its net too widely in the opinion of many Members, was not to the Government's liking. On the other hand, it seemed improbable that the experience and fine organization of the Expenditure Committees would be jettisoned. In the event, this has proved to be true and the new series bear little resemblance to their predecessors.

The Committee went to work with terms of reference which had hitherto never been successfully translated and with the suspicious eye of Mr. Morrison fixed upon it. On the other hand, it had the experience of five war-time Expenditure Committees still fresh before it, and their staff and organization still available.

It numbered twenty-eight members, recently increased to thirty-six.<sup>1</sup> Its Chairman is Mr. B. V. Kirby. From the beginning, it has worked through sub-committees, continuing, with few changes, the pattern evolved towards the end of the war in the Expenditure Committees. Three regular sub-committees of nine members, plus the Committee Chairman, who is, *ex officio*, a member of all sub-committees, were available for any inquiries. In addition, two other sub-committees have been appointed in each session for special tasks, such as surveys of expenditure in Germany and inquiries into the form of the published Estimates. The enlarged Committee of the present session and lower sub-committee quorum of three instead of four, have made possible the appointment of five regular sub-committees of seven members (plus the Chairman) and it now has a higher potential capacity. This high capacity for work, though a feature of war-time bodies, is new to peace-time financial committees.

To allocate lines of committee inquiry and to co-ordinate the work, a steering sub-committee is appointed. It numbered seven members until the recent modifications, when it was increased to ten. The whole committee meets, initially, to decide its work and machinery and to appoint sub-committees and, thereafter, to consider sub-committee reports. In fact, these reports are usually accepted with few modifications. This

<sup>1</sup> H.C. *Debates*, 17.11.1948. Col. 523-4.

also follows the usual practice of the Expenditure Committees, as do the staffing arrangements. There are available the Clerk of the Committee and five sub-committee clerks, whose work depends upon the demands of their sub-committees. In addition, liaison officers, the use of whom was perhaps one of the most valuable war-time innovations, have been appointed by many Departments to facilitate committee investigations.<sup>1</sup>

Evidence is taken orally in the normal fashion, although the small sub-committees can work more informally than could a large body. Information is gathered not only from civil servants, but also from private persons, when they can aid the committee. Civil servants form the majority of witnesses, however. Visits are frequently made and, with the permission of the House, sub-committees have visited Germany, Austria and West Africa. These are the first occasions on which Select Committees have pursued their inquiries outside this country. Published volumes of evidence indicate that these tours are no pleasure trips, and it is not anticipated that members will take to junketing around the world in the fashion of Committees of Congress. The Committee appears to give ample notice to departments of the nature and scope of its intended inquiries and usually asks for preliminary memoranda. Since the object is not to trap departments, but to acquire information and, if necessary, reveal difficulties and black spots, surprise is not necessary, nor even desirable. The deterrent and correcting effect of the knowledge of an impending inquiry is said to be high.

Reports are issued as each inquiry is completed and they appear in a steady stream, each confined to one or a few related subjects. In this, they resemble the war-time reports of the Expenditure Committees, and their style and lay-out are also identical. In the session 1945-6, five routine reports were issued, in 1946-7 the number was seven, and in 1947-8, eight. Besides these, a yearly review of work done and departmental replies have formed the subjects of other

<sup>1</sup> They number thirty-six at present, ranging from a Third Secretary to the Treasury to Assistant Principals.

reports. This practice of publishing departmental replies is useful in ensuring the early attention of departments to criticisms and recommendations.

But the most interesting feature of the new Estimates Committee is the nature and scope of its activities. Its terms of reference directed it to "examine such of the Estimates . . . as may seem fit to the Committee . . . to suggest the form in which the Estimates shall be presented . . . and to report what, if any, economies consistent with the policy implied in those Estimates may be effected therein".<sup>1</sup> Its members were faced, as their predecessors before them, with the difficulty of translating into action the words "examine . . . the Estimates". Experience had shown clearly that for M.P.s to examine complicated volumes of figures in the hope of alighting on possible reductions was a futile procedure. The expert Treasury officers had already done their best in this respect at an earlier stage. For amateurs to attempt to better their work was foolish. While Parliament has a right and a duty to supervise the administration, experience down the years in the financial committees has shown nothing so clearly as that no committee achieves results unless it works with the Treasury and the Departments and not against them. A committee puts itself on the other side of the fence when it attempts to tamper with the Estimates and, in any case, it is not equipped to do so. On the other hand, the National Expenditure Committee had shown that properly organized bodies could promote economy without working through money Estimates and perhaps because of it.

So far, it seems that the Committees have interpreted the word "Estimates" to mean current activities. They are making a selective review of administrative activity on the grounds that, whatever the inquiry, there can be found somewhere in the published volumes a sum of money representing it. Members expressed their views of their function in the Third Report of 1946-7, when they said,<sup>2</sup> "As the body charged with examining the Estimates, Your Committee's

<sup>1</sup> See H.C. Debates, 5.3.1946. Col. 297-8.

<sup>2</sup> H.C. 132 (1946-7). Para. 74.



principal task is to report to the House *whether the nation's money is being well laid out*<sup>1</sup> within the limits of the policy implied in these Estimates”.

The choice of lines of action seems to have been made in three main ways. First, current public interest or doubts and the interests of members have led to inquiries. The Report on the Use of Motor Fuel by Government Departments is an example.<sup>2</sup> Second, some items in the published Estimates stand out and cry for investigation. The Report on the Civil Service Commission is a clear case.<sup>3</sup> Finally, one inquiry often leads to others. The investigation into the cost of Displaced Persons in Germany<sup>4</sup> arose out of earlier surveys of Control Office expenditure, while the inquiry into the cost of the Brabazon<sup>5</sup> arose out of the survey of the Ministry of Civil Aviation.

Looking at the scope of the work, it is possible to say after three years that there are four main types of inquiry. First, Committees have reviewed activities represented by “blocks of expenditure”, as, for example, their reviews of the work of the Control Office,<sup>6</sup> of Colonial Development,<sup>7</sup> and of Expenditure on Research.<sup>8</sup> Second, they have reviewed the organization, work and financial affairs of departments and other bodies spending public money. Such reviews were those of the B.B.C.,<sup>9</sup> the Ministry of Civil Aviation<sup>10</sup> and the British Council.<sup>11</sup> Third, they have investigated a series of current problems, some confined to one department, others concerning more than one. Investigations of this sort were those into the Release of Requisitioned Property,<sup>12</sup> Organization and Methods and its Effect on the Staffing of Government Departments,<sup>13</sup> and the Use of Royal Ordnance Factories and Royal Naval Establishments.<sup>14</sup> Finally, they have investigated suspected black spots, either as a result of public doubts, or where unusual figures occurred in the Estimates. The Reports on the Use of Motor Fuel and on the

<sup>1</sup> My italics.

<sup>2</sup> H.C. 193 (1947-8). <sup>3</sup> H.C. 203, 205 (1947-8).

<sup>4</sup> H.C. 62 (1947-8). <sup>5</sup> H.C. 98 (1947-8). <sup>6</sup> H.C. 170 (1945-6).

<sup>7</sup> H.C. 181 (1947-8). <sup>8</sup> H.C. 132 (1946-7). <sup>9</sup> H.C. 158 (1945-6).

<sup>10</sup> H.C. 144 (1946-7). <sup>11</sup> H.C. 99 (1947-8). <sup>12</sup> H.C. 96 (1946-7).

<sup>13</sup> H.C. 143 (1946-7). <sup>14</sup> H.C. 200 (1947-8).

Civil Service Commission may be cited as examples. In addition, the Committees have naturally considered questions relating to the form of the Estimates and, in 1947 and 1948, maintained sub-committees for that purpose.<sup>1</sup>

At first sight, the similarity between this work and that done by the war-time Expenditure Committees appears striking. But it would be wrong to suppose that the new body is the National Expenditure Committee in peace-time guise. Marked dissimilarities are apparent. The Estimates Committees have spread their net nothing like so widely as the war-time Committees. They have attempted no broad "horizontal" surveys of the widest sort such as those on labour, production and contracts, which were a feature of the war. At the other end of the scale, the Estimates Committees have not conducted any of the minor "case" type inquiries into specific allegations of waste or inefficiency. This type of investigation depends upon information from the public and practically no letters of complaint are now received.

But the most significant difference is one of approach. The Estimates Committees tend to stress financial aspects and implications much more specifically than did the Expenditure Committees. They are, after all, "Estimates" Committees, and this has had the effect of anchoring inquiries more firmly to finance. Thus, while like the war-time committees, members clearly realize that estimates and accounts are but reflections of the use of labour and material, and that it is to the latter that attention must be directed, they have related inquiries to financial considerations much more clearly than could the war-time body. At the same time, they do not work from the Estimates in the slavish manner which earlier committees found so futile. They are not trying to do the Treasury's job over again. While they are interested in the money figures which represent the cost of action, they go straight to questions of organization and methods which lie behind the figures. The most useful report of the series so far, the Fifth Report of 1946/7 on "Organization and Methods and its Effect on the Staffing of Government

<sup>1</sup> See H.C. 135 (1946-7).

Departments",<sup>1</sup> illustrates well this attitude. Following the lead of the Expenditure Committees, members have always stressed the need for "planning the structure and machinery of Government rather than . . . attending to its plumbing and maintenance".<sup>2</sup>

Reaction to the Committees' work has, so far, been encouraging. In view of the failure of earlier Estimates Committees and of the opposition which the Expenditure Committees aroused, this is a matter of some importance. To succeed, Committees must win the approval of both the Treasury and Departments and of the House. It was desirable for the Estimates Committees to avoid the verdict of "useless", which was the fate of its predecessors and of "dangerous", which was attached to the war-time bodies.

In 1946, it did not look a strong committee. Only four Expenditure Committee members were included, and no less than fifteen of the twenty-eight were newcomers to the House. Though such experienced committee men as Sir Ralph Glyn are leading sub-committees, the proportion of newcomers is still high. So far as can be ascertained, Treasury and departmental replies to Reports appear to have been generally satisfactory, although Sir Ralph Glyn has had occasion to complain of inaction to the Treasury witness. "You will not", he said, "get members to spend their time on a committee like this unless action is taken on recommendations".<sup>3</sup>

Whatever the impact on Departments, it is clear that the House is impressed. The Committees have been fortunate in that they could adopt tried procedures and techniques, but members have undoubtedly worked hard and have learned quickly. Attendance has been higher than at any previous peace-time financial committee, and reports have appeared in a constant stream. Many of them are topical and contain much useful information, and the result is that they are being mentioned in debate more frequently than

<sup>1</sup> H.C. 143 (1946-7).

<sup>2</sup> H.C. 143 (1946-7). Para. 49.

<sup>3</sup> H.C. 135 (1946-7). Evidence Q. 114.

ever before. Some have been used as the basis for Supply debates,<sup>1</sup> and one has been discussed on the Address.<sup>2</sup> Others have been cited in debate or have been the subject of questions. In the course of these references, the Committees have received very favourable mention. Mr. Bevin noted the "constructive and helpful approach"<sup>3</sup> to German affairs, while Mr. Noel-Baker, in the course of a eulogistic passage,<sup>4</sup> said that the Report<sup>5</sup> would "not only furnish the House with the basic facts", but would be "useful in a high degree to the Government". The Administration would "receive valuable stimulus". In addition, the press has given a great deal of publicity in its desire to highlight anything which reinforces the commonly held view that Government spending is too high.

The result of this attention is that M.P.s are coming to recognize the Committee as a useful body and a great improvement on its predecessors. This recognition is reflected in the growing numbers of Members who are said to desire to serve, and it is to be noted that the enlarged Committee of this session includes some of the younger Conservatives who are anxious to join a Committee already strong in rising young Members.

It is too early yet for conclusions to be more than hesitating and tentative. It is clear, however, that the organization and procedure evolved by the National Expenditure Committees during the war is of great value in peace conditions. The fruits of war-time experience have enabled these Committees to work efficiently and maintain a high output. It appears also that the limitations and possibilities of an "Estimates" Committee may have been realized at last.

<sup>1</sup> e.g., See H.C. *Debates*, 29.7.1946. Col. 525 ff. Also 22.7.1948. Col. 597 ff.

<sup>2</sup> See H.C. *Debates*, 27.10.1947. Col. 517 ff.

<sup>3</sup> loc. cit. Col. 597. †

<sup>4</sup> H.C. *Debates*, 29.7.1946. Col. 540.

<sup>5</sup> H.C. 170-1 (1945-6).

## THE AMERICAN GOVERNMENT—III

*In this third extract from Our American Government: What Is it? How Does it Function? compiled by Representative Wright Patman and published by the United States Government Printing Office, the questions and answers are concerned with the Executive Branch of the Government of the United States. Earlier issues of Parliamentary Affairs have included extracts relating to the Constitution, elections, and the States (Autumn 1948 issue), the Capitol, Government Printing, the Congressional Record, the Library of Congress, Patriotic Symbols, and the National Anthem (Winter 1948 issue). Further extracts relating to the Judiciary and both Houses of Congress will appear in future issues.*

*Question:* What qualifications are prescribed for the President?

*Answer:* He must be a natural-born citizen, at least 35 years old, and for at least 14 years a resident of the United States.

*Question:* What is the wording of the oath taken by the President?

*Answer:* The form of oath for the President is prescribed by the Constitution as follows:

I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States.

*Question:* How was the date determined for the beginning of the first President's term of office?

*Answer:* The Constitutional Convention, when the new Constitution had been finally approved and signed, ordered that when it had been ratified by nine States, the Congress should fix a day for commencing proceedings under the new form of government. Accordingly, in 1788 Congress by resolution appointed 4th March, 1789, as the day and

President Washington's term commenced as of that date although actually he was not inaugurated until 30th April.

*Question:* What is now the date for commencement of the President's term?

*Answer:* Under the twentieth amendment, effective beginning with President Franklin D. Roosevelt's second term in 1937, the term of office of the President commences at noon on 20th January. President Franklin D. Roosevelt was inaugurated the first time 4th March, 1933. He died 12th April, 1945, while serving his fourth term and having served as President 12 years 1 month and 8 days.

*Question:* Why did President Wilson arrange to resign the Presidency so a Republican could succeed him by circumventing the constitutional succession of the Vice-President and the Secretary of State?

*Answer:* When it looked as though Hughes was elected in 1916, Wilson contemplated asking Vice-President Marshall and Secretary of State Lansing to resign—then appointing Hughes Secretary of State, then resign himself—thus eliminating a period during which the country would be still going along under a leader who had been repudiated.

*Question:* What President has served the shortest length of time?

*Answer:* William Henry Harrison, who died in office, served only from 4th March to 4th April, 1841.

*Question:* How many Presidents have served two complete terms?

*Answer:* Nine: Washington, Jefferson, Madison, Monroe, Jackson, Grant, Cleveland, Wilson, and Franklin D. Roosevelt.

*Question:* How many Presidents have died in office?

*Answer:* Seven: William Henry Harrison, Zachary Taylor, Abraham Lincoln, James A. Garfield, William McKinley, Warren G. Harding, and Franklin D. Roosevelt. Only Zachary Taylor and F. D. Roosevelt died in office while Congress was in session.

*Question:* Has a President ever been impeached?

*Answer:* Andrew Johnson is the only President so far impeached. The trial in the Senate lasted from 25th February

to 26th May, 1868, and resulted in acquittal by a vote of 35 for impeachment to 19 against, one less than the two-thirds vote necessary for conviction.

*Question:* Has any President been inaugurated more than twice?

*Answer:* Yes; the precedent was broken by President Franklin D. Roosevelt being inaugurated the third time 20th January, 1941, and a fourth time 20th January, 1945.

*Question:* What is the oldest Federal building in Washington?

*Answer:* The White House, which was begun in 1792 and first occupied in 1800 while still unfinished. It is of European Renaissance style rebuilt 1815-17, after its destruction by the British, according to the original plans and by the original architect, James Hoban.

*Question:* Has the White House ever been destroyed?

*Answer:* Yes; it was burned by the British during President James Madison's occupancy on 24th August, 1814.

*Question:* How many Presidents have died in the White House?

*Answer:* Two: William Henry Harrison about a month after taking office, and Zachary Taylor.

*Question:* What provision is made in case of the death of a President in office, or his removal, resignation, or disability?

*Answer:* In any such case the Vice-President, under Constitution Article II, Section 1, exercises the powers and duties of President. And under authority of this same section, Congress, by the so-called Presidential Succession Act of 1886, has provided for the further contingency of the death, removal, resignation, or disability of both President and Vice-President by authorizing the Cabinet officers, in order of precedence, "to act as President until the disability of the President or Vice-President is removed or a President shall be elected". No Cabinet officer has ever been called on to act under this provision.

The order of precedence is: Secretary of State, Secretary of Treasury, Secretary of War, Attorney General, Postmaster General, Secretary of Navy, Secretary of the Interior.

*Question:* Why were the Secretaries of Agriculture, Commerce, and Labour omitted from the succession?

*Answer:* The Succession Act included all the Cabinet members then provided for. The Department of Agriculture was not established as an executive department until 1889, the Departments of Commerce and Labour until 1913.

*Question:* Who becomes President if a President-elect dies or is disqualified before the date fixed for the beginning of his term?

*Answer:* Under the twentieth amendment, the Vice-President-elect becomes President in case of death of the President-elect before inauguration; if the President-elect fails to qualify, however, the Vice-President-elect acts as President "until a President shall have qualified".

*Question:* Suppose the President-elect and the Vice-President-elect should both fail to qualify on inauguration day, who would become President of the United States?

*Answer:* No law has yet been enacted that would provide for this contingency, although such law is authorized by the twentieth amendment to the Constitution.

*Question:* What is the present salary of the President?

*Answer:* The salary of the President was originally fixed at \$25,000, and was raised to \$50,000 in 1873. By an act of 1909 Congress again raised it, this time to \$75,000 a year. However, by a later revenue act, applicable to Presidents taking office after 6th June, 1932, this official salary is to be counted as a part of the President's "gross" income for purposes of computing income tax, and the act fixing the salary at \$75,000 was "amended accordingly".<sup>1</sup>

*Question:* What allowances does a President receive?

*Answer:* The President lives officially in the White House, although curiously enough the law on the statute books merely grants him the use of furniture and other effects belonging to the United States and kept in the Executive Mansion. He also has the use of \$25,000 annually for travelling and entertainment expenses—which is accounted for on his certificate solely.

<sup>1</sup>There have recently been new proposals for an increase in the President's salary.



*Question:* If a President desires to resign to whom should his resignation be addressed?

*Answer:* To the Secretary of State.

*Question:* What official privileges, if any, are extended to an ex-President?

*Answer:* An ex-President is by law entitled to receive one copy of the daily Congressional Record, and to the use of the Library of Congress.

*Question:* Has an ex-President ever served in Congress?

*Answer:* John Quincy Adams, after his term as President (1825-29), was elected to the House of Representatives for nine terms, serving from 1831 to his death in 1848.

Andrew Johnson, President from 1865 to 1869, was elected to the Senate from Tennessee, and served from 5th March, 1875, to his death on 31st July, 1875.

*Question:* How many Presidents have been elected to that office after service in Congress?

*Answer:* Nineteen, not counting two (John Adams and Thomas Jefferson) who had been members of the Continental Congress. Of the 19, six had served only in the House, six only in the Senate, and seven in both Houses (Andrew Jackson, William Henry Harrison, John Tyler, Franklin Pierce, James Buchanan, Andrew Johnson, and James A. Garfield).

*Question:* What ex-Presidents have held Federal office (other than as Members of Congress) after their Presidency?

*Answer:* George Washington, President from 1789 to 1797, was appointed by President John Adams "Commander-in-Chief of the Army" in 1798 when war threatened with France.

William H. Taft, President from 1909 to 1913, was Chief Justice of the United States Supreme Court from 1921 to 1930.

*Question:* Has a President ever been married in the White House?

*Answer:* Grover Cleveland married his ward, Francis Folsom, in the White House on 4th June, 1886.

*Question:* Which Presidents were related?

*Answer:* John Quincy Adams, the sixth President, was a son of John Adams, the second President. Benjamin Harrison, the twenty-third President, was a grandson of William Henry

Harrison, the ninth President. Zachary Taylor, the twelfth President, was a second cousin of James Madison, the fourth President. Madison and Taylor were great grandsons of James Taylor and Martha Thompson. President Franklin D. Roosevelt was a fifth cousin, and his wife a niece of a former President, Theodore Roosevelt.

*Question:* Why is the President's wife called the First Lady?

*Answer:* The President's wife is called the First Lady of the Land because the Presidency is regarded as the highest position any man can attain in the country, and his wife is given social precedence over all other women. When the President is not married, the woman who presides socially over the White House is called the First Lady of the Land.

*Question:* What privileges or allowances have been granted to widows of Presidents?

*Answer:* Pensions of \$5,000 annually have been granted to the widows of Presidents Tyler, Polk, Lincoln, Grant, Garfield, Cleveland, Benjamin Harrison, McKinley, Theodore Roosevelt, Taft, Wilson, and Coolidge.

The franking privilege has been granted to the widows of Presidents Washington, Madison, John Quincy Adams, William Henry Harrison, Polk, Taylor, Lincoln, Grant, Garfield, Cleveland, Benjamin Harrison, McKinley, Theodore Roosevelt, Taft, Wilson, Harding, Coolidge, and Franklin D. Roosevelt.

All of the above privileges were granted by special act of Congress; that is, it is a matter of grace rather than of legal right.

*Question:* Does the President ever appear personally before Congress to deliver his message?

*Answer:* Presidents Washington and John Adams both appeared before the two Houses in joint session and read their messages in person. This practice was discontinued by Jefferson and for over 100 years the Presidents sent their messages to be read in both Houses by the Clerk. Again in 1913 President Wilson addressed the Congress in person, and the same method was used by President Harding; with the

aid of the radio, President Coolidge read his earlier messages to both Congress and the country. But beginning with December 1924, he resumed the old practice of transmitting messages to Congress in the form of State papers. The custom of reading important messages to Congress in joint session was followed by President Franklin D. Roosevelt. President Truman appeared before Congress on 16th April, 1945, four days after taking the oath.

*Question:* What State has supplied the most Presidents?

*Answer:* Virginia has been the birthplace of eight Presidents: Washington, Jefferson, Madison, Monroe, William Henry Harrison, Tyler, Taylor, Wilson. Ohio is second, as the birthplace of seven.

*Question:* Does the President ever wear a uniform?

*Answer:* Although the President of the United States is Commander-in-Chief of both the Army and Navy, he is a civilian. American tradition does not permit him to wear a uniform representing any branch of the military or naval service.

*Question:* Who administers the oath to the Vice-President?

*Answer:* Ordinarily, the retiring Vice-President; if there is none, then the president *pro tempore* of the Senate.

*Question:* What other official title does the Vice-President bear?

*Answer:* President of the Senate.

*Question:* Does the United States furnish an official residence for the use of the Vice-President?

*Answer:* No. The matter has been seriously considered at various times, to the extent of introducing legislation on the subject. Mrs. Henderson more than once offered (as late as 1931) to give the United States a suitable mansion, on Sixteenth Street, but the offer was not accepted.

*Question:* Who was the first Vice-President to sit regularly with the Cabinet?

*Answer:* Calvin Coolidge, at the invitation of President Harding, was the first Vice-President to sit regularly with the Cabinet. There are early instances of a Vice-President being included in Cabinet meetings, but all of them occurred during

the first five years of Washington's administration before the composition of the Cabinet had been clearly defined.

*Question:* What Vice-President refused to sit with the Cabinet?

*Answer:* Vice-President Charles G. Dawes, although invited by President Coolidge to sit with the Cabinet, summarized his objection to the inclusion of the Vice-President in the Cabinet as follows:

Long before I had any thought that I would have an individual interest in the question, I said the plan of having the Vice-President sit with the Cabinet was unwise. The Cabinet and those who sit with it always should do so at the discretion and inclination of the President. Our Constitution so intended it. The relationship is confidential and the selection of a confidant belongs to him who would be injured by the abuse of confidence, however unintentional. No precedent should be established which creates a different and arbitrary method of selection. Should I sit in the Cabinet meetings, the precedent might prove injurious to the country. With it fixed, some future President might face the embarrassing alternative of inviting one whom he regarded as unsuitable into his private conferences or affronting him in public eye in denying him what had been generally considered his right.

*Question:* How many Vice-Presidents have succeeded to the Presidency by reason of a vacancy in that office?

*Answer:* Seven. John Tyler served all but a month of President William H. Harrison's term; Millard Fillmore served over half of Zachary Taylor's term; Andrew Johnson served all but about a month of Lincoln's second term; Chester Arthur served about three and a half years of Garfield's term; Theodore Roosevelt served about three and a half years of McKinley's second term; and Calvin Coolidge filled out about one and a half years of Harding's term. Vice-President Truman succeeded to the Presidency less than three months after the commencement of President Roosevelt's fourth term.

*Question.* Has a Vice-President ever resigned?

*Answer:* The only Vice-President who has thus far resigned

is John C. Calhoun, who resigned on 28th December, 1832 (his term running to 3rd March, 1833), to become Senator from South Carolina, vice Robert Hayne, resigned.

*Question:* What is the Cabinet?

*Answer:* The Cabinet comprises the heads of the ten executive departments of the Government. It has no official duties or responsibilities as such but is recognized as constituting the President's regular board of advisers, meeting usually each week in the Cabinet Room of the Executive Offices. Cabinet members receive a salary of \$15,000.

*Question:* What was the so-called Brain Trust during President Franklin D. Roosevelt's first term?

*Answer:* For close personal advice and help on Government policies the President informally and unofficially selected a group of personal advisers in addition to his official Cabinet who, because picked in many instances from college professors, became known as the Brain Trust. Back in President Jackson's administration, such an informal group was called the Kitchen Cabinet because the President was so familiar with them. President Theodore Roosevelt had a small group of advisers from some of the departments who were called the Tennis Cabinet because most of them played and enjoyed the game of tennis.

*Question:* In what respect does the Postmaster General stand on a different footing from other Cabinet members.

*Answer:* The Postmaster General is appointed to hold office during the term of the President and one month thereafter; all the other Cabinet members are appointed with indefinite tenure.

*Question:* Has any President ever vetoed a Bill that he had theretofore signed?

*Answer:* Yes. President Truman vetoed a private Bill as President of the United States which he had signed as President of the Senate when he was Vice-President.

## CORRESPONDENCE

## WOMEN IN LEGISLATURES

Sir,

In the winter issue of *Parliamentary Affairs*, Lady Megan Lloyd George, M.P. states in an article entitled "Women in Legislatures" that "There are women deputies in all European and Commonwealth Parliaments as well as in the Latin-American Republics and the United States Congress."

For the purposes of your records I feel it should be pointed out that in Switzerland, so far as I can ascertain, there is no female suffrage and there are no elected women representatives at any level from the Commune to the Federal State.

Yours sincerely,

A STUDENT  
(Geneva University)

Chantemerle,  
Genthod, Geneva

Sir,

Since the Winter number of *Parliamentary Affairs* appeared, women's societies working in the political field have expressed their thanks to Lady Megan Lloyd George for her valuable article on "Women in Legislatures". The Women for Westminster and citizenship movements particularly welcomed it as a convincing record of the value of women's public work in influencing legislation for the benefit of the community.

But it was not to be expected that in the few pages available Lady Megan could condense a complete record even if all the research necessary had yet been done; and we wish to suggest that such a piece of research and such a record is desirable.

To the impressive list in Lady Megan's article there could be added the names of other women who have held office or

promoted legislation. Thus: Miss Florence Horsbrugh, Parliamentary Secretary to the Ministry of Health, 1938-45, who promoted the Bill for the Registration of Adopted Children; Dr. Edith Summerskill, now occupying a like position in the Ministry of Food, who recently introduced the Pure Milk Bill; in the earlier days Mrs. Philipson, who was responsible for a Bill for the Registration of Nursing Homes, and Miss Picton Turberville who had a junior ministerial appointment and introduced into the House her Sentence of Death (Expectant Mothers) Bill; while to Ellen Wilkinson's work as Cabinet Minister must be added her influence on legislation for the Distressed Areas and her Hire Purchase Bill for the protection of poor "instalment" purchasers.

To make the survey complete two other aspects of women's influence on legislation need to be considered and documented: the first is their propaganda and indirect pressure on Parliament to get the right of direct voting, with some indication of the kind of laws they sought and worked for from, say, 1830 until the vote was won; the second is the effect the presence and activity of the few "token" women M.P.s has had on the speeding-up of social legislation and the checking of the phrasing and drafting of Bills which would have imposed or continued unintended injustice.

Finally no assessment of what women legislators have accomplished in the House of Commons can be accepted as complete which does not take into account the limitation of the time and opportunity of the Private Member. Government claims on the available time leave little opportunity for Private Members' Bills and the competition of 22 women with 620 men in the Ballot reduces their chances to the microscopic. They turn therefore to friendly male M.P.s and much of women's desires in legislation has been introduced into the House in this way. The recent Analgesia Bill is a case in point.

With the Declaration of Human Rights heralding a new world for all those who have to endure social, legal or economic discriminations the factual record of our own women's past and present achievements assumes an international as well as a national value. It is our hope that funds may be made available

so that the Hansard Society or some other organization can undertake the necessary research and publish the results.

Yours faithfully,

T. BILLINGTON GREIG

72a Belsize Park Gardens,  
London, N.W.3

### THE INSTITUTION OF PARLIAMENT

Sir,

In the Report by the Council for the year 1947-48 occur these words: "Experts declare that it is impossible accurately to define the meaning of the phrase *parliamentary institutions*, but in the practical day to day work of the Society the words *parliamentary institutions* are taken to mean 'Freely elected, freely debating, legislative bodies at or above the Provincial or State level'."

It had occurred to me that some of your readers might be able to suggest variants of this definition which would describe more precisely the institutions to which the Hansard Society is devoted, and to start the ball rolling I put forward, with some hesitation, the following definition for consideration by the experts.

"Parliament is an institution of government, an essential part of which is one or more freely-elected assemblies possessing legislative, and in some cases executive and judicial, powers and whose decisions, except in matters specifically allotted to Provincial, State, or local authorities, cannot be interfered with by any other authority or branch of government except, by convention or in accordance with a written Constitution, by a judicial authority on the grounds that a decision is unconstitutional."

Yours sincerely,

A. D. H. S.

London,  
S.W.1



## BOOKS RECEIVED

*The inclusion of a book in this list does not preclude its review in a subsequent issue of Parliamentary Affairs. Any of the books in the list or reviewed on pages 306 to 321 can be ordered through the Hansard Society.*

- CADART, JACQUES. *Régime électoral et régime parlementaire en Grande-Bretagne*. Cahier No. 5 of the National Foundation of Political Science. Librairie Armand Colin (103 Boulevard Saint-Michel, Paris 5e).
- CAMBA, FRANCISCO. *La Caída de Alfonso XIII*. Madrid: Instituto Editorial Reus.
- CORRAL, LUIS DIEZ DEL. *El Liberalismo Doctrinario*. Madrid: Instituto de Estudios Políticos.
- DAWSON, ROBERT MACGREGOR. *The Government of Canada*. University of Toronto Press (London: Cumberlege). 30s.
- EDELMAN, MAURICE. *Herbert Morrison*. Lincoln-Prager. 7s. 6d.
- FRASER, W. I. R. *An Outline of Constitutional Law*. Hodge. 18s.
- FRIEDMANN, W. *The Planned State and the Rule of Law*. Melbourne University Press (London: Cambridge University Press.) 2s. 6d.
- HARRIS, G. MONTAGU. *Comparative Local Government*. Hutchinson. 7s. 6d.
- LASKI, HAROLD J. *The American Democracy*. Allen & Unwin. 25s.
- PALANDE, M. R. *A Textbook of Indian Administration*. Tenth Edition. Madras: Oxford University Press. (London: Cumberlege). 11s. 6d.
- PALANDE, M. R. *Introduction to Indian Administration*. Fourth Edition. Bombay: Oxford University Press. (London: Cumberlege). 6s. 6d.
- PORTUS, G. V. *The Concept of Sovereignty*. Melbourne University Press. (London: Cambridge University Press). 2s. 6d.
- Revista Española de Seguridad Social*. Madrid: Instituto Nacional de Prevision.
- SAWER, GEOFFREY. *Australian Government To-day*. Melbourne University Press. (London: Cambridge University Press). 2s. 6d.
- SNYDER, RICHARD CARLTON; and WILSON, H. HUBERT (Editors). *Roots of Political Behaviour*. New York: American Book Company. \$5.25.
- WILSON, C. H. (Editor). *Essays on Local Government*. Oxford: Blackwell. 18s.

## GOVERNMENT PUBLICATIONS

*The Government publications listed on this page are mainly of parliamentary or constitutional interest. All Government publications, including Hansard for the House of Lords and House of Commons (daily parts, weekly editions, or bound volumes) can be ordered through the Hansard Society.*

- Administration of Justice (Scotland) Bill.* (H.L. 24). 1d.
- Consolidation and Statute Law Revision Bills.* First Report by the Joint Committee. (H.L. 29, 33-1, H.C. 60-1). 4d.
- County Courts.* Accounts for 1947. (H.C. 51). 2d.
- Disabled Persons in Government Employment.* (Cmd. 7591). 1d.
- Election of County, Borough and District Councillors.* Notes for Candidates. 2d.
- Election of Parish Councillors.* Notes for Candidates. 1d.
- Higher Civil Service Remuneration.* Report of the Committee. (Cmd. 7635). 4d.
- His Majesty's Ministers and Heads of Public Departments.* 6d.
- House of Commons Members' Fund.* Accounts 1947-8. (H.C. 88) 2d.
- House of Lords Offices.* Second Report by the Select Committee. (H.L. 70). 1d.
- Kitchen and Refreshment Rooms.* Report from the Select Committee. (H.C. 68). 2d.
- Local Government Financial Statistics, 1945-6.* 3d.
- Parliamentary Elections.* Returning Officers (Scotland) Order, 1948. 1d.
- Public Accounts.* Report from the Committee. (H.C. 104). 1d.
- Standing Orders of the House of Commons.* (H.C. 17). 5s.
- Statutory Instruments (Parliamentary Control) Bill.* (H.C. 69.) 1d.
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- Supreme Court of Judicature.* Accounts 1947-8. (H.C. 18). 3d.
- Terms of Union of Newfoundland with Canada.* (Cmd. 7605). 6d.
- Tribunal Appointed to inquire into Allegations reflecting on the Official Conduct of Ministers of the Crown and other Public Servants.* Report. (Cmd. 7616). 1s. 6d.
- Universal Declaration of Human Rights.* (Cmd. 7662). 2d.
- University Awards.* Report of Working Party. 9d.

## BOOK REVIEWS

**The American Democracy.** By Harold J. Laski. Allen & Unwin. 25s.

**The Americans.** By Geoffrey Gorer. The Cresset Press. 10s. 6d.

**Mr. President.** By Maurice Ashley. Jonathan Cape. 21s.

**Our American Government.** By Wright Patman. Chicago: Ziff-Davis Publishing Co. \$1.50.

**Woodrow Wilson: A Selected Bibliography of his published writings, addresses and public papers.** By Laura Shearer Turnbull. Princeton University Press (London: Cumberlege). 11s. 6d.

Books about the American system of government have never been more timely and useful than they are now, when the intelligent citizen of the non-Communist world is watching with the keenest interest the decisions of the Administration and the deliberations of Congress. European Recovery Programme, North Atlantic Pact—in these and other ways what goes on in Washington affects almost everyone.

The alert citizen of the world can best begin his reading with *The American Democracy*, by Professor Harold J. Laski. This is a massive commentary on every aspect of the American scene, from Professor Laski's favourite topic of the Presidency all the way down to the cinema. In addition to the discussions of a number of facets of American life, there are larger meditations on the spirit of America, its future role in the world, and Americanism as a principle of civilization.

Things move quickly nowadays, even in the United States, and many of Professor Laski's observations, accurate enough when written, read rather curiously now. Fortunately, the well-informed reader will usually be amused rather than misled. In any event, the most valuable portions of the

book, those dealing with American political institutions, have not dated at all.

Readers of *Parliamentary Affairs* will turn first to the discussion of Congress in the chapter on Federal political institutions. But Professor Laski does not neglect the forty-eight State legislatures. These provide a large number of energetic American citizens with a training in Parliamentary practice which some of them can later put to good use at the national level.

It must be admitted that neither House of Congress has attained anything like the prestige of the British Parliament. Members of the House of Representatives are elected for a two-year term, and most of them are too busy ensuring their re-election to have much time for statesmanship. Worse still, they are required to reside in the State from which they are elected (and, by almost universal custom, in the actual constituency). This means that they can ill afford to ignore narrow local interests in order to legislate for the good of the nation as a whole.

The Senate, whose members enjoy a six-year term of office, has done much better, and Professor Laski goes so far as to term it "an outstanding success". It is probable, however, that its defects will become more and more apparent as time goes on. The fact that debate is unlimited has enabled it to concentrate national interest on the discussion of important issues in a way quite beyond the power of the House of Representatives. But this freedom of debate will be increasingly exploited by Southern Senators to obstruct forward-looking measures, and particularly to preserve the "peculiar institutions" of the South and to keep the Negro minority in subjection. In the coming period, the Senate may well take the place of the Supreme Court as the stronghold of die-hard reaction, and such a development will do its reputation no good.

One word of caution is necessary. Professor Laski seriously understates the differences between the two major American parties. In some measure this is because, as a good British Socialist, he much exaggerates the distinction between the Labour and Conservative Parties. He is rash enough to write

(it must have been years ago!): “. . . if there is a real difference between the philosophy of the party in power and the party in opposition, it is nowhere more likely to be evident than in foreign affairs.” But in part, too, it is because he has not taken into account the great changes in party alignments which the sixteen years of New Deal administration have brought about. Outside the South, the Democratic Party has become the party of the underprivileged, and the Republican Party the party of the well-to-do. The proportion of working men in America who are Republicans is no greater than the proportion in England who are Conservatives.

Mr. Gorer solemnly announces that he has sought to apply, in *The Americans*, “some of the methods and the insights of cultural anthropology”. Readers will do well to take this statement with a large grain of salt and enjoy the book for what it is—a witty commentary on American folkways, as seen in passing by a typical Bloomsbury intellectual. As such it is often penetrating, sometimes irritating, but almost always a stimulus to thought and argument.

Mr. Gorer attributes the weakness of authority in American government to the fact that Americans are an immigrant people. The children of immigrant parents tended to regard their father with contempt. They saw that, when he mingled with native-born Americans, he was at a great disadvantage—he did not know the customs, could not keep up with the pace, and often had difficulty with the language. Hence they grew up without the influence of that patriarchal authority which is so strong in most of Europe and Asia. This contempt for authority they now manifest in public as well as in private life. “Government is a necessary evil; commonly more emphasis is put on the evil than on the necessity.”

Mr. Gorer paints the founding of the United States and the framing of its Constitution in downright Freudian terms. “In Freud’s ‘Just So’ story, the downtrodden sons combine together to kill the tyrannical father; then, overwhelmed by their crime, and fearful that one of their number will attempt to take the murdered father’s place, they make a compact which establishes the legal equality of the brothers, based on

the common renunciation of the father's authority and privileges." It is a parable with real point.

He notes with approval the comments by Professor Laski on the alternation of strong and weak Presidents, and says: "A strong president represents a moral threat; a weak one . . . brings the country dangerously near anarchy, for the careful provisions of the Constitution prevent any other group exercising his necessary authority."

It is the strong Presidents with whom Mr. Ashley deals in his collection of biographies, *Mr. President*. Washington, Jefferson, Jackson, Lincoln, Theodore Roosevelt, Wilson are his subjects—he does not attempt the second and much greater Roosevelt. The careful reader will note how each of these powerful personalities further expanded the inherent power of the Presidency, so that by the time Franklin Delano Roosevelt assumed office, he could on occasion take in his strong hands powers exceeded only by those of modern dictators. Now, in the present deadlock between Congress and President, we see the backswing of the pendulum. But the long-term trend is for state power to increase, and for the anarchy which has long been latent in American political life to yield slowly to the necessities of the modern world.

Mr. Wright Patman, one of the most energetic and useful members of the House of Representatives, has prepared *The American Government* to help puzzled but curious Americans to find out "how it works". It is arranged in the form of 1001 questions and answers (an earlier pamphlet, with the same title and the same author, was reviewed in *Parliamentary Affairs*, Summer, 1948: it contained 284 questions and answers. Extracts from this smaller pamphlet appear on pages 292-300 of this issue). Neither the layman nor the scholar will find it of much value. But persons dealing in a practical way with American political affairs may find it handy to have on the shelf, for they can find in it quick and simple answers to questions which might otherwise require the use of several reference books.

Only the scholar will be interested in the bibliography of Woodrow Wilson's writings and speeches. This work by

Laura Shearer Turnbull will help him if he wishes to engage in a study of the career of the President who first brought the United States into the mainstream of world politics.

DAVID C. WILLIAMS.

(*Mr. Williams is the London representative of Americans for Democratic Action.*)

**Régime électoral et régime parlementaire en Grande-Bretagne.** By Jacques Cadart. Cahier No. 5 of the National Foundation of Political Science. Librairie Armand Colin (103 Boulevard Saint-Michel, Paris, 5c).

We take a just, though sometimes an insular, pride in the working of our Parliamentary institutions. We know, from long tradition, that their success depends upon many unwritten conventions. It is accordingly a stimulating experience to read an account of our electoral and Parliamentary system as seen through the eyes of a detached foreign observer.

There is, incidentally, a flourishing Society of Comparative Legislation in Paris which celebrated its 80th Anniversary a few weeks ago.

M. Jacques Cadart, following a year's stay in this country and considerable research into our constitutional law and practice, has written as his thesis for the degree of *Docteur en Droit* of the University of Paris, an excellent analysis of our political system which deserves to be widely read by French students of the subject and can be cordially recommended to English readers.

The time has long past since Tocqueville could say in exasperation, but with some truth, of the English Constitution "elle n'existe point".

After an historical introduction, and tracing the successive extensions of the franchise since 1832, M. Cadart sets out clearly and with accuracy the present law relating to the registration of electors, the constituencies and distribution of seats, the qualification of electors and candidates, the system of voting and the actual conduct of an election. One learns *en passant* that canvassing is unknown in France. A description

of the way an election campaign is fought here concludes with the tribute: "The British electoral system is without doubt the most honest in the world".

The book contains much valuable information and several tables of statistics showing the results of the General Elections from 1910 down to date. It also includes tables relating to the age, education and occupation of Members of Parliament, classified according to their respective parties, covering both earlier and the present House of Commons.

Perhaps of greater interest to the general reader are the observations made on the merits and demerits of our Parliamentary system. The author stresses the extreme development of our party system, pointing out that the party label is more important than the personal qualities of a candidate.

There is a tendency to exaggerate the obedience of Members to their party whips (*les chefs de file, les chiens de garde du parti*). The regularity with which Members of the Government and Opposition parties habitually go into opposite lobbies does not make sufficient allowance for the freedom to vote according to one's conscience which is still exercised on both sides of the House. But if our party system tends, in the eyes of M. Cadart, to make an M.P. a mere yes-man ("*un oui-oui*") who does not vote according to his conscience, it has the compensating advantage that a Member does not vote according to his personal interests or the influences of small factions or groups. "L'intérêt du parti qui est à l'échelle nationale remplace les intérêts particuliers."

The subtleties of "the mandate" are analyzed in some detail, but not all would agree that our electoral system partakes as much of the nature of a plebiscite or referendum as of strict representation.

M. Cadart quite properly finds that the success of our Parliamentary institutions depends on the strength of our two-party system, in tracing the historical development of which he gives due weight to the significance of our having a rectangular meeting-place as distinct from the hemispherical Chambers common on the continent.

The "two-party" system, the "mandate" theory, and the



Government's right of dissolution are the three features which strike the continental observer as being the distinctive characteristics from which the British Constitution derives its strength. It is after all "un roc inébranlable mais cependant aménageable" in comparison with the shifting sands of many continental institutions.

ERIC FLETCHER, LL.D., (London), M.P.  
*(Mr. Fletcher is the Member of Parliament for Islington East. He is a Senator of London University and a member of the Public Works Loan Board.)*

**Town and Country Planning.** By M. P. Fogarty.  
Hutchinson. 7s. 6d.

Before the war, two-fifths of the population of this country lived in seven great cities and groups of towns. How did they live? Engels wrote thus of the Manchester he knew in 1844: "The south bank of the Irk is here very steep and between fifteen and thirty feet high. On this declivitous hillside there are planted three rows of houses, of which the lowest rise directly out of the river, while the front walls of the highest stand on the crest of the hill in Long Millgate. Among them are mills on the river—in short, the method of construction is as crowded and disorderly here as in the lower part of Long Millgate. Right and left a multitude of covered passages lead from the main street into numerous courts, and he who turns in thither gets into a filth and disgusting grime, the equal of which is not to be found—especially in the courts which lead down to the Irk, and which contain unqualifiedly the most horrible dwellings which I have yet beheld. . . . Below it on the river there are several tanneries which fill the whole neighbourhood with the stench of animal putrefaction. Below Ducie Bridge the only entrance to most of the houses is by means of narrow, dirty stairs and over heaps of refuse and filth. . . . The view from this bridge, mercifully concealed from mortals by a parapet as high as a man, is characteristic for the whole district. At the bottom flows, or rather stagnates, the Irk, a narrow, coal-black, foul-smelling stream, full of debris and refuse,

which it deposits on the shallower right bank. In dry weather, a long string of the most disgusting, blackish-green slime pools are left standing on this bank from the depths of which bubbles of miasmatic gas constantly arise and give forth a stench unendurable even on the bridge forty or fifty feet above the surface of the stream. But besides this, the stream itself is checked every few paces by high weirs, behind which slime and refuse accumulate and rot in thick masses. Above the bridge are tanneries, bone-mills and gas-works, from which all drains and refuse find their way into the Irk, which receives further the contents of all the neighbouring sewers and privies. . . . Below the bridge you look upon the piles of debris, the refuse, filth and offal from the courts on the steep left bank. . . . On the lower right bank the background embraces the pauper burial-ground, the station of the Liverpool and Leeds railway, and, in the rear of this, the Workhouse, the 'Poor-Law Bastille' of Manchester, which, like a citadel, looks threateningly down from behind its high walls and parapets on the hill-top, upon the working people's quarter below." Engels' version is supported by other authorities of unimpeachable repute. Why did men and women so live? Is this sort of living—like our war-time journeys—really necessary? The Industrial Revolution, as Mr. Fogarty indicates in his able book, killed town planning stone dead. Such living is not necessary, and the most elementary planning precautions could have prevented it if the will had been there.

Mr. Fogarty has written a fascinating book and one of value. Among the many threads which go to form his skillfully woven tapestry of history, law, architecture, economics and human thought on the art of living, not the least interesting is the revelation of the slow and quite inevitable conversion of English political thinkers of all colours to a revolt against *laissez faire* in architectural layout, whatever merits it may have in any other sphere. Mr. Fogarty takes Birmingham as a not untypical example of leisured development of policy involving as is usual in such matters an infinite trail of human misery.

In 1870 Joseph Chamberlain's explosive years as Lord Mayor of Birmingham brought him a reputation as a town planner. It is interesting to recall that nearly ninety years ago, forty-five acres of town centre were bought up and cleared, and depressing to recall that following his entry into national politics nothing more happened for twenty years. We catch a glimpse of Neville Chamberlain, the arch Tory, in 1914 urging municipal land-ownership. How remote do Party political pre-conceptions become when we are up against the hard facts of a practical problem. Through the Birmingham story there is traced the inevitable swing of successive Councils, usually in the face of their political instincts. The most rampant advocates of individualism were brought at last sadly, painfully, slowly and often too late to realize that the soul of the city they genuinely loved could not thus be saved. Here, too, we see the negative conceptions of minimum space standards and compulsory drains for the poor and devil take the rest, steadily yielding to a more positive conception of the job to be done.

Mr. Fogarty describes in the early '20's the hatred of municipal enterprise which existed on the Council and quotes in contrast the 1943 resolution passed by a Council which still had a large Conservative majority, demanding that "all land developed as well as undeveloped should be brought under control and development rights vested in the State". St. Paul's conversion on the road to Damascus was more sudden, but hardly more complete.

It is a common belief that the countryside has suffered less than the town. This is debatable. The damage is only different in kind. To the eye there is indeed less squalor to sicken, but the economic consequences have been grave. Agriculture lost about 100 square miles of land every year before the war, and an area roughly equivalent to the whole of Gloucestershire was lost between 1927 and 1939 alone. Sites acquired for other purposes cut right across farm boundaries. Farms were left without farmhouses, and farmhouses were left without farms.

It is, however, easier to point out the defects of the past

than to indicate the shape of things to come. Discussion on the future of the small village is now active, as the recent controversy on Letcombe Bassett has shown. Mr. Fogarty is not entirely satisfying in his outline of the problem, nor does any clear solution emerge. There is, perhaps, no point where there appears more clearly the central problem which is touched by every aspect of town or country planning. How far may the traditional rights of the individual be sacrificed to the good of the community? From decade to decade, the pendulum swings. It is true that this dilemma is at the core of almost all political problems, but land and homes possess a quality which is distinctive. The attachment of men and women to the house, the patch, the acre, the village, is beyond the rational, and we do well to recognize this. There are losses for which money cannot compensate.

The rank of the individual's rights in a free society is of vital consequence and is not lightly to be reduced. No more is the right of the individual to liberty and happiness, which depend not a little on the social and architectural shape of the frame within which he and his family have their being. There can be no absolute answer to such problems and neither of the extremes of political dogma avails.

There is, however, one certainty. Claims, and sometimes hard claims, made on the individual by society will be the more readily accepted as just if he knows what the planners are playing at. The best advertisement of the planners is a flourishing community created by them such as may one day, it is hoped, be seen in some of the New Towns and redeveloped communities. As a prologue to that swelling theme, the Exhibition, the machinery of the public inquiry, the setting forth in the House of Commons of the case—and it is a convincing case—the broadcast discussion, the creation of non-party organizations such as the Town and Country Planning Association, the amenity societies such as the Council for the Preservation of Rural England, all perform invaluable work. These are useful tools in the educational process and to them Mr. Fogarty adds another, research and solid scholarship, coolly and

attractively presented. His work, pleasantly printed and embracing within a modest 200 pages a fair account of recent legislation up to and including the Town and Country Planning Act, 1947—a landmark in English social history—is comprehensive and readable by the non-expert. It deserves a wide public.

E. M. KING.

*(Mr. King is Parliamentary Secretary, Ministry of Town and Country Planning, and a member of the Council of the Hansard Society.)*

**The Civil Service: Its Problems and Future.** By E. N. Gladden. Second Edition. Staples. 10s. 6d.

**The Organization of Economic Studies in Relation to the Problems of Government.** By the Rt. Hon. Sir John Anderson. Cumberlege. 1s. 6d.

**Public Administration to-day.** By William A Robson. Stevens. 2s. 6d.

**The Process and Organization of Government Planning.** By John D. Millett. Columbia University Press. (London: Cumberlege). 14s.

The Civil Service is always fair game for criticism. It is a major national industry and, as its name implies, essentially the servant of the public. The public is therefore entitled to know what it is getting for its money, how its business is being looked after, what sort of people it is employing, and what they do with themselves. Indeed, the danger in a democracy is not that people may be too inquisitive about their public servants, but that they tend to take them far too much for granted.

For the Civil Service is an indispensable piece of democratic mechanism. It can of course be used by a dictator too, for any ruler must have a machine to carry out his will. But the efficiency and conscientiousness with which a civil service carries out its functions is one of the main safeguards of parliamentary government. Its powers of initiation are limited and it is not for it to decide whether a given course of action

is wise or foolish, necessary or unnecessary; but once the decision has been taken, for good or ill, it rests primarily upon the civil servants to see that its administration is as good as human forethought and ingenuity can provide. Moreover, it has a wealth—and weight—of experience which some Ministers find overwhelming but which a wise one knows how to use, and its opinions therefore have their effect at the policy-making stage as well.

All this has indeed been true for years. But the war brought profound changes and many of them have come to stay. Britain's temporary post-war insolvency—for that is what it is, no matter what polite names we may give it—would have meant a radical alteration in the functions of government, no matter what party had been in power. Theoretically of course we could have gone in for the old fashioned remedies, deflation, unemployment and the rest of it, but in practice that was impossible. A considerable degree of State intervention was necessary, and the only question was precisely how much. In any event therefore the scope of the Civil Service's work would have undergone a major change. It had to prepare itself, at comparatively short notice, to cover a far wider field than it had ever been expected to cover before and to do it at a pressure which had previously existed only in war-time. How is it getting on with the job? The four books here reviewed deal with only a tiny part of the vast field, but they pose many of the most pertinent questions including the peculiarly difficult one—How do you set about planning?

In *The Civil Service: its Problems and Future*, Dr. Gladden gives details of the Civil Service's development, and then deals at length with problems of recruitment, training, promotion, staff co-operation and general control. Dr. Gladden is himself a civil servant as well as an eminent student of public administration, and it is no surprise that his book, first published in 1945, has now appeared in a new edition. Its main aim is to set out a scheme of reform, especially in relation to the service's vast clerical organization, which will give the service greater flexibility in meeting its new needs. One of the

major objects of his proposed reforms is to recruit a greater proportion of the administrative grade from within the service. This reform is certainly overdue and cannot be much longer delayed. But it is a pity that Dr. Gladden deals only with the Home Civil Service and does not also cover the Foreign Service. There are more cobwebs to be blown away there, though much was done by the reforms introduced during the war. But some day no doubt the Home and Foreign Services will be amalgamated, and it will then no longer be necessary to spot our budding ambassadors at the age of 23 or 24; a wider range of choice for the top posts in the Foreign Service is badly needed; and civil servants would benefit as much as university professors from an occasional sabbatical year.

Sir John Anderson is one of the wisest of public servants, and his Stamp Memorial Lecture deals with a subject in which he has played an important part. The problem is more difficult than might appear at first sight. An economic section in a particular department is limited by the horizon of that department; a central economic section tends to become too theoretical and either to lose touch with administrative problems or else to poach on the preserves of others. It was under Sir John Anderson's guidance that a solution was found for this problem—a central economic organization, in which each department concerned with economic problems had an opportunity of collaborating effectively, responsible to a Minister whose business it was to see that the conclusions put forward received prompt and effective ministerial consideration. Since the lecture was delivered, the emergence of Sir Stafford Cripps as Minister for Economic Affairs as well as Chancellor has put the Treasury in the position of the central economic organization, but the principles of Sir John Anderson's argument are in no way weakened.

*Public Administration Today* is the Inaugural Lecture which Dr. William Robson gave on his appointment to the Chair of Public Administration at the London School of Economics. It asks questions rather than answers them, but they are the questions to which answers must soon be found in the course

of practical administration—e.g., the relations between Parliament and the Executive, and between central departments and local authorities; how the Civil Service and local government services can be improved; and the co-ordinating and supervisory functions of the Treasury over other departments. These problems, as Dr. Robson says, involve questions of personnel administration, of the distribution of powers, of methods of control, of organic relationship, of constitutional development. There are also the new problems raised by the nationalized industries, and the relations between the public corporations on the one hand, and Parliament, Ministers, consumers, workpeople and tax-payers on the other. This is certainly a formidable range of problems which will tax all the ingenuity of both university professors and those engaged in practical affairs. Fortunately the necessary co-operation is likely to be forthcoming; one of the by-products of war was the very close working relationship established between civil servants and university personnel; they learned to respect each other and to understand one another's problems.

This inter-relation between the academic and the practical approach to public administration is well illustrated in *The Process and Organization of Government Planning*. The author, John D. Millett of Columbia University, returned to academic life from war-time Government service and has written an academic treatise on the need for planning, who should do the planning, and how it should be organized. The book is published in the United States and is intended for American audiences. Much of it has no application in this country where the need for planning is much more taken for granted; and the American administrative machine is entirely different from ours. But the main principles are and must be common to all planning. The key is the relationship between the planner and the administrator, for the plan must be based on existing facts and must be capable of application in practice, and in both these vital matters the planner is dependent on the administrator. Any planning will be stillborn unless there exists the most intimate working relationship between the two. How precisely this is achieved,



and how the planners are given the authority they need, depends on the general administrative framework within which the work is being done.

G.W.

(G.W. has had experience in both the Foreign and Home Service.)

**Reginald McKenna, 1863-1943.** By Stephen McKenna. Eyre & Spottiswoode. 16s.

Reginald McKenna achieved his first great ambition when he rowed bow in the Cambridge boat of 1887. He was destined to occupy more important seats in the political boat.

In 1906 he became Financial Secretary to the Treasury, with Asquith as Chancellor of the Exchequer. They worked together in various capacities until the Coalition ship foundered in December, 1916, Asquith being the Prime Minister and McKenna Chancellor of the Exchequer. For the last twenty-five years of his life McKenna was Director, later Chairman, of the Midland Bank, dying in harness.

With one exception, McKenna's promotions were of the "good boy" order. A clever drawing is reproduced of Asquith in cap and gown with "his favourite pupil". In 1907 he entered the Cabinet as President of the Board of Education, and a year later was appointed First Lord of the Admiralty. He had a great personal triumph in 1909 in securing against strong opposition the *Dreadnoughts* considered necessary for national security against the German peril. Nobody who reads McKenna's closely reasoned letters and memoranda would use the word "scare".

How were those ships to be used? What was to be the grand strategy of the imminent war, predicted by Fisher for 1914? The question was raised urgently in 1911 after the Agadir incident when McKenna was arraigned by Haldane, War Secretary, because the Navy was not ready at short notice to secure the safe transport of the Expeditionary Force to the Continent. McKenna's policy was definite, in accord with that of the First Sea Lord, Sir John Fisher. "To despatch British

troops to the front in a continental war would be an act of suicidal idiocy arising from the distorted view of war produced by Mr. Haldane's speeches" (p. 107). But the case was judged against the Admiralty and their war plans were scrapped.

The author records how Haldane and Churchill were immured by Asquith to discuss the position. We are regaled by Haldane's homily on Churchill, his virtues and vices as First Lord; and by the suggestion that Haldane should become First Lord for one year, organize a general staff at the Admiralty on the War Office model and get it into working order to carry out the new strategy; and that he should then return to the War Office, yielding the place to Churchill. According to Malcolm Thomson, Lloyd George was responsible for inducing Asquith to recommend Churchill as First Lord of the Admiralty. He exchanged offices with McKenna who was appointed Home Secretary—a promotion, but not of the "good boy" order.

McKenna was promoted Chancellor of the Exchequer in the Coalition Government of 1915, following the Dardanelles trouble. He produced two acceptable budgets before his forced resignation in December, 1916. Under war conditions he was obliged to haul down the Free Trade flag, imposing the famous "McKenna Duties".

What of the man himself? Of Irish Catholic origin, he was educated as a boy in France and Germany, an unusual background. A sound lawyer, he gave full attention to the brief in hand, proceeding from one brief to the next with complete equanimity; a political jay walker, he would not fight for himself, showing "a fundamental simplicity, at times surprising in a man of his shrewdness and experience", a simplicity "that left him unaware of intrigues and unprepared to meet them" (p. 84). The heart of a child! We may rest assured that it served as a passport to heaven.

A slim book, brilliantly written, fully documented, of absorbing interest, it is worth as much for the understanding of the political history of the period 1906-1916 as a shelf-full of war memoirs, an empyrean of blue books.

T. LLOYD HUMBERSTONE

**The Laying of the Foundation Stone of the New Chamber of the House of Commons.** His Majesty's Stationery Office.

Readers of *Parliamentary Affairs* will remember the account of the laying of the foundation stone of the new Chamber of the House of Commons which appeared in our Autumn 1948 issue. An official record of the proceedings has now been printed for the House by order of the Speaker. It is a beautifully produced volume, printed on fine paper by the Curwen Press, and illustrated by ten photographs reproduced by collotype by the Chiswick Press, the printers of *Parliamentary Affairs*. By order of the Speaker twenty-four copies of the book were printed on hand-made paper for presentation to His Majesty the King, the Library of the House of Commons, and those who took part in the ceremony.

Many of those who cherish the unique contribution of this country to the institution of parliament and the cause of liberty will want to secure this volume. Unfortunately, it has not been generally published, but there is a limited number of copies available for sale. Priority will be given to parliamentary or other libraries at home and overseas. The price is 15s. 9d. including postage, and orders should be sent to P.O. Box 569, London, S.E.1.

#### NOTE

**Parliament: A Reader's Guide**, by Quintin Hogg, which was reviewed in our last issue, is published by the Cambridge University Press for the National Book League. The Cambridge University Press are the agents in this country for **The Future of Australian Federalism** by Gordon Greenwood, published by the Melbourne University Press and also reviewed in our last issue. Both these publications can be ordered through the Hansard Society, or any book-seller.



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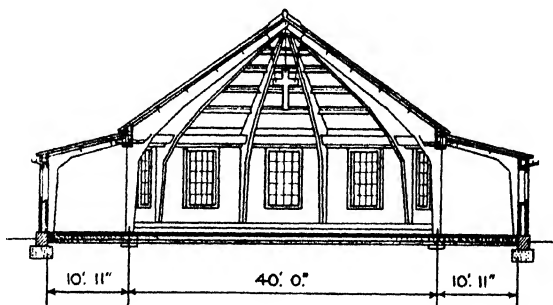
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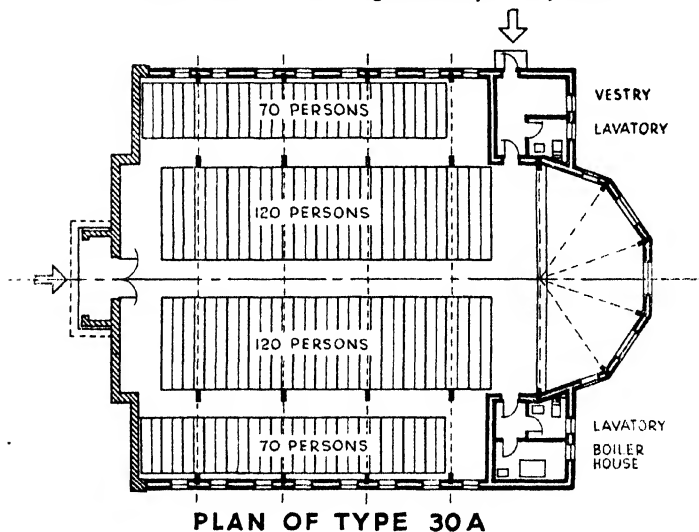
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## THE JOURNAL OF THE HANSARD SOCIETY

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## HANSARD SOCIETY NEWS

by STEPHEN KING-HALL

*Chairman of the Council and Honorary Director*

**Hansard House.** In the last issue of this journal I was obliged to report with great regret our failure, after prolonged negotiations, to secure a headquarters for our Society. I confess that it was with a feeling approaching despair that we surveyed the prospect of having to cope with our ever-increasing volume of work from the small offices where we had been living for nearly four years.

Suddenly, another property came into the market and this house, 39 Millbank, was exactly what we wanted as regards both situation and accommodation. A very rapid decision had to be made and one of our well-wishers purchased the house on his own account on the understanding that the Hansard Society could then take it over from him if and when the necessary licences could be secured.

It was with a feeling of great relief that I was able to report to your Council, who had approved of the premises, that all obstacles had been overcome by the middle of July and that the headquarters of the Society had been moved to 39 Millbank. This important event in our history was notified to members in a special letter in which an appeal was made for help towards equipping the house. By the end of July we had received donations amounting to £194 in response to this letter.

It would be ungracious if, at this point in the record, I did not say "thank you" to the management of the business which, at great inconvenience to themselves, have allowed us to have their top floor since 1945. We thank them but are as glad to say good-bye to 162 Buckingham Palace Road as its occupiers are glad to have the space we are vacating!

Reverting for a moment to the question of equipping the House I would say to members that if they have any surplus

furniture which might be useful to us we shall be glad to have it—subject to censorship so far as using it in the House is concerned!

We have purchased a ten years' lease of 39 Millbank on very satisfactory terms, and this gives us a reasonable period in which to raise the capital sum of something between £100,000 and £250,000 which will be required so that by 1960 the Hansard Society shall be established for all time upon unshakable foundations from which it can operate on the scale and with the vigour which will then be accepted as indispensable by all those who believe in the importance to the free way of life of parliamentary government. It is true that at the moment we are in our usual position of having practically nothing in the bank for current expenses, but who would have thought that within five years our Society would have grown from one room in a flat to a house on Millbank? This has happened because our work is indispensable. Nothing is done for the sake of doing it but only because it clearly has to be done.

Furthermore, members can take note of the fact that we have no outstanding bills and our credit is excellent. Our printers the other day spontaneously offered us two years credit free of interest in connection with the printing of one of our books. They did this as a contribution towards our work, and this is the kind of help we receive in many directions.

The date of the official opening of Hansard House has not yet been fixed, but as soon as we are settled in we hope to be able to offer members a number of facilities of *a serious and useful character* impossible in our old offices.

It is NOT the opinion of your Council, nor is it mine, that Hansard House should ever be allowed to degenerate from the headquarters of a continuous operation on behalf of parliamentary government into being a quasi-clubhouse. Slackness, self-satisfaction, stagnation, and in general what I should regard as perdition, would be the products of any tendency to become a social centre. The temptation is recognized and will be strenuously resisted.

Incidentally, if this copy of your Journal is a little late in

reaching you the misfortune will have been due to the upheaval consequent upon moving into the new house.

I will conclude these general observations by remarking that those of us who are responsible for operating the Society are most anxious that all the members should feel a close personal interest in our work. The Hansard Society is NOT "just another of those societies". It IS a crusade; more exactly, it is an educational society for the spreading of information about parliamentary government. In this work three categories of persons can be distinguished. The general staff, represented by your Council and Honorary Officers and staff. The missionaries, represented by the members of the Society. The electors all over the world. I hope all *members* of the Hansard Society will spare a moment from time to time to recollect that joining the Hansard Society is an act which only begins when the membership fee is sent or renewed. That is a very useful and indeed indispensable preliminary, but it is not enough if the aims and objects of the Society are to be achieved. Those of us who have been elected by the members to the honour and duty of conducting the day to day business of your Society fully understand that our members can only give a limited amount of time to the work. But I hope all members will agree that at least once or even twice a year every member can say and should say: "I will do something definite to forward the work". Recruiting a new member is a useful task. It is most necessary if we are to remain vigorous, imaginative and bold in the conduct of our affairs that the general staff should feel and be refreshed by a constant activity bubbling up from the members.

**For your diary.** Please make a note in your diary that the Fifth Annual Meeting of the Hansard Society will take place at the Caxton Hall at 6 p.m. on Thursday, November 17th. Among those who hope to be present and speak are the Rt. Hon. George Tomlinson, M.P., the Rt. Hon. Sir David Maxwell Fyfe, K.C., M.P., and the Marquess of Reading, C.B.E., M.C., T.D. ;

On 17th October the Society will hold a one-day Youth Conference at the Central Hall, Westminster. The subject

in the morning will be "The Community Looks at Parliament" and the speakers will include:

Sir Edward Bridges, G.C.B., G.C.V.O., M.C., Permanent Secretary to the Treasury.

Sir Robert Sinclair, President of the Federation of British Industries.

Sir William Lawther, President of the Trades Union Congress.

The Bishop of Chelmsford.

In the afternoon there will be a Brains Trust whose members will be:

Lord Chorley (Labour).

Lord Moynihan (Liberal).

Commander Noble, M.P. (Conservative).

Kenneth Lindsay, M.P. (Independent).

Eric Fletcher, M.P. (Labour).

The Prime Minister has expressed his intention of attending if his parliamentary duties allow him to do so.

**Publications.** A number of new publications are now available to members at two-thirds of the published price. In the list which follows the published price is quoted:

*Parliamentary Government in Britain*—a symposium by the Rt. Hon. Herbert Morrison, M.P.; Colonel the Rt. Hon. Douglas Clifton Brown, M.P.; the Rt. Hon. J. Chuter Ede, M.P.; Major the Rt. Hon. James Milner, M.P.; the Rt. Hon. R. A. Butler, M.P.; Sir William Haley, K.C.M.G.; Sir Herbert Williams; Guy Eden; and Sydney D. Bailey. 112 pages. 6s.

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The next issue of this journal will be a specially enlarged number devoted to various aspects of government in the United States of America. Among the subjects covered are the Presidency, the Cabinet, the Supreme Court, both Houses of Congress, State and Local Government, elections, and the

American party system. Those who have agreed to contribute include:

Herbert Agar; Max Beloff; Clarence A. Berdahl; Francis Biddle; Wilfred E. Binkley; Arthur W. Bromage; Henry Steele Commager; Cortez A. M. Ewing; Thomas K. Finletter; Felix Frankfurter; Carl J. Friedrich; Christian Herter; Graham Hutton; Jacob K. Javits; Estes Kefauver; H. J. Laski; C. E. Merriam; Hans Morgenthau; Allan Nevins; F. A. Ogg; Lindsey Rogers; Edward A. Shils; T. V. Smith; Elbert Thomas; David C. Williams; Harold Zink.

Orders for extra copies of this special issue should be made now. Copies of the first bound volume of *Parliamentary Affairs* are still available, price 15s.; volume II will be ready shortly, also at 15s. The Indexes for volumes I and II are available at 1s. The 3rd Edition of *Our Parliament* at 8s. 6d. continues to be a long-term best seller, and we have a few copies left of Harold Nicolson's pamphlet, *The Independent Member of Parliament* (1s.). *Papers on Parliament* is another useful book which we published earlier this year (6s.). Finally may I mention that we still have a few sets of gramophone records available. On these records, made at the Hansard Society's Youth Conference in 1947, William Gallacher, Richard Crossman, Frank Byers, Sir William Darling, W. J. Brown and I discuss the Abolition of the House of Lords, Women in Parliament, Voting Systems, and many other aspects of parliamentary government. A set, price £6 10s. including Purchase Tax, consists of 10 unbreakable, double-sided 12 in. records in a black and gold album, fully indexed.

**The European Assembly.** Your Council has given careful consideration to the constitution and functions of the European Assembly which met at Strasbourg in August. The view of the Council is that although this body is *not yet* a Parliament, the possibility that it may evolve into one brings it within the scope of the activities of the Society. The Council therefore asked me to explain our point of view in a letter to *The Times*, and for purposes of record the letter, which was published on 31st May, appears below:

Sir,

It is the object of the Hansard Society to arouse interest in and spread information about the working of parliamentary institutions.

The Council of the Society have studied the Statute of the Council of Europe and have decided that, although the Consultative Assembly is not a parliament, in view of its unique character and the possibility that it may evolve into a European Parliament, this Assembly should be regarded as coming within the scope of the work of the Society.

The Council of the Hansard Society hope that the Preparatory Commission now making the technical arrangements for the first meeting of the European Consultative Assembly will give particular attention to the provision of an official report of the proceedings (i.e., a European Consultative Assembly *Hansard*) in several languages at a price which makes it available to large numbers of the public. My Council also hope that plans will be made to provide journalists, and film, broadcasting and perhaps television companies, with proper facilities for their task of publicizing the proceedings of a body which may develop into a European Parliament. The influence and importance of the Assembly will be largely dependent upon the people of Europe being made aware of and interested in its proceedings.

Yours truly,

(Signed) STEPHEN KING-HALL  
*Chairman of the Council*

The Editor,  
*The Times*,  
Printing House Square, E.C.4

**Overseas Visitors.** The visits of German political leaders to this country are to be resumed in October. We are not, however, inactive in making personal contact with parliamentarians from abroad. During recent months we have had visitors from the Commonwealth and Colonies, the United States, and from many other countries. A specially happy occasion was a small reception we arranged in July for His Honour K. N. R. Husbands, M.H.A., Speaker of the Barbados House of Assembly, and His Honour Judge M. S. Shingeiti, M.L.A., Speaker of the Sudan Legislative Assembly. This was an especially interesting occasion because the Barbados House of Assembly is about three hundred years old whereas the Sudan Legislative Assembly is less than a year old, yet both these legislatures have modelled their procedure on the British House of Commons.

Now that we are established in proper headquarters we are in a position to welcome overseas visitors and discuss with them the common problems facing those who believe in parliamentary government.

## THE BRITISH CONSTITUTION IN 1948

by J. A. HAWGOOD

*(Dr. J. A. Hawgood, Professor of Modern History and Government in the University of Birmingham, is the author of Modern Constitutions since 1787 and The Citizen and Government).*

HAD a new Parliament Bill, first introduced by the Labour Government in 1947, and re-introduced in the short "special" Session of September, 1948, not been rejected on both occasions by the House of Lords after its acceptance by the Commons, the year 1948 might well have ranked as one of the major landmarks in British Constitutional History, along with such years as 1689, 1832, 1884-85 and 1911. As it is, it was important enough from this point of view to compare at least with such years as 1867 and 1918, both with regard to constitutional trends at home and to changes in the constitutional situation of the Commonwealth and Empire.

At home a new Representation of the People Act abolished the University and Business Votes in the teeth of the most vigorous protests from His Majesty's Opposition, a new Local Government Act provided for the eventual equalization of local rates throughout the country and made other important innovations, a new National Assistance Act abolished the last vestiges of the Poor Law, a British Nationality Act re-defined British citizenship with particular reference to inhabitants of the Dominions and former Dominions and the Colonial Empire and to British women who had married foreigners, and a Supreme Court of Judicature Act reorganized in certain important particulars the Court of Appeal—to mention only several of the most significant measures.

In the Commonwealth and Empire, and in the sphere of relations between these and the mother country, developments occurred comparable in importance to the dramatic events of the previous year, when India, Burma and Ceylon had all moved completely outside the jurisdiction of the Government



and Parliament of the United Kingdom. In 1948 the British Mandate over Palestine was brought to an end, the final steps establishing the independence of Burma and the dominion status of Ceylon were taken, and important statutes or Orders in Council were promulgated affecting the Federation of Malaya and the development of the resources of the Colonial Empire, while the Jersey States passed laws establishing a new constitution for the island's Royal Court. The words "Emperor of India" were declared to be omitted from the style and titles of King George VI by a Royal Proclamation, dated 22nd June, 1948.

Any reviewer of constitutional developments in Great Britain is of necessity faced with the intricate task of distinguishing between those Statutes, Orders in Council, Statutory Instruments, judgments of the Courts of Law, declarations made on behalf of His Majesty's Government, and other documents and statements which may be said to have constitutional significance, and those which have not. Any such distinction must necessarily be to some extent arbitrary. That great constitutional historian, A. F. Pollard, who died in 1948, used to tell his students that anybody who said a thing was "unconstitutional" in Britain, simply meant that he did not like it. It may likewise be suggested that when "constitutional significance" is claimed for any development in that same country, this simply means that such is the opinion of the person making the claim. The extent of the debatable ground is almost limitless. Speaking in the House of Commons on 26th October, 1948, with reference to the Bill to amend the Parliament Act of 1911, the Prime Minister said: "there is no great excitement on this matter and no great feeling that this is a major upset of the Constitution", but later in the same debate Mr. Churchill declared that the Bill "has disturbed a settlement under which we had lived tolerably for forty years". Commenting on that same occasion (the Debate on the Address) upon certain passages in the King's Speech regarding the recent Conference in London of Commonwealth Prime Ministers, the Leader of the Opposition said: "We are confronted with various constitutional issues. . . . We are asked,

with some evident hesitation, to consider the abandonment of that sole remaining symbol and legal foundation of the British Empire (the link of the Crown). . . . Ministers have no right to put into the King's Speech words which are contrary to the facts and to the constitutional position. . . . The Conservative Party will resist any attempt to destroy the expression 'British Empire' or to abandon the constitutional term 'Dominion', or to abolish the word 'British' from our collective designation. . . . It may well be that in a couple of years another Empire Conference will take an entirely different view." Mr. Herbert Morrison, the Lord President of the Council, spiritedly denied Mr. Churchill's contentions, saying he thought that "in the observations the right hon. Gentleman made about certain Commonwealth and Empire problems, he made some comments that were irresponsible, mischievous, and calculated to do a great deal of harm. . . ." And so the Debate went on.

In fact, the communiqué issued at the conclusion of the Commonwealth Prime Ministers' Conference in October, 1948, was not very communicative, and the British Prime Minister refused to amplify or to interpret this statement further when invited to do so in the House of Commons by Mr. Eden. No definite attitude was taken up toward India's expressed wish to remain a Member State of the Commonwealth after declaring herself a Republic, nor toward the announcement by the Government of Eire that it intended to repeal the External Relations Act, although both these matters were extensively discussed. It was not until 1949 that solutions to (or formulae to deal with) these two knotty problems were devised, and thus the year 1948 closed with certain important constitutional aspects of British Commonwealth relations very much in the melting-pot.

With regard to the affairs of the separate Dominions and their individual relationship to the Government and People of Great Britain, there were certain important developments. Canada and Newfoundland signed an agreement on 12th December, 1948, that would have the effect of making the latter a Province of the Dominion of Canada as from 31st March, 1949, subject to subsequent ratification by their

respective legislatures and to the assent of the Parliament of Great Britain. Early in 1949 this was obtained and "the oldest British colony" ceased to exist as a separate entity on the appointed date, thus bringing to an end as remarkable a story of constitutional advance and retrogression as can be found anywhere in the annals of the British Commonwealth and Empire. The question of the validity of the Commonwealth of Australia Banking Act of 1947 was brought before the Judicial Committee of the Privy Council in London in October, 1948, after the nationalization of private banks throughout Australia had been successfully challenged before the High Court of the Commonwealth. In July, 1949, the High Court's decision was upheld by the Judicial Committee. The Government of the Union of South Africa found itself virtually without support from other members of the Commonwealth when its policy toward its native and coloured population and its refusal to have South-West Africa placed under trusteeship were subjected to very severe criticism during deliberations of the United Nations Assembly and its committees. Ceylon, although admitted to full Dominion status within the Commonwealth in 1947 (her first Dominion Parliament was opened by the Duke of Gloucester early in 1948), failed to secure separate membership of the United Nations organization owing to the exercise by the U.S.S.R. of the right of veto on her proposed admission.

Developments in 1948 with regard to the Colonial Empire and protected territories were of a much more positive nature. Advance in the status of individual colonies in the direction of self-government took place in many cases, of which the granting of new constitutions in Sierra Leone and Gambia and the decision to set up an elected Legislative Council in Gibraltar may be mentioned as typical examples. One conspicuous exception to the general picture of orderly progression was the failure to bring a new constitution into being in Cyprus. A fresh constitutional crisis there led to the dissolution of the legislature and the resignation of the Governor. On the other hand, it was generally agreed that the Conference of representatives of all the legislatures of the African Colonial territories—out

of 66 delegates only 12 were officials—the first to be held in London, was a valuable innovation, as was also the series of discussions in Westminster Hall between representatives of 36 Parliaments of the Commonwealth and Empire which followed it, and preceded the separate Commonwealth Conference in October. The development in this way of these informal links of Commonwealth or Empire (or whatever one chooses to call the great complex of peoples thus brought more closely in touch with itself and its various problems) provides an interesting alternative to the earlier ideas of wider imperial federation which the system has now outgrown, and their informality should not blind us to their constitutional significance.

In the field of positive legislation affecting the Colonial Empire, the Overseas Resources Development Act was, of course, the most important measure of the year. This Act provided for the setting up of a Colonial Development Corporation and an Overseas Food Corporation, responsible respectively to the Colonial Secretary and to the Minister of Food. The first is specifically charged with “duties for securing development in colonial territories”, but while the second has the wider sphere, geographically at least, of “securing the production or processing of foodstuffs or other products in places outside the United Kingdom, and the marketing thereof, and for matters connected therewith”, its first and most urgent task is defined as securing the large-scale production of groundnuts in colonial territories in East and Central Africa, and the liabilities and assets of the Ministry of Food with regard to the groundnuts scheme for that area were to be transferred to the Overseas Food Corporation. Thus the experiment of direct administration of the African groundnuts scheme by the British Ministry of Food has been brought to an early close, to the relief of all concerned.

It is inevitable that the existence of these Corporations will lead to the closer working together of certain territorially related units of the Colonial Empire for purposes of economic development, and this may well lead to closer constitutional links between such units. It is therefore interesting to note

that, in 1948, the Central Assembly of the East African High Commission met for the first time, a Committee was set up to study possibilities of closer co-operation between the Caribbean colonies, as recommended by the Montego Bay Conference of 1947, and a new Order in Council was issued (replacing that of 1946, setting up a Malayan Union) establishing a federation of the Malay States and Settlements on the basis of new agreements reached with the local rulers.

It would seem appropriate at this point to mention a piece of legislation that had equal significance for the Commonwealth countries and the Colonial Empire as for the United Kingdom of Great Britain and Northern Ireland and, incidentally, for Eire. This is the British Nationality Act of 1948. It replaced all British Nationality and Status of Aliens Acts passed since 1914, and codifies the whole law on the subject. It created a new situation in the shape of a completely interchangeable status of "British Subject" and "Commonwealth Citizen" and it expressly stated that British protected persons and citizens of Eire were not to be regarded as "Aliens" by British law. It laid down that persons may be citizens of the United Kingdom and the Colonies by birth, by descent, by registration, by naturalization, or by incorporation of territory. It permitted persons connected with the Channel Islands or the Isle of Man to be specifically described as "Citizens of the United Kingdom, Islands and Colonies". It simplified the means whereby women married to or marrying aliens may retain or regain their British Nationality. The Act had the effect of recognizing action already taken (by Canada, for instance) or about to be taken (by Eire) to re-define the national status of inhabitants of specific parts of the Commonwealth and Empire or of territories hitherto forming part of it, but it also removed any apparent stratification or difference in status between British Nations, dependent upon the area within the Commonwealth and Empire in which they lived. It also permitted individual States within the Commonwealth to prescribe their own rules of Nationality without serious danger of these clashing with United Kingdom legislation on the subject and thus causing hardship and confusion. The

Act came into force on 1st January, 1949. On the same date the Government of Eire made two Orders giving to citizens of the United Kingdom, the British Colonies and New Zealand rights in Eire identical with those enjoyed by Citizens of Eire resident in Great Britain under the British Nationality Act of 1948.

The right to vote in parliamentary and local government elections in the United Kingdom is even more closely linked and identified with citizenship of and residence in Great Britain than previously by the provisions of the Representation of the People Act of 1948. This Act, by abolishing the University constituencies, deprives graduates of British Universities residing abroad and all aliens who are such graduates from the right they hitherto enjoyed of voting in these constituencies. It also, incidentally, ended the only experiment in the use of the device of proportional representation ever permitted in British parliamentary elections, for this had been practised for some years (though not with conspicuous success) in several of the two- and three-member University constituencies. Under this Act all other vestiges of plural voting disappeared along with the University vote, for not only was the "Business Vote" abolished, but even the two-member borough constituencies were broken up. The ideal of "one man, one vote" in parliamentary elections was at last completely achieved. Conditions for voting in local elections were made identical with those for parliamentary elections, except that a non-resident qualification was still possible in local elections (as an alternative, and not of course in addition, to the resident one) for persons occupying rateable land or premises of an annual value of at least £10 in the local government area in question. All local elections were in future to be held in the spring months of the year (in April for County Councils and in May for the others). This Act has already affected the local government elections held in 1949 and will of course apply to the next parliamentary General Election. The Conservative Party has pledged itself to restore the University constituencies as soon as it is in a position to do so.

Along with the remnants of plural voting, the year 1948

saw the disappearance of what was left of the British Poor Law, which was replaced by a system of National Assistance on the appointed day (5th July, 1948) under the provisions of the National Assistance Act. A National Assistance Board was set up (to replace the existing Assistance Board) to co-ordinate the provision of National Assistance throughout the whole country, and to co-operate with local authorities in administering the new Act. A measure of equal importance was the Children Act of 1948, based on the recommendations of the Clyde and Curtis Reports (and called by some writers "the Children's Charter"), giving to local authorities additional powers, under the supervision of the appropriate Ministries, with regard to the care and welfare of children without proper home life, extending the age up to which such care is given to (and, in some cases, beyond) eighteen years, amending the law of Adoption, and providing for the registration and inspection of voluntary homes for the care of such deprived children. A new Factory Act provided, among other things, for a much more rigorous medical examination of all Young Persons entering factory employments.

All this meant a rapid broadening of the concept of "the Welfare State" (as it is called in some quarters), a State which perhaps saw its germination in Britain as long ago as the passing of the Elizabethan Poor Law and Statute of Apprentices, which took its first great step forward with the Factory Act and related measures of the 1830's, and which developed through the Conservative Education Act of 1870 to the Unemployment and National Health Insurance Legislation of the Liberal Government in the early years of this century and to the even more comprehensive system of National Insurance, based upon the recommendations of the Beveridge Report, which was brought into operation by the Labour Government on 5th July, 1948. While they are not strictly "constitutional developments" in the narrower sense of that term, the cumulative effect of such measures has been entirely to transform the nature of the British State and fundamentally to re-define the functions of its government and administrative machine, and it would be inappropriate not to give them due notice here.

In at least two instances the legislature sought to exercise its right to modify legal principles and practices of long-standing. The Criminal Justice Act of 1948, as passed, abolished sentences of hard labour and penal servitude and the punishment of whipping (among many other changes), but the House of Commons, by a free vote, had inserted in it a clause suspending the death penalty for an experimental period of five years. The House of Lords refused to accept either this clause or a subsequent compromise amendment put forward by the Government, establishing two degrees of murder, for only one of which the death sentence could be given, and the law finally passed without any clause affecting the death penalty being included in it. But meanwhile the Home Secretary had taken it upon himself to instruct the Courts to dispense with certain of the traditional formulae connected with the passing of a sentence of death (the putting on of the black cap by the Judge, for instance), as he had considered it his duty to commute all sentences of death passed after the House of Commons had voted in favour of suspending the death sentence for five years. It so happened that the first death sentence he was thus called upon to commute to a sentence of life imprisonment was in a case where a policeman on duty had been murdered in particularly brutal circumstances by a suspected person resisting arrest, and the Home Secretary was strongly criticized, both in the public press and by high judicial authorities, including the Lord Chief Justice, for the way in which he had appeared to anticipate the passing of legislation that was still only pending. He later admitted that his action had been unwise. Sentences of death in cases of murder have subsequently been passed in the traditional form, and duly executed in a number of instances.

On the other hand the proposal of the Government to abolish the doctrine of "common employment" as a valid defence in actions by employees against employers for compensation for personal injuries received while at work was accepted by both Houses of Parliament and received the Royal Assent as part of the Law Reform (Personal Injuries) Act of 1948.

In the case of a judicial tribunal set up by Parliament under



the Chairmanship of Mr. Justice Lynskey to enquire into allegations of corruption against certain Ministers and other public servants (the Tribunal did not issue its report until early in 1949) the precedent of the J. H. Thomas case was followed. This was strongly criticized in the House of Commons by Mr. Blackburn (Labour Member for Birmingham, King's Norton) on 27th October, 1948. Instead of a tribunal of enquiry being set up, with all the powers of a High Court to enforce the attendance of witnesses and the production of documents given by the Tribunals of Enquiry (Evidence) Act of 1921—which was the course that the Prime Minister had proposed and to which the Leader of the Opposition had agreed without reservation—Mr. Blackburn took the view that “the correct procedure at the beginning was to treat everyone concerned in exactly the same way as if they had been ordinary private individuals. It seems to me that the papers should have been sent to the Director of Public Prosecutions. . . . This kind of procedure is very unfair indeed to the people who are accused, and it is even more unfair to people whose names may be incidentally mentioned. . . . Before the House decides to have an enquiry, the Director of Public Prosecutions ought to state whether he wants to prosecute anyone or not.” Mr. Blackburn suggested that some British lawyers had considered the procedure in the J. H. Thomas case to have been “continental” in some of its aspects. Although in the House of Commons, at least, Mr. Blackburn was alone in his protestation, it was an interesting point to raise, and some may consider that the results of the Lynskey Enquiry rendered it even more interesting and pointed.

The terms of the Princess Elizabeth and Duke of Edinburgh's Annuities Act (11th February, 1948) call for no special comment. The Act is of constitutional interest mainly because there was no recent precedent for such provision having to be made for an heiress-presumptive, and for her husband, upon their marriage. Queen Victoria was already on the throne before she married Prince Albert.

The Local Government Act of 1948 introduced no fundamentally new principles into the local government system and

left the old one-, two- and three-tier scheme undisturbed. It did give the local authorities a few new powers of a minor nature (principally in the direction of providing entertainments and information) and it did make provision for the payment of certain out-of-pocket expenses of local councillors incurred in the actual performance of their functions. The most significant section of the Act was that transferring valuation and assessment for the raising of local rates from the local authorities to the central government, this work to be performed, as from an appointed date, by inland revenue officers. The Act also revised the machinery of making Exchequer grants to local areas as part of the preparations for the eventual equalization of local rates throughout the country.

The Statute Law Revision Act of 1948 is left until last, for it has perhaps more interest to the constitutional historian than to the constitutional lawyer or to the student interested in actual changes which appeared to be taking place in the British Constitution in the year 1948. It is, indeed, a complete course in constitutional history in itself, repealing, as it does, a whole mass of statutes, or parts thereof, from the Statute of Merton ("The Commons Act") of 1236(20 Henry III) to the Exchequer Bills Act of 1800 (39 and 40 George III). Three whole chapters of the Magna Carta of 25 Edward I are repealed and so are the Bill of Attainder of Mistress Katherine Howard, late Queen of England (33 Henry VIII) and the Act of Indemnity and Oblivion (12 Charles II). Amid the minutiae one notices the total repeal of "An Act for continuing an Act . . . for laying a Duty of two Pennies Scots . . . upon every Scots Pint of Ale . . . sold within the Town Aberbrothock" (3 George III, *c.* 28), of "An Act to enable His Majesty to licence a Playhouse in the City of Bath" (8 George III, *c.* 10) and of "An Act for watering Piccadilly" (15 George III, *c.* 57). One very laudable aim of the Act was to facilitate the publication of a Revised Edition of the Statutes and to make easier the citation of Statutes. Those who are drafting and passing our laws today might well reflect on the fate of many of the Statutes declared obsolete and repealed by the Statute Law Revision Act of 1948.

## THE COMMONWEALTH PARLIAMENTARY ASSOCIATION

by J. G. LOCKHART

*(Major Lockhart is Secretary of the United Kingdom Branch of the Commonwealth Parliamentary Association)*

THE Commonwealth Parliamentary Association had its origin in 1911, arising out of a proposal by the Rt. Hon. L. S. Amery, M.P., that "His Majesty's faithful Commons from each part of the Empire should, by delegations of their Members, be present at the Coronation" of King George V. The delegations duly came, and at the "historic assembly" which resulted, Sir Howard d'Egville, who had been acting as Secretary, conceived the idea of a permanent association of parliamentarians of all parties in the legislatures of the Empire, to be known as the Empire Parliamentary Association.

Its objects, as declared in its Constitution, were to facilitate the exchange of information, closer understanding and more frequent intercourse between parliamentary representatives in the various parts of the Empire. These purposes it was to fulfil, and has fulfilled, in the thirty-six years of its existence, by the provision of parliamentary privileges and travel facilities, by the extension of hospitality to visiting members, by the supply of information both individually to members requiring it on some special subject and collectively through the issue of periodical publications, by the organization of delegations, and by conferences.

The years since 1911 have been formative for the Empire, bringing many changes in its thought and structure. By the Statute of Westminster the Dominions acquired in form as well as in fact the status of independent nations. Colonies have become Dominions. Other Colonies have made notable advances in self-government. Everywhere the parliamentary principle has been working strongly and progressively. The Association, since its inception, has shown an equivalent expansion and development, adapting itself to the new

demands which these constitutional changes have brought into being. Today it is composed of Branches and Affiliated Branches. The Branches are those formed in the Parliaments of the United Kingdom and the Dominions. The Affiliated Branches are those in the Parliaments and Legislatures of the States of Australia, the Provinces of Canada, and of Southern Rhodesia, Malta, Northern Ireland, the Isle of Man, and in the Colonies, ranging from those with Responsible or Representative Government to those which merely have unofficial majorities. Every Branch and Affiliated Branch is autonomous and self-supporting, reflecting in this fashion the structure of the Commonwealth. Each is closely associated with its Parliament or Legislature, having its headquarters on Parliamentary premises, while its Secretary is generally a permanent officer of the Parliament concerned. In the United Kingdom Branch, from the founding of the Association until 1949, the Secretary was Sir Howard d'Egville, K.B.E., LL.D., to whose enthusiasm and devoted labour the growth not only of the United Kingdom Branch but of the entire Association owes so much. The Presidents of the Branches are generally the presiding officers of the Houses of Parliament and the Vice-Presidents are the Leaders of the Parliamentary Parties. The present membership of the United Kingdom Branch in the Lords and Commons is 896.

The Branches, while in some respects differing in form, have been at one in their endeavours faithfully to fulfil the avowed purposes of the Association. Travel concessions for visiting members of the Association, ranging from free transportation for a member and his wife to a half-fare rate on the railways of the country visited, are provided by all the Branches. The extension of hospitality is an important part of the Association's work. A member who visits a country of the Commonwealth containing a Branch will receive, on application to his own Secretary, a letter of introduction to the Secretary of the Branch to be visited. The latter thereupon arranges any meetings or social engagements that may be desired. In addition to travel concessions and introductions, a visiting member enjoys other privileges. At

Westminster, for example, he is given a House of Commons Parliamentary Card which allows him access to the Dominions' Gallery, to the Members' Lobby, the Strangers' Dining and Smoking Rooms, the Library and Terrace of the House of Commons, and a House of Lords Card which enables him to attend debates in the Upper House. He will further be invited to such functions as the Royal Garden Party, the Opening of Parliament and the Trooping of the Colour, and to be an honorary member of some of the London Clubs.

During his stay in this country he is also able to use the Members' Room in Westminster Hall, where he will find periodicals from every part of the Commonwealth and will have the opportunity of meeting members of the United Kingdom Branch. When this room was allocated for this purpose, King George V sent the following message:

"I have learnt with pleasure that the Empire Parliamentary Association is making provision in the Houses of Parliament for the convenience of the visiting Members of Parliament from the younger nations of my Dominions.

"I feel confident that this Parliamentary comradeship within the Empire will make the Members of the Parliaments better acquainted with each other, and with each other's problems, and so realize more and more their common interests in those long traditions of Parliamentary government which they have inherited."

A free regular supply of information is contained in the three quarterly publications of the Association, the *Journal of the Parliaments of the Empire*, the *Report on Foreign Affairs*, and the *Summary of Congressional Proceedings, U.S.A.* The *Journal* gives in summarized form the debates, during the previous three months, in the various Parliaments of the Commonwealth on any matters likely to be of particular interest to members. The *Report* is a factual account, contributed by experts on the affairs of the various countries concerned, of events in those countries. The *Summary of Congressional Proceedings*, as its name implies, is a digest of those debates in the Congress of the United States which have special relevance to the Commonwealth.

In addition to this regular flow of literature, every effort is made to supply members of the Association with information on particular points, and copies of important addresses given by visiting members are printed and circulated from time to time. The Members' Room of the United Kingdom Branch also contains a library, consisting not only of works of reference, but also of many books upon the Commonwealth that are likely to be useful to members.

Another important activity of the Association is the organization of delegations from one Branch to another, so enabling parliamentarians in one part of the Commonwealth to acquire knowledge at first hand of some other part. Generally speaking, the entertainment of these delegations is undertaken by the Branch with the support of the Government in the country visited, and in any case the delegates themselves are not asked to defray any of the expenses of travelling or accommodation. Possibly of outstanding interest in these times, when the political and economic importance of the Colonial Empire has been emphasized, are the delegations from the United Kingdom to various Colonies, such as those which went in 1947 to West Africa or in 1948 to East Africa.

Distinct from delegations of this character is the Commonwealth Parliamentary Conference. This is an assembly of representatives of all the Member-Legislatures, meeting at one of the Commonwealth capitals as the guests of the Branch there. It has been the aim of the Association to hold a conference of this kind once in every two years. Gatherings of a more limited character took place in Australia in 1913, in London in 1916, and in South Africa in 1924, the first full Conference being held in Australia in 1926 and being followed by another in Canada in 1928. The other and smaller conferences continued and there were informal interim meetings in London in July, 1936, when 15 overseas members from the Dominions and India were present and held a discussion on "Sea Power and the British Commonwealth of Nations", and in July, 1939, when 24 overseas members attended and "The Co-ordination of Defence

from United Kingdom and Overseas Aspects" was the subject under consideration. Full Conferences met in 1935, on the occasion of the Jubilee of King George V, and again in 1937 on the eve of the Coronation of King George VI. The first was attended by 49 overseas delegates, including 16 Speakers, Premiers, or Ministers, the second by 61 overseas delegates, including 7 Premiers, 25 Ministers and 16 Speakers or Deputy Speakers.

The war of 1939-1945 necessarily restricted the larger activities of the Association. Travel became difficult, everybody was necessarily preoccupied with the work of the war, and in the United Kingdom Branch the rooms of the Association were seriously damaged by bombs on the same night as that on which the House of Commons Chamber was destroyed. Apart from structural injury, the Branch lost its library (which has now been replaced) and most of its records. Nevertheless the Association, in spite of every difficulty both here and overseas, continued its work. Small delegations from Canada, Australia, New Zealand and South Africa visited the United Kingdom as the guests of the Branch there to study and exchange views about the war effort; and in 1943 a Conference of historic importance was held at Ottawa, where delegations from the Parliaments of the British Commonwealth met and conferred with a delegation representing both Houses of the Congress of the United States. The significance of this occasion was emphasized by the late Mr. Sol Bloom, then Chairman of the Committee on Foreign Affairs of the United States House of Representatives, when he spoke of the place of meeting as "a shrine of family union". A second and similar meeting between representatives of the Parliaments of the Commonwealth and of the United States Congress took place in Bermuda in June, 1946, when the delegates were the guests of the Bermuda Branch of the Association. The importance of these extensions of the original scope and purpose of the Association is unquestionable; and it may be observed that they have been greatly facilitated by the close relationship between the Association and the British-American Parlia-

mentary Group and its corresponding body in Congress.

The largest Conference ever sponsored by the Association met at Westminster in October, 1948, when 85 representatives of 37 oversea Commonwealth legislatures were the guests of the United Kingdom Branch. They included 14 Speakers, former Speakers, Deputy-Speakers, or presiding officers, 16 Dominion Ministers, ex-Ministers, State and Provincial Premiers, and 7 Leaders of Opposition. After visits had been paid to the Netherlands, Belgium, the British and American Zones of Germany, Scotland, Northern Ireland, Wales and certain of the principal centres in England, the Conference opened at Westminster on 19th October. Among the subjects discussed, of special importance to the Association was a proposal brought forward and considered at one of the sessions for changing the name to the Commonwealth Parliamentary Association. This was approved by the Conference and recommended to the Branches for endorsement. At another of the sessions a proposal to establish a General Council for the Association was approved and similarly referred to the Branches for final confirmation.

Taking advantage of the presence in London of so many oversea legislators, a Conference (in November, 1948) was arranged with representatives of the Congress of the United States, when the members were once again entertained by the Bermuda Branch. Congress sent a strong delegation, headed by Senator Wiley, the British delegation being led by the Rt. Hon. John Wilmot, M.P.; representatives of the Parliaments of Canada, Australia, New Zealand and the Union of South Africa also attended.

In such a wilderness of names and dates the true character, purpose and achievement of a body like the Empire Parliamentary Association may be lost. It can claim credit for no specific constitutional change, no far-reaching legislative enactment, not even so much as a resounding resolution. Yet during the years of its existence it has played a genuine and valuable part in the development of ideas about the Commonwealth. It has been one of those bonds of unity, in quiet days as light as air and in times of stress as strong as



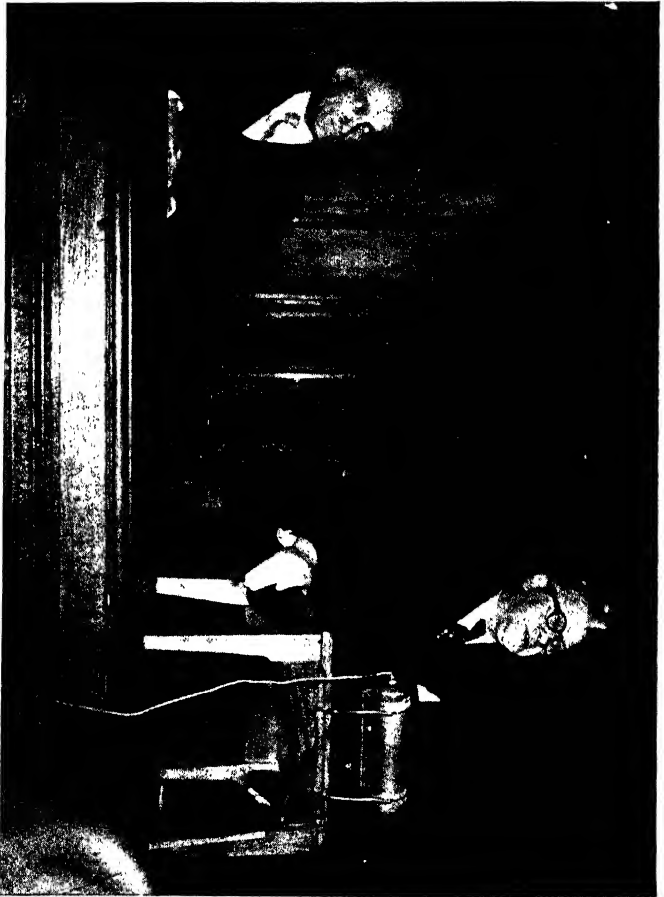
steel. It is indeed something more than the mere words—"An Association of the Parliaments of the Commonwealth"—can imply. Through the facilities it offers, the various Legislators can obtain the necessary knowledge and understanding of each other and of each other's problems without which no common approach is possible. They can confer frankly as with members of the same family and take back with them to their own lands the fruits of experience they have garnered, which, in the course of their normal Parliamentary duties, they can then distribute among their colleagues and constituents. By these means, throughout the entire Commonwealth, a certain common background of thought and opinion can be created; and this, at a moment of crisis, is reflected in a readiness for common action. "It is only when account is taken of the work of the Association", wrote Professor Duncan Hall, "that we can fully explain the extraordinary unanimity of the Parliaments of Britain, Canada, Australia and New Zealand on the necessity of their countries entering the war, and the rapid decision of South Africa to take, and to remain steadfast in, the same course despite the opposition of a substantial minority. The machinery of the Empire worked because parliamentarians, ministers of the Crown, and leading officials had met so early, worked together so long on common tasks, knew each other so well, and saw each other so often."

The Association, therefore, can claim with pride that few institutions have done or are doing more to establish that sense of Commonwealth solidarity which is so important in the present troubled state of the world, a sense not so much of being partners in a business as of being members of a family. The words with which in 1937 the then Speaker of the House of Commons addressed His Majesty the King in proposing the Loyal Toast at the Coronation Luncheon arranged by the Association in Westminster Hall may therefore aptly conclude this account of the Association and its work. "Today", said the Speaker, "you are more than Sovereign. You are Head of the Family, and of a Nation and an Empire you have made a Household."



A group of Commonwealth Members of Parliament on the Terrace of the House of Commons during the Conference in October, 1948.

*Courtesy: Fox Photos Ltd.*



The Rt. Hon. Herbert Morrison, M.P., speaking at the Sorbonne, Paris, on 6th May, 1949

BRITISH PARLIAMENTARY DEMOCRACY<sup>1</sup>

by the RT. HON. HERBERT MORRISON, M.P.

*Lord President of the Council and Leader of the House of Commons*

I AM not surprised that the British Parliamentary system is still often misunderstood. Some people are misled by the survival of ancient forms and customs into thinking that it is a pre-machine age institution, a relic of feudalism, which ought to be streamlined in accordance with modern needs. They mistake the forms for the substance. Judged by the results, I would go so far as to claim that the British Parliament is one of the most efficient and up-to-date instruments for its purpose in the world. Some people also fail to see the practical utility of what seem to them to be mere anachronisms. Why all the panoply and pomp attaching to Mr. Speaker, the extreme deference with which he is addressed, his wig and gown, the convention of bowing to the Chair on leaving and entering the Chamber? Why the seemingly outworn courtesies of debate under which even the most bitter opponent is "the Honourable Member", or "the Honourable and Gallant Member", or "the Honourable and Learned Member", or "the Right Honourable Gentleman"? Members when they first enter the House are inclined to think that much of the ceremony is old-fashioned nonsense. It is not long before they come to realize that it serves the real purposes of contributing to the proper authority of the Chair and to orderly debate, and of emphasizing the dignity and corporate spirit of the House.

What of traditions such as the peremptory interruption of the Commons' proceedings by the King's messenger, Black Rod, summoning the Commons to the Royal presence in the House of Lords, and the still more peremptory bolting and shutting of the door in Black Rod's face? It goes back

<sup>1</sup>This article is based on a lecture given at the Sorbonne, Paris, on 6th May, 1949.

to the occasion in 1642 when King Charles I came to the House in person to arrest the five Members who escaped by boat down the Thames to take refuge in the City of London. It is an assertion of the right of the House to exclude even the King himself unless he comes by permission. True, it is no longer necessary to assert independence of the King, but the continuance of the ceremony is a reminder to the House and to the public of the importance of even the newest Member as a champion of British liberties against the encroachment of arbitrary government whatever form it takes.

Much of the pomp and ceremony is valuable because it helps Parliament and the parliamentary system to keep their hold on the imagination of the people. There is more than a little in what Walter Bagehot said three-quarters of a century ago about the importance of an element of magic in government. I never cease to be moved by the pageantry and dignity of a State Opening of Parliament when the King attends in person to read the Speech from the Throne. Pageantry lends colour to democracy and helps it to work with smoothness and amidst general respect. No matter that the Speech has been prepared by His Majesty's Ministers. Call it, if you like, the British love of make-believe or British romanticism. I am sure that it helps in identifying King and People and Government, in breaking down the antithesis between the "we" who are governed and the "they" who do the governing, which must be removed if a democracy is to be truly popular.

Another type of misunderstanding arises from a natural tendency to confuse the letter of the Constitution with the spirit as embodied in its conventions. It is asked, for example, how we can claim to be democratic as long as we have a hereditary Second Chamber whose powers except in financial matters and to the limited extent that they are tempered by the Parliament Act of 1911 are equal to those of the House of Commons. I hold no brief for the House of Lords and I took a leading part in supporting the present Government's Bill for the further reduction of its powers. The fact none the less is that there are few, if indeed any, countries in the world

where the popularly elected Chamber is more powerful than in Britain. At the same time there are also few Second Chambers where the standard of debate is higher than in the British House of Lords. That is because the effective House of Lords consists in the main not of the hereditary peers but of fifty or a hundred distinguished men, many of them former Members of the House of Commons, who have been made peers because of their records of public service.

Why is it that we meet in a Chamber which cannot accommodate all the Members without some of them crowding the gangways and sitting on the floor? Why is it that in the new Chamber which will be ready by 1950 to take the place of the old House which was destroyed in the blitz on London we are proposing to perpetuate what must seem to many people an absurd piece of inefficiency? The reason is that we believe that a small Chamber is more practical and more effective than a large one. We do not believe in separate seats for everyone. The intimacy of a small Chamber—incidentally with Members speaking from their places and not from a rostrum—is more suited to all but the more important occasions (and even then the crowded Chamber adds to the drama of the concluding speeches of a keen debate), and more suited to the workmanlike thrust and counter-thrust of debate which in our experience makes for more useful discussion than does oratory. We also propose in the new Chamber to retain the rectangular shape, with the Government on one side and the Opposition facing it on the other, which again we think facilitates discussion and is an expression of the tradition of an organized Government and a counter-organized Opposition.

There is a tendency to misunderstand the British Parliamentary system because of the historic misunderstanding for which a great Frenchman, Montesquieu, who was a great admirer of the British Constitution, was responsible in his *Esprit des Lois*. I refer to the doctrine of the separation of the powers—legislative, executive and judicial—which Montesquieu thought he saw in England. As a contribution to political analysis it is still valuable, but it has very serious

dangers if it is not realized that in practice there is never the clear demarcation between the legislature and executive which Montesquieu envisaged. Nor is it desirable that there should be. What Montesquieu failed to see was that, as was already the case when he wrote and is very much truer now, the British system is based upon a close partnership between the executive and the legislature.

One of the consequences of the emphasis which since Montesquieu's day has so often been placed on the separation of powers is that we all of us tend to think of Parliament first and foremost as the legislature. It is of minor account that this ignores the share of the Government in framing legislation, and the existence of extra-Parliamentary legislation. It is of greater account that it obscures the fact that legislation is only one of the functions which Parliament performs, and it is arguable that it is not the principal one.

We are proud that the "Mother of Parliaments" has survived for more than seven hundred years and is as vigorous as she ever was. A great English historian, Professor A. F. Pollard, said that "Parliament has been the means of making the English nation and the English State. It is really coeval with them both." It has been the forum in which some of our greatest men have graduated to eminence, among whom I count one from our own generation, Mr. Winston Churchill.

If I had to summarize the history of Parliament in a sentence, I would say that it was and is "the High Court of Parliament". It originated in the King's Court. The King called into counsel first the barons temporal and spiritual and then representatives of the Commons, or the communities of which the nation was composed. Parliament—consisting of the King, the Lords, and the Commons—was in those days not only an instrument of government but had important judicial functions. Most of the work of some of the early Parliaments was to deal with petitions on all manner of subjects from every part of the country. Traces of these early judicial duties survive in the position still occupied by the House of Lords as the highest Court of Appeal—though its judicial work is now done in practice by a small group of eminent

lawyers—and in the jurisdiction of the House of Commons—in this case the whole House—in the interpretation and enforcement of the law relating to its own rights and privileges. Parliament was the “grand inquest” of the nation.

Legislation was comparatively unimportant until as late as the nineteenth century. Parliament was mainly useful to the King as an instrument for informing himself of what we should now call public opinion, and of obtaining, if he could, the assent of Lords and Commons to his policies; and secondly, and increasingly, to his proposals for raising taxation. In return for this assistance, Parliament for its part enjoyed the right of criticism and of ventilating grievances.

I will not detail the events which led by the eighteenth century to the emergence from the King's Privy Council of a small group of Ministers—or Cabinet—in whom more and more the exercise of the executive powers of the Crown came to rest. I only want to make two points. The first is that it was soon found that the Cabinet could only maintain power if it commanded the support of the House of Commons; and the second is that it proved to be impossible for it to do so unless the members of the Cabinet were Members of Parliament (Lords or Commons) of the same point of view as the majority of the House of Commons. The consequence was the development of the party system, and it was rightly said by Walter Bagehot that “party government is the vital principle of representative government” and by Benjamin Disraeli that “without party, parliamentary government is impossible.”

What had emerged by the end of the eighteenth century could hardly be described as democratic—only a small minority of the population had the right to vote—but it did provide solid foundations on which effective government could be combined with democratic control. Parallel with the extension of democratic forms went a transformation of the party organizations upon whose efficiency, integrity, and zeal for the public good the health of any modern democracy in no small measure depends.

The first essential of the British system is that the Cabinet has the responsibility for governing in the national interest.



This is a responsibility which it can share with nobody else, and members of the Cabinet are collectively responsible for the omissions as well as the commissions of their colleagues no less than being individually responsible for every action which is done by them or by any of their civil servants. The Cabinet is in effect a committee of Parliament. It draws its members from Parliament, it accounts to Parliament, it derives its inspiration very largely from Parliament, and it is removable by Parliament. In the final resort, when it believes that the public interest so demands, it must take its own course or resign if it finds itself in major disagreement with the House of Commons. Parliament always has the last word.

On the other hand the Cabinet is not helpless before Parliament. The Prime Minister can advise the King to dissolve Parliament, and then Government and private Members alike must justify themselves to the electorate. The power which this gives to the Government is sometimes exaggerated, but it is an essential feature of the British system and it has the great merit that it gives the individual Member of Parliament a sense of the responsibility which he must share for seeing that effective government is carried on. The Government has to work with Parliament, but Parliament has also to work with the Government. Neither is the creature of the other because each can get rid of the other and force an appeal to the electorate. It is up to both to work harmoniously together in the public interest if they can.

It is not the function of Parliament to carry on the executive administration. Its main function is not even to legislate. It is still the "grand inquest" of the nation, and its main functions are to decide what the character of the Government of the day shall be; to remove that Government if it thinks the time has come to do so; to make sure that the Government is kept fully in touch with public opinion; to ventilate grievances; and to criticize. That is where the Opposition comes in, and why it has such a decisive part in our system. Not that criticism is confined to the Opposition. Far from it. A great deal of nonsense has been talked about the docile Government back-bencher who hardly opens his mouth

and is cowed by the Government Whips. Do not believe it. Do not believe the stories of Parliament being a mere sausage machine for turning out legislation promoted by the Government. If you have any doubts, get hold of a copy of *Hansard*, and go through the Parliamentary Questions with which the day's proceedings begin, and the main Debates of the day, and finally the half-hour Debate on the Adjournment when private Members can raise any matter affecting any Minister provided that legislation is not involved. It will be a strange day if you do not find that more than one Minister has taken some hard knocks at the hands of Government supporters. And Parliamentary Questions and Debates are not the only ways in which private Members can bring their criticisms to bear. A talk with the Minister, a letter, a speech in a Party meeting, may be just as effective. You will also see if you look through *Hansard* how, like its ancestors of centuries ago, Parliament today is giving up much of its time to the grievances great and small of the men and women of Britain, why a disabled ex-serviceman is not receiving a higher pension, why a civil servant was dismissed, or why there are not better postal services in a country village.

The Government back-bencher can undoubtedly make his influence felt, but it is upon the Opposition that the main responsibility for discharging the historic duty of criticism rests. That is why we have what seems at first sight a contradiction in terms—"His Majesty's Opposition"—and why, to go further, the Leader of the Opposition is entitled to a salary of £2,000 a year from public funds. To return to Bagehot, "It has been said that England invented the phrase 'Her Majesty's Opposition': that it was the first Government which made a criticism of administration as much a part of the polity as administration itself. This critical opposition is the consequence of Cabinet government."

It is because we believe in the value of criticism that we have exalted His Majesty's Opposition in this way. But the criticism, to be effective, should be responsible, and the more constructive it is the more it will be effective. One reason why I think that this method of organizing criticism has

worked well is the two party system, the effect of which is that the Opposition must be more than an Opposition. It must also be an alternative Government, ready to step into the shoes of the Government which it is criticizing.

The British system lays great stress on the individual responsibility of Ministers and of every Member of Parliament. Like Burke, one of the greatest students of the British Constitution, we believe that the Member of Parliament should not be a mere delegate, a mere puppet of his constituents. He should be their representative, making up his own mind after taking into account all the circumstances—not least his constituents' views—and acting as it seems to him the general public interest requires.

It is also one of the advantages of our system that it provides a salutary deterrent against the temptation to the private Member to be irresponsible in a different sense. The course recommended by the Government may not always be a popular one—it may be particularly unpopular in a Member's own constituency—but the Government back-bencher has to realize that one of his primary responsibilities is to see that the Government is carried on. If as a result of his opposition the Government is defeated, he must face the consequence that the alternatives are either a Government formed by the Opposition, or a general Election in which he will be involved.

It is also important that only the Government can propose expenditure or taxation. The Opposition and private Members can propose reductions, but the responsibility for the national Budget should rest in one place and one place only—with the Government. Any other system would be inconsistent with the Government's responsibilities for a coherent financial policy.

Lastly, there is the party system itself, and that for practical purposes means the two-party system. There have been times in British history when there have been three parties with substantial followings in the House of Commons, but we have always returned to two parties. Hardly anybody could have predicted in 1906, when the Liberal Party under Sir Henry Campbell-Bannerman was returned triumphantly to power, that in less than twenty years the Liberal Party would be

taking second place to the Labour Party, and that in less than forty years its representation in the House of Commons would have been reduced to a handful. Why has this happened? All sorts of explanations have been given. One is that it is connected with the British electoral system. I think that this is a safeguard against the development of minor or splinter parties. One of the reasons why most British people are opposed to proportional representation is that it tends to foster splinter parties which have no chance of forming a Government and no chance of getting their policies adopted except as a result of bargaining with other parties. Nor do we favour the second ballot because we think that everything should be done to present the electors with a clear choice of possible alternative Governments. There is, however, no reason at all why our electoral system should not throw up three major parties, and I am sure that the explanation is more fundamental. It springs from the recognition by the British people—who are a very practical people—that when they vote they are voting for a Government, and that their votes are wasted if they are spent upon a party which has no chance of forming a Government at any foreseeable date.

Our system is designed—if designed is the right word where the design is less the result of conscious thought than of centuries of experience—for two parties, one of which is to form an effective Government and the other an effective Opposition. This necessarily means that the parties play an extremely important role in British democracy. It is within the parties that broad agreement is obtained on the general lines on which a Government based on the particular party would be conducted, and the secret of such success as the party system has had in Britain lies in the sense among both parties that in the last resort the broad public interest—not local or sectional interests—must prevail.

What is the choice which lies before a democratic country in which there are a great many interests and points of view to be reconciled? One method is to organize each of the main interests and points of view in separate parties, and for the reconciliation between them to take place as a result of bargain-

ing at the General Election and in Parliament itself. Alternatively the different points of view can be reconciled within the framework of the parties, each of which within itself contains the elements from which a Government can be formed. This is the method we prefer.

Professor R. M. MacIver has said that "to find the best means of combining responsibility with representation is one of the most important problems of the modern state." We have gone a long way towards solving this problem in Britain. We have a strong Executive, but no stronger than is necessary to maintain an efficient and consistent administration in accordance with the popular will. We think that it is better that both Parliament and the Government should be strong and vigorous, and that each should be ready and able to take its responsibility without either one sheltering behind or deferring excessively to the other.

Then there is the press. I have often been a critic of certain sections of the press, but my criticisms have been based on a deep realization of the importance of a free and responsible press in a democracy, and, though there are exceptions, the British press as a whole can stand comparison with any in the world. It was said by Thomas Carlyle that there were Three Estates in Parliament, "but in the Reporters' Gallery yonder, there sat a Fourth Estate more important far than they all". There is an element of truth in Carlyle's epigram, and we recognize the special importance of the press by the rights and privileges which we accord to the Parliamentary press reporters and the political correspondents who form what is called the "Lobby". The newspapermen who cover the House of Commons reciprocate by the responsible way in which they discharge their duties and respect the confidences which are often entrusted to them. The press is a check both on the Government and on Parliament.

What of the future of British Parliamentary democracy? There is no doubt that it is as firmly established as ever, and the war was evidence of its vitality and strength. Throughout the bombing of London, Parliament did its work. The signal failure of totalitarian parties either of the Left or the Right

to get a hold in Britain is evidence of the confidence which the British people have in the Parliamentary system. In saying this, I do not mean to suggest that our system is perfect, or that it could not be improved, or, still more, that it could necessarily be transplanted to other countries with different histories, traditions, national characteristics, and problems.

There are two things which I find particularly encouraging for the future. The first is the evidence which the past few years have provided of the place which Parliament occupies in the imagination and the interest of the British people. This is extremely important because there is no more dangerous threat to democracy than apathy and indifference on the part of the ordinary man and woman. "In all forms of government," said Burke, "the people is the true legislator." If the people do not play their part, Ministers and Members of Parliament alike are bound to be sterile and remote from realities. I do not say that there is not room for improvement in this respect. We want our democracy to be even more active and we want a still more informed and politically-educated electorate.

All the same I find reassurance in the many signs of the hold which Parliament has on the British people. It is exemplified by the extraordinary interest which has been taken in recent by-elections, and in a different way by the long queues that day after day wait their turn for admission to the Public Gallery of the House of Commons. It is a healthy sign that something of the order of two and a half to three million people listen each week to Saturday evening broadcasts on the radio in which Members of Parliament describe "The Week in Westminster", and of the order of one and a half to two million every evening last thing at night on "Today in Parliament", a review of the day's proceedings. It is no less encouraging that *Hansard*—in some ways a formidable volume—should sell an average of 11,000 to 12,000 copies compared with about 1,500 before the war.

Another sign of the times has been the foundation in 1944 and the subsequent growth of the Hansard Society. Like many things in Britain, the name of this Society conceals the scope

of its objects, which are: To promote interest in and spread information throughout the world about the institution of Parliament. Membership of the Society is open to any person believing in these objects. The Society now numbers about two thousand members including many firms and institutions, and publishes an increasing amount of literature, including, of course, this journal.

The experience of the present Parliament has shown the flexibility of our parliamentary institutions and how efficiently they can cope with the abnormally heavy demands of the post-war period. The Government has set about the business-like planning of the legislative programme in a way not paralleled before. At the same time, with the general agreement of the House of Commons, a number of important reforms have been made in procedure. These have been designed to reduce repetition, to save time, and to relieve the pressure on the House as a whole by greater delegation to committees, but none of the changes has fettered effective Parliamentary discussion, either of legislation or of all the many aspects of the Government's executive administration.

I am not ashamed of the pride which, as a British citizen and an old parliamentarian, I take in British parliamentary democracy. I am afraid that the British system is not always logical, though in all essentials I would say that it was thoroughly logical. But the British people—for good or ill, I am not trying to dogmatize—are not very much worried about anomalies and illogicalities provided that an institution works. And the supreme justification for our system is that in our British conditions it works very well.

This is not a party matter, and you will not be surprised if I quote once again from a political thinker from whom the Conservative Party derive much of their inspiration—Edmund Burke. Burke said: "Government is a contrivance of human wisdom to provide for human wants. Men have a right that these wants should be provided for by this wisdom." British parliamentary democracy can stand up better than most to this criterion, and I am quite content that it should be judged by this practical test.

## THE STRUGGLE FOR REPRESENTATIVE INSTITUTIONS IN GERMANY—I

by RICHARD K. ULLMANN, Ph.D.(Frankfurt)

*(Dr. Ullmann held various teaching posts in Germany, China and Greece until 1938 when he was sent by the Nazis to the concentration camp at Buchenwald. He worked with English Quaker relief organizations, 1943-6, was a resident staff tutor at Wilton Park, 1947-8, and is now Tutor Organizer of the National Adult School Union.)*

GERMAN parliaments have so often proved spectacular failures that they hardly seem suitable objects of interest for the English who pride themselves, with justification, on having the finest parliamentary institutions in the world. But just because of so many trials and failures, the story of parliamentarianism in Germany is in some ways richer even than that of Parliament in England. English people will find—perhaps with a measure of disbelief, perhaps as a lesson worth reflecting on—that it is not only due to outward pressure that parliaments lose their sway, but that outward pressure might have proved unsuccessful had not parliaments themselves failed.

Parliamentary government in Germany has never been accepted as self-evident as it has in England since the Revolution. Even during the most promising periods there was always a strong opposition, not against the government of the day but against the whole system, considered by many as wrong-headed and un-German. In England Parliament has been the battle-ground of the parties; in Germany, and not only there, it has remained the object of battle, not only regarding its form and structure but also its very existence.

The earliest stages of constitutional development in England and Germany, with all their conspicuous similarities, show a number of portentous differences. Whereas the Carolingian Kings assembled their vassals only for military or deliberative purposes, the Great of the Realm presumed, after the extinction of the royal dynasty, to elect the successor and



thus created a far-reaching precedent. From then onwards their occasional assemblies, called *Reichstag* (Imperial Diet—from *Tag*, “Day” appointed for their meeting) were convened by the reigning monarch to ensure, in his own life-time, the election of his son, often in exchange for considerable concessions.

Thus kingship was conferred by those who were the King’s tenants-in-chief and yet had rights of their own. The most powerful among them were the tribal dukes (tenth to twelfth centuries) who tried to limit the King’s power. But like the King, they were threatened by their own feudal tenants—sheriffs, bailiffs, bishops, abbots, great landowners, holders of regal rights, and cities. The King joined forces with these new social groups and with their assistance overpowered the ancient dukedoms.

The new powers were endowed with special privileges by the Emperor Frederick II who was more interested in Italy than in Germany and wished to keep the latter quiet. In 1220 he concluded the *Confoederatio cum Principibus Ecclesiasticis*, and in 1232 he issued the *Statutum in Favorem Principum*. While the *Magna Carta* of Runnymede recognized *homines liberi* under a *lex terrae* (free men under the law of the land), these two contemporary German charters established a class of *domini terrae* (lords of the land) without submitting them to obligations other than feudal loyalty to their overlord.

Among the temporal and spiritual princes who toward the end of the twelfth century had acquired the privilege of electing the King, the seven most powerful assumed the sole right of election in 1273. They soon formed a college of Electors to check the King’s policy, even to depose him if need be. Their status as partners in the government of the Empire was clarified by the Electors’ Convention of Rense (1338) and the Golden Bull (1356).

Similarly the other princes, spiritual and temporal, strove not only for greater independence from the King but also for a share in the administration of the *Reich*. In the fifteenth century a number of princes other than the Electors had obtained the permanent prerogative of attending the *Reichstag*,

where they formed a second "college" or "bench" (Latin, *curia*), while about 50 of the so-called Free Cities also obtained the right of attendance and of forming the third "college". The members of the *Reichstag* were not delegates or elected representatives as in England but owed their membership solely to their status. The Electors, however, preserved their special prerogative until the reform era of the early sixteenth century.

Thus the composition and procedure of the *Reichstag* became established. The King convened the meetings at pleasure in one of the Free Cities; the decisions were collected in a "valedictory" document (*Reichsabschied*) and were principally concerned with urgent reforms.

After a number of unsuccessful attempts, a measure of reform was achieved under the leadership of *Reich* Chancellor Berthold von Henneberg, Archbishop Elector of Mainz. At the *Reichstag* of Worms (1495) the right of waging feuds was abolished and the "Perpetual Peace of the Land" proclaimed. To protect it, a High Court was established, whose members represented the princes, the only exception being that the chairman was a nominee of the Emperor. The introduction of general taxation (the Common Penny) failed; but in 1500 in Augsburg a *Reich* Government was inaugurated consisting of 21 persons, princes and representatives of the other Estates. After 1519 the Emperor had to sign, before election, a "capitulation" submitted by the Electors. This whole process of reform indicated the transformation of the *Reich* from a feudal monarchy to an aristocracy of princes.

The reforms, however, made little impact on the subsequent evolution because there was no real imperial power to be shared or divided between Emperor and *Reichstag*. The empire was like a frame without canvas. The Emperor's power depended on his demesnes both inside and outside the *Reich*, not on his imperial rank; that of the princes equally on their demesnes, not on their status as members of the Estates. The struggle for power soon became one between sovereigns rather than between overlord and social classes growing to political maturity. Only splinter states, e.g., the 1,500 "imperial" counts and knights, found organizational

protection and help in the 10 areas (*Kreise*) created by the *Reichstag* of Cologne in 1512, a system preserved right to the end of the Holy Roman Empire.

While attempts at constitutional reform were continuing, the larger part of the *Reichstag* business was taken up with the Reformation and its repercussions. Soon the princes and the Estates were hopelessly divided into Roman Catholic, Reformed and Lutheran parties, and the *Reichstag* lost much prestige and authority in the ensuing century. The Thirty Years War, which at one time promised to restore true imperial power to the Roman Catholic Emperor, ended nevertheless, after strong resistance from several *Reichstags*, with the full sovereignty (*Libertät*) of the princes. It is true they continued their membership in *Reich* and *Reichstag*, though in 1648 majority decisions were abolished for matters spiritual, and in 1654 even for financial contributions, and each prince was left to his own counsel. The *Reichstag* had changed from an assembly of Electors, princes, archbishops and burgomasters, into a conference of envoys and *chargés d'affaires*.

In 1663 this conference was declared permanent and ended its inglorious life of ridiculous antics and assumed importance only in the upheaval of the Napoleonic Wars. In 1803, when four Electors and four other princes had formed, at the behest of Bonaparte, a "Deputation" for reorganization, their decisions, reached under continual French pressure and almost tantamount to the complete dissolution of the Holy Roman Empire, were eventually submitted to, and obediently accepted by, the *Reichstag*. The Treaty of Pressburg (1805) recognized the sovereignty of Wurtemberg, Baden and Bavaria without mentioning in any way their relation to the *Reich*. Finally, on 1st August, 1806, Napoleon informed the *Reichstag* that he had assumed the rank of Protector of the Confederation of the Rhine (which comprised 16 German States) and that he no longer recognized the German constitution. This meant no more than the execution of a corpse.

It should not be forgotten, however, that in Germany the forces which had prevented the formation of a strong

central imperial government with a parliament similar to that in England were powerful enough to acquire a constitutional significance of their own and to develop various methods of political representation.

As has been pointed out, some feudal tenants acquired in the course of the twelfth century the status of princes by obtaining from the King certain royal prerogatives such as administration of law and mint. The other feudal lords, however, and the majority at that, remained either in "immediacy" (direct dependency) to the Empire or were in many cases brought into a degree of dependency on the new principalities, though without losing altogether their own ancient privileges. To protect themselves against their new rulers, they joined forces, the knights forming the gentry, and the lords spiritual the clergy, while the larger towns co-operated as a third estate. The estates had traditionally taken an active part in local administration; but soon the more powerful among them acquired the right and duty of participating in an assembly convened by the prince and called "territorial diet" or *Landtag*.

Their composition was different in different parts of Germany. In the Tyrol, Wurttemberg, East Frisia and elsewhere even the peasantry was represented. In Wurttemberg and the Electorate Trier the gentry, preserving its "immediacy" to the Empire, did not participate. In Austria and the Electorate Cologne the gentry consisted of two separate estates, the higher of which assumed the rank of nobility. The diets of Flanders (in those days part of the Empire) and Wurttemberg were only representative of cities; elsewhere cities played a small part. In spiritual principalities the clergy were predominant as a matter of course. Sometimes the university was admitted.

The diets, besides presenting grievances, aspired above all to make new taxation dependent on their consent and to extort concessions for their grants, such as supervision of the financial administration, participation in legislation, and limitation of princely government—all this with varying success in different parts of the Empire.

There was no accepted form of procedure, but in many cases conventions were agreed upon between prince and estates by which the former guaranteed the privileges of the latter and admitted their right of disobedience and resistance if the convention were broken. Such treaties were concluded during the fourteenth century in Bavaria, Mecklenburg and Brunswick, during the fifteenth century in the Electorate Saxony, Brandenburg, Wurttemberg, and similar arrangements were made all through the sixteenth century and right into the seventeenth. It was the system inaugurated by *Magna Carta* and afterwards adopted all over Europe from Spain to the Baltic. Another example, already mentioned, is the "capitulations" to which after 1519 the Emperor had to agree before his election.

The ascendancy of the territorial diets failed eventually when in the seventeenth century, with the progress of modern administration and the rise of professional officialdom, the prince could increase his influence, whereas during the terrors of the Thirty Years War the estates realized their weakness and sought protection under a powerful overlord. Only in the narrow atmosphere of some smaller principalities did the estates manage to preserve their former status little impaired, the largest being Mecklenburg and Wurttemberg. In the latter they kept their "good old right", as guaranteed in the treaty of 1514, down to the days of Napoleon Bonaparte. In the former as late as 1755 another charter of the mediæval type was agreed upon by Duke and estates and was preserved right down to 1918.

On the other hand, Maximilian of Bavaria, after having convened the Diet of 1612 for the last time, continued collecting taxes without further consultation. He thus became the first absolute prince. In Austria the defeat of the estates, which were largely Protestant, was part of the victories in the Thirty Years War of their Catholic Duke, the Emperor Ferdinand II, who achieved a similar success in his non-German demesnes such as Bohemia, but failed as Emperor in the Empire. The agglomeration of different principalities under one rule, each with estates of its own, facilitated the

ascendency of the prince. An example of portent is that of the Elector of Brandenburg who deprived the various estates of his different lands of their status and thus built up his standing army, his bureaucracy of experts, and his absolute government. His son, impressed by his own power, assumed the title of King in Prussia.

A development almost parallel to that of the territorial estates was that of the Free Cities, i.e., cities "immediate" to the Empire. With the rise of the principalities in the tenth to twelfth centuries, a number of towns achieved great influence and formed city-states with advanced constitutional systems. Many had their democratic citizens' assemblies, but normally the real power rested with the Large and Small Councils and the Burgomasters. In most cases they were aristocratic republics with political representation of the estate type.

In the sixteenth and seventeenth centuries the smaller city-states fell under the supremacy of neighbouring princes who even before then often possessed towns of an importance greater than that of some of the small Free Cities. In this way the development of urban constitutions was by no means confined to city-states. Four of the latter, however, survived even the Napoleonic era, viz., Frankfurt, Hamburg, Bremen and Lübeck; and except Frankfurt, which was annexed by Prussia in 1866, they have remained "free" within the *Reich* right to our own age.

The Napoleonic Wars not only destroyed the Holy Roman Empire but created a number of new middle states, e.g., Württemberg and Baden in the south-west (1805) where constitutional development after the French pattern was set in motion, although their monarchs tried at first to emulate the French Emperor by sweeping away the old estates. Only after the Congress of Vienna was the impact of the French Revolution on German political life fully felt and, according to article 13 of the Vienna Confederate Act, each member state of the new German Confederation was advised to establish a representative system.

In a number of small and middle states the princes acted

on this advice; nowhere, however, was the constitution a symbol of popular victory over absolutism, but was always the free gift of a gracious monarch. The Grand Duke of Saxe-Weimar was the first to introduce representative institutions, against the conservative views of his friend and adviser Goethe (1817), and the south-west German princes soon followed, mixing French parliamentary forms with the tradition of the German estates. Nevertheless, and in spite of some amusing features of exaggerated self-importance prevailing in these petty parliaments, their initiative fostered the growth of a liberal spirit in their territories which have ever since been in the vanguard of democratic achievements.

The most powerful personality of the day, vom Stein, was particularly in favour of the "German" form of estates in contrast to the "French" parliament. But neither in the German Confederation nor in Prussia did he succeed in introducing political representation of the people, and as late as 1831 he admonished the princes to establish German estates for the support of their loosely knit "Confederate Diet", which was not a diet at all but a standing conference of envoys in Frankfurt, very similar in kind to the League of Nations and the United Nations organization.

But in Prussia the liberation of the peasants and the reorganization of local government, Stein's major work, opened the way for future constitutional development. In 1813, for the first time, peasants in Prussia obtained some political rights when they were represented on the District Committees for the conscription of the Territorials. In 1821 district diets were established, but in such a way that in 1823 they were composed of only 979 town and 975 peasant delegates against about 10,000 big landowners. In 1823 the larger administrative units, the provinces, each comprising a number of districts, received their diets. But neither district nor provincial diets held their debates in public, and were confined in their activities to strictly local and administrative matters without any political rights. The province of Westphalia, where the estates had preserved until 1806 the right of granting monies, did not recover this

privilege during the post-Napoleonic restoration. Still, the diets of the Rhineland and Westphalia, the two westernmost provinces of Prussia, served as a practice ground for many a political talent which was to come to the fore in 1847 and 1848.

Although the Prussian King, Frederick William III, had between 1810 and 1820 solemnly promised a constitution no less than five times, he managed to evade its fulfilment because the liberal *bourgeoisie* of these western provinces wished for a parliament of the French or American type, while the East-Elbian *junkers* opposed not only parliamentarianism but also the modernization of the ancient estates.

Even the French July Revolution of 1830 had practically no effect on developments in Prussia and Austria. It was different in many of the smaller states. Several princes were ousted by their peoples, and Baden gave full freedom to the Press, in contravention of a resolution of the Frankfurt "Confederate Diet". Huge meetings were convened in many places, e.g., at Hambach in 1832, and the establishment of a free parliamentary Germany was demanded.

The climax of the reactionary efforts against the popular movement came in 1837 with the abolition of the Hanover constitution of 1833 by the arrogant Tory King Ernest August, Duke of Cumberland and uncle of Queen Victoria. He relied on a resolution of 1832 of the "Confederate Diet", which backed him even after he had broken his oath. Seven professors of Göttingen University, among them the Grimm brothers—famous the world over for their collection of fairy tales—refused to do the same and were dismissed by the irate prince. But even he was shocked by the strong feelings aroused by his action among liberal people all over Germany.

In spite of the growth of the liberal movement the new King of Prussia, Frederick William IV, refused, like his father, to give the promised constitution ("an inscribed sheet of paper, a second providence as it were, coming between God Almighty in Heaven and this land"). But when in 1847 he needed money for a new railway which he could obtain only with the consent of the provincial diets, he



assembled them for a "Convention of the Provincial Diets" consisting of four *curiae*. It was to have only deliberative rights in legislation and was not to meet regularly. In spite of sharp protests it was prorogued after a session of only four months. Still, it was the first major parliament on German soil, leading to the first formation of parties within parliament and producing a number of interesting discussions in which young Bismarck had his first encounters with the progressive forces. At the time many expected, in vain, that it would play the part of the Nobles' Assembly immediately before the outbreak of the French Revolution of 1789. It missed its opportunity, however, and a third French revolution was necessary before the German people, living in 39 sovereign States, tried to take the political decision into their own hands.

The movement for a united parliamentary Germany in the beginning of 1848 and again in the years between 1859 and 1866 is in many ways comparable with the present movement for a United Europe. There are important differences, of course; whereas in 1848 German romanticism could find inspiration from the memories of a common political past in the mediæval *Reich*, Europe, at least in its modern dimensions, has had no common political past and the memories of the Roman Empire and Charlemagne make no appeal to the man in the street.

On 5th March, 1848, a meeting of 51 liberal deputies from various State diets, led by the south-west Germans Mathy and Bassermann and consisting mostly of south Germans with only two from Prussian Rhineland and one from Austria, met in Heidelberg and developed a full constitutional programme. The man of the hour was Heinrich von Gagern, minister of Hesse, who a week earlier had moved in the Hessian diet that the German Confederation should have a monarchic head supported by a German parliament and a federal cabinet responsible for foreign affairs and defence. He now undertook, on behalf of the 51, to have their programme accepted by the State governments, and indeed he induced that of Baden to propose in the "Confederate Diet" of Frankfurt the convening of a German parliament.

When the 51 met, the French February Revolution had shaken Europe, but Germany, though very much awake, was still quiet. At the eleventh hour the "Confederate Diet", under the guidance of the Prussian envoy Dönhoff, tried to make up for past omissions and thus to obtain the leadership of the movement. But it was too late: revolutionary riots shook the capitals of the two great powers and under their impact the King of Prussia accepted the Gagern plan on 18th March. In a similar way the princes of other states were forced to act.

In this atmosphere the resolution of the 51 was put into action and 500 people, more or less self-appointed or at best delegates of diets or private organizations, gathered in Frankfurt on 31st March for the so-called Pre-Parliament. Only two of them were Austrians; the majority of the 114 Prussians came from the Rhineland, while little Baden and Hesse sent 72 and 81 respectively. Here it was agreed that a constitutional assembly should be elected by universal vote, one member for every 50,000 "souls". The "Confederate Diet" accepted their resolution and asked its member-governments to effect it. It even convened a constitutional committee of 17 for the discussion of Prof. Dahlmann's draft of a German constitution.

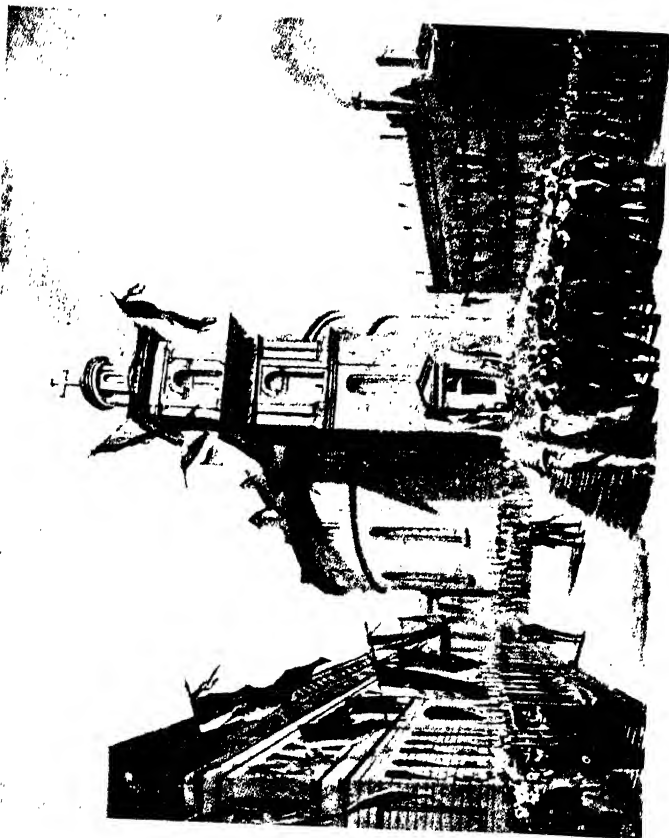
The radicals of social-revolutionary brand, among them a few early Marxists, disapproved of this moderate course and tried, in April, 1848, a socialist rising in south-west Germany. In spite of the very sincere convictions they held, it was a rather ruritanian enterprise, and considering the sociological conditions of the nineteenth century was an attempt made at least 40 years too soon. After its equally ruritanian suppression, much revolutionary energy which might have been useful in the coming parliament was spent in vain. When four weeks later, on 18th May, the National Assembly opened solemnly and amidst tremendous enthusiasm in St. Paul's Church at Frankfurt, the most propitious moment for the success of the liberal movement had already passed.

This National Assembly was, if we include Austria, the

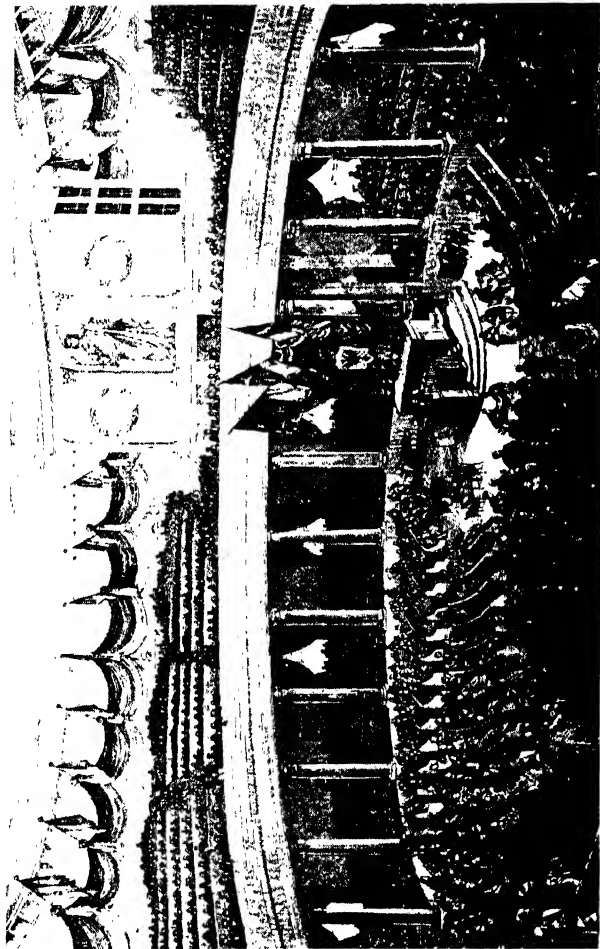
only all-German parliament ever, and has therefore remained an inspiration for German democrats to our day.

Not in all States was the election in accordance with the rules laid down by the Pre-Parliament, e.g., in Bavaria where the vote was made dependent on a census, and in parts of the Austrian monarchy where elections were delayed or replaced by appointment through the authorities. Still, it is true to say that on the whole the deputies were chosen by universal manhood suffrage. It is the more surprising that of the 831 persons who at one time or other filled the 586 seats of the National Assembly during the year of its existence, no fewer than 569 belonged to the professions and the higher civil service and about 50 more may have been graduates of some sort or other, whereas only about 150 came from industry and commerce; there was not one representative of working class background. The representatives, full of high hopes and good intentions, had not the first idea of parliamentary discipline, and the avalanche of speeches and motions, the desire for airing doctrinal views and great feelings, hampered the progress of business, sometimes to the point of frustration. When after several weeks the sensible suggestion was made that certain amendments should be discussed only if at least 20 members joined in moving them, it was defeated for the benefit of the individual member.

It was not long before parties were formed, the most important being the right-centre which advocated a constitutional federal monarchy with an equilibrium between emperor and parliament, and the left-centre which favoured a parliamentary democracy with a monarchic head. The radical-left, split into various sections, desired a unitary republic with one chamber, the radical-right hoped for a counter-revolution and the restoration of a decentralized feudal absolutism. The right-centre was led by von Gagern and included a number of professors such as Dahlmann, Droysen, J. Grimm, Waitz and Welcker. The party affiliations were complicated by cross-divisions between the supporters of a Greater Germany, led by Austrians and advocating an



Members of the Pre-Parliament entering St. Paul's Church, Frankfurt  
*After a drawing by Bentadour*



A session of the Pre-Parliament. Below the Imperial Eagle is Heinrich von Gagern, the President. In front is the rostrum with a delegate addressing the assembly. The official reporters are sitting at tables in front of the rostrum.

*After a lithography by E. C. May, from an original drawing by Fr. Bambergcr*

electoral monarchy under Austria, and those of a Smaller Germany who wished to exclude "foreign" Austria and to give the leadership to Prussia. In the course of events many saw the need to turn from the former attitude to the latter.

The first practical step taken by the Assembly and filling the six first weeks of debate was the establishment of a provisional government with a cabinet and a Viceroy. For the latter an Austrian Archduke was chosen after a personal triumph for Heinrich von Gagern, whose brilliant oratory was unfortunately mistaken for statesmanship. Next the debates turned to the constitution and began with long discussions on fundamental rights, dictated partly by an academic thoroughness which wished to begin at the beginning, partly by true political wisdom, since a discussion of more topical problems would have divided the Assembly rather than given it time to settle down.

Dahlmann's draft constitution was a compromise between constitutional absolutism and English parliamentarism, including some features of the U.S. pattern. The constitution finally adopted by the National Assembly in February, 1849, made ample use of it: a hereditary emperor was to share the government with ministers responsible to, but not elected by, parliament, each document issued by the emperor needing a ministerial counter-signature. The parliament was to consist of the House of States comprising 192 members, half of whom were to be nominated by the State governments, the other half to be elected by the State diets for six years. They were not to be directed delegates but free representatives, voting according to their individual convictions. This House could not be dissolved. The Lower House was to be elected by universal, equal secret and direct ballot and was to control foreign affairs, defence and economic affairs. Bills accepted by the two Houses in three consecutive sessions would become law against the emperor's veto.

The National Assembly set up an Economic Committee which decided that the *Reich* should be a Customs Union with one system of measures, weights, and currency. At its request the Assembly abolished all squirarchical remnants and strove

towards a fully liberal economic system. The Assembly further accepted full freedom of conscience and the disestablishment of the churches; it also adopted freedom of science and learning, and compulsory education under state supervision to the exclusion of clerical influence except for religious instruction.

The major difficulty encountered by the National Assembly was the struggle for the establishment of its supremacy over the two great powers. Very soon it began to organize a national army and navy, but the actual military power remained with the Austrian and Prussian troops which were under the command of counter-revolutionary generals. This created the paradoxical situation, recurring in some measure under the Weimar Republic, that the National Assembly and its cabinet had to rely repeatedly on forces which were their enemies. Prussia, for example, was willing enough to apply, on behalf of the provisional *Reich* Government, military sanctions against Denmark in connection with the Schleswig-Holstein problem. But when under the pressure of Russia and Britain she concluded the armistice of Malmö, no strongly worded directives from Frankfurt would alter that decision, and it was a miserable spectacle to see celebrated members of the Frankfurt Assembly eat their words and vote for the acceptance of the Malmö armistice only a few days after having censured Prussia for its conclusion.

This failure led to another revolutionary outbreak of the left and resulted in the murder of two right-wing representatives. The riots brought about a revulsion of feeling and thus strengthened further the reactionary elements which, after having shown their independence from parliamentary government, now took direct action against it. The Austrian army under Windischgrätz conquered Vienna and established a white terror, during which even a representative of the Frankfurt Assembly, Robert Blum, was executed—"by mistake". The Austrian diet was pushed into the background. Not much later the King of Prussia felt strong enough to deal with his own parliament.

When on 18th March he had been compelled by that

“evil thing”, the revolution, to issue edicts introducing freedom of the Press and convening a Prussian diet, his advisers had hoped to forestall by this move the all-German Pre-Parliament of Frankfurt and its successor. This plan failed, but it was an ill omen that two so-called National Assemblies met within four days, one for the *Reich* in Frankfurt, one for Prussia in Berlin, and that the Frankfurt Assembly had to deal on the day after inauguration with the ticklish question, involving its claim of supremacy over single States, whether members elected for both national assemblies should belong to both or to one only. Not only the Prussian diet but those of other states too, while keeping close relations through inter-parliamentary delegates, were in many ways jealous of the Frankfurt Assembly and vice versa. Heinrich von Gagern and his supporters realized that a Prussian National Assembly would strengthen the hegemony of a state which was to merge in the *Reich* if national federation or integration should ever be possible. For this reason they would have preferred the continuation of the reformed provincial diets to the foundation of an all-Prussian chamber.

The National Assembly in Berlin, though somewhat more to the left than that of Frankfurt, was more sober, industrious and “Prussian” in its character. It is true that some of its members, coming from the East, were illiterate and kissed the hand of the royal commissioner when he paid their fees for the first time. But on the whole a meeting of representatives from all corners of Prussia’s scattered provinces worked strongly for her consolidation. It was not really surprising that the Prussian National Assembly, elected under the impact of an all-German national liberal revolution, would refuse taxation imposed by the all-German National Assembly created by the same movement. This division into several parliaments could only accelerate the victory of the counter-revolution.

When the Berlin mob tried to bully the assembly for the benefit of its left wing, the right wing reaction organized its forces, and a clash between troops and civilians at Schweidnitz led to an open conflict between King and Assembly about



the status of the army. Then, when the draft constitution omitted the words "by the grace of God" from the King's title, he appointed a reactionary ministry and the Assembly was forthwith expelled from Berlin to Brandenburg. The majority, considering this transfer illegal, refused to attend at Brandenburg; so the King dissolved the Assembly and on 5th December, 1848, he imposed a constitution of his own, which tied the vote to a certain census. The chamber thus elected accepted his charter, which once more was a free gift of the monarch and not an agreement between king and people.

A monarch of so passionate anti-parliamentary and anti-democratic feelings would never have thought of even imposing a constitution had he not intended to deal by this apparently liberal move a severe blow to the Frankfurt Assembly. For the same reasons the liberal politicians in Frankfurt fought the apparently progressive establishment of a Prussian constitution. The fronts were strangely turned: a parliament was introduced to defeat the parliamentary idea.

A few months later, in March, 1849, the Frankfurt Assembly made a last and supreme effort to save at least part of the revolution by offering the imperial crown to the same King of Prussia. Though ambitious enough to desire Prussian hegemony in the *Reich*, he would not think of accepting a "crown of filth and mud" from the hands of the representatives of the people; in his view only his peers had the right of electing an emperor. His half-hearted refusal was the last blow to the prestige of the National Assembly in Frankfurt. Another wave of risings swept over Germany, the main centres being Saxony and Baden; but they were crushed under Prussian pressure or by Prussian troops. The Austrian and Prussian Governments recalled from Frankfurt the representatives elected in their territories, and significantly enough the majority obeyed as though they were delegates of their reactionary governments. A left-wing "rump" moved to Stuttgart and was finally dispersed at the point of the bayonet. The right-centre group assembled once more to support the "unity" policy initiated by Frederick William IV, but when

under the pressure of Russia and Austria he had to renounce it, these "parliaments", too, dissolved. Two years later, the first German navy, the pride of the National Assembly of Frankfurt, was sold by auction.

The true catastrophe of the German revolution in 1848 was not that its parliaments had failed against the traditional weight of militarism and bureaucracy for whatever historical, sociological or personal reasons, but that in wide classes of the people all political self-confidence was destroyed for a long time to come. The reactionary forces have, before and since, done their best to foster this sense of inferiority, and even today many Germans have not outgrown the feeling that politics and public life are not their responsibility and should be left to the expert.

The methods of crushing the spirit of self-reliance can be seen from the way in which Frederick William IV treated the parliament he himself had created. When the imperial crown was offered to him, the Prussian chamber expressed the wish that the King should accept. For this presumption it was dissolved and a system of ballot in three classes was imposed which, giving to the few rich as many votes as to the many poor, brought a clear royalist majority. This new chamber approved the changed constitution and even agreed to reduce the power of the Lower House as to money grants. Yet even then the King took his oath only on condition that the chamber would make it possible for him to govern; in other words, it was a very conditional sort of oath. After his death in 1860 a testament was found in which he implored his successors to abolish both constitution and parliament.

In his fanatical and morbid royalism he little remembered the sound advice given by the Prince Consort Albert, who wrote to him in 1847: "The monarchic principle is historically not ancient German but is only an imitation of French absolutism. The demand for the restoration of the rights of the people is not French and radical, but truly German and conservative."

(*To be concluded.*)

## THE EARLY HISTORY OF STANDING COMMITTEES: 1832-1905

by C. J. HUGHES

*(Mr. Hughes is a Lecturer in Political Philosophy in the University of Glasgow, and was formerly a Student of Nuffield College, Oxford.)*

**S**TANDING Committees are the miniature Committees of the whole House to which recent improvers of the procedure of Parliament have turned in the hope that a greater use of them would alleviate the pressure of business on the floor of the House—in so far as this can be effected by a merely procedural device. The text-books on Parliament, quite properly, say that this institution was invented by Gladstone in 1882-3, then lapsed, was revived in 1888, and re-modelled in 1907. In view of their increased importance it seems fitting that rather more should be known about the pre-history and early career of these Committees.

The idea of taking the Committee stage of Bills in a Select Committee instead of in the Committee of the Whole was not new in 1882. The colloquial name of "Grand Committee" applied to Standing Committees suggests that the origin of the device is to be found in Parliament's heroic period.

There were, in fact, two traditions of Grand Committees, and the connection between them is not very clear. In the first place there were the three rather mysterious initiatory Committees of the Whole House for Religion, Trade and Money. Before the Procedure Reforms of 1854, the Standing Orders of the House of Commons on Public Business occupied only a single quarto page. Standing Order One provided "That no Bill relating to Religion . . . be brought into this House, until the Proposition shall have first been considered in a Committee of the whole House, and agreed to by the House". Standing Order Two provided in the same terms for

Trade; S.O. Three is still with us (S.O.s 79 and 82) and provides *mutatis mutandis* for finance.

In the second place there were the Committees which were appointed sessionally *pro forma*, properly called Grand Committees, discontinued in 1833. These were the classic Committees on Religion, Grievances, Courts of Justice, and Trade<sup>1</sup>. In 1833, however:

“On this Resolution being read, Mr. *HUME* said, that in this the first Reformed Parliament, this was a matter which deserved consideration. They must all be aware that this Committee had been hitherto a complete dead letter. . . . He threw out this as a suggestion whether it would not be desirable, upon this the first meeting of a Reformed parliament, that Committees of this description should be rendered really efficient.

A subsequent speaker observed that since the period of the Long Parliament, the Committee on Religion had only been used once.<sup>2</sup>

Lord Althorp, finding the sense of the House was with Hume, withdrew the motion to appoint these Committees.<sup>3</sup> It is possible that the junior Tory Member for Newark, young Mr. W. E. Gladstone, heard Hume's speech on reviving and making effective the Grand Committees.

The real history of Standing Committees, as opposed to romance, starts in 1848. In that year Thomas May published a pamphlet, *Remarks and Suggestions with a view to facilitate the dispatch of Public Business*. Ingeniously appealing to precedent, which he knew to outweigh a libraryful of reasons, he proposed *inter alia* the revival of alleged ancient procedure on the Committee stage.

“By the ancient practice of the House, Public Bills were, in nearly all cases, committed to Select Committees, instead of to Committees of the whole House; but this is

<sup>1</sup> The old Committee on Privileges was fossilized half-way between Select Committee and Grand Committee of the Whole.

<sup>2</sup> *Hansard*, 6th February, 1833, col. 228/30.

<sup>3</sup> On 13th February, 1833.

now, perhaps, too rarely done, and according to the modern practice, whenever a Bill has been referred to a Select Committee, it is re-committed, as a matter of course, to a Committee of the whole House. It is submitted that this re-committment is very frequently an unnecessary proceeding, and ought not to be resorted to except when the amendments have been very numerous.”<sup>1</sup>

Six years later he elaborated his own hint in a famous article published anonymously in the *Edinburgh Review*.<sup>2</sup> In this article he pointed out that there was no body intermediate between the ordinary Select Committee of fifteen and the Committee of the whole House of 670, and drew attention to the old system of Grand Committees. The plan he outlined is considerably different from that later adopted: it appears that he still had in mind the idea of a Committee initiating legislation. In some respects he followed the *bureau* system of France, proposing that the House be divided into six Grand Committees of 110 Members each, to whom could be added fifteen or twenty Ministers and other leading Members, who would be nominated to serve on all the Grand Committees. These Committees were to be chosen (and here he forecasted the modern system) by a Committee of Selection “to secure an equal representation of political parties, interests and classes”, and at the same time to pursue the opposite principle “to maintain in each a preponderance of members more particularly conversant with its peculiar department of business”. The Committees might be specialized as follows: (1) Religion, (2) Law, (3) Trade, (4) Local Administration, (5) Colonies and India, and (6) Education, etc. The public and reporters were to be admitted.

The advantages later actually derived from “Grand Committees” were in part foreseen: a school for Members, more careful revision (“next to an epic poem we believe an Act of Parliament to be the most difficult of compositions”), and avoidance of the evils of Select Committees. Then in a

<sup>1</sup> Quoted from second edition, dated 1849.

<sup>2</sup> *The Machinery of Parliamentary Legislation*. [T. E. May]. *Edinburgh Review*, January, 1854, Vol. xcix.

phrase he epitomized the modern conception of these Committees, "little Parliaments, as it were, in themselves".

In the same year (1854), perhaps as a result of this article, a Select Committee was set up to report on procedure.<sup>1</sup> May gave evidence: he suggested that a "Select Committee" should sit upon certain types of Bill in place of the so-called Committee of the Whole, and that except in unusual cases the Bill should not be re-committed to the Whole. Essentially it was the application of the House's procedure on railway Bills to consolidation Bills. The other witnesses, the Speaker and the Chairman of Committees, agreed with May: the latter considering that, though the change might be desirable, the House would be too jealous of its prerogatives and oppose the Bill on Report.<sup>2</sup> The Speaker's evidence was precise and emphatic: like May he thought in terms of a Select Committee taking the place of the Committees of the Whole, with a recollection of supposed seventeenth century precedents.

The Select Committee of 1861<sup>3</sup> followed in this matter the lines of the Committee of 1854. In its report the evidence of the Speaker of the day is quoted as decidedly concurring in the opinions of his predecessor. The familiar arguments were used, analogy of railway Bills, the echo of the old Committees on Trade and Religion, the survival of the Committee on Privileges, the example of the United States, the safeguard of the Report stage. No effect, however, was given to this part of the report.

The Committee of 1871<sup>4</sup> only examined the Speaker and Sir Erskine May. The latter "merely reverted to the suggestions that have been made on former occasions" and elaborated them somewhat differently, suggesting that all who come should have voices. His vaguer utterances were the more prophetic, ". . . something between a Select Committee and a Committee of the Whole House; a Grand

<sup>1</sup> Report from Select Committee on the Business of the House, 1854.

<sup>2</sup> A recurrent bogey, e.g., First Report, Select Committee on Procedure. (H.C. 9—1) of 1945, q. 28. †

<sup>3</sup> Report from the Select Committee on the Business of the House, 1861.

<sup>4</sup> Report from Select Committee on Business of the House, 1871.

Committee". His questioners appear to have been familiar with his *Edinburgh Review* article. The Speaker agreed with May.

This particular Select Committee was one of the less successful ones. It was not that the witnesses disagreed; they agreed closely, but the views of the members of the Committee remained various. Mr. Rathbone, one of the members, strongly supported May's proposals, but the proceedings seem to have attracted little attention either in Parliament or outside. Nothing was done.

In 1878 another Committee was appointed.<sup>1</sup> Like the Committee of 1861, the Committee was of the opinion that the practice of omitting the Committee-stage in the whole House "may be conveniently reverted to in the case of consolidation Bills, and of some others, after they have been examined by a Select Committee".

May gave his familiar evidence, now visualizing four committees—Religion, Law, Trade, Local Government and Taxation. "It would be no part of my scheme that Bills of a political character should be referred to these Committees, but only Bills of a practical kind, which would not involve party questions." The Speaker on the whole endorsed May's evidence; in regard to Standing Committees, Rathbone<sup>2</sup> appears to have been the greatest enthusiast.

In addition to recommending once more the adoption of the device of specialized Grand Committees, this Committee contained the germ of the present Scottish Standing Committee. It was the famous Committee which so impressed Redlich because Parnell served on it. Among other proposals, probably designed to facilitate intelligent obstruction, Parnell moved a Resolution for specialized Grand Committees for England, Scotland and Ireland, which was defeated.

Gladstone outlined the scheme of Standing Committees in a great speech that deserves to be quoted in full,<sup>3</sup> and finished with a peroration:

"I cannot but contemplate with the utmost joy the

<sup>1</sup> Report from the Select Committee on Public Business, 1878.

<sup>2</sup> Rathbone was a disciple of May, and published an article echoing May's *Edinburgh Review* article in the *Fortnightly Review* of January, 1881.

<sup>3</sup> *Hansard*, 27th November, 1882, cols. 142-153.

fruits that will ultimately proceed from it—greater satisfaction given to all wants, both local and Imperial; the attention of the House as a whole concentrated more worthily and systematically upon the greater subjects; the younger Members of the House, as I have said, not shut out from the first fair opportunities of manifesting their capacity to serve their country; a greater amount of work . . . done for the advantage of the country . . . and, finally . . . a considerable relief for the Members of Parliament from the enormous physical labours which they have been called upon to endure in recent times. These are the great fruits and advantages which I think it right to present to you. I do not attempt to dwell on the future; but I think I have said enough to show that this modest experiment which we propose, and which we look upon as the best and healthiest part of the whole of our scheme with regard to Parliamentary Procedure, because it is a liberating, and not a restraining part—that this experiment—an experiment which, as we firmly believe it, shall be successful—will ultimately develop itself into a most profoundly valuable National institution.”

Sir Assheton Cross, in reply, made the extremely English objection that this system resembled the foreign system of *bureaux* and had been “recommended by no authority except one of the Clerks of the House. [Mr. Gladstone: Three Speakers.] . . . They were entering upon a new and dangerous course . . . the Resolution appeared to him to make a mixture and a bungle. . . .” But the real conservative objection was voiced by W. H. Smith, that “it had been distinctly stated by prominent Members of the Liberal Party . . . that the great object of pushing forward these Rules was that the House might be turned into a Bill-spinning machine”.<sup>1</sup>

The debate continued five days. The Opposition elabor-

<sup>1</sup> “It would be a great mistake to think that all you have to do to improve the procedure of the House of Commons is to make it turn out the largest amount of Bills in the shortest amount of time. That is all right if you are working a sausage factory; it is not quite the same in regard to matters which affect the lives and happiness of vast numbers of people.”—Mr. Churchill, *Hansard*, 24th August, 1945, column 994.



ated arguments that modern Parliamentarians would find distressingly familiar, then to everyone's surprise, suddenly packed up, apparently from sheer inanition, and agreed. The Standing Committee resolutions were launched into history as temporary Standing Orders.

The Queen's Speech of the session of 1883, after giving a vigorous stir to the Irish mud, proceeded: "Measures will be promptly submitted to you for the codification of Criminal Law; for the establishment of a Court of Criminal Appeal; and for the amendment and consolidation of the laws relating to Bankruptcy and Patents. There will also . . .", etc. In the two previous sessions the Government had unsuccessfully introduced Bills upon these four subjects: these measures were regarded as the important ones of the session. On 15th March the Committee of Selection reported that it had nominated Members to serve on the Standing Committees on Law and Trade. The Bankruptcy Bill and the Patents for Inventions Bill were referred to the Committee on Trade, the Court of Criminal Appeal Bill and the Criminal Code (Indictable Offences Procedure) Bill, to the Committee on Law and Courts of Justice.

Meanwhile, at a Conservative Banquet at Kirby Moorside, Mr. J. Lowther, M.P., suggested that "Attempts had been made to remove from the immediate control of the House of Commons the consideration of the practical details of legislative enactments and to refer them to carefully packed representatives of the Birmingham caucus. He ventured to think that Members would consider when a Bill came out of that select *coterie*, and when that monstrous farce had been done, the serious business of legislation would begin?"<sup>1</sup> But needless to say this charge did a serious injustice to the Committee of Selection, whose work was more accurately criticized by Lord Randolph Churchill for the opposite defect. "If hon. Members from Ireland sitting below the

<sup>1</sup> See *Hansard*, 3rd April, 1883, column 1,281, quotation from *The Yorkshire Post* of 28th March. Cf. *Daily Express*, 18th November, 1948. "212 voted for a Tory motion that the whole House and not a selected few should discuss the line for line details of the Bill. The Government overruled them" . . . (Steel Bill, 1948).

Gangway on the Opposition side were classed as part of the regular Opposition it would be found that in the Grand Committee on Law the Government only had a majority of three, while on the Committee of Trade and Commerce they were in a minority of two." Parnell himself was on the Grand Committee on Law, and his lieutenant, Justin McCarthy, was on the Trade Committee.

The first Standing Committee to meet was the Committee on Trade, on Monday, 9th April. *The Times* reported the proceedings on Wednesday, 11th April. The report was very full and unusually dull. Some precedents were created at this momentous session (the general procedure seems to have been discussed beforehand by the Chairmen behind the scenes). Members were asked to rise to speak, addressing the chair, and were told that, while it would not be out of order to call hon. Members by their names, as far as possible procedure should be assimilated to that of the House in Committee. Although the room was arranged as a miniature House of Commons, at this sitting Members sat indiscriminately on benches on either side. Discussion started with the familiar wrangle about Ireland.

Already in the second Committee (the first on Law) which sat on the Thursday a party division became perceptible, the Conservatives sitting as in the House on the left and the Government on the right.<sup>1</sup> In the later sittings, as at the present day, the arrangement was very nearly that of the House. "In the case of the Grand Committees they had the room arranged, as far as possible, on the model of the House of Commons. They had the Treasury and Front Opposition Benches, and if they took the poker from the fire-place to represent the Mace, the resemblance would be complete".<sup>2</sup>

Meanwhile the Gentlemen of the Long Robe considered the Court of Criminal Appeal Bill so judicially that by 26th June they had to report that they had sat on six days and had only got to clause 11, having amended four clauses, struck out three, and<sup>f</sup> postponed consideration of three.

<sup>1</sup> *The Times*, 13th April, 1883.

<sup>2</sup> *Hansard*, 13th February, 1884, column 804 (intended as a criticism).

There were 120 clauses left, and 390 more amendments tabled. Gladstone in the House moved that the order be discharged and the Bill withdrawn. The Committee then took a look at the Criminal Code (Indictable Offences Procedure) Bill. It had four sittings and as it then was too late in the session for there to be any hope of passing it, the Bill was withdrawn on 21st August.

The Committee on Trade worked its way through the Bankruptcy Bill, compromising with the Parnellites. The Bill was reported on 25th June, recommitted in respect of certain clauses, then the Irish were squared, and it passed its third reading on 14th August. It was hurried indecently fast through the Lords and received rather breathless Royal Assent on 25th August.<sup>1</sup> The Committee on Trade then considered the Patents for Inventions Bill and reported it on 9th July; it was read the first time in the Lords on 6th August, the Lords' amendments were agreed to, and it received the Royal Assent on the same day as its brother, but lower down on the list.

By the end of the session the manner of debate had become entirely assimilated to that of the House. On 21st June Mr. C. N. Warton invented a new form of obstruction; "made frequent excursions into the corridors and succeeded in inducing one or two members not to enter the room" (*The Times*), and thereby prevented a quorum being formed until a quarter to one, with the unfortunate Chairman sitting mute and powerless in the Chair.<sup>2</sup>

It was fairly generally admitted that the Committee on Trade, at least, had been a success.<sup>3</sup> On the Bankruptcy

<sup>1</sup> The Bankruptcy Bill was, therefore, the first Bill to pass into law which had come from one of the Grand Committees. But see *Hansard*, 11th August, 1883, column 189. "... this (the Bankruptcy Bill) was the first Bill that had come up from the Grand Committees. ['No, no!'] Well, it was the second." Nevertheless, it was the first.

<sup>2</sup> See also *Hansard*, 21st June, 1883, column 1,148, Attorney-General's speech and Ullswater, *A Speaker's Commentaries*. Cf. First Procedure Report, 1945. q. 134. (Mr. Morrison.)

<sup>3</sup> *Hansard*, 6th March, 1888, column 401, Sir George Campbell: "On both sides of the House it was admitted that the experiment had been successful. The Committee on Trade had been eminently successful."

Bill Mr. Chamberlain said: “. . . it was very gratifying to him, as the Minister in charge of the Bill, to find the success of the experiment of a Grand Committee so generally admitted by hon. Gentlemen on both sides of the House.”<sup>1</sup> Mr. Dillwyn “felt bound to congratulate the right hon. Gentleman on the way in which the Grand Committee, whose discussions he had conducted, had worked. At first he (Mr. Dillwyn) was not sanguine with respect to the system of Grand Committees; but as regarded the Bill under notice he would now admit his error. It had been a great success.”<sup>2</sup>

The next year (1884) there was a debate on Lord Hartington’s motion to revive “the Resolutions of the House . . . relating to the constitution and proceedings of Standing Committees” and the tone of the House was mildly congratulatory.<sup>3</sup>

The two Committees were accordingly nominated, but only the Law Committee ever met. It considered the Criminal Lunatics Bill, a non-contentious measure whose third reading was taken without discussion. The Municipal Elections (Corrupt and Illegal Practices) Bill, in which honourable Members showed more interest, was also sent to the Standing Committee on Law. Both Bills reached the Statute Book.

In spite of the moderate success and congratulation, the sessional Standing Orders were allowed to die the next year (1885). H. C. Raikes asked a Question about them, to which Gladstone replied with masterly evasiveness. In the same year three extra Members were added to the Committee of Selection, presumably to anticipate extra work in nomination of Members to Grand Committees, but nothing more was done about them in the lifetime of the Liberal Government.

One of the first acts of Salisbury’s administration of 1886 was to table Resolutions for the reform of Procedure. Included among these were proposals for Public Bill Select Committees, “the effect of which would be that every public Bill, not being

<sup>1</sup> *Hansard*, 14th August, 1883, column 524.

<sup>2</sup> *Hansard*, 14th August, 1883, column 547.

<sup>3</sup> *Hansard*, 12th February, 1884, columns 763-771.

a Ways and Means Bill, might be referred to a Public Bill Select Committee, consisting of from thirty to forty members. . . . There might be as many as nine of these Committees sitting at one time" (*The Times*, 23rd January, 1886). However, on 26th January the administration fell on Mr. Jesse Collings's amendment. The new Liberal Ministry moved on 22nd February for a Select Committee on Procedure which accordingly was set up with Lord Hartington as Chairman. It took no evidence, but itself contained most of the talent from both Front Benches. Its first group of recommendations concerned Standing Committees and are reminiscent of May's classic article in the *Edinburgh Review*.<sup>1</sup> But nothing was done. The next session saw a formidable amount of obstruction.

In 1888, W. H. Smith put before the House a famous series of procedure Resolutions.

XII. Resolved, "That the Standing Order of the 9th and 30th of April, 1772 concerning Bills relating to Religion and Trade be repealed."

This abolished the proto-Grand Committees except as regards money; it was decided without debate. The next motion established the modern Grand Committees.

XIII. Moved "That the Resolutions of the House of the 1st December 1882 relating to the Constitution and Proceedings of Standing Committees for the Consideration of Bills . . . be revived."<sup>2</sup>

After long debate the motion was carried, and in this inconvenient and allusive form it remained in Standing Orders until 1907. The recommendations of the 1886 Committee were ignored. For the next twenty years the Standing Committees on Law and Trade<sup>3</sup> continued to do useful work. From 1888 to 1905, 160 bills passed through them, of which three-quarters reached the Statute Book. Until 1902 they dealt with more or less agreed measures, a few of which were important ones.<sup>4</sup> After 1902 uncontroversial measures hardly

<sup>1</sup> Report from Select Committee on Parliamentary Procedure, 1886.

<sup>2</sup> *Hansard*, 29th February, 1888, columns 1,787-9.

<sup>3</sup> To the Trade Committee were later added the provinces of Agriculture and Fisheries.

<sup>4</sup> Especially Police Bill, 1890, and Factory Bill, 1895.

existed. It was said in 1906 by a veteran who had served on the Committees since 1883 that "Bills which are so little controversial as to be safe are too dull to attract a quorum" whereas controversial bills succeeded only too well, and attracted obstruction.<sup>1</sup> The returns of attendances bear this out. On the Deceased Wife's Sister Bill being sent to Standing Committee, out of nine sittings the Chairman had to wait six times for a quorum because Members of the Committee waited in the corridor outside to prevent business. It was so generally felt that the Committees had established themselves that some Members seem to have considered them of great antiquity: as early as 1894 Arthur Balfour can be found referring to the "ancient rules of Grand Committees" and "immemorial practice".<sup>2</sup>

The Second Procedure Report of 1906, however, which deals almost entirely with Standing Committees and includes an excellent survey of their past by Sir Courtenay Ilbert, suggested alterations of their procedure. The attention of the Select Committee had been drawn to this matter by a Special Report of the Chairman's Panel presented the previous year.<sup>3</sup> The Special Report, a single page, recommended the abolition of the distinction between Law and Trade, always difficult to maintain (e.g., a Bankruptcy Bill), the formal adoption of closure powers hitherto exercised under a presumed common-law of Parliament, and suggested a limitation of speeches. As the only alternative to these last proposals it suggested the avoidance of controversial Bills "for which their procedure is not intended or adapted".

Meanwhile Parnell's seminal suggestion, subsequently disowned by the Irish, bore fruit for Scotland. From the Standing Committee debates of 1888 onwards there had been a continual nagging at Ministers by Scottish back-benchers desirous of exhibiting the most easily displayed virtue—subordinate patriotism. In 1890 W. H. Smith

<sup>1</sup> Select Committee on House of Commons (Procedure), 1906, 2nd Report. Evidence of Rt. Hon. Charles Stuart-Wortley, K.C.

<sup>2</sup> Cf., May, *Parliamentary Practice*, 9th Edition, 1883.

<sup>3</sup> H.C. 261 of 1905, an important document.

replied to a Member: "It is not the intention of the Government to establish Territorial Standing Committees, and I can hardly think that the hon. Member can seriously propose such a course".<sup>1</sup> It was not practical politics because Mr. Gladstone, Member for Midlothian, was personally opposed to it, and the Tories were professionally opposed to it.

The Scots got their chance in 1894 with Lord Rosebery's Government. The Secretary for Scotland (a Cornishman, Sir George Trevelyan) introduced the resolution for Scottish Grand Committees, and Campbell-Bannerman, Secretary of State for War, spoke very brilliantly in favour of it. A. J. Balfour opposed it, and it was carried after five nights debate as a party measure under the closure. The Resolution was renewed after long debate the next year (1895), but with the fall of the Liberal Government, the Scottish Committees disappeared, to reappear when Campbell Bannerman came to power.

The original conception of Scottish Committees was of a panel entirely of Scottish Members topped up with the usual fifteen or fewer Members, "according to qualifications", in respect of each Bill exactly on the analogy of the two Gladstonian Standing Committees. The wording of the Standing Order, with its unique explicit mention of Party, derives from an amendment accepted under Conservative pressure in 1894, the Conservatives (through erratic working of the single-Member constituency) having only twenty-two Scottish constituency Members against the Liberals' fifty in that Parliament. The present Scottish Standing Committee remains to-day a lone survival of Gladstone's specialized Grand Committees of 1883-4 and 1888-1907.

The subsequent adventures of the institution of Standing Committees are well known, and the attention paid to the Committees in the most recent inquiry into procedure is a demonstration that they have become an integral and useful part of our House of Commons legislative procedure.

<sup>1</sup> *Hansard*, 28th February, 1890, column 1515.

## THE INFLUENCE OF BRITISH INSTITUTIONS ON THE CREATION OF AN UPPER CHAMBER IN BELGIUM

by J. A. TEMMERMAN, of the Secretariat of the Belgian Senate<sup>1</sup>

**A**LTHOUGH Belgium is an ancient nation, it was not until the eighteenth century that it began to develop into the State we know to-day. In 1789 the Belgians revolted against the absolute rule of Emperor Joseph II of Austria who then ruled our country. After the imperial troops had been driven out, the Republic of the Belgian States was proclaimed. Unfortunately the representatives of the new State who had been elected to the National Congress could not reach agreement, and the Austrian Army took advantage of the dissension to reoccupy Belgian territory.

Following the French invasion and the fall of Napoleon, the Belgian Provinces were reunited with Holland to form the Kingdom of the Netherlands. The authoritarian policy of King William I of Holland, however, brought unity to the Belgians—until then divided into Catholics and Liberals—and their common discontent inspired the Revolution of 1830. The Dutch were driven from the country and elections were held for a National Congress which was charged with the task of giving Belgium a Constitution. The members of this National Congress proceeded to promulgate an Organic Law in spite of the fact that they had little experience of political life. A Provisional Government having been formed to deal with urgent administrative matters, it was left to this National Congress to devise a political framework. All were agreed on

<sup>1</sup> This article is based on a much longer paper prepared under the auspices of our sister Society in Belgium, *Connaissance du Parlement*, which has been translated from the French by J. D. Lambert, B.A., B.Litt.



the principle "of founding a regime of order and liberty, of loyally instituting a parliamentary system, and of creating a new State freed from the fetters of the past."<sup>1</sup> But most candidates had neither the time nor the means to examine the details of the parliamentary system which they advocated. The election addresses which had been sent to the voters were brief, and the candidates gave no precise details of their programme. Indeed, a candidate at Louvain contented himself with declaring: "I love the Republic, but I am convinced that a representative and constitutional monarchy is best fitted for our internal problems and foreign relations."

Having confirmed the powers of its members and decided on rules of procedure, the National Congress declared itself in favour of a constitutional monarchy. Less than a month after its inaugural sitting, the Congress broached the subject of the creation of a Senate. The members took their task seriously: they were not content merely to examine theoretical arguments in favour of a bicameral system but inquired into the virtues and defects of the various parliamentary regimes then existing. "Our members, several of whom were well known jurists, were influenced in drafting a Charter, without openly admitting the fact and often without even realizing it, by the Constitutions of England, France, Holland, and the former Belgian Provinces."<sup>2</sup> These influences are apparent not only in the spirit but often in the letter of the constitutional text."

It is clear that the members of the National Assembly were influenced by the political institutions of Holland, France, and the United States, but in the matter of the creation of a Second Chamber the preponderating influence was British.

"It is a dangerous thing to seek a model for our institutions in our former country."<sup>3</sup> The institutions of the former Belgian Provinces may have contained a great part of Belgium's essential liberties, but they offered few guides to the successful

<sup>1</sup> L. de Lichtervelde, *Le Congrès National*.

<sup>2</sup> They also examined the political system of the United States.

<sup>3</sup> Ganshof, *Cours de Droit Public*.

functioning of a parliamentary regime, and they were, moreover, too old and too restricted to have much practical significance. During the sitting of 14th December, 1830, Nothomb eloquently declared that it was necessary to cease seeking a model in the former States-General. The Dutch Constitution had, indeed, granted liberties of opinion, Press, and religion, but the Government of William I had, in spite of Belgian resistance, trampled upon these constitutional liberties. Moreover, it was inappropriate to seek inspiration in the Constitution of a country from which we had just violently separated.

The French Constitution had more influence. But, apart from an acceptance by the Belgians of the principle of issuing a declaration of the rights of man, French political institutions, always unstable and changing—the Constitution had been changed five times in 35 years—could not serve as a model for Belgium.

Some of our predecessors, however, insisted on looking to France. "If some demanded an hereditary Upper House as in England, others wanted Senators to be nominated for life as in France."<sup>1</sup> But eminent French jurists like Lanjuinais, Thiers and Daunou themselves admitted the superiority of the English system. *L'Esprit des Lois*, consulted as a last resort, helped to direct attention towards the oldest Constitution in the world. For Montesquieu "the legislative power ought to be divided between a body of nobles (the hereditary aristocracy) and a popular assembly."<sup>2</sup> Montesquieu also spoke of "the success of British parliamentary institutions."

As regards the United States, it was too early in 1830 to pronounce any judgment on the value of the American Constitution, though it was significant that the United States had evolved from a unicameral to a bicameral system.

The majority of members finally supported "the system on which England has based the freest and strongest institutions, the system which has served as a model for all representative governments and which all politicians admire as one of the

<sup>1</sup> Giron, *Droit Public*.

<sup>2</sup> Orban, *Droit Constitutionnel de la Belgique*.

greatest discoveries of the human mind".<sup>1</sup> The influence of British institutions was all the more powerful as they had stood the test of time. "From the fourteenth century, two Chambers have existed in the country where representative government originated."<sup>2</sup> The former Archbishop of Malines,<sup>3</sup> whose opinions carried weight and were often discussed in the Belgian Press, said: "The example of England has proved the excellence of a system in which there are three legislative elements." After five centuries it was possible to assess the value of British institutions.

Let those who still doubt that "the British Constitution served as a model for all European and American Constitutions"<sup>4</sup> and had a great influence, read again the debates of the Constituent Assembly. Fifty-two speeches were made during discussions on the Senate.<sup>5</sup> The majority were not reported in full and several dealt only with formal amendments or limited subjects. Thirty-two of them<sup>6</sup> referred more or less lengthily to British institutions. Another fact is significant. The National Congress had no precedents on which to base its rules, and during a minor incident deputy Rodenbach supported his interpretation of a ruling by an argument based on a custom of the House of Commons.

Must we not, therefore, conclude that our first deputies paid little attention to the French, Dutch and American Constitutions and "grasped the advantage of the British method when they established the bicameral system and placed a Senate beside the Chamber of Representatives"?<sup>7</sup> M. Ganshof, in speaking of the bicameral system adopted, even speaks of "the desire to reproduce English institutions . . .".<sup>8</sup>

While British influence certainly affected the spirit of our Constitution, it is not easy to be so certain about the letter.

<sup>1</sup> M. Masbourg during the sitting on 14th December, 1830.

<sup>2</sup> Orban, *Ibid.*

<sup>3</sup> M. de Pradt.

<sup>4</sup> Vlaeminck, *La Constitution Belge commentée.*

<sup>5</sup> From 13th-16th December, 1830.

<sup>6</sup> Including those of Lebeau, de Mérode, Nothomb, de Brouckère, de Terbecq, de Roo, Devaux, Le Grèlle, de Gerlache, and Le Hon.

<sup>7</sup> P. de Visscher, *Cours de Droit Public.*

<sup>8</sup> Ganshof, *Ibid.*

The British Constitution is based on customs, statutes and judicial decisions which have never been codified. Parliamentary procedure consists largely of customs and precedents. Symbolic acts, the original meanings of which have been lost sight of in the course of centuries, are maintained. It is, therefore, impossible to compare our Constitution with the formal texts of English law. The comparisons which follow give the articles of the first Belgian Constitution and the equivalent British practice.

*Belgian Constitution*

Art. 26. The legislative power is exercised collectively by the King, the Chamber of Representatives, and the Senate.

Art. 27. Each branch of the legislature has the power to initiate legislation, except that all money bills originate in the Chamber of Representatives.

Art. 32. Members of the two Chambers represent the country as a whole and not just the province or subdivision that has returned them.

Art. 33. Sittings of the two Chambers are public; but each Chamber can go into secret session at the request of the President or ten members, and then decides, by an absolute majority, if the sitting should be resumed on the same subject in public.

Art. 35. No person can be a

*British Practice*

The legislative power is exercised by the King, Lords, and Commons.

Each branch of the legislature has the power to initiate legislation, except that all money bills originate in the House of Commons.

Members of the House of Commons represent the country as a whole and not just the constituency which has returned them.

Sittings of each of the two Houses of Parliament are public although either can vote to go into secret session.

No person can be a member

member of both Chambers simultaneously.

Art. 36. A member of either Chamber who accepts an official salaried post has to resign his seat.

Art. 37. At the beginning of every Session each Chamber elects its President.

Art. 38. Normally a resolution is only adopted by an affirmative vote of a majority of Members of each Chamber present and voting.

Art. 42. Each Chamber has the right to amend Bills and to consider separately the clauses and proposed amendments.

Art. 44. No Member of either Chamber can be prosecuted or called to account for opinions or votes made in the exercise of his duties.

Art. 46. Each Chamber determines its own rules of procedure.

Art. 57. Senators receive neither salary nor allowances.

Art. 58. The heir presumptive becomes a Senator at the age of 18, but has no deliberative rights until the age of 25.

of both Chambers simultaneously.

No Member of the House of Commons may accept an office of profit under the Crown and retain his seat.

The House of Commons elects its Speaker for the duration of each Parliament.

Resolutions are adopted by majority vote.

Except that the Lords can not amend a money Bill, each Chamber has the right to amend Bills and to consider separately the clauses and the proposed amendments.

England was the first country which sanctioned the great principle of parliamentary privilege.

Each House determines its own rules of procedure.

Peers receive neither salary nor allowances.

Royal princes are Members of the House of Lords and can take their seats after the age of 21.

There have, of course, been important developments in the Upper Chambers of Britain and Belgium since 1830. In Britain a series of electoral reforms increased the democratic character of the House of Commons, but it was not until 1911 that the powers of the House of Lords were curbed by legislation. The Upper House has, in fact, retained its aristocratic and essentially conservative character; and the Parliament Act, though it overcame the difficulties that existed at the time, left the real problem unsolved. The role of the Commons has been steadily increasing, leaving the Lords with a consultative and revising function.

In Belgium the question of the election of Senators was considered in 1893. After much discussion it was decided to enlarge the electorate by lowering the electoral qualifications; and at the same time the number of Senators was increased by adding those chosen by Provincial Councils. The Senate thus became accessible to the less prosperous, especially as the Provincial Senators were not bound by the usual property qualifications. The increase in the number of hereditary Senators, requested by the Government so as to introduce into public life "those whose birth called them to the burden of sovereignty", was effected by Article 58 in our Constitution, which corresponds to the British practice of admitting the royal princes to the House of Lords.

The Belgian constitutional revision of 1921 was intended to lead to the inauguration of a new electoral system; the creation of a democratic Senate, influential and respected; the introduction of the referendum, which extended the principle that all power originates with the people;<sup>1</sup> the establishment of important representative councils to act as auxiliaries of the legislatures;<sup>2</sup> and the foundation of an administrative court of appeal.<sup>3</sup>

By trying to steer a middle course between giving the Senate privileges equivalent to those of the Chamber of Representa-

<sup>1</sup> The question of the referendum is still outstanding.

<sup>2</sup> This proposal appears to have been abandoned.

<sup>3</sup> The administrative court of appeal was not, in fact, established until 1947.

tives, and restricting its right to that of delay (as has been the case with the House of Lords since 1911), we have tried to make the Senate "an effective collaborator of the Chamber of Representatives, give it equal authority, attract to it the best abilities and social groups, yet open it to all political opinions and classes".<sup>1</sup>

Thus in Great Britain successive electoral reforms have extended the right of electing Members of the House of Commons to the whole nation, leaving the House of Lords essentially conservative in character and often hostile to the popular Commons. In Belgium, on the other hand, the working classes are represented in the Senate as well as the Chamber. The Senate reflects the same political opinions as the Lower House, but retains its moderating influence. The necessity of a Senate is no longer a matter of controversy in Belgium.

We have thus good reasons to believe that the influence of British institutions was effectively exercised at the time of the drafting of the first Belgian Constitution, and that this influence predominated to the extent of actually reproducing certain features of the British system. This influence, always present throughout the nineteenth century, weakened as our national character grew strong enough to overcome foreign influence.

Finally, developments in the two countries show that public law and private rights must, and in fact do, keep up with social progress. A social class, conscious of its rights, has affirmed and slowly acquired the privilege of representation in Parliament. Recognition of the rights of this class has raised many problems, especially in opposition between the two legislative Chambers. In Belgium we have solved the problem, while in Britain the Parliament Act of 1911 was a temporary expedient. Is not this proof that the Belgians have profited from the example of more than a century ago?

<sup>1</sup> *Report of the Commission on Reforms to be introduced into the Organization of the Senate.*

CONSTITUTIONS OF  
THE BRITISH COLONIES—II

## AFRICA

Information prepared by SYDNEY D. BAILEY with a prefatory note by Colonel the Rt. Hon. OLIVER STANLEY, M.P.

*This short factual paper will form an invaluable introduction to the constitutional problems of the British Colonial Empire in Africa. It does, in some detail, set out what has already been done and points at least, in a sentence or two, to the difficulties which still lie ahead. But it is only an introduction and will fail in its purpose, unless it leads the reader to a fuller study of the fascinating and baffling problems involved.*

*Within the limits of space, the attention of the reader is drawn to the multi-racial characteristics of most of these territories, but the broad generalization adopted can only give a rough picture of the actual divergencies. For instance, in Nigeria, the African population has to be sub-divided into three distinct races, the Hausa, the Yoruba, and the Ibo, each with a different language, a different religion, and wholly different traditions. Indeed this lack of homogeneity in territories which are not national entities but geographical expressions presents perhaps the most baffling of all problems in constitutional progress, and it is well that people should realize that it is not merely a problem of white minorities and indigenous majorities, but that other minorities exist equally in need of adequate protection in any system of majority rule. Many of us believe that such protection will not be available under any slavish copy of the Westminster model, and note with interest how India has broken away from this traditional form in her new constitution. Nor can this paper hope to give any adequate picture of the "newness" of these territories and of their inhabitants. In the vast majority not more than three generations separate them from the old tribal life and from their first contacts with Western thought and Western civilization.*

*Britain has a difficult problem to solve and in solving it she will require all the sympathetic help she can get. But advice, criticisms or*



*support are equally valueless unless they are based on a knowledge of facts, and it is as an introduction to the facts that this paper is to be welcomed.*

OLIVER STANLEY.

SOME fifty million people live in British Colonial territory on the African continent. The overwhelming majority are of African race, but there are some sixty thousand Europeans in positions of commercial and political leadership throughout the territories, important Arab communities in Kenya and Zanzibar, and about one hundred and fifty thousand Asians (the majority Indians) in British East Africa and small numbers in other British African territories.

Until the advent of the European most of what is now British Colonial territory in Africa was under tribal organization and was politically backward. There are still considerable difficulties to be overcome before satisfactory forms of responsible government can be established in these territories. The Africans form ninety-nine per cent. of the total population and the majority of them have little experience of constitutional democracy as understood and desired by the European minority. The association of educated Africans in government and administration, which most Europeans regard as desirable, often has the effect of isolating the former from the rest of their community. A further problem arises over the extent to which existing forms of tribal organization should give place to more modern concepts of government. Another difficulty arises in those territories with important Indian and Arab communities as to what part these shall play in government and administration. Few of any race are entirely satisfied with the present constitutional structure of the African Colonies, but it is rarely easy to decide the form that constitutional progress shall take.

British Colonial territory on the African continent falls into the following regional groups:

- (i) **West Africa**—The Gambia, the Gold Coast (including British Togoland), Nigeria (including the British Cameroons), and Sierra Leone.

- (ii) **East Africa**—Kenya, Tanganyika, and Uganda.
- (iii) **Central Africa**—Northern Rhodesia and Nyasaland.
- (iv) **High Commission Territories** — Basutoland, Bechuanaland Protectorate, and Swaziland.
- (v) British Somaliland and Zanzibar.

In addition to these Colonial territories mention should be made of the following which are not Colonies but for the first two of which the Government of the United Kingdom has some responsibility:

1. The Sudan, which is an Anglo-Egyptian Condominium established in 1898.

2. Southern Rhodesia, which achieved responsible government in all internal matters in 1923, external affairs being the responsibility of, and legislation affecting the native population being subject to some supervision by, His Majesty's Government in the United Kingdom.

3. South-West Africa, which was mandated to the Union of South Africa in 1920 and, by virtue of an Act passed by the Union Parliament this year, has become to all intents and purposes part of the Union.

In West, East and Central Africa, progress towards a closer association of British territories has taken place. The establishment of a West African Governors' Conference was approved by the Secretary of State shortly before the outbreak of war in 1939. In the summer of 1942 a Minister Resident in West Africa, with Cabinet rank, was appointed, and he worked through a War Council, the members of which included the four Governors and senior Service representatives. The post of Minister Resident was abolished after the war, and the War Council was superseded by a West African Council consisting of the Secretary of State as Chairman and the four Governors. The Council is provided with a Secretariat under a Chief Secretary.

In East Africa a Governors' Conference was established by the Secretary of State as long ago as 1926, but this was superseded in 1948 by a High Commission consisting of the Governors of Kenya, Tanganyika, and Uganda. The East African Central Assembly, which is the legislative organ of

the High Commission, was opened by the Parliamentary Under-Secretary in April, 1948. It consists of seven *ex officio* members who are officers in the High Commission's service, one nominated official from each of the three territories, and thirteen unofficial members. The High Commission, with the advice and consent of the Assembly, has power to legislate in respect of inter-territorial services, and, with the advice and consent of the three Legislative Councils, on all matters for the three territories.

A Central African Council came into existence in 1945 to promote the closest possible contact and co-ordination of policy between the two Rhodesias and Nyasaland. The Governor of Southern Rhodesia is Chairman, and the Governors of Northern Rhodesia and Nyasaland and the Prime Minister of Southern Rhodesia are *ex officio* members.

A significant development in the way of increased co-operation between British Colonial territories in Africa was the holding of a Conference in London in September, 1948, consisting of the unofficial members of the African Legislative Councils.

May I repeat the two words of caution which prefaced the first paper in this series. First, the need to present the information in summarized form inevitably makes it incomplete. Secondly, constitutional changes in the Colonies are constantly taking place. I have outlined the constitutional position as it was in July, 1949.

### **Constitutions of the British African Colonies**

**BASUTOLAND.** *Colony.* Incorporated in the Empire in 1868. Administered through the Commonwealth Relations Office and the High Commissioner for Basutoland, the Bechuanaland Protectorate, and Swaziland.

*Population:* 556,390 (1946), mainly Africans. There are about 2,500 Europeans, Asians, and Coloureds.

*Resident Commissioner:* The territory is governed by a Resident Commissioner, under the direction of the High Commissioner for Basutoland, Bechuanaland Protectorate, and Swaziland, who possesses legislative authority which is exercised by proclamation.

*The Basutoland Council:* Possesses advisory powers and consists of the Resident Commissioner who presides, the Paramount Chief, ninety-four African members nominated by the Paramount Chief (including elected representatives of British Councils and other bodies), and five African members nominated by the Resident Commissioner.

**BECHUANALAND.** *Protectorate.* Southern Bechuanaland annexed to Cape Colony, and Northern Bechuanaland declared Protectorate in 1885. Administered through the Commonwealth Relations Office and the High Commissioner for Basutoland, Bechuanaland Protectorate, and Swaziland.

*Population:* 279,000 (1946), mainly Africans, but a few Europeans and Asians. The figure includes about 15,000 Bushmen.

*Resident Commissioner:* The territory is governed by a Resident Commissioner, under the direction of the High Commissioner for Basutoland, Bechuanaland Protectorate, and Swaziland, who possesses legislative authority which is exercised by proclamation.

*European Advisory Council:* Advises the Resident Commissioner on matters affecting Europeans, and consists of seven elected members. It meets under the presidency of the Resident Commissioner, usually twice a year.

*African Advisory Council:* Advises the Resident Commissioner on matters affecting natives, and consists of a maximum of thirty-five members—the Chiefs and tribal representatives from the various Native Reserves and non-tribal areas. It usually meets once a year under the presidency of the Resident Commissioner.

**BRITISH CAMEROONS.** *Trust Territory.* Mandated to Britain in 1922 and placed under Nigerian Government.

*Population:* 991,100 (mid-1947 estimate), mainly African.

*Administration:* The British Cameroons are administered and legislated for as if they formed part of Nigeria.

**BRITISH TOGOLAND.** *Trust Territory.* Mandated to Britain in 1922 and placed under the Gold Coast Government.

*Population:* 378,666 (provisional figures based on 1948 census), mainly African.

*Administration:* British Togoland is administered as if it formed part of the Gold Coast.

**THE GAMBIA.** *Colony and Protectorate.* Trading stations established in the seventeenth century. British sovereignty recognized by Treaty of Paris, 1814.

*Population:* 250,000 (1947 estimate), mainly African.

*Governor:* Possesses reserve powers.

*Executive Council:* The Governor presides and the Council consists of the Colonial Secretary and such other persons as may from time to time be appointed. In December, 1948, the Council consisted of the Colonial Secretary, the Attorney General, the Director of Medical Services, the Commissioner for the Colony, the Acting Senior Commissioner, the elected member of the Legislative Council, and two unofficial members of the Legislative Council.

*Legislative Council:* The Council consists of the Governor, who presides, three *ex officio* members (the Colonial Secretary, the Attorney General, and the Receiver General), three nominated official and three nominated unofficial members appointed by the Governor, and one elected member representing the town of Bathurst and the Kombo St. Mary division.

*Franchise:* The members of the Legislative Council for Bathurst are elected by registered voters of either sex, who must be British subjects or British protected persons and who have attained twenty-five years of age and been resident in the electoral district at least twelve months immediately before registration.

**THE GOLD COAST**<sup>1</sup> (including Ashanti and the Northern Territories). *Colony and Protectorate.* Settlements established during the seventeenth century. British Government assumed control in 1821, later withdrew, resumed control in 1843. Danish stations ceded 1850, Dutch in 1872.

<sup>1</sup> An all-African committee was set up by the Governor early in 1949 to examine proposals for constitutional and political reform. The committee consists of Mr. Justice J. H. Coussey (chairman); four paramount chiefs appointed by the Joint Provincial Council of the colony; four members, including two chiefs, appointed by the Ashanti Confederacy Council; four members representing the Northern Territories Territorial Council, and 27 others representing various sections of the community.

*Population*: 3,716,610 (based on provisional figures of 1948 census), mainly African.

*Governor*: Possesses reserve powers.

*Executive Council*: The Governor presides and the Council consists of seven *ex officio* members (the Colonial Secretary, the Chief Commissioners of the Colony, Ashanti, and the Northern Territory, the Attorney General, the Financial Secretary, and the Director of Medical Services) and such other persons as may be appointed by His Majesty or the Governor on His Majesty's instructions conveyed through the Secretary of State; at present this latter comprises one official (European) and three unofficial (African) members.

*Legislative Council*: Consists of the Governor or such person appointed by him with the approval of the Secretary of State, as President, six *ex officio* members (the Colonial Secretary, the three Chief Commissioners, the Attorney General, and the Financial Secretary), six members nominated by the Governor, nine members elected by the Joint Provincial Council of Chiefs, Gold Coast Colony, four members elected by the Ashanti Confederacy Council, two members elected by municipality of Accra, and one representing each of the municipalities of Cape Coast, Sekondi-Takoradi and Kumasi.

*Franchise* (for members elected to Legislative Council by the Municipalities): All persons, whether male or female, who are twenty-one years old and have six months residence.

**KENYA.** *Colony and Protectorate.* Protectorate established 1890. Inland territory annexed 1919, but coastal belt under nominal sovereignty of Sultan of Zanzibar.

<i>Population</i> : Africans	5,027,000
Indians	90,900
Europeans	29,500
Arabs	23,900
Goans	7,100
Others	2,900

5,181,300 (based on provisional  
figures of 1948 census)

*Governor*: Possesses reserve powers.

*Executive Council*: The Governor presides and the Council consists of eight *ex officio* members and four unofficial (three European—one of whom represents native interests—and one Indian) members appointed by His Majesty or the Governor on His Majesty's instructions conveyed through the Secretary of State.

*Legislative Council*: Consists of a Speaker, seven *ex officio* members, nine officials nominated by the Governor, and twenty-two unofficial members. The latter comprise eleven elected Europeans, five elected Indians, two Arabs—one elected and one nominated by the Governor—and four Africans who are selected by the Governor from a panel submitted by African local government bodies.

NIGERIA.<sup>1</sup> *Colony and Protectorate*. Settlements established during latter half of eighteenth century, and these became the Protectorates of Northern and Southern Nigeria in 1900. Lagos ceded in 1861 and joined to Southern Nigeria in 1906. Northern and Southern Nigeria merged into the Colony and Protectorate of Nigeria in 1914.

<i>Population</i> : Africans	25,000,000	} 1948 estimate.
Europeans	9,000	
Asians	1,900	

*Governor*: Possesses reserve powers.

*Executive Council*: The Governor presides and the Council consists of eight *ex officio* members (the Chief Secretary to the Government, the Chief Commissioners for Northern Provinces, Eastern Provinces, and Western Provinces, the Attorney General, the Financial Secretary, the Director of Medical Services, and the Director of Education) and such members as may be appointed by Royal Warrant or Instructions, or by the Governor on Instructions received through the Secretary of State.

*Legislative Council*: Consists of the Governor, who presides,

<sup>1</sup> In his speech to the Legislative Council in August, 1948, the Governor announced that although the present constitution had still nine years to run, he proposed to set up a Select Committee in 1949 to consider its possible revision.

thirteen *ex officio* members (the eight *ex officio* members of the Executive Council, the Development Secretary, the Director of Agriculture, the Director of Public Works, the Commissioner of Labour, and the Commissioner of the Colony), three nominated official members (who shall be Residents) appointed by the Governor, twenty-four nominated unofficial members (five members appointed by and from the Northern House of Assembly, four members appointed by and from the House of Chiefs, two Chiefs appointed by the Governor from the Western House of Assembly, four members appointed by and from the Western House of Assembly, five members appointed by and from the Eastern House of Assembly, and four members appointed by the Governor, one representing the Colony, and three representing other interests not adequately represented), and four elected members, three from Lagos and one from Calabar.

*Franchise*: Male British subjects or British-protected subjects of twenty-one or over, with certain residential and financial qualifications.

*Note*: A House of Chiefs in the Northern Provinces and three regional Houses of Assembly exercise advisory functions.

**NORTHERN RHODESIA.** *Protectorate.* Settled from 1889 onwards by British South Africa Company. Protectorate established 1924.

<i>Population</i> : Africans	1,655,000	} 1947 estimate.
Europeans	27,123	
Asians	1,484	

*Governor*: Possesses reserve powers.

*Executive Council*: The Governor presides and the Council consists of six *ex officio* members (the Chief Secretary, the Financial Secretary, the Attorney General, the Administrative Secretary, the Economic Secretary, and the Secretary for Native Affairs), one official member (the Director of Development) and four unofficial members who are chosen from the unofficial members of the Legislative Council and one of whom must be a representative of native interests. Of these unofficial members, one holds responsibility for a group of Departments.



*Legislative Council*: Consists of a Speaker, six *ex officio* members (the Chief Secretary, the Financial Secretary, the Attorney General, the Administrative Secretary, the Economic Secretary, the Secretary for Native Affairs), three official members (the Directors of Development, Medical Services, and Agriculture) and fourteen unofficial members (of whom ten are elected, two nominated by the Governor to represent African interests, and two selected by the African Representative Council).

*Franchise*: All British subjects over twenty-one, subject to certain financial and property qualifications.

NYASALAND. *Protectorate*. Established 1891.

*Population*: 2,300,000 of whom about 3,500 are Asians and 2,500 Europeans (1947 estimate).

*Governor*: Possesses reserve powers.

*Executive Council*: The Governor presides and the Council consists of three *ex officio* members (the Chief Secretary, the Attorney General, and the Financial Secretary), and two official and two unofficial members nominated by the Governor.

*Legislative Council*: Consists of the Governor who presides, three *ex officio* members (the *ex officio* members of the Executive Council) together with six official and nine unofficial members appointed by the Governor. The unofficial members comprise five Europeans nominated by the Governor on the advice of unofficial bodies, one European chosen from among missionary organizations and charged specifically with the representation of native interests, two Africans selected from a panel of five chosen by the Protectorate Council, and one Asian selected from a panel of three chosen by the Indian Chamber of Commerce.

SIERRA LEONE.<sup>1</sup> *Colony and Protectorate*. Colony for

<sup>1</sup> In July 1949, the Governor put forward proposals for constitutional reform as a basis for discussion. He suggested that the Executive Council should consist of four official and four unofficial members who should take a special interest in a group of departments and hold portfolios. A committee chosen by the Secretary of State and representative of all interests in Sierra Leone should be appointed to review the constitution of the Legislative Council. There should be a substantial measure of devolution to provincial authorities.

liberated slaves established in 1788. Became Crown Colony in 1807. Protectorate added in 1896.

*Population*: 2,000,000 (1948 estimate), mainly African.

*Governor*: Possesses reserve powers.

*Executive Council*: The Governor presides and the Council consists of four *ex officio* members (the Colonial Secretary, the Attorney General, the Financial Secretary, and the Director of Medical Services) and such other persons as may from time to time be appointed. In April, 1949, the Council included, besides the above, the Chief Commissioner (Protectorate) and three nominated unofficials, all Africans. The latter were the first urban elected member of the Legislative Council, a nominated unofficial member of the Legislative Council, and a Paramount Chief.

*Legislative Council*: Consists of the Governor, who presides, eleven *ex officio* members, including the five *ex officio* members of the Executive Council, not more than seven nominated unofficial members, and three elected members from the Colony districts. In 1948 a new constitution was approved, providing for a Legislative Council consisting of the Governor, as President, seven *ex officio* members, seven elected representatives of the Colony, thirteen members of the Protectorate Assembly elected by District Councils, one member elected by the Protectorate Assembly from its own nominated members, and two members nominated by the Governor with commercial and economic reference. These arrangements, however, met with certain local objections and the position is to be reviewed.

*Franchise*: The franchise for the election of three members of the Legislative Council is extended to male British subjects or natives of the Protectorate who are over twenty-one years of age, possess certain property qualifications, and have resided for twelve months in the electoral district concerned immediately before registration.

**SOMALILAND PROTECTORATE.** *Protectorate.* Established in 1884. Under Italian occupation from August, 1940, to March, 1941. Under British military administration from

March, 1941, until its reversion to civil administration on 18th November, 1948.

*Population*: 700,000 (1946 estimate) mainly Somali.

*Constitution*: There is no executive or legislative Council. The power of making ordinances is vested in the Governor, subject to the instructions of the Secretary of State.

SWAZILAND. *Protectorate*. Established 1903. Administered through the Commonwealth Relations Office and the High Commissioner for Basutoland, the Bechuanaland Protectorate, and Swaziland.

<i>Population</i> : Africans	181,269
Europeans	3,204
Others	735
	<hr/>
	185,208 (1946 estimate)

*Resident Commissioner*: The territory is governed by a Resident Commissioner, under the direction of the High Commissioner for Basutoland, Bechuanaland Protectorate, and Swaziland, who possesses legislative authority which is exercised by proclamation.

*Advisory Council*: Consists of nine elected European members who are consulted on matters affecting purely European interests.

*Native Authority*: Vested in Paramount Chief who acts in conjunction with a Council.

TANGANYIKA. *Trust Territory*. Mandated to Britain in 1922.

<i>Population</i> : Africans	7,004,000 (provisional 1948 census)
Asians	59,512
Europeans	16,045
	} (1948 census)
	<hr/>
	7,079,557

(Total of Europeans includes 5,397 Polish war-time refugees)

*Governor*: Possesses reserve powers.

*Executive Council*: The Governor presides and the Council

consists of seven *ex officio* members (the Chief Secretary, the Member for Law and Order, the Member for Finance, Trade and Economics, the Member for Agriculture and Natural Resources, the Member for Lands and Mines, the Member for Labour, Education and Social Welfare, and the Secretary for African Affairs) and four unofficial members (at present three European and one Indian) appointed by the Governor.

*Legislative Council*: Consists of the Governor, who presides, fifteen official members, and fourteen unofficial members nominated by the Governor: at present these latter comprise seven Europeans, four Africans and three Indians.

UGANDA. *Protectorate*. Taken over by British East Africa Company in 1890. Protectorate established 1893.

<i>Population</i> : Africans	4,953,000	} (Provisional 1948 census)
Asians	36,800	
Europeans	7,600	

*Governor*: Possesses reserve powers.

*Executive Council*: The Governor presides and the Council consists of six *ex officio* members (the Chief Secretary, the Attorney General, the Financial Secretary, the Director of Medical Services, the Director of Agriculture, and the Resident of Buganda), and such other official and unofficial members as the Governor may appoint: at present there are one official and two unofficial (one European and one Indian) members.

*Legislative Council*: Consists of the Governor who presides, six *ex officio* members (the Chief Secretary, the Attorney General, the Financial Secretary, the Director of Medical Services, the Director of Agriculture, and the Director of Education), with such official members (at present four) and such unofficial members (at present three European, three Indian and four African) as the Governor may appoint.

ZANZIBAR. *Protectorate* declared in 1890.

<i>Population</i> : Africans	199,750	} (1946 estimate)
Arabs	34,000	
Indians <sup>f</sup>	16,000	
Europeans	250	

*Sultan:* His Highness the Sultan is titular head of the Protectorate.

*British Resident:* The British Resident is appointed by commission under His Majesty's Sign Manual and Signet, and administers the Government.

*Executive Council:* Consists of His Highness the Sultan, who presides, the British Resident (Vice-President), Seyyid Abdullah bin Khalifa bin Harub, C.M.G. (the Heir Apparent to the Sultan), four *ex officio* members (the Chief Secretary, the Attorney General, the Provincial Commissioner, and the Financial Secretary), and three other official members appointed by the Sultan with the advice of the British Resident.

*Legislative Council:* Consists of the British Resident who presides, the four *ex officio* members of the Executive Council and four nominated official and eight nominated unofficial members (three Arabs, two Indians, two Africans, and one European) appointed by the Sultan with the advice of the British Resident.

(*The first paper in this series, dealing with the Constitutions of British Colonies in the Western Hemisphere, appeared in the Spring, 1949, issue. The next paper will deal with British territories in the Far East and Pacific area.*)

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## A QUESTION IN PARLIAMENT

The following Question received a written answer on 24th February, 1949:

### BRITISH ARMY (TEXT-BOOKS, SANDHURST)

**Brigadier Head** asked the Secretary of State for War whether he is aware that the standard work used at the Royal Military Academy, Sandhurst, for the instruction of the cadets in Parliamentary matters is a work by Professor Laski; and whether he will take steps to ensure that some less partisan work is, in future, adopted for this purpose.

**Mr. Shinwell:** The standard work on Parliament used at the Royal Military Academy, Sandhurst, is Mr. Strathearn Gordon's *Our Parliament*, published by the Hansard Society. Professor Laski's *Parliamentary Government in England* is used as an additional book on the subject. It is an accepted principle of military training that in making an appreciation more than one point of view should be studied.

## THE AMERICAN GOVERNMENT—IV

*In this fourth extract from Our American Government: What Is it? How Does it Function? compiled by Representative Wright Patman and published by the United States Government Printing Office, the questions and answers are concerned with Congress and its Committees. Earlier issues of Parliamentary Affairs have included extracts relating to the Constitution, elections, and the States (Autumn, 1948), the Capitol, Government Printing, the Congressional Record, the Library of Congress, Patriotic Symbols, and the National Anthem (Winter, 1948), and the Executive Branch (Summer, 1949). There will be two further articles to conclude the series.*

*Question:* What is the Congress?

*Answer:* The Congress of the United States is the legislative branch of the National Government, in effect the National Legislature, and consists of two branches—the Senate and the House of Representatives.

*Question:* What is a Congressman?

*Answer:* A Congressman is a Member of either the Senate or the House of Representatives. However, a Member of the Senate is usually referred to as a Senator and a Member of the House as a Congressman. The official title of a Member of the House is Representative.

*Question:* Is a woman Member of Congress referred to as a “Congressman” or a “Congresswoman”?

*Answer:* She is referred to as “the Congresswoman from —.”

*Question:* Who was the first woman elected to Congress?

*Answer:* The first woman to become a Member of Congress was Miss Jeanette Rankin, of Montana. She was elected in 1916. She was a Republican and served one term. Miss Rankin was again elected in 1940 to the Seventy-seventh Congress.

*Question:* Who was the first woman to serve in the Senate?

*Answer:* Mrs. Rebecca Felton was appointed by the

Governor of Georgia to serve in place of Senator Thomas E. Watson, deceased.

The first woman elected to the Senate was Mrs. Hattie Caraway, elected 12th January, 1932.

*Question:* Are the Members of Congress provided with offices in which to conduct their business?

*Answer:* The 435 Members of the House have offices in two buildings about 150 yards south of the Capitol. When the weather is bad or when traffic is too heavy on the streets, they can reach the Capitol Building through a subway.

The ninety-six Senators are provided with offices in a building about 150 yards north-east of the Senate wing of the Capitol. The Senators are provided with a one-rail electric train in a subway for quick transportation from their building to the Senate floor.

*Question:* Under what circumstances may the President call a special session of Congress?

*Answer:* Under the Constitution (art. II, sec. 3) the President may convene Congress, or either House, "on extraordinary occasions". It is usual for him in calling an extra session to indicate the exact matter which needs the attention of Congress. However, once convened, a Congress cannot be limited in the subject matter which it will consider.

*Question:* In what circumstances may the President adjourn Congress?

*Answer:* In case of disagreement between the two Houses with respect to time of adjournment, the Constitution (art. II, sec. 3) authorizes the President to "adjourn them to such time as he shall think proper". No President has yet exercised this power.

*Question:* Can Members of Congress be impeached?

*Answer:* No; they are not subject to impeachment, but each House can, with concurrence of two-thirds, expel a Member. Members are subject to prosecution for treason, felony, or breach of the peace, the same as private citizens.

*Question:* How many Members has each State in the House and Senate?

*Answer:* Each State, by the Constitution, is always entitled

to two Senators. Under the apportionment following the 1940 census, the States are entitled to Representatives as follows: Alabama, 9; Arizona, 2; Arkansas, 7; California, 23; Colorado, 4; Connecticut, 6; Delaware, 1; Florida, 6; Georgia, 10; Idaho, 2; Illinois, 26; Indiana, 11; Iowa, 8; Kansas, 6; Kentucky, 9; Louisiana, 8; Maine, 3; Maryland, 6; Massachusetts, 14; Michigan, 17; Minnesota, 9; Mississippi, 7; Missouri, 13; Montana, 2; Nebraska, 4; Nevada, 1; New Hampshire, 2; New Jersey, 14; New Mexico, 2; New York, 45; North Carolina, 12; North Dakota, 2; Ohio, 23; Oklahoma, 8; Oregon, 4; Pennsylvania, 33; Rhode Island, 2; South Carolina, 6; South Dakota, 2; Tennessee, 10; Texas, 21; Utah, 2; Vermont, 1; Virginia, 9; Washington, 6; West Virginia, 6; Wisconsin, 10; Wyoming, 1.

*Question:* What is the procedure for apportionment of Representatives?

*Answer:* By act of 15th November, 1941, Congress adopted the method of "equal proportions"—to be applied automatically unless Congress hereafter adopts a different rule. The total number of Representatives is also fixed at 435; after each census the President transmits to Congress a statement embodying the mathematical computation and showing the number to which each State is entitled.

*Question:* What qualifications are prescribed for a Representative in Congress?

*Answer:* A Member of the House of Representatives must be at least twenty-five years of age, must have been a United States citizen for at least seven years, and must reside in the State—and usually, though not necessarily, in the district—from which he is sent to Congress.

*Question:* In the event of the death or resignation of a Representative, how is the vacancy filled?

*Answer:* A vacancy in the office of Representative from any State is filled normally by a special election.

*Question:* Do the Members of the House have individual seats?

*Answer:* No. They did until the Sixty-third Congress, but now any Member may sit where he chooses.



*Question:* What qualifications are prescribed for a Member of the Senate?

*Answer:* A Member of the United States Senate must be at least thirty years of age, must have been a citizen of the United States for nine years, and must be a resident of the State from which he is sent to Congress.

*Question:* In the event of the death or resignation of a United States Senator, how is the vacancy filled?

*Answer:* A vacancy in the office of United States Senator from any State is usually filled by a temporary appointment by the Governor which continues until the next general election, at which time a Senator is elected for the remainder of the term, if it had longer to run. The seventeenth amendment directs the Governor to call an election, but authorizes the legislatures to make provision for an immediate appointment pending election, and this alternative is ordinarily followed.

*Question:* Do Senators have individual seats assigned them?

*Answer:* Yes. The individual seats are numbered and assigned on request of Senators in order of their seniority.

*Question:* How are the activities of Congress controlled?

*Answer:* The activities of Congress are largely controlled by political parties. The principal ones are the Democrats and Republicans. The party in power controls the Houses and their committees by means of conferences and caucuses, which are private.

Democrats hold a party caucus and may bind the Members to vote a certain way on a bill, if two-thirds vote in favour of being bound. However, a Member may recuse himself if he has a good and sufficient reason, such as having committed himself to a contrary position when seeking election or on constitutional questions.

The Republicans hold a party conference instead of a caucus, and their Members cannot be bound except pertaining to matters of party organization.

*Question:* What is a party leader?

*Answer:* There is a majority leader and a minority leader. In talks on the floor Members do not usually refer to Demo-

crats and Republicans. It is more dignified, it seems, to refer to the majority and the minority. The majority leader has the more influence, of course, since he has the majority of the membership back of him. The leader is all the title implies. He leads in party debate. In co-operation with the Speaker, he brings forward party programmes and policies. His advocacy of, or opposition to, proposed legislation indicates the party preference. The majority leader has much control over what legislative programmes come up and when.

*Question:* Is the majority leader, in either branch of Congress, elected by the House or Senate?

*Answer:* The majority leaders in both House and Senate are not officers of that body, but of the party numerically in the majority at the time. So while each House, under the Constitution, chooses its officers, majority leaders are not selected by the House or Senate as such but by a party caucus.

*Question:* What is "pairing"?

*Answer:* Pairing is a practice whereby two Members of opposing parties who plan to be absent agree that, during a specified period, they will refrain from voting in person, but will permit their names to be recorded on opposite sides of each question. It appeared in the House of Representatives as early as 1824. It was not officially recognized in the rules until 1880; at present, pairs are announced by the Clerk and published in the Record. Pairing is also practised and permitted in the Senate although not recognized by the rules.

*Question:* Why are congressional standing committees necessary?

*Answer:* Standing committees were established as early as 1803; before that, bills were discussed in Committee of the Whole, and then referred to a select committee for drafting. The development of standing committees of small membership was a practical necessity to ensure a preliminary check on the flood of bills introduced. Committee procedure, with its witnesses and cross-examination, offers a much more satisfactory method of reaching the real merits of a measure and presenting it in workable form than the necessarily limited consideration on the floor by a (possible) membership of 435.

*Question:* How are the members of the standing committees of the House selected?

*Answer:* The Democrats at a caucus preceding the meeting of Congress nominate their Members for the vacancies that they are entitled to fill on the Ways and Means Committee. These recommendations are then presented to the House and adopted. The Democratic Members of the Ways and Means Committee act as a committee on committees for the purpose of nominating the Democratic Members to fill the vacancies on the other standing committees of the House. The recommendations of this committee are presented to and adopted by the House.

The Republicans in the House have a committee on committees to make recommendations, which are adopted by the House, to fill vacancies that they are entitled to fill.

*Question:* What arrangements are made for a meeting of a standing committee of the House?

*Answer:* Each committee has a large committee room, its size and accommodations depending upon the importance of the committee. Each of the major committees of the House has a large meeting room equal in size to the average United States district courtroom. The members of the committee have individual seats in a semi-circle behind individual desks. A witness appearing before this committee in support of or in opposition to a bill is usually given time to make his own statement and then the committee members are privileged to cross-examine him.

*Question:* Under what circumstances do House committees themselves originate bills?

*Answer:* Members sometimes present petitions, and reference of such petition to the committee having jurisdiction of the subject matter gives it authority to draw a bill. The same is true when communications addressed to the House from the President, executive departments, or other sources are referred to appropriate committees. General supply bills, revenue measures, and other similar proposals originate in the committees.

*Question:* Do the committees hold hearings on all bills

referred to them?

*Answer:* It is the view of many chairmen of committees that any Member who insists on a hearing on any bill should have it. But it must be remembered that many times there may be several bills almost identical in text—certainly similar in substance—and in such cases hearings are frequently held on a group of related measures, or a hearing held on one of identical bills serves for all. It is not always possible for a Member to secure a hearing on his bill before a committee.

*Question:* Does the committee to which a bill is referred effectively control its disposition?

*Answer:* Ordinarily the action of a committee in failing to report a measure spells its defeat. However, the House rules provide machinery by which a public bill may be taken out of committee, if held by them longer than thirty days. A petition, signed by a majority of the membership (218 Members), to discharge a committee from further consideration of the bill, will be placed on a special calendar and may be called up by any of the signers on the second or fourth Monday of any month. Only twenty minutes' debate is allowed on the motion; if it prevails, then the House further votes to consider the bill; it is then considered under the general rules.

This special procedure is resorted to very infrequently, and usually on measures of a controversial character. This is the House machinery for forcing consideration of measures which may be "buried" in committee.

*Question:* What is the Committee of the Whole?

*Answer:* Motions or propositions involving taxes or appropriations, authorizing payments out of appropriations or releasing liability to the United States or referring claims to the Court of Claims, are considered first in the House sitting as a Committee of the Whole. Upon resolving into Committee of the Whole, the Speaker gives way to a chairman, and the mace is moved to a lower pedestal. Speeches are limited to five minutes. The "previous question" cannot be put in the Committee; and the Committee does not adjourn, but rises and reports to the House, whether their business is unfinished or finished. A quorum is a hundred Members.

## THE ROYAL COMMISSION ON THE PRESS

The Report of the Royal Commission on the Press (H.M.S.O. Cmd. 7700. 6s.) is an important document for all students of politics, commerce, and human nature. Of special interest to readers of this journal is a table, prepared by Mr. R. Silverman, showing the total of news space devoted to parliamentary news in nine national daily newspapers during 1947. Parliamentary news relates only to reports of proceedings in Parliament. It should be remembered in considering these figures that Parliament sits for only about eight months of the year and that there is no parliamentary news for the Monday morning papers.

Newspaper	Per cent. of news space		
	Parliamentary	Other political, social and economic news	Total
<i>The Times</i>	11	38	49
<i>Daily Telegraph</i>	12	36	48
<i>Daily Express</i>	6	29	35
<i>Daily Herald</i>	4	43	47
<i>Daily Mail</i>	5	31	36
<i>Daily Worker</i>	8	46	54
<i>News Chronicle</i>	6	31	37
<i>Daily Graphic</i>	5	25	30
<i>Daily Mirror</i>	2	28	30

## CORRESPONDENCE

Sir,

Dr. Silcox's article on parliamentary institutions in Canada in your spring issue has two points which invite comment.

1. On p. 130 he twice refers to what he calls "the original colonies of Canada" and "the original Colonies", meaning, apparently, in both cases, what are now Ontario and Quebec. I am unable to understand this use of the term. I should think Nova Scotia, which was a British colony long before the capture of Quebec (Halifax is this year celebrating its bicentenary), and whose first legislature, as Dr. Silcox himself points out, met the year before Wolfe's victory, has a much better title.

2. On p. 138, prefacing his statements with the mysterious observation that "At the present time, the situation is everywhere anomalous," Dr. Silcox says: "In British Columbia and Manitoba, the Provincial Governments are coalitions of Liberals and Conservatives; that of Alberta is all but unanimously Social Credit; that of Saskatchewan is overwhelmingly Co-operative Commonwealth Federation (Socialist); that of Ontario Conservative; that of Quebec is Union Nationale. Only in the three Maritime Provinces are Liberal Provincial Governments in power." In this paragraph, Dr. Silcox has confused Governments and Legislatures. The *Government* of Saskatchewan is *wholly* CCF; the Legislature has 31 CCF members and 25 Opposition (24 Liberals, one Progressive Conservative elected with Liberal support). Before the last provincial general election, the Saskatchewan Legislature was "overwhelmingly" CCF: there were only five Liberals and three active service representatives (who did not describe themselves as adhering to any party), against 47 CCF.

I should also like to comment on the interesting and informative article on the Canadian Parliament Buildings in your winter issue. The author, writing on Queen Victoria's choice of Ottawa as the capital, says: "The Prime Minister wished to support the Queen's choice, but he could not depend on his colleagues, and the Chief Commissioner of Public Works showed his disapproval by resigning." I have been unable to find any evidence to substantiate this. The Journals of the Assembly for 28th July, 1858, show that on the crucial motion, that the City of Ottawa ought not to be the permanent seat of Government (which was carried, 64-50), the whole Cabinet, including Mr. Alleyne, the Chief Commissioner of Public Works, voted in the minority. The Government succeeded in carrying the adjournment, but resigned because it could not accept the vote of the House on the seat of Government. The Governor-General called on Mr. Brown to form a Government, which he did. The Brown-Dorian Government was defeated, 2nd August, on a motion of want of confidence, and asked for a dissolution. The Governor refused, and called on Mr. Galt, who declined, and then on Mr. Cartier, who accepted and formed a new Government, the Cartier-Macdonald Government, practically identical with the Macdonald-Cartier Government which had been defeated on 28th July. In this new Government, Mr. Alleyne

held the office of Provincial Secretary. This episode, incidentally, is famous in Canadian history as the "double shuffle". Under the Independence of Parliament Act as it then stood, any Minister might resign one office and take another within one month without vacating his seat. Each of the members of the Cartier-Macdonald Government accordingly first assumed a new office, then (in nearly every case) solemnly resigned it and resumed his old office.

The name of our Museum is *either* "Victoria Memorial" *or* "National", not a mixture of the two; and what the article calls "Confederation Hall" is usually called "the Hall of Fame". There is no "Privy Council building". The building which houses the Privy Council offices contains also the Department of External Affairs (and until recently the Department of Finance was there too). It is called the "East Block".

Your readers may be interested to know that the old Centre Block had living quarters for the two Speakers. The old building also had a blank shield available for the arms of Newfoundland. The shields in the old building were in the floor inside the main door.

Yours faithfully,  
EUGENE FORSEY

3 Lakeview Terrace,  
Ottawa, Ontario,  
Canada

Sir,

I think there is an error in the description of the seating arrangements in the Parliament of Edward I given at the foot of the picture facing p. 260 of your Summer number. You say "on the cross-bench facing the throne sit the Commons". In fact, on the front cross bench sit the barons, in order of seniority from right to left, with the Lord Prior of St. John at their head. On the rear cross bench are the abbots, continued from the rear bench on the spiritual side of the House. The barons continue on the rear bench on the temporal side (which is still called "The Barons' Bench"); but in this picture the Bishops of Durham and Carlisle are shown at the head of that bench—so as to be next, presumably, to the Archbishop of York at the temporal end of the "greater bench" on which is the Throne.

This is interesting, because although the picture is certainly not contemporary with Edward I, yet it is likely that at some time during the fourteenth century, but not thereafter, the two bishops of the Province of York did sit on the temporal side of the House. Also, the future Edward II—one cannot yet call him the Prince of Wales, because of Llewellyn on the King's left—is shown wearing robes, but not peers' robes. This is correct, as there were no Dukes or Marquesses at that time. The picture therefore has some authenticity, and may in fact well be an accurate representation of one of our earliest Parliaments—except of course, that it does not include the Commons.

Yours faithfully,  
R. PERCEVAL

House of Lords,  
London, S.W.1

## BOOKS RECEIVED

*The inclusion of a book in this list does not preclude its review in a subsequent issue of Parliamentary Affairs. Any of the books in the list or reviewed on pages 425 to 454 can be ordered through the Hansard Society.*

- BELOFF, MAX. *Thomas Jefferson and American Democracy*. Hodder & Stoughton for the English Universities Press. 5s.
- BIRCH, NIGEL. *The Conservative Party*. Collins. 5s.
- BRAINE, BERNARD. *Tory Democracy*. Falcon Press. 6s.
- BROME, VINCENT. *Clement Attlee*. Lincoln-Prager. 7s. 6d.
- CISNEROS, AUGUSTIN DEL RIO. *España, Rumbo a la Post-Guerra*. Madrid: Afrodisio Aguado, S.A. 50 Ptas.
- COOK, HARTLEY KEMBALL. *The Free and Independent*. Allen & Unwin. 8s. 6d.
- CORWIN, E. S. *The President: Office and Powers*. Third revised edition. New York University Press (London: Cumberlege). 35s.
- CRUIKSHANK, R. J. *The Liberal Party*. Collins. 5s.
- FRANKLIN, BENJAMIN. *Autobiography*. (Everyman's Library, No. 316: new edition.) Dent. 4s. 6d.
- FREEMAN, DOUGLAS SOUTHALL. *George Washington*. Eyre & Spottiswoode. Two volumes. 18s. each.
- HALL, WILLIAM GLENVIL. *The Labour Party*. Collins. 5s.
- LIPMAN, V. D. *Local Government Areas, 1834-1945*. Oxford: Blackwell. 25s.
- PATTERSON, C. PERRY. *Presidential Government in the United States*. The University of North Carolina Press. (London: Cumberlege.) 21s.
- POLLARD, FRANCIS E., BEATRICE E. POLLARD, and ROBERT S. W. POLLARD. *Democracy and the Quaker Method*. Bannisdale Press. 8s. 6d.
- STRONG, C. F. *Modern Political Constitutions*. Third edition. Sidgwick & Jackson. 25s.
- SUÑER, SERRANO. *Entre Hendaya y Gibraltar*. Madrid: Ediciones y Publicaciones Españolas, S.A.
- THOMPSON, DAVID. *Equality*. Cambridge University Press. 3s. 6d.
- UTLEY, T. E. *Essays in Conservatism*. Conservative Political Centre. 1s.
- WILKINSON, B. *The Constitutional History of England, 1216-1399*. Volume I, *Politics and the Constitution, 1216-1307*. Longmans, Green. 16s.
- WILLIAMS, SIR HERBERT. *Politics—Grave and Gay*. Hutchinson. 21s.
- ZINK, HAROLD. *A Survey of American Government*. Macmillan. 24s.



## GOVERNMENT PUBLICATIONS

*Most of the Government publications listed on this page are of parliamentary or constitutional interest. All Government publications, including Hansard for the House of Lords and House of Commons (daily parts, weekly editions, or bound volumes) can be ordered through the Hansard Society.*

- British Dependencies in the Far East, 1945-9.* (Cmd. 7709). 2s.  
*Colonial Territories, 1948-9.* (Cmd. 7715). 2s. 6d.  
*Consolidation of Enactments (Procedure) Bill.* (H.L. 80, H.C. 118). 1d.  
*Council of Europe. Statute.* (Cmd. 7686). 6d. Establishment of Preparatory Commission. (Cmd. 7687). 2d. Explanatory Note on the Provisions of the Statute. (Cmd. 7720). 2d.  
*County Court Procedure, Final Report of the Committee.* (Cmd. 7668). 2d.  
*Estimates, Select Committee on.* Second Report. (H.C. 86). 4d. Third Report. (H.C. 87). 4d. Fourth Report. (H.C. 91). 1s. Fifth Report. (H.C. 141). 2d. Sixth Report. (H.C. 142). 3s. 6d. Ninth Report. (H.C. 203, 205). 2s.  
*Government Publications.* Consolidated List for 1948. (70-344-0-48). 1s.  
*House of Commons Members' Fund.* Accounts, 1947-8. (H.C. 88). 2d.  
*House of Commons (Redistribution of Seats) Bill.* (H.L. 82). 4d. Second Report by Joint Committee. (H.L. 29-1, 97, H.C. 170). 3d.  
*House of Lords Manuscripts, Vol. IX (1710-2).* Edited by Maurice F. Bond, M.A., F.S.A. (H.L. 92). 12s. 6d.  
*House of Lords Offices.* Second Report by the Select Committee. (H.L. 70). 1d. Third Report. (H.L. 79). 1d.  
*Justices of the Peace Bill.* (H.L. 114). 1s.  
*Law Reform (Miscellaneous Provisions) Bill.* (H.C. 140). 1d. As amended by Standing Committee. (H.C. 114). 2d.  
*Local Government Boundary Commission.* Report, 1946-7. (H.C. 150) 2d.  
*Local Government Financial Statistics.* Summary, 1946-7. 3d.  
*North Atlantic Treaty, Events leading up to the Signature.* (Cmd. 7692). 2d.  
*Notes for Candidates on Changes in the Law.* (County, Town and District Council Elections in Scotland). 2d.  
*Political Activities of Civil Servants, Report of the Committee.* (Cmd. 7718). 9d.  
*Population, Report of Royal Commission.* (Cmd. 7695). 4s. 6d.  
*Press, Report of Royal Commission.* (Cmd. 7700). 6s.  
*Public Accounts, First Report from the Committee.* (H.C. 104). 1d.  
*Records, 109th Report of the Deputy Keeper.* (44-2-0-47). 4d.  
*Representation of the People Bill.* (H.L. 81). 4s. 6d. Amendments made by the Joint Committee. (H.L. 81a). 2d.  
*Statutory Instruments, Select Committee.* Minutes of Proceedings (H.C. 100). 1d. Minutes of Proceedings. (H.C. 116). 1d. Minutes of Proceedings. (H.C. 133). 2d. Minutes of Proceedings. (H.C. 154). 1d. Minutes of Proceedings. (H.C. 167). 1d. Fourth Report. (H.C. 179). 2d. Minutes of Proceedings. (H.C. 196). 2d.

## BOOK REVIEWS

**The Growth of English Representative Government.**

By George L. Haskins. Oxford University Press. 10s. 6d.

**Parliament.** By Sir Courtenay Ilbert. Third edition, revised by Sir Cecil Carr. Oxford University Press. 5s.

**Our House.** By A. C. Bossom. Peoples University Press. 7s. 6d.

**The Parliament at Westminster.** By T. G. B. Cocks. Edward Arnold. 3s.

**The Government of Britain.** By Wilfrid Harrison. Hutchinson. 7s. 6d.

**Houses of Parliament.** By Philip Butler, with photographs by Derrick L. Sayer in collaboration with Guy Allan and John Livesey. Lincolns-Prager. 9s. 6d.

During the six years of total war (1940-45), the British Parliament never once failed to meet at its appointed time. In spite of constant and sometimes imminent danger, in spite of the complete destruction by the enemy of the Commons Chamber, each House continued to sit and transact its business. From 1940, in the face of frequent defeat and not infrequent disaster, Parliament continued calmly to sustain and fortify the Government of its choice, until at last, more than five years later, complete victory was obtained. In the face of these facts it is scarcely surprising that amid the wrack of Europe still heaving with the undertow of war, the British Parliament seemed to stand like a beacon illuminating the way to a harbour of refuge from future storms.

At the same time as on the Continent curiosity about our institutions was thus aroused, the war time all-party administration which had governed this country for over five years broke up and a general election followed. A large number of electors who were called upon to vote for the first time clamoured for more knowledge of our political institutions.

Books on the subject of Parliament were produced or reproduced and went out of print with startling rapidity. After four years that interest in our institutions is still keen, that curiosity is still unassuaged.

Abroad, between the wars, democracy was held in open contempt and one after another the States of Europe were engulfed by the rising tide of dictatorship. At home, politicians were held in less and less respect and it seemed that our representative institutions might perish from the sheer apathy of the electorate. That apathy was probably more apparent than real, but however that may be, conditions have certainly changed. The long queues waiting to hear debates in the Commons, as well as the ready market for books on parliamentary subjects, testifies to the sustained popular interest in Parliament. In Europe, freedom-loving eyes still turn to Westminster—not for the first time, be it noted. In the last century after the close of the Napoleonic wars, the English constitution, having weathered the buffeting of the years between 1789 and 1815 and having survived the troubles attendant on Reform, became the fashionable model for Europe. Liberal sovereigns hastened to confer on their subjects the boon of a constitution more or less modelled on that of this country, while less liberal monarchs were compelled to take the same line, some thrones being lost in the process.

British Statesmen were, perhaps, too prone to prescribe a "constitution" as the sovereign remedy for all political ills. They failed to realize the extent to which our institutions are the creatures of circumstance, slowly forged by the impact of eventful centuries upon the British character. The years after 1848 proved the difficulty of transplantation. Many constitutions tottered, some were lost. Nevertheless, the seed had been sown and by the end of the century there had grown up in most of Europe some form of representative Government, with two houses on the English model; with procedure, so Sir C. Carr says (p. 202), based directly or indirectly on the Romilly-Dumont digest of the procedure of the British House of Commons.

The latest and most remarkable development of all took

place in Strasbourg in August when the representatives of ten nations met in the Consultative Assembly of Europe. That sense of unity derived from the Roman Empire, cherished throughout the Middle Ages, temporarily shattered by the Renaissance and the Reformation, has found new expression in a representative Assembly. To that body will fall the difficult and delicate task of reconciling continental parliamentary ideas based on a written constitution with the looser and more flexible practice of the British. It is clear from the terms of the Statute that the Assembly will have to prove that it can walk before it will be allowed to try running. That method may appear ultra cautious to some, but it is a method entirely consonant with the development of British representative institutions; for evolution is the keyword to an understanding of our Parliament and its procedure. Without some knowledge of the past it is impossible to understand the real meaning of the present.

This is well illustrated on page 32 of *The Houses of Parliament*. From a semi-humorous description of the ceremony of the locking of the doors on the approach of Black Rod it is deduced that the Sovereign is reminded by this ceremony that he has no constitutional right to enter the Commons in person since Charles I in 1642 tried to arrest the five Members. As every school boy knows the gravamen of the charge against Charles I was that he had infringed the Commons' privilege of freedom of speech. It is the right to speak without fear of King or secret police which is asserted each time the Commons door is slammed, and events in other countries have proved that privilege to be as essential a safeguard in 1949 as it was in 1642. The remainder of the text of the book referred to is much in the same vein, but the illustrations are beautifully produced. But we wonder why it was thought necessary to include photographs of the particular groups of statuary illustrated on pages 31 and 33. When there are so many other subjects of interest inside the building, it seems a pity to give a preference to two such uninteresting items.

The other five books on our list are of a much more serious nature. Mr. Haskins does not touch the present. His study

of the growth of English Representative Government begins with a lively description of the setting for a Parliament of Edward I. In the eyes of the historian of the mid-nineteenth century, Edward I had consciously founded Parliament upon a system of estates perfected in 1295. Mr. Haskins rightly sets out to destroy that impression. He argues that the Commons were called to Parliament as suitors at the King's Court, summoned to do what was ordained. Even the taxes which they granted were regarded as the revenues of the King's Court of Parliament. Nearly a hundred years later an eyewitness account of the Good Parliament in 1376 shows a general debate with orators speaking from "the lectron". At the conclusion of the debate a Speaker was elected to act as the *rappporteur* to the King. From these beginnings Mr. Haskins traces the gradual recognition of the representative function of the Commons, their successful claim to originate taxing proposals, and the evolution of the petition into the bill. Under the Tudors, Parliament was the efficient weapon of the royal prerogative until the weapon turned in the less skilful grasp of their successors. The substance of this book was delivered as six lectures, which accounts for minor repetitions. Mr. Haskins, however, makes a convincing case for the haphazard growth of the power and functions of the House of Commons; a more tenable theory, in the light of English characteristics, than that of Stubbs who regarded Simon de Montfort and Edward I as what would now be called super-planners.

Three of the remaining books begin with an historical introduction but Mr. Cocks prefers to weave his history into the thread of his narrative. This book is written for the pupils of secondary schools in an easy conversational style and with a liberal supply of "jam" in the form of anecdotes to relieve the "dry bread and butter" of factual narrative. But the facts are there. Mr. Cocks's ability to catch the imagination, and the intriguing illustrations, combine to make this book a very useful adjunct for the teaching of modern history and an excellent basis for "current affairs" talks. In the next edition Mr. Cocks might consider tidying up the list of Ministers on pages 69-72.

In Sir Cecil Carr the publishers have found the ideal editor and reviser for the work of the late Sir C. Ilbert. Carr, like Ilbert, followed a brilliant University career by being called to the Bar, whence he passed into the service of the State and finally into that of the House of Commons. So skilfully has Sir Cecil done his work that not only has he brought the book up to date, but he has blended his style so well with the original that from internal evidence it is hard to assign any particular portion to the author or his editor. One of the difficulties of writing on a living organism is that the process of change may be more rapid than that of recording it. Lucky is the author or editor who can publish a work on Parliament without finding some part of it out of date before it has seen the light of day. On page 85 Sir Cecil has described the Supply procedure as it was before the reforms which followed on the report of the Procedure Committee of 1946. That is a minor blemish and this scholarly edition will surely rank as the standard short work on Parliament from which the original was only deposed when it had been long out of print.

Mr. Bossom, in his opening chapter, sketches in the historical background for the modern story. The sketch is necessarily incomplete but reasonably accurate, though the second Tory party was not firmly established by the time Sir Robert Walpole fell and it is a pity to leave out of all account the "Peelites" who, though never in great number, played an important part in the Commons of a hundred years ago. Mr. Bossom has written a lively account of the work of the modern Member, tinged with, but never distorted by, the author's political views. Mr. Bossom is obviously a keen House of Commons man and after reading this book it is possible to imagine the attraction which lures men to the House and keeps them there despite the unending grinding work required of the M.P. of to-day. In so accurate a book there is one unaccountable slip; on p. 131 Mr. Eden is said to have resigned on the Munich question. It was, of course, Mr. Duff Cooper who resigned on Munich; Mr. Eden following early in the next year on the Italian question.

Mr. Harrison's book covers a rather wider field but

confessedly falls between two stools, being neither "an introduction for people wholly unacquainted with the subject nor a fully documented text-book". Mr. Harrison inclines to the view that political parties in England have differed more over short than over long periods. This seems another way of saying that in England change comes so gradually that by the time radical reforms are put into operation all parties are agreed in principle but only differ on the means and time. Mr. Harrison discusses interestingly the question of the position of the Semi-Independent Administrative Organ, but rather begs the question of the ability of the civil service system to manage an industry or business. There is an interesting chapter on "debatable" questions and a very useful bibliography.

One hundred years ago the Holy Alliance endeavoured to quench the life spark of all democratic institutions in Europe. The enemies of the parliamentary system no longer hide their intentions beneath the smooth words of Metternich but they are no less persistent of purpose and skilful in manœuvre. Our institutions can only be maintained by vigilance and knowledge. It is good that there is a ready market for six such diverse attempts to spread that knowledge.

E. A. FELLOWES.

(*Mr. E. A. Fellowes, C.B., M.C., is Clerk-  
Assistant of the House of Commons.*)

**The Constitutional History of England, 1216-1399, with Select Documents; vol. 1, Politics and the Constitution, 1216-1307.** By B. Wilkinson. Longmans, Green. 16s.

**An Outline of Constitutional Law.** By W. I. R. Fraser. William Hodge. 18s.

**The Law and the Constitution.** By Sir W. Ivor Jennings. University of London Press. 8s. 6d.

**Modern Political Constitutions.** By C. F. Strong. Sidgwick & Jackson. 25s.

**Elements of Democratic Government.** By J. A. Corry. New York: Oxford University Press (London: Cumberlege). \$3.75.

Professor B. Wilkinson's book is the first volume of a projected work on a large scale. The author, who is Professor of Medieval History in the University of Toronto, proposes to deal with the constitutional history of England, 1216-1399, in three volumes. The first, now published, is devoted to Politics and the Constitution, 1216-1307; the second volume in preparation is planned to continue that dual theme to 1399; and the third volume is intended to deal with the development of the Constitution, 1216-1307. Thereafter, the author will direct his attention, in an unspecified number of volumes, to the period 1066-1216, and apparently later to the whole of the rest of the medieval period. A cardinal feature of the work is its presentation of a number of documents in translation, and most of the text is designed as an introduction to and a commentary upon these documents.

The work is thus conceived on novel lines, and in formidable proportions, and it is inevitable that both the lines and the proportions should attract criticism, for both are bound to give rise to serious doubts. In the 233 pages of this somewhat expensive book, only thirty-four documents, some of them very brief, appear, occupying about sixty-four pages altogether; sixty-eight pages are taken up with a general and distinctly discursive introduction; the remaining hundred pages, divided into five chapters, comprise mainly commentary and discussion upon the documents grouped within each chapter. We are thus given more than two-and-a-half times the amount of introduction and commentary as we are documents, and since these are given only in translation, we still have to look elsewhere for versions in the original languages for serious purposes.

The book as a whole takes on the appearance of being an attempt at producing a source-book and a constitutional history at the same time, to the distraction of the reader and the dissipation of the author's energies. When it is reflected that a



similar method will presumably be followed in the second volume (and subsequent volumes for other periods), and that we are to have a third volume which will purport to concentrate on the development of the Constitution during the same period, to whose politics and Constitution two volumes will already have been devoted, one may well feel apprehensive. One can have too much of a good thing, and Professor Wilkinson's book may prove to be an example thereof. It is not as though he were a master of the pregnant sentence or the succinct statement; on the contrary, he is prone to expatiation and repetition and some imprecision, and a work on the scale projected may react upon students as a sedative rather than as a stimulant. Such a result would be unfortunate, for the author's ripe scholarship, learned enthusiasm, and close knowledge of the sources are well known. In any event, the work is itself a substantial contribution to the understanding of the period. The discussion of many controverted points is fair and thorough, and more advanced students will need to take its arguments into account.

The second edition of Mr. Fraser's text-book on constitutional Law is very welcome. The book was written primarily to meet the needs of candidates for law examinations in Scotland, and is written especially from the Scottish point of view. It therefore tends to concentrate upon the constitutional law applicable to Great Britain in general and to Scotland in particular, and to omit what may be applicable only to England and other parts of the United Kingdom. But within its limits it is an admirably lucid and thoughtful exposition, and deserves to be as widely used in England as it is in Scotland. For its size it is one of the best text-books of constitutional law, and this second edition, revised so as to state the law at 1st April, 1948, makes it the most up-to-date text-book of any size available at present.

The third edition of Sir Ivor Jennings's very well-known book *The Law and the Constitution*, reprinted for the fifth time in 1948, makes no change in the second edition except to add a very short introduction sketching the theme of "the Law and the Constitution in Wartime". This essay, written in Ceylon

before the end of December, 1942, is inevitably an incomplete treatment of its subject, and cannot be said to add very much to the value of the second edition, with the text of which the author rightly and wisely decided not to interfere. The book itself remains an excellent and stimulating essay on the relations between the law and the constitution. Written with all the learned author's verve and lucidity, it is likely to remain of permanent value to those interested in the nature of the British Constitution. Perhaps not all its views will command universal assent, but the book goes far to bring up-to-date the gospel according to Dicey.

Dr. C. F. Strong's third edition of his *Modern Political Constitutions* will be useful to those desirous of keeping abreast of some of the more recent constitutional developments in Europe and elsewhere. The book was originally intended, it seems, to meet the needs of adult educational classes in this subject, and the book remains very much in that category of literature. Much of its information is of a somewhat elementary sort. Its chapter on the history of the constitutional state—from the Greeks to the Second World War—is rather perfunctory, and the author evidently harbours some very old-fashioned notions about the history of the English parliament. In its treatment of modern constitutions, perhaps too much stress is laid upon classifications which do not exactly fit all the facts, partly with the result that an amorphous third part has had to be included to cover "Additional Considerations". The book, however, is sufficiently up-to-date to bring in useful accounts of the new constitutions of the Fourth French Republic and the Italian Republic, and of the Charter of the United Nations. Without pretensions to the scholarship of Professor Hawgood's *Modern Constitutions since 1787* (which, curiously enough, is not mentioned in the bibliography), Dr. Strong's volume is a helpful introduction to its subject, and may well stimulate interest in it.

*Elements of Democratic Government* by J. A. Corry, Professor of Political Science in Queen's University, Kingston, was first published in Canada in 1946 under the title *Democratic Government and Politics* and was reviewed in No. 4,

Vol. 1, of *Parliamentary Affairs*. In a revised and enlarged form it has now been published by the Oxford University Press, New York. If this republication enables the work to reach a wider public, it is all to the good, for this is one of the best available text-books of its kind. Many books purporting to be introductions to political science appear nowadays. The subject is fashionable at present, even though, or perhaps because, its content, as conceived by some writers, is little more than a mixture of elementary political and constitutional information with a large dose of propaganda, conscious or unconscious.

Professor Corry's book tends to restore one's faith that there is such an academic discipline as political science. He is probably right to disclaim having made an original contribution in this book; it has not many new ideas nor many facts that are fresh. But it is a masterly exposition of the theory, and still more the practice, of democratic government in the United Kingdom, the United States, and Canada. The beauty of it lies in its emphasis on practical realities, and its wealth of apt illustration from the actual structures and operation of government in those three countries. Contrasting material is drawn from the dictatorships, with the result that the reader is given a clear and revealing picture of the principal alternative possibilities in government in the modern world. The author's sound historical understanding, profound knowledge of the working of government in the three selected States, and great skill in marshalling an immense mass of information, result in an introduction to political science which is far more than introductory. Few readers can fail to profit from the use of this work.

S. B. CHRIMES.

(*S. B. Chrimes, M.A., Ph.D., is Lecturer in Constitutional History in the University of Glasgow.*)

**The Labour Party.** By William Glenvil Hall. Collins. 5s.

**Labour Marches On.** By John Parker. Penguin Books. 1s. 6d.

**The Conservative Party.** By Nigel Birch. Collins. 5s.

**The Case for Conservatism.** By Quintin Hogg. Penguin Books. 2s.

**Tory Democracy.** By Bernard Braine. Falcon Press. 6s.

**Essays in Conservatism.** By T. E. Utley. Conservative Political Centre. 1s.

**The Liberal Party.** By R. J. Cruikshank. Collins. 5s.

**The Case for Communism.** By William Gallacher. Penguin Books. 1s. 6d.

“But what about the opposition? What opposition? The parties in the government bloc represent the people, and carry forward a policy in the interests of, and for the welfare of, the people. These who want to put the clock back are enemies of the people. There can be no toleration for such . . . political parties represent classes. Under complete socialism, there would be no capitalist class, and no parties representing capitalist interests.” (William Gallacher in *The Case for Communism*).

For a Communist like the one quoted above, the functions of a political party—there can, of course, be only one—are very easy to define. So are the interests of the people, which are simple, identical for everyone, easy to understand and—in a Communist dictatorship—theoretically easy to satisfy. But for non-Communists, the problem is not so easy. The interests of the people are complex, many-sided, and often self-contradictory. They are neither easy to understand nor to gratify, in a normal political democracy.

It is a commonplace of politics today to say that the British are governed by an elected dictatorship. They have the right to say which party will govern them, and some voice in framing the policies on which elections are fought. Once elected, however, any majority in Parliament is supreme and has absolute power until it either loses the confidence of its own supporters or becomes the minority at the next election. Britain is not governed directly by the people but by their elected representatives, who hold and wield power in their name. Britain's political parties are the organizations through

which the people may be said—in a wide sense—to govern themselves.

It is easy to say that the two main British political parties represent opposing points of view on domestic and foreign policy. It is also easy to say they represent class interests. Both are true—but only up to a point. For the striking thing to outsiders has been, and is, not how much British parties disagree but how much they agree. Another political commonplace is that a Parliamentary system can operate *only* when the parties are in fundamental agreement. Try to imagine a two-party system with Communists and Fascists alternating as government and opposition!

How wide the measure of agreement is may be seen from reading some of the more recent books and pamphlets sponsored by the three main parties (and listed, together with one Communist book, above). All profess allegiance to Parliamentary methods. All oppose Communism and the use of force. All (yes, the Labour Party as well) are severely critical of Marxist doctrines. All are committed to some, although not to the same, degree of planning. All are supporters of the Commonwealth and Empire. All stress the importance of freedom. All wish to improve the material conditions and the moral standards and tastes of the people. They are at odds over methods for achieving these aims—but then the line of resemblance reappears: they are each convinced of their own suitability for the job!

British parties *are* divided along class lines—but very roughly. Writes a Labour Minister: “An inquiry . . . showed that Labour got a large majority of the votes in the lower income levels, a narrow majority in the middle income groups and a substantial minority even in the higher income group definitely described as ‘middle class’.” (W. G. Hall in *The Labour Party*). And a Conservative: “That the Conservative Party is a class party is a jibe at least one hundred and fifty years old. The first thing one is tempted to ask any Socialist who puts forward this view is ‘What then is all the fuss about?’ A party composed exclusively of the rich and great would have had no chance at the polls since 1867.

Anyone actively engaged in Conservative politics knows from his own experience that his supporters come from all classes . . . the line of political division in this country is oblique and not horizontal." (Nigel Birch in *The Conservative Party*).

If it is true that British parties, in spite of different programmes, agree on fundamentals; if it is only partly true that they represent class interests: what other factors enter into the British party system? Several, probably—and one of the most important is a difference in temperamental outlook and habits of thought.

On the Conservative side may be found those whose view of human nature is that original sin is not to be lightly disregarded and that men are not perfectible from the outside; that much of the past is good and should be conserved; that change, although often desirable, should come slowly. Conservatives tend to have marked respect for discipline, authority and the principle of leadership. It is implicit in all four of their books listed above—and most explicit in the position given the "leader" on the Conservative Party Organization Chart in Mr. Birch's book.

Members of the Labour Party, on the other hand, are apt to take a much more optimistic view of the perfectibility of human nature under good environmental conditions and are—for all their large body of non-conformists—less concerned about original sin. They by no means reject all the British past, but they give it much less reverence than do Conservatives—and they insist on quicker and more far-reaching changes. They are more impressed with the need to eradicate present and observable evils, the Conservatives to avoid the unknown evils which too rapid and ill-digested change might bring.

These different approaches are evident in the varying views taken toward the power of the State. Partly, of course, this difference occurs because Conservatives—and Liberals, for that matter—have had considerable experience in handling power and are well aware of its problems. But the importance of temperamental differences should not be overlooked. The Conservative view is that the State should be (some even suggest that it has always been in the past, but

this is rather an extravagant claim) an impartial arbitrator among the claims of the various groups in the community. Again and again they stress the danger of a concentration of power and what it does to those who exercise it. (Man is sinful and prone to error). Socialists see the State as essentially benevolent, interested in "the good of the people", and are apt to ignore the danger of corruption by great power—here is the optimistic view of human nature. Liberals (occupying here as elsewhere a middle position), in spite of an optimistic view of human nature, also utter warnings about the danger of unlimited power. Lord Acton, it will be remembered, uttered the classic warning, and he was a Liberal.

So—to generalize very broadly—parties in Britain tend to bring together not only the like-minded but the like in temperament. Very often, on specific matters of policy, as a matter of fact, a left-wing Conservative and a right-wing Socialist may be closer to each other than either is to the extremists in his own party.

Perhaps a warning is in place here. So far, the party system has worked well in Britain. On the whole, most people have been tolerably satisfied with both the stability and the opportunities for change it afforded. And they have gained reassurance from being united in a party with people like themselves.

But a feeling of unity with one's cohorts against the other side carries the seeds of danger. So long as party members merely believe that their opponents are wrong about method, incompetent in administration and less able, there is nothing serious to fear. That is the nature of party government and party controversy. Should this feeling begin to change to the conviction that one's opponents are deliberately wicked men who are not genuinely (even if misguidedly) seeking the country's good, that would be dangerous. So far, only the Communists in Britain are willing to make this charge seriously and to stand by it. But it is a hazard not to be overlooked in these days of violent political controversy.

**MARJORIE BREMNER.**

*(Miss Marjorie Bremner, B.A.(Chicago), M.A.(Columbia), is a post-graduate student at the London School of Economics and Political Science.)*

**Labour's Big Three.** By J. T. Murphy. The Bodley Head.  
15s.

**Clement Attlee.** By Vincent Brome. Lincolns-Prager.  
7s. 6d.

**Herbert Morrison.** By Maurice Edelman. Lincolns-  
Prager. 7s. 6d.

**I Fight to Live.** By Robert Boothby. Gollancz. 21s.

To judge by the parts they have played upon the stage of history, Attlee, Morrison and Bevin might well be great men. They have changed the face of Britain and, without revolution, accomplished a transfer of power from class to class. One quality of greatness, the ability to evoke sycophancy in their biographers, is certainly theirs. To judge from the unremitting adulation of Mr. Brome's and Mr. Edelman's studies, Mr. Attlee and Mr. Morrison are suns flecked by no spots. The metaphor is inspired directly by a reading of Mr. Brome. "Clement Attlee and the Labour Party", he tells us, "hold fast to the faith of democratic Socialism . . . a forlorn hope against the horrors of the ancient, starless night now piling up the sky." One looks forward with some little apprehension to Mr. Dennis Healey's biography of Mr. Bevin in the same series.

In spite of the magnitude of the changes they have effected, these have very few of the characteristics of the traditional great man. What, indeed, are their outstanding traits?

In the case of Attlee, a religious origin and background expressing itself in the Christian ideal of service which still directs his life, so that his approach to Socialism is predominantly ethical. He is a first-rate executive and a good chairman of committee. He governs by a system under which his team present to the Cabinet their proposals for applying the Party's policy, his own function being limited to that of checker and co-ordinator. "His strength", writes Mr. Murphy—and let it be said at once that Mr. Murphy's book is in a class by itself being, in fact, a critical and penetrating study and not a mere pan of praise—"lies in his executive ability and in his self-effacing co-operation with others in achieving the ideals he holds by the means in which he



believes." Yet his outstanding characteristic is loyalty, loyalty to the movement which he has helped to build up. Above all, Attlee is the interpreter of the will of the Labour movement; nor does he aspire to more.

And Morrison? A good team worker who is not afraid, as Mr. Murphy tells us, "of having men and women around him of his own stature". A product of the political rather than of the industrial side of the movement, he disregards the class struggle, seeing Socialism as the political sequel to an educated public opinion—it is characteristic of Morrison to think in terms of "the public" and not of the class—voting Socialist under a prosperous and progressively superseded Capitalism. His real contribution to the Party consists, as Mr. Edelman says, "in giving the ideas of Socialism practical expression and form".

Mr. Edelman comments upon the extent to which he is trusted. Morrison's main job is to reconcile the differences of opinion between departments, a difficult task which, Edelman asserts, he could never have performed unless the standing Cabinet Committees over which he presided gave him their confidence and trust. Morrison "masters the problem and stimulates action". This rings true. Morrison strikes one as a supreme administrator rather than as an original political thinker. What are the characteristic Morrisonian words? "Competent", "public spirited", "sensible", "businesslike", above all "efficient". They are the words of a man who gets things done, distrusts high-flown theories and whose test of truth is action. It is, perhaps, for this reason that Mr. Murphy says that Morrison is sometimes regarded as an opportunist, one who "trims his sails to the prevailing political wind". This view of him is, I think, unjust. Morrison goes for limited objectives, and limited objectives change with changing circumstances. But Mr. Murphy, who was, I believe, at one time Morrison's electoral opponent, criticizes all the "Big Three" for what he calls their lack of understanding of the deeper issues. Himself apparently an exponent of the class war theory of social development, he criticizes the Fabians, from whom both Morrison and Attlee derive, for their

failure to understand the meaning of history defined in class war terms and, therefore, to anticipate events.

Here, in fact, he says, is a Party which is still optimistic and meliorist. It tends to think that things will get better and can be made better and never foresaw the conditions with which it would have to deal within a year or two of taking office. It never foresaw war and it did not foresee the increasing crisis of Capitalism. Above all, the Big Three have never made up their minds whether they wish to supersede Capitalism or to make it work, and when the crisis of 1947 came they did their best to bolster up the Capitalism against which all their lives had been spent in demonstrating.

Mr. Murphy's suggestion is that the conditions appropriate to this meliorist view of politics no longer obtain and that the Labour Party in this country must, therefore, if it maintains it, go the way of social democratic movements in other countries. Perhaps; perhaps not. But even if Mr. Murphy turns out to be right in the long run, even, that is to say, if the class war is a skeleton in the cupboard of every modern State, we should be thankful to the Labour Party in general and to these three men in particular for having kept the skeleton under cover for so long. Perhaps one day when the cupboard is opened, it will be found that there is no skeleton there.

In contemporary England we are going through a process analogous to the Russian revolution of 1917, a process which involves the transference of economic and political power from one class to another. But just as in the first thirty years of the nineteenth century England had its French revolution, and just as neither Englishmen nor the world knew that the revolution was in fact taking place, so today our substitute for the Russian revolution proceeds so gradually and so smoothly that most of us are unaware that we are living in a revolutionary epoch. For this, I think, we have these three men very largely to thank. Let us thus be properly grateful.

I could wish that the time were not too long and the space too short to review Boothby's book, but it is now some time since it was published and this review is already overlong. It is a gay, gallant book which reflects something of the

lovable charm of its author—something but not all. Mr. Boothby is not sufficiently a master of the art of writing to give us all of himself—but perhaps he did not wish to.

C. E. M. JOAD.

*(Professor C. E. M. Joad, M.A., D.Lit., is Head of the Department of Philosophy, Birkbeck College, London University.)*

**British Local Government.** By E. C. R. Hadfield and James E. MacColl. Hutchinson. 7s. 6d.

**Principles of Local Government Law.** By Sir W. Ivor Jennings. University of London Press. 8s. 6d.

**Local Government Areas, 1834-1945.** By V. D. Lipman. Oxford: Blackwell. 25s.

**Essays on Local Government.** Edited by C. H. Wilson. Oxford: Blackwell. 18s.

**Comparative Local Government.** By Montagu Harris. Hutchinson. 7s. 6d.

The contemporary literature of British local government still lacks such an all-round exposition and appreciation as appeared half a century ago in the classic pages of Redlich and Hirst. But we can at least say today that, with the addition of the volumes listed above to a number of others which have appeared since the war (including reprints of some valuable pre-war studies), a point has been reached when there are few aspects of the subject not covered by competent, readable, and often scholarly authors.

The period between the two wars having apparently been thought rather deficient in short expositions suited to the general reader, several works of this kind have appeared since the close of the last war, of which that by Messrs. Hadfield and MacColl is the latest. If this latest is distinctive, it is because it is written by two councillors who have, in their own words, acquired their experience "on the soap-box and in the council-chamber" whereas most of the others have been written by local government officers. They have produced a sound, well-balanced, and clearly written piece of work; and if, as is fortunately true, the similar works written by local

government officers have shown a due appreciation of the role and task of the councillor, it may also be said that this one shows a corresponding recognition of the local government officer and his work.

The book by Sir W. Ivor Jennings is a second printing of the third edition of a book originally appearing in 1931, and much in use by students. In its way, this book too can be regarded as a work of popularization. As an exposition of the constitutional setting and legal basis of local government, it is the clearest and simplest which the general reader could find. It can be relied upon by every class of reader as authoritative, for Sir Ivor is one of our leading writers on constitutional subjects, and has always taken a special interest in local government.

The remaining works are of a different order in that their appeal is primarily to the specialist, or at any rate to those well-versed in the practice or problems of local government.

Mr. Lipman's book is a monumental piece of research on the subject of local government areas. It covers the whole period of modern local government, and no such comprehensive review of successive policies and developments, and of present conditions, has hitherto existed. It makes a timely appearance. No changes have resulted from the work of the standing Local Government Boundary Commission appointed in 1946 to implement the policy embodied in the white Paper issued early in 1945 on *Local Government in England and Wales during the Period of Reconstruction*. (Cmd. 6579). In a word, this policy was that there should be a re-organization of areas "within the existing county and county-borough system", through the work of the Boundary Commission; but no change of system in the immediate postwar years. After surveying the ground, the Commission expressed the view that change should go beyond a mere re-application of the existing system of local government units, and submitted recommendations of its own for a reformed system. The Government have announced their intention of abolishing the Commission. In advance, therefore, of major or minor change, Mr. Lipman's work places a mass of well-arranged and well-

documented information at the disposal of all those who must interest themselves in the larger questions which must sooner or later arise as to the future shape of local government. Mr. Lipman puts forward no schemes of his own, modestly acknowledging that judgments of value on a subject of this kind come best from those whose work lies in the sphere of responsibility and action. But, as he says in his preface, "if the academic student cannot teach the administrator, he may attempt to serve him". Mr. Lipman's attempt is a conspicuously successful one for which the administrator must be extremely grateful.

The volume of essays edited by Mr. C. H. Wilson, Fellow of Corpus Christi College, Oxford, comprises studies of structure and finance by research assistants of Nuffield College, arising out of conferences on the future of local government held by the College in recent years. For the most part factual and analytic, all the contributions are of high standard and of practical value to students; but the outstanding feature of the volume is the penetrating introductory essay written by Mr. Wilson himself on the Foundations of Local Government. In this Mr. Wilson brings our thoughts back to the vital political importance of local government as an agency for the active participation of the citizen in the processes of government. In a closely-knit but clear and illuminating argument he states anew, in modern terms, the place of local government in the essential theory of democracy, its indispensability to democratic education, and to the assumption of a real and not merely a nominal responsibility by the citizens at accessible levels of government. No one will deny that the structure of local government must be such as to provide broad conditions of administrative efficiency for the services entrusted to it. But to bend structure to the size and shape which may be the administrative optimum, to conceive of local government as a mere device for administrative decentralization (not that it is nowadays always resorted to for that), must usually entail serious sacrifice of the considerations which belong to political principle. Even the statement, approvingly echoed in high quarters of late, that we must know what the functions of local government are to be before we can deter-

mine its structure, holds errors of emphasis, and betrays too much the administrative habit of thought. The original conception, the one which enabled the local authorities to bring order into the towns, to pioneer the public utilities, to do the spade work in building up the social services, to take the raw edge off class antagonisms by providing fields of co-operative activity for diverse social groups, had a different emphasis. It would have even been prepared to say that, so long as a fairly adaptable standing structure of local government was kept on foot, the maximum of delegation should be made to it on grounds of political principle. Mr. Wilson's essay will furnish a cogent and eloquent answer to any who ask why.

Of Mr. Montagu Harris's book it should be said at once that it is the only book of its kind in the English language. Granted its theme, this accords it a very high value indeed. Years ago Mr. Harris furnished a similar study, now out of date, in *Local Government in many Lands*. In effect this is a revised edition, but instead of reviewing in turn each country's system as a whole, as he did in the earlier work, he now proceeds by successive comparisons of powers, controls, structure, finance, local authority constitution, and so on. Whether such comparisons, drily factual as they are, and accompanied by a minimum of explanatory comment, can be very instructive to the general reader, is open to doubt. Systems are to be understood and appreciated through the interrelation and interworking of their parts. Only the already knowledgeable student can appreciate what may lie behind the constitutional elements Mr. Harris describes. But for the knowledgeable student Mr. Harris has written a book of high value, one which will be an indispensable source-book for some time to come.

One thing Mr. Harris's survey brings out particularly well is the great difference in the constitutional mechanism of the local authority as between the British system and most others. Practically throughout Europe and America the theory of "the division of powers" operates in the local as well as the national sphere, and results in a separate Executive, with well marked responsibility and often considerable

freedom, within the law, for administration. The forms are different: in France, the Mayor; in the northern European countries, the Burgomaster, or the Executive team called the Magistraat, or, as in Holland, the Burgomaster and two deputed members of the council; in the United States either the Mayor under the aboriginal Mayor and Council system, or the City Manager under the substituted constitutions now spreading fast. In Britain, the elected council is legally responsible for the executive and administrative phase, as well as for policy and finance, though in practice Committees and permanent officers assume a large part in the executive sphere. It would be a capital error to regard the system of the separate Executive as undemocratic, unless, indeed, that organ is made a tool of the central state machine, or given powers to overrule the elective council in matters of policy, as happened in some phases of the Burgomaster system, even leaving on one side the very special case of police powers. But we in Britain would claim that, if common sense can avoid confusion of function in practice, as we believe it usually does, our English "Committee System" as it has come to be called, does much for that education in local self-government which is so vital to a healthy democracy.

JOHN H. WARREN.

*(Mr. J. H. Warren, M.A., D.P.A., is General Secretary of the National Association of Local Government Officers.)*

**A Fragment on Government and an Introduction to the Principles of Morals and Legislation.** By Jeremy Bentham. Edited with an Introduction by Wilfrid Harrison. Oxford: Blackwell. 9s. 6d.

This new edition has come at a most opportune time. The work itself is provocative and stimulating, and Mr. Harrison's erudite Introduction is a model of clarity. There is no doubt that, as Bentham himself put it, the reader is put upon thinking for himself.

Mr. Harrison describes Bentham as a reforming lawyer. That description is accurate, yet misleading, because Bentham really was only a lawyer in the sense that he had been called to

the Bar. He did not prepare himself for legal practice, and he was concerned with the notion of government as a sociological fact, both of which facts are stated by Mr. Harrison. But lawyer or not, Bentham's ideas and concepts are still of importance. Practically everybody nowadays professes to believe in the "greatest good of the greatest number", and the man in the street cannot, in the light of his experience of the last few years, have any doubt that legislation is regarded as the primary means of reform, and central control and inspection as means for the direction of administration. Mr. Harrison observes that Bentham was apparently concerned with making people as he found them more happy, and that many Socialists have held an equally humanistic position but have insisted on the necessity of social and institutional changes that would be revolutionary in nature if not also in their mode of accomplishment before the desired state of society could be attained. There is plenty to think about in those observations, and also in the observation that governments should be concerned to be efficient and to care for the public in the present as well as to prepare and to plan for the future. People are not made more happy by constantly being told that happiness is just round the corner.

Is there anyone who genuinely disagrees with Bentham's view that the State has two great engines, punishment and reward: punishment to be applied to all, and upon all ordinary occasions; reward, to be applied to a few, for particular purposes, and upon extraordinary occasions? One could, of course, argue that Bentham's view has become too restricted, as punishment is now applied on all occasions, and that reward for the few is not limited to particular purposes or for extraordinary occasions. If only governments would think in terms of reward rather than punishment, and would remember with Mr. Harrison that the legislator cannot know more than the individual does about the individual himself. The foundation of Bentham's *Resolutions on Parliamentary Reform* moved by Sir Francis Burdett in the House of Commons in 1818, viz. that the basis of good government is the identity of interests between government and governed, is as sound now as then, "governed", of course, including



everybody, and not only those groups for which the government may have a special liking.

Governments may, to a great degree, impair the happiness of the governed without violating the letter of any single law. Bentham made this statement concerning Kings, they being the rulers in his time, and it remains true in the twentieth century if one substitutes "Governments" for "Kings". But no modern government would agree with Bentham on this point. All governments appear to feel the need to be supported upon the sandy foundation of the fiction that those who hold the reins of office are omniscient. In Bentham's day fictions were wooed by the lawyers: they have now been reduced into the possession of the political governors. But for all that, fictions are fictions, and it would be wise for governments, in the long run, to follow Bentham's advice to abstain from all such measures as tend to the unhappiness of the governed, and to remember his dictum that the governed should obey the governors as long as the governors so conduct themselves, and no longer. For the day might come when the governed will decide that the probable mischiefs of obedience are greater than the probable mischiefs of resistance, with terrifying consequences for any government affected by such a decision.

Bentham's writings, it must be admitted, are not easy to read, but no person should have been deterred from doing so on that ground. Any reluctance on this score is no longer valid now that the reader has the inestimable privilege of taking full advantage of Mr. Harrison's learning and scholarship. Mr. Basil Blackwell has earned the gratitude of all for bringing such an important and excellent publication within the range of everybody's pocket.

One small point. I cannot agree with Mr. Harrison's statement that Bentham was one of the founders of University College, London, much as I would like to. Bentham certainly had a great influence in the foundation of the College that was the original University of London, but he was not an actual founder.

RICHARD C. FITZGERALD.

(*Mr. R. C. FitzGerald, LL.B., F.R.S.A., is Reader in English Law in the University of London.*)

**Democracy and the Quaker Method.** By Francis E. Pollard, Beatrice E. Pollard, and Robert S. W. Pollard. Bannisdale Press. 8s. 6d.

The more intimate our study of the working of British parliamentary democracy becomes, the more we shall perceive that it is still in process of growth. Across the years there is to be noted a constant series of changes and adaptations to respond to the tasks to be done and to give fuller expression to what may in the end become the general will. But we are still far from having attained that end in having secured the power of a parliamentary majority to impose its will on the minority, even if that majority should represent, as it does not always do, an actual majority of the whole body of electors. Happily both in national and local government decisions are not simply reached by majority votes, but may be modified in the light of discussion and conference. This constantly takes place, in the committee stage of legislation especially, and in the committees and sub-committees of local authorities.

In major matters the votes of an organized majority are rarely immediately affected by debate. When feelings and convictions are profoundly affected, the carrying of a measure by such a majority vote may leave behind it a sense of bitterness or even of injustice amongst its opponents. At intervals, however, there come occasions when measures of great importance have been agreed to as a result of consultation between the parties concerned, and many others in which opposition has been modified by concessions to those who easily might have been outvoted.

Those who see the need for the development of such methods for the harmonious growth of national life should find a special interest in the study which Francis, Beatrice and Robert Pollard have given of the Quaker method of reaching united decisions. For three centuries in this country the Society of Friends has conducted its business, adapted its organization, and given to all its members the opportunity of sharing in the deliberations involved in this, without

employing the method of a vote. This, of course, necessarily involves the existence of a sense of membership one with another, the willingness to learn from one another, and the desire to help in reaching a right decision. In all business meetings of the Society of Friends decisions are recorded in minutes which are drawn up by the clerk, often with the aid of one or more assistant clerks. The clerk acts as moderator of the meeting, but is its servant and mouthpiece and must be willing to subordinate his personal feelings to what he realizes to be the sense of the meeting. When a proposal is made either by an individual member or a committee, opportunity is given for it to be considered and discussed; at times difficulties and objections may arise which make it desirable to adjourn a decision to a subsequent meeting; at other times substantial agreement comes, perhaps upon an alteration of the original proposal made to meet the viewpoint of those who did not agree with it; sometimes when there appears to be a deep divergence of views, a time of silence is asked for in order that in worshipful quiet there may be united search for the right decision. When the clerk considers that the meeting is prepared for it, he submits a draft minute, in which, after weighing up the previous contributions, he endeavours to express the united judgment of the meeting. The meeting may then at once signify approval of the draft minute, or additions or alterations may be suggested, which are frequently agreed to by the meeting, while sometimes there is such dissatisfaction with the draft that it is set aside and a fresh minute prepared by the clerk. Occasionally after a difficult discussion two or three members may be entrusted with the duty of withdrawing and preparing a draft for the meeting to consider.

This method is clearly much slower than that of decision by vote. It may at times involve the postponement of decisive changes in deference to the strong views of a minority. On the other hand, it sometimes leads to the unanimous adoption (as a result of the spirit in which the deliberation has taken place) of a solution which had not been in the minds of those on one side or the other at the commencement of the meeting

but arose during its course. This is explained and illustrated by examples by the authors of *Democracy and the Quaker Method* and in an interesting chapter they give some account of the application of the method in other bodies; in primitive communities, in the old Russian Mir, in the English jury system, and in the remarkable working of the Lilienthal Committee in the United States, as well as approaches to it made in various royal commissions and departmental committees, and in the actual working of our British parliamentary and local government.

What, then, are the possibilities of the extension of such methods in national and local political life? The answer must lie not in any mere change of procedure or of political machinery, needful though this may be, but in a deepened consciousness of national unity and a stronger desire to maintain it. It is significant that in the last Parliament, even before the formation of the National Government and before the declaration of war, this spirit induced the giving of consideration to the views not only of the official Opposition but even of a tiny minority of Members, and later made it possible to carry through large measures of social and educational reform with general agreement. But there are defects in our present system the removal of which will make for greater unity, because they involve injustice to a minority or even sometimes to a majority of the electorate. The application of the method of the single transferable vote to the election of aldermen would prevent a single party from taking to itself all the aldermanic seats in county and borough councils. The adoption of that method of securing proportional representation in the election of Members of Parliament would ensure that Parliament itself was far more fully and fairly representative of the nation and that every citizen had the opportunity of a freer and more effective choice.

The sense of fair play, which is one of the finest characteristics of our best political life, may ultimately make both national and local government more truly representative.

T. EDMUND HARVEY.

(*T. Edmund Harvey was formerly Independent-Progressive Member of Parliament for the Combined English Universities.*)

**The Free and Independent.** By Hartley Kemball Cook.  
Allen & Unwin. 8s. 6d.

This book is about the institution of Parliament in Britain, examined from the point of view of the elector. It is the customer rather than the shop whose activities and antics over the last seven centuries are here described in 180 very readable pages. Mr. Cook concludes his final chapter on the election of 1945 and the immediate political outlook with an expression of wholehearted belief: "that the electorate which will return the next House of Commons will be the most Representative, the most Free and the most Independent which Democracy can hope to achieve in an imperfect world". In a book so up-to-date it shocked the reviewer to find no mention of the Hansard Society! A second edition which this book deserves will provide a means of rectifying this oversight.

STEPHEN KING-HALL.

**The Most Civilized People in Europe: How the Swiss do it.** By Hamilton Fyfe. Allen & Unwin. 3s. 6d.

**La Suisse: démocratie-témoin.** By André Siegfried.  
Neuchatel: Baconnière.

**Collective Security in Swiss Experience.** By W. E. Rappard. Allen & Unwin. 12s. 6d.

**La Constitution Fédérale de la Suisse, 1848-1948.** By W. E. Rappard. Neuchatel: Baconnière.

On 12th September, 1948, the Swiss celebrated the centenary of their Constitution. A century before they had been a people so divided among themselves that in 1847 civil war had almost disrupted the unstable association of cantons that had resulted from the Congress of Vienna in 1815 and the revolutions in 1830. Since 1848 the Swiss have lived at peace among themselves and have flourished in the midst of a troubled Europe. To the statesmen who prepared the Constitution of 1848 Switzerland owes an incalculable debt of gratitude, for they gave her a political system at once so stable that it provided a sure framework for the national life

and so flexible that it did not obstruct but rather aided the peaceful adaptation of Swiss institutions to changing needs.

Each of these four books explains why this has been so. Mr. Fyfe's volume is a concise and lively introduction to the political and social institutions of Switzerland. He gives brief accounts of Swiss history and current politics, of the federal, cantonal and communal systems, and of the Swiss way of life. If at times he irritates with the heartiness of his style, which is sometimes "popular" in the less happy sense of that word, there is recompense in the amusing anecdotes with which he enlivens his text.

In *La Suisse: démocratie-témoïn* M. Siegfried makes another of his studies of the life and institutions of a country. He describes the geography, demography, economic system, political institutions and major problems of Switzerland. His pages are full of shrewd observations and illuminating comparisons between the Swiss and the other peoples he has studied. Special attention must be drawn to his account of how Switzerland differs from France and Germany. Unlike France, Switzerland is not concerned with principles but with practical applications: Swiss democracy is not the proclamation of the rights of man but the provision of his creature-comforts. This social pragmatism M. Siegfried regards as truly central European, and the practical good sense of the Swiss would have characterized the Germans (as it characterizes the Scandinavians) had they not been seduced by Bismarck and Hitler.

M. Rappard's first book discusses the problem of devising institutions which would give the Swiss the advantages of national union without any sacrifice of the advantages of local autonomy. Such a statement of the problem is, of course, misleading—the Swiss were not a nation in 1291 and at least until the French Revolution their aim was not so much to establish union without sacrificing freedom as to safeguard freedom by submitting to those few restraints which experience showed to be necessary for the effective defence of the country against domestic conflicts and foreign aggression. In the end experience showed that only a federal union in which the cantons were deprived of the power to wage war effectively

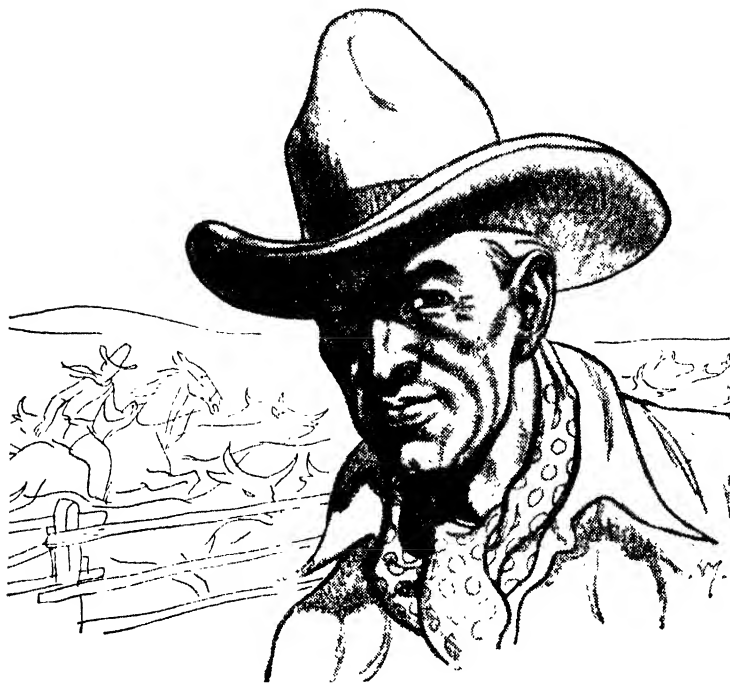
and in which the central authority was strong enough to direct the country's defence against the foreigner would be satisfactory. The extent to which Swiss experience is of use to the larger world is, as M. Rappard admits, difficult to estimate. The world, even Europe, even Western Europe, is not quite like Switzerland, even the Switzerland of the sixteenth century, when the country was torn by the ideological wars of the Reformation.

But the new Switzerland, the Switzerland of the Constitution of 1848, has had to deal within a federal structure with those social and economic problems which we are now realizing are largely international. That structure might have been expected to hamper the Swiss greatly and give them many of the troubles with which wholly international action is confronted, as has been the experience of the federations of the English-speaking world. But, on the whole, this has not been so, and in his second book, *La Constitution Fédérale de la Suisse*, M. Rappard gives the explanation. After describing the origins and terms of the Constitution, he traces its working in the century of its existence. The most striking fact is the frequency with which it has been amended. Indeed, as M. Rappard remarks, Switzerland has not a Constitution in the sense in which America has one—a fundamental law revered by the people and determining the country's political system. As a result, Switzerland, unlike America, Australia, and Canada, is not troubled with a Constitution which, although out-of-date in its distribution of powers between the federal and state authorities, cannot be easily amended.

M. Rappard's two books will be of great value to students of political institutions. The texts of the Constitutions of 1848 and 1874, with subsequent amendments, are a particularly useful feature of *La Constitution Fédérale de la Suisse*. As for *Collective Security in Swiss Experience*, it is unfortunate that this English edition follows the bad French custom of being without an index.

PETER CAMPBELL.

(*Mr. P. Campbell, B.A., is a graduate Research Student in Politics at Nuffield College, Oxford.*)



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who has been described as the greatest man of science of all time, is best known, to the general public, for his famous observation of the falling apple. This led him to formulate his Laws of Motion, the fundamental laws on which the

branch of mathematical physics known as dynamics is based. His achievements in optics and mathematics have obscured his work as a chemist. Newton's contact with chemistry began when he was at school in Grantham, where he lodged with an apothecary. Throughout his life he displayed great interest in the chemistry of metals, much of his work being of a very practical nature, such as the production of alloys for use on the mirrors of the reflecting telescope he designed.

Newton maintained a private chemical laboratory at Trinity College, Cambridge. His principal service to chemistry was his clarification of the "corpuscular" theory of matter. This theory, which held that matter consisted of large numbers of small particles, was applied by Newton to explain the facts he observed while experimenting. Newton was born at Woolsthorpe, near Grantham, on Christmas Day, 1642. Entering Trinity College, Cambridge, in 1661 he became Professor of Mathematics in the University at the very early age of twenty-seven. He was appointed Warden of the Royal Mint in 1696, and Master three years later. This great Englishman died in 1727, leaving behind him a reputation which has increased with the passing of the centuries.



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