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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

SYDNEY D. BAILEY.

ONE OF THE PARLIAMENTARY COUNSEL TO THE TREASURY

Foreword by

STEPHEN KING-HALL

THE HANSARD SOCIETY, 39 MILLBANK, LONDON, S.W.1

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CONTENTS

	<i>Page</i>
FOREWORD	
By Stephen King-Hall	v
BRITISH PARLIAMENTARY DEMOCRACY	
By the Rt. Hon. Herbert Morrison, M.P. ..	1
THE BRITISH PARLIAMENTARY SYSTEM	
By Colonel the Rt. Hon. Douglas Clifton Brown, M.P.	13
THE BIRTH OF A BILL	
By the Rt. Hon. R. A. Butler, M.P.	19
THE MAKING AND FORM OF BILLS	
By one of the Parliamentary Counsel to the Treasury	27
THE HOUSE OF COMMONS FROM THE CHAIR	
By Major the Rt. Hon. James Milner, M.P. ..	37
LOBBY CORRESPONDENTS	
By Guy Eden	45
THE MEMBER OF PARLIAMENT AND HIS CONSTITUENCY	
By Sir Herbert Williams	53
THE PRIVY COUNCIL TODAY	
By the Rt. Hon. Herbert Morrison, M.P. ..	60
PARLIAMENTARY INSTITUTIONS AND BROADCASTING	
By Sir William Haley, K.C.M.G.	68
PARLIAMENT AND THE LIBERTY OF THE SUBJECT	
By the Rt. Hon. J. Chuter Ede, M.P.	78
THE PALACE OF WESTMINSTER	
By Sydney D. Bailey	91
FOR FURTHER READING	106

FOREWORD

EXPORT or perish! This is the stern warning addressed to the British nation by its political leaders in this year of grace 1949.

In particular we are told to export to hard currency countries—and I will remark in parenthesis that the Hansard Society does sell its literature and recruit members in dollar-producing and other hard currency areas.

We are taught that there are visible and invisible exports. In the last-named category we find listed such items as revenue derived from tourists, shipping, banking and insurance services.

But the most important export which originates in these islands finds no place in the statistics of the Board of Trade. Taking a long view of things, the economic crisis in which we find ourselves or into which we are now moving (you can take your choice and be equally right), will pass. It is not in the nature of man to collapse for material reasons, though the evolution of the crisis may be accompanied by unpleasantness for many persons. But the moral and political crisis in which the world finds itself is a much more serious episode in history than the present disequilibrium between dollars and sterling.

How is MAN to operate his complicated modern society and do it so as to combine order and efficiency with liberty?

How is MAN to solve the problem between MAN AND HIMSELF without destroying MAN THE INDIVIDUAL?

And here the main hope visible to me is the “invisible” export whose existence I mentioned just now. To give it a name I will call it the spirit and practice of parliamentary government. I mean by this all that complex of tradition, of compromise, of give and take, of sound common sense, of practicability, of logical illogicality, which is to be found operating in the Palace of Westminster. Here is the focal

point of many of the beams of light which, coming together, illuminate the British way of life. This is the *idea*, the “know-how” as the Americans would say, of self-government which we have been exporting for some three hundred years. Go where you will in the free world today and this is still the *one* British export which is accepted as being of the very highest quality.

We—that is the Hansard Society of whose Council I have the honour at this time to be Chairman—are exporters of British parliamentary ideas. We are also importers of other parliamentary ideas such as those which the Americans express through Congress. In the collection of papers in the book to which this is a brief foreword, the Hansard Society has endeavoured to give permanent form to some accounts of various aspects of British parliamentary government which have been published in our journal *Parliamentary Affairs*. We have been encouraged in this endeavour by the favourable reception given to an earlier and similar volume which we called *Papers on Parliament*. That volume and the one now being published can, perhaps, be regarded as descriptive samples of the quality and character of Britain’s greatest and most famous invisible export.

It is in keeping with the character of the British people that the importance of the contribution which this export can make to the firm establishment of the free way of life all over the world is only recognized by a limited number of our own people. To increase the number of those who understand the importance of making the institution of parliament, and in particular the idea behind that institution, a living reality to men and women in all lands is a major purpose of the Hansard Society, and one to whose achievement it is hoped this volume will make a modest contribution. I urge all who wish to support the Society in this important work to write for further particulars to the Hansard Society, 39 Millbank, London, S.W.1.

STEPHEN KING-HALL,
Chairman of the Council and Honorary Director.

BRITISH PARLIAMENTARY DEMOCRACY¹

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

¹This 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 criticisms are 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 its quarterly journal, *Parliamentary Affairs*.

The experience of the present Parliament has also 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 BRITISH PARLIAMENTARY SYSTEM¹

by Colonel the Rt. Hon. DOUGLAS CLIFTON BROWN, M.P.
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

¹ 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 the Parliament elected in 1945 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 a 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 this has not happened since 1925.

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 BIRTH OF A BILL

by the Rt. Hon. R. A. BUTLER, M.P.

formerly Minister of Education

BEFORE 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.¹ 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 "Bobbies", who were called after him, and the whole of an

¹ See *The Making and Form of Bills*, pages 27-36.

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.

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 this book 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.

THE HOUSE OF COMMONS
FROM THE CHAIR¹

by Major the Rt. Hon. JAMES MILNER, M.P.
Chairman of Ways and Means and Deputy-Speaker

STRICTLY the Chair of the House of Commons is that of Mr. Speaker, but there are in fact two Chairs: Mr. Speaker's Chair, in which I also sit when acting as Deputy Speaker, and the Chair of the Chairman of the Ways and Means (that is my Chair which is occupied in my absence by the Deputy-Chairman of Ways and Means) when the House sits as a committee.

Until 1855 the Speaker had no deputy; the Speaker himself had to be in the Chair whenever "Speaker's business" was before the House. There were times when the Speaker wished to leave the room, and difficulties arose. He had to suspend the sitting, and this was also the case when the Speaker retired for dinner. The whole proceedings of the House of Commons were then held up. In 1855 an Act of Parliament was passed giving authority to the Chairman of the Committee of Ways and Means, in Mr. Speaker's absence, to occupy the Speaker's Chair, and while so acting to have all the powers of Mr. Speaker with one exception. That exception was that it was and is still not permissible for the Deputy-Speaker to give the closure, that is, to accept a motion that the discussion then in progress should cease and a vote be taken.

If Mr. Speaker is ill—or when he has to be away for any other reason—on the House being formally notified by the Clerk of his unavoidable absence, the Deputy-Speaker is then clothed with full powers, including the right to give the closure when he occupies the Chair. In 1902 both Speaker and

¹ This article is based on a lecture given to the Mansard Society on 2nd December, 1946.

Deputy-Speaker were ill and unable to attend, and it became necessary to appoint a Deputy-Chairman of Ways and Means. Now, therefore, we have the three occupants of the Chair, Mr. Speaker, the Chairman of Ways and Means, and the Deputy-Chairman of Ways and Means.

I am frequently asked the question, "What are the respective functions of Mr. Speaker, the Chairman of Ways and Means, and the Deputy-Chairman?" The function of Mr. Speaker is primarily to conduct the main debates of the House of Commons. He is the chief executive officer of the House. He also sits on the Pilgrims' Trust, is a Trustee of the National Gallery and a member of other bodies of a public character by virtue of his office, but his main work is to preside during the principal debates in the House of Commons. He presides, for example, during Question Time which is always, I think, the most interesting part of the day's proceedings. He presides when motions are moved from any quarter of the House, and always on the Second Reading of Bills. The Chairman and Deputy-Chairman of Ways and Means preside on request in Mr. Speaker's absence, and also over the Committee Stages of Bills when these are taken in a Committee consisting of the Whole House. They also preside over the principal Committees of the House, i.e., the Committee of Supply which approves the estimates or demands of the various Government Departments, and the Committee of Ways and Means which decides upon the means of taxation necessary to meet those demands. Hence the Budget speech is always made in Committee of Ways and Means with the Chairman in the Chair. The Chairman is also responsible for the Private Bills promoted by Public Authorities or individuals which undergo a similar but modified procedure to that of Public Bills.

Three Clerks sit below when Mr. Speaker is in the Chair. But when the House goes into Committee of the Whole House—the Committee of Supply or the Committee of Ways and Means, or on the Committee stage of a Bill—the Clerk of the House of Commons, who normally sits in the right hand Chair, goes away to his room and the Chairman takes that

place with the two Clerk Assistants on his left, and the Speaker's Chair is meanwhile empty. In theory it is quite open to any Member of the House of Commons to notice that the Speaker's Chair, like any other seat in the House, is vacant and to sit in it. All the seats in the House are open to any Member, and sometimes a Member has obtained a little notoriety by sitting in the Speaker's Chair, but it would be considered in bad taste to do so nowadays.

Mr. Speaker's office is in itself a very ancient one, and I think it is true to say that the House of Commons is not properly constituted without a Speaker. If a Speaker dies when in office, as did Capt. FitzRoy, the functions of the House of Commons immediately cease until another Speaker is elected. This is perhaps one of those things that ought to be provided against but hitherto it has not been done, and curiously enough only two or three Speakers have actually died in office. They usually retire and are given a Peerage.

The majority of Bills are now sent to a Standing Committee in a Committee Room upstairs where one of the panel of temporary Chairmen, of whom there are twelve, sits in the Chair and conducts the proceedings of the Committee. Such a Committee is perhaps only forty or fifty in number, a small replica of the House of Commons proportionate to the numbers in the parties in the House. The Chairman's panel consists of a number of senior Members who are appointed to sit in the Chair on Bills "upstairs", and who are also able, when requested by myself or my Deputy, to take the Chair in Committee in the House. The Chairman's panel meets occasionally under my Chairmanship, passes resolutions and recommendations for the approval of the House, and generally endeavours to keep the Committee procedure of the House on what we think the right lines.

As a preliminary to having Bills before us in Committee it is my duty to consider all the amendments that have been put down. There may be ten or a dozen amendments on one point alone. On the Education Bill, which lasted fifteen days in Committee, there were no less than 800 amendments. I had to consider them and decide whether they were in order, which was

the best form of amendment, whether an amendment complied with the rules and, generally, to make a selection so as to enable every point of substance to be discussed and decided upon, and to distribute those selected fairly amongst the Members of the Committee. In that case we reduced the amendments to something like 160. On those 160 amendments we had every principal point in the Bill discussed. It meant that 640 or so Members and their supporters who had amendments down were disappointed; but they had, of course, opportunities of speaking on the amendments which were selected, many of which were no doubt put down by the same Members. Mr. Speaker adopts the same procedure in regard to amendments coming before him on what is known as the Report stage on Bills.

You will ask, how does a Member of Parliament catch the eye of Mr. Speaker or the Chairman. There was once a Speaker who had a fearful squint. He was a rather notorious character in his day. It was therefore a matter of extreme difficulty for Members of Parliament sitting below him to know at whom he was really looking, or who really had caught his eye. I imagine such a disability would be a disqualification in these days!

Mr. Speaker's object is to make a selection from those who stand up and to call those Members who he thinks can best contribute to a wide and helpful debate. He has to try and ensure that all points of view are put before the House, and at all times has a particular regard for minorities. It has always been one of the traditions of the Chair of the House of Commons that special care should be taken to see that those representing minorities—however few and unpopular—may have a fair chance of expressing their views. When the present Parliament was elected, a practice grew up of having a list made up from letters sent in by Members of various parties who wished to speak. That was really done because with some three hundred new Members it was not possible for the Chair to know all their interests and the subject in which they specialized or of which they had special knowledge. But now that we have a general idea, the list, which was

rather a complication, is dispensed with where possible. If you get sixty or seventy Members with their names on a list, as we have had on many debates, and time only permits you to get sixteen or eighteen in, you satisfy 25 per cent. on the list and dissatisfy 75 per cent. That is not a satisfactory position but is frequently unavoidable. We have now gone back to the old system whereby Members may write in but no official list is kept, and it is genuinely a question of catching the Speaker's eye. Another consideration which weighs with Mr. Speaker is that if a man is a Privy Councillor, that is a Right Honourable, he is entitled to precedence, always, of course, subject to Mr. Speaker's discretion.

In the House proper a Member can only speak once, but on Committee Stages there is no such restriction. A Member is then only expected to make a short speech, but almost everyone who gets up is called upon unless the debate goes on for a long time and the closure is moved.

A new Member is entitled to be called upon the first time he gets up. In practice that usually means that he notifies Mr. Speaker through the Whips that he wishes to speak in a particular debate, and Mr. Speaker sends him a message that he hopes to call him third, fourth or fifth as the case may be. Difficulties have arisen with regard to new Members in the past. A Speaker a good many years ago on one occasion was told that a new Member, Mr. John Williams, would be sitting on the second Opposition bench below the gangway and desired to make his maiden speech. The Speaker looked around and saw a Member he did not know sitting on the second Opposition bench. He thereupon called "Mr. John Williams" but to his surprise everyone sat down. Apparently Mr. Williams was not present. As Mr. Speaker said, he "did not get a single bird in the covey". Fortunately, an old Member, Mr. John William Wilson, saw the Speaker's dilemma and stood up, Mr. Speaker called Mr. John William Wilson and his temporary embarrassment was over.

You may also ask how the names of hundreds of Members are remembered. That is a matter of observation and practice. A number of Members get up and usually there is no difficulty

because you know them all. There may be an odd one you do not recollect but in that event you call someone else and meanwhile enquire from the Clerk and call the unrecognized Member the next time round or the next but one. There is a difficulty when only one Member gets up and you cannot recall his name, but fortunately that does not often happen. There was one occasion when a former Chairman, intending to call on "Sir Patrick Hannon", called "Sir Patrick Hastings"; but those mistakes are very rare. The thing is easy in an old Parliament when you know all the Members, but in a new Parliament it is much more difficult.

Those are some of the factors which have to weigh with the Speaker or the Chairman when presiding over debates. Then as a debate goes on you have to think of the winding up speeches. You may be told the opening speaker selected by the Opposition or the Government depending on the form of the Motion before the House, and possibly the last speaker on the Government and Opposition side respectively who wish to speak, and what you have to do is to fill in those who wish to speak in between. It is not so difficult as it may seem except that to make a choice from a large number knowing that many cannot be called at all is always an invidious but necessary task.

There is another matter you often read about. You hear the Leader of the House (now Mr. Morrison, the Lord President) say that such and such a matter can be arranged through the "usual channels". The "usual channels" are the respective Whips' offices. Conservative, Labour, Liberal, and National Liberal have their own Whips' offices and party officials, and when a matter has to be arranged through the "usual channels" they get their heads together and try to arrange the matter in dispute. If, for example, the Opposition want a little more time for a Bill, the Opposition Whips will talk to the Government Whips and try to persuade them to give a little more time. The Government Whips will probably say, "We will give you more time on that subject if you will take less on something else". This is one of the things we do extremely well in this country, making a fair compromise

which enables business to be got through in a reasonable way.

To describe what it feels like to sit in the Chair of the House of Commons is very difficult. To begin with it is rather a terrifying experience. You sit or stand in the Chair without any support, with the possibility of 640 Members of Parliament being able to fire questions at you on every subject under the sun and from every quarter of the House. But it is the kind of thing one can get used to. Fortunately the House of Commons is a very tolerant and amenable body, and this House of Commons is just as amenable and tolerant as the last. It is a curious thing; Members come into the House of Commons with very bellicose reputations. They are going to put things right and so on; but very soon they become a part of the school or members of the fraternity, so to speak, and fall into the old and well tried ways to a very large extent. They behave very well, and it is very necessary they should do so because we must have discipline and courtesy as between the Members of the various parties or we could not get through the business. Occasionally there is a good deal of noise and some interruption, and considerable tact is required. You probably know that Mr. Speaker says at the beginning of business, "The Clerk will now proceed to read the Orders of the Day", i.e., the items on the Order Paper or Agenda. There was one occasion when one of the parties went into the voting lobby singing "The Clerk will now proceed to read the Orders of the Day" to the tune of "John Brown's body". It was a disorderly thing to do but the words go very well to that tune. Fortunately that sort of thing very rarely happens. §

In the Chair you are the subject of requests for guidance, complaints, protests, and points of order. Points of order are sometimes not points of order at all but are excuses for a member to get a word or two in on some point he wants to bring out. One has to do the best one can to answer them. We have the Clerks not too far away to give advice if we are really in difficulty, but, as I have said, the House is a well-disciplined and tolerant place. At times one has to have a blind eye, occasionally a slightly deaf ear, a cool head, as much tact as one can muster, and where possible a touch of

humour. The House of Commons is very human, easily moved to excitement, anger or laughter, and it is remarkable how soon it can change from the one atmosphere to the other. I think one of the most distinctive things about the British House of Commons is its sensitivity. When you have been there some time you can sense the feeling of Members and almost know what is passing through their minds—and you try and act accordingly.

On the whole to occupy any of the Chairs of the House is a great experience, a great responsibility and, needless to say, a great honour.

LOBBY CORRESPONDENTS

by GUY EDEN

Political and Diplomatic Correspondent, Daily Express

SINCE I addressed the Hansard Society's Youth Conference 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 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 docu-

ments 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.

THE MEMBER OF PARLIAMENT AND HIS CONSTITUENCY

by Sir HERBERT WILLIAMS

M.P. for Reading from 1924-29 and for Croydon South from 1932-45

THE relationship between a Member of Parliament and his constituency is much the same whatever party the M.P. belongs to, but as I was in Parliament as a Conservative I shall look at the matter from that point of view.

Before a man can become a Member of Parliament, he has to be adopted as a candidate. With a few exceptions, anybody can contest a parliamentary election provided he can find ten electors in the constituency to sign the nomination paper and can make a deposit of £150 which is forfeited if the candidate fails to secure one-eighth of the votes polled. This provision is intended to prevent frivolous candidates from presenting themselves for election. Most candidates for territorial constituencies represent one of the major political parties and I will describe the normal procedure for selecting a Conservative candidate. I believe that the Labour and Liberal Parties proceed in a similar manner.

When a Constituency Association wants to adopt a candidate, the usual practice is to appoint a Selection Committee. This Committee first considers whether there is a suitable local candidate. In urban areas there is usually a preference for strangers rather than local people. This is partly due to the human factor of jealousy and partly to the New Testament principle that "a prophet is not without honour, but in his own country and among his own kin". Rural constituencies, on the other hand, tend to prefer a person who lives in the constituency even though he is just as much a stranger to the majority of the constituents as a man brought in from outside.

If the Selection Committee have no candidate in mind,

they will probably ask their party headquarters to suggest a list of suitable people. After considering the rather inadequate biographies attached to the list, the Committee will select a number of them for interview. The aspirants for Parliament will meet the Committee, be asked to make a statement of their views, and will answer questions put by members of the Committee. On the basis of these interviews the Committee will select a candidate. In other words, Parliamentary candidates are selected in much the same way as office-boys.

Sometimes the office-boy procedure is not followed. In this case, the Chairman of the Constituency Association is commissioned to find a candidate and present him to the Selection Committee for consideration. In my own case, whenever the Chairman was entrusted with the task I have been selected, and where the office-boy technique has been used I have been rejected.

Many curious factors play a part in the selection of candidates. Sometimes the religious affiliation of a candidate is important, not because the members of the Selection Committee are bigoted but because they believe that the majority of constituents would prefer a candidate from a particular denomination. A married man with children usually makes a strong appeal, but I recall a case where it was almost a *sine qua non* that the candidate should be unmarried. This was because the Liberals had put up a most attractive bachelor at the previous election and he had captivated all the flappers!

Unless a General or By-Election is imminent, the person selected is not a candidate but a *prospective* candidate. This is because there is a legal limit to the amount of money a candidate may spend on fighting an election, and expenditure incurred by a prospective candidate is not now regarded as part of the actual election expenses. There was in the past some doubt as to when an election actually begins, but two cases decided half a century ago made it clear that election expenses only begin when an election is in view and that political associations are entitled to have salaried agents and to defray the expenses of political meetings and advertising.

Until about a century ago enormous sums of money were

spent on fighting elections or, to be more precise, on bribing voters. Lord Shaftesbury (then Lord Ashley) spent £15,000 in 1831 in order to fight the election at Dorset, 80 per cent. of the total being paid to public houses and inns for free drinks to prospective supporters. Even so, he lost the election. Cobbett was one of the pioneers of the movement to prevent election bribery. "As it is my firm intention never to receive a farthing of public money, so it is my determination equally firm, never, in any way whatever, to give one farthing of my own money to any man, in order to induce him to vote, or to cause others to vote, for me". Lord Cochrane, who fought Honiton in Devonshire with Cobbett's backing, was told by one elector that he was an independent, not a party man. "I always votes for Mister Most." Cochrane refused to bribe the voters and was defeated, but after the election he insisted on making a present of £10 (double the current price) to all who had supported him. At the next election Cochrane was returned. His supporters naturally expected the same generosity as on the last occasion, and were deeply hurt when Cochrane announced his policy: "Not one farthing."

When once an election campaign has started, responsibility for contesting the seat rests with the candidate and his agent. Often the Association is dissolved for the period of the election to ensure that only the expenditure of the candidate and his agent are taken into account in assessing election expenses.

We will assume that our candidate has been successful and has been declared by the Returning Officer as elected. He is then expected to make a speech from the Town Hall steps, after which, if he is lucky, he is suitably refreshed by his enthusiastic supporters. This can be a most trying experience because all his most robust supporters thump him on the back until he is nearly unconscious.

Soon after the election, the Member will proceed to the Palace of Westminster, though he will have no official intimation to do so. He is supposed to read the official Gazettes published on Tuesdays and Fridays in London and Edinburgh, and is therefore presumed to know that he has been summoned to Westminster. He will, in addition, receive a letter from his

Party Leader asking him to be present on the prescribed day. If it is a new Parliament, the Speaker takes the oath, and then the other Members do the same. The Clerk of the Crown in Chancery delivers to the Clerk of the House a book containing the names of Members appearing in the returns to the writs issued. The Member, however, will find that he has no documentary evidence that he is entitled to be there and nobody to identify him as the person who has been elected for the constituency he represents. I have often wondered what would happen if some individual who was familiar with Parliamentary procedure, but not known to the officers in any way, were to chance his arm and get sworn in. The bluff would probably come off, but no doubt later he would be judged guilty of a gross breach of privilege, and sent to the Clock Tower, which in practice, I believe, is Brixton Jail.

The election address of an M.P. outlines his principles, policy and programme, and this document represents what might be called his contract with his Constituency. Once elected, however, he does not represent only those who voted for him but also those who voted against him and those who did not trouble to vote at all. Edmund Burke's famous speech to the Electors of Bristol on 3rd November, 1774, is the classic statement of a Member's obligations. "Parliament is not a *congress* of ambassadors from different and hostile interests . . . Parliament is a deliberative assembly of *one* nation, with *one* interest, that of the whole. . . . You choose a Member indeed: but when you have chosen him, he is not a Member of Bristol, but he is a Member of *Parliament*."

Thirty years earlier, Sir William Yonge, speaking in the House of Commons, had expressed the same view. "After a gentleman is chosen, he is the representative, or, if you please, the attorney of the people of England, and as such is at full freedom to act as he thinks best for the people of England in general. He may receive, he may ask, he may even follow the advice of his particular constituents; but he is not obliged, nor ought he, to follow their advice, if he thinks it inconsistent with the general interest of his country."

The new M.P. will soon discover the truth of these state-

ments from his post-bag. Aggrieved constituents will write to him about their pensions, local housing difficulties, and a hundred and one other matters. Some can be dealt with quite simply by an appropriate letter to the Minister concerned: others require more time and a detailed reply: many are concerned with matters about which the Member can do nothing. During the war, the burden of correspondence was a very heavy one, and I understand that Members of the present Parliament find it even heavier today because of the great variety of individual problems affecting constituents.

At first an M.P. does not know what to do with the bulk of the letters that come to him. After a time he will, by consultation with older Members, discover the best procedure. No M.P. can do his job properly without secretarial assistance, and with the present remuneration, Members can afford this. Although there has been some criticism of the increase of M.P.s salaries, I think in the long run it is to the public advantage.

Every M.P. has got to develop his own methods of handling his job. Each morning he receives the Order Paper of the day which contains all the Questions of which Members have given notice and which are to be answered, together with a statement of the Bills, Resolutions or whatever it may be that are down for consideration that day. Many of the items on the Order Paper are not, in fact, going to be dealt with but are carried forward from day to day, but the Member will have learnt from the statement of business made every Thursday by the Leader of the House what is planned, and in addition he will receive from his party Whip every morning a statement of the business which it is intended shall be taken.

An M.P. receives a great deal of correspondence about the business which is to be transacted, first of all from the people who want him to vote for or against a particular Bill or Resolution, or those who want him to support or oppose particular amendments to any Bill which may be down for consideration in Committee, or perhaps requests that he should propose an amendment. This correspondence often causes far more work than is involved in requests for help in connection with personal grievances. The ordinary man-in-the-street

who writes to a Member of Parliament tends to look at the problem as to how it may affect him personally. The M.P. has got to consider the effect not merely on the particular individual or even on his Constituency as a whole, but on the general public interest.

Many constituents ask their M.P. for an interview. I often had six or seven requests in one day, and as a rule I refused them and asked the people to put in a letter the nature of their troubles because in nearly all cases what the constituent wanted you to do was to put his trouble before some Minister, and this had to be done in writing. As it had to be written out in any case I always suggested that the constituent, rather than the Member, should do this because the former knew all about it. The real reason constituents ask a Member for an interview is that they think that if he does not see them, he will not deal with their case. Having known about 3,000 Members of Parliament of all political parties, I believe that the bulk of them can be relied upon to do what is necessary whether they see the aggrieved constituent or not. On the other hand, there are certain problems which cannot be dealt with in writing and in those cases every wise M.P. arranges for an interview. Here I come to a grievance. Members of Parliament are all exceedingly busy persons. There are in the House of Commons, apart from the actual business in the Chamber, all sorts of meetings which are being held in the Committee Rooms, and the ordinary Member has quite a heavy programme which he can only get through provided he sticks to his time-table. My experience is that members of the public are more unpunctual at keeping an appointment in the House of Commons than in any other direction. The most inconsiderate people are those who come as a deputation on an important issue without previously making an appointment. The Central Hall and Lobbies of the Palace of Westminster are not very convenient places in which to receive a deputation. There are, however, a certain number of rooms which Members can book for the purpose of meeting a deputation, but this can only be done if the Member has advance notice and has agreed upon a time.

An M.P. is, in a way, rather an important person. Each

one represents $1/640$ th part of the population and has a duty to each one of his constituents, and in addition, for the reasons given by Burke and Yonge, a responsibility to every inhabitant of the United Kingdom. He is entitled to some consideration since he has so many masters. In my case, when I was M.P. for Croydon, I had 80,000 masters so that each one of them, in seeking to treat their M.P. as their individual servant, might conceivably prejudice the legitimate interests of the other 79,999.

THE PRIVY COUNCIL TODAY

by the Rt. Hon. HERBERT MORRISON, M.P.

Lord President of the Council and Leader of the House of Commons

MOST 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 today 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 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.

PARLIAMENTARY INSTITUTIONS AND BROADCASTING

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

Director-General of the British Broadcasting Corporation

I HAVE been asked 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.

PARLIAMENT AND THE LIBERTY OF THE SUBJECT¹

by the Rt. Hon. J. CHUTER EDE, M.P.

Secretary of State for the Home Department

THE most difficult problem in the art of Government is that of finding and holding the correct balance between liberty and order. It is a problem of which in recent decades we have been acutely aware but, fundamental though it is, it has not often or for long exercised the minds of the mass of mankind. In most periods of history no attempt has been made to preserve a balance. The scales have fallen heavily on the side of order, and this has been generally regarded as right and proper. We sometimes fail to realize how precarious is the belief in political liberty and how recent is the development of the civil liberties we enjoy, and too often take for granted, in this country. Our education, no doubt rightly, concentrates our attention on the finer and more enlightened period of history; and we easily forget that the ages and the countries in which men have valued liberty and encouraged independent thought have been the exception. We forget that the classical age from which so many of our modern liberal ideas have been derived was a lovely freak whose seed has blossomed briefly here and there through history, but not the natural and inevitable product of human society. Perhaps the history of Germany during the last twenty years will have helped to remind us; but we must not be led into thinking that the German preference for authority is due to something peculiar in the German make-up. To do so is to ignore the long ages in the history of every country, our own included, in which authority has prevailed and its stereotyped ideas have been docilely accepted from generation to generation.

¹ This article is based on a lecture given to the Hansard Society on 16th October, 1946.

In this country we like to regard Magna Carta as the palladium of our liberties, but although the long chain of causation may be traced back to 1215 and even beyond, we cannot attribute to the autocratic nobles and prelates assembled at Runnymede any conception of civil liberty as we now understand it. Even four centuries later Milton in his *Areopagitica* was not stating generally recognized principles but appealing against the habit of that fiercely ideological age of demanding liberty for one's own group in order to deny it to others. It is, indeed, only within the last hundred and fifty years that civil liberty has been fully and firmly established in this country. Elsewhere, either it has never been achieved or it has been established, apparently firmly and permanently, only to be abandoned in a crisis in favour of authoritarianism.

Recognizing, then, that civil liberty is a comparatively recent acquisition and that it can be lost more easily than won, we do well to consider in what it consists and how it is to be preserved.

The essence of liberty is freedom to criticize the authorities, to persuade others that the Government is wrong and that the laws ought to be amended, and to be in a position, if one can persuade enough people, to bring about changes in the law or in methods of administration. Liberty or the absence of liberty cannot be judged by the number of restrictions imposed for purposes of order and social convenience on members of the community. People sometimes talk as though liberty were impaired by laws which prevent us driving along the roads at such speeds as we think fit or keeping shops open on Sunday; but the existence or absence of restrictions of this kind have no relevance to the question of liberty. The test of liberty is whether the people of the country have the opportunity to criticize such restrictions, to agitate for their withdrawal or amendment, and to succeed in their object if they can persuade the majority to adopt their view.

The enjoyment of liberty in this sense depends on the existence of certain more specific liberties which are what we

usually have in mind when we talk of "civil liberty": freedom of speech, freedom of association, freedom of assembly, and the fundamental liberty without which none of the others can be enjoyed—and incidentally the only one of the four of which you will find any trace in Magna Carta—freedom from arrest and imprisonment "except by judgment of his peers or by the law of the land".

It is worth noticing that the enjoyment of these liberties, with the possible exception of the last, is not merely a matter between the citizen and his Government; it is still more a matter of the relations between the citizen and his fellows. It is not enough for the Government to refrain from interference with meetings or associations of which it disapproves; public opinion can be as tyrannical and as narrow a censor as any government. The community must be prepared to face the fact that if we claim freedom for the propagation of ideas with which we agree, we must grant others freedom to advocate ideas which we detest; and it must accept this proposition not merely as a matter of logic and fair play but as a fundamental principle. The suppression of an opinion whether by Government or by public pressure is, in the words of John Stuart Mill,

"robbing the human race, posterity as well as the existing generation; those who dissent from the opinion, still more those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth; if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth produced by its collision with error".

If civil liberty is to exist in more than name, it must be founded on toleration; not the toleration which is a euphemism for indifference, but an active toleration which not merely permits but encourages the expression of diverse opinions, believing that only so can an understanding of the truth be attained and preserved.

The exercise of toleration by the individual citizen is the first safeguard of civil liberty. Without it civil liberty is at best incomplete and at worst in danger of being disastrously

curtailed or even swept away. It is well to remember de Tocqueville's warning that democracy is capable of

“extinguishing the liberty of the mind to which the democratic social condition is favourable; so that having broken all the bondage once imposed on it by ranks or men, the human mind would be closely fettered to the general will of the greatest number”.

It is the duty of the citizen, however, not merely to exercise toleration but to make sure that the individuals whom he selects to govern the country respect his liberties and require such respect of their agents. No amount of good intentions on the part of the Government is an effective substitute for the vigilance of the citizen in seeing that his liberties and those of his neighbours are preserved.

The individual citizen is not, however, the sole guardian of civil liberty. The delicate balance between liberty and order depends on the co-operation—or sometimes on the conflict—between various agencies of which the most important are the Courts, the Home Secretary, the police, and Parliament.

I need not say more than a few words about the very important part which the Courts play. Before Parliament had acquired the strength seriously to contest the powers of the Crown the Courts were asserting the supremacy of the common law. The Courts devised the writ of *habeas corpus* centuries before Parliament passed the Habeas Corpus Act of 1679, and today the authority of the Courts is one of the principal checks by which our Constitution seeks to prevent the development of arbitrary power by any part of the machinery of Government. The Courts have a dual function, first to ensure that the executive authorities do not exceed the powers entrusted to them and, secondly, to provide the individual with a remedy against anyone who wrongs him, whether the wrong-doer is plain John Smith or Sergeant Smith, or the Home Secretary himself. It is no excuse in our law for a man to say that he was acting under the orders of a superior officer or of the Prime Minister himself, nor will the Courts excuse an illegal action on the ground that it

was done with the best intentions. In 1935 when King George V was reviewing the Royal Air Force, a lady who was distributing pamphlets tried to throw one into the royal carriage. The police, fearing a breach of the peace by a resentful crowd, took the pamphlets from her. She sued the Chief Constable and the Sergeant, and the Court held that however well-meaning the police action, it was unwarranted in law and gave damages of £1 against the police.

This is a small example of the principle which has constantly to be held in mind both by the police and by the Home Secretary if they are to fulfil their dual role of keeping order and preserving liberty. If you consult a reference book you will find the chief function of the Home Office described as "to keep the King's Peace". The King's Peace means the Peace of the King's people, and the object for which His Majesty's Government maintains peace among his people is to create a condition of affairs in which there will be the fullest opportunity for them to follow their lawful pursuits. Parliament in its struggle with the King during the seventeenth and eighteenth centuries was constantly endeavouring in the interests of the liberty of the subject to control the exercise of the King's prerogative powers. Perhaps the most obvious way in which this was achieved was by establishing the responsibility to Parliament of the King's principal Ministers. In the field of home affairs, where the liberty of the subject is inseparable from every important matter of dispute, it was to the Secretary of State that Parliament began to look as the guardian of the people's liberties.

Obviously the first essential for the enjoyment of liberty is order. In the absence of order and of a reasonable degree of obedience to law the life of man is, in the words of Hobbes, "solitary, poor, nasty, brutish and short"; and because this is intolerable and any form of Government is preferred to anarchy, people who have experienced disorder will readily accept a strong leader, and he, on the plea of restoring peace and unity, will secure autocratic powers. In this country we are more fortunate than some of our neighbours on the Continent in that for a long time we have suffered neither

disorder which made the enjoyment of liberty impossible, nor autocratic Government under which the enjoyment of liberty was forbidden. It is the duty of the Home Secretary to ensure that this happy state of affairs continues—to play the honest broker and to see that order is preserved at the lowest possible cost in liberty.

In terms of politics this means that the Home Secretary must maintain the liberty even of those who attack our whole system of Government, provided their activities are not such as seriously to endanger the foundations of Government itself. The application of this principle in practice is a matter of maintaining a nice and often precarious balance between the danger of doing too much to control agitation for radical changes, and the danger of doing too little. If the Government is armed with extensive powers to check subversive movements, it will be in a position to use those powers against its political opponents and to make itself autocratic. Weapons designed for the protection of law and order may become instruments of tyranny. On the other hand, if the Government has insufficient powers and disorder grows, the fear of anarchy may induce the country to support a would-be dictator and the end of the road will still be tyranny. In steering his course between these twin pitfalls the Home Secretary gets little or no assistance from statute law. Parliament has never felt able to lay down a hard and fast line beyond which agitation may not go. The problem has, however, been considered by the Courts and from their decisions has been built up the Common Law on the subject of seditious conspiracy and seditious libel. Broadly speaking the Common Law amounts to this: no one may use violence to change the laws or the Constitution of this country because that would destroy the King's Peace on which all our liberties depend; but short of that people can resort to almost any methods of agitation they like to get laws or policies or institutions changed, because unless this were allowed we might never get bad laws changed or unsatisfactory institutions improved.

It is the Home Secretary's duty to see that there is no

violence and that people who might try to take power by force do not have the means. It was the Home Secretary, for example, who advised Parliament to prohibit political uniforms and the formation of private armies. This duty of ensuring that agitation does not degenerate into revolution is fortunately rendered easier than it might at first sight appear by the fact that, while many people in this country are prepared to denounce the Government of the day in the strongest language and to fulminate against particular laws or institutions, very few really want to overturn the system by which our laws are made and our Government is carried on.

The prevention of violent revolution is not, however, by any means the end of the matter. It is obvious that the "anything short of violence" rule leaves very wide scope for political controversy, and it is for the Home Secretary to see that the wide liberty which the law allows can in fact be enjoyed by people of all extremes of opinion. He must see that those of His Majesty's subjects who like to march along the streets shouting "up with the Reds" can do so without molesting or being molested by those other of His Majesty's subjects who like to stand on the pavement shouting "down with the Reds". During the war it was his duty to see that the meetings of pacifists who said that we ought not to have taken up arms were not broken up by men who were fighting for their right to say it. If only people would stop away from meetings of which they do not approve and seek converts where they are most likely to be found, this would be a comparatively simple matter, but anything so tame does not satisfy your ardent propagandist. He delights in trailing his coat at his opponent's meetings and likes to organize his own in districts where they will attract the least support and make the most trouble.

While the final responsibility for maintaining order and liberty rests with the Home Secretary, the actual work of dealing with the disorderly and the intolerant falls principally on the shoulders of the police. Like the Home Secretary, the police are simultaneously the keepers of the peace and the

guardians of liberty. This latter role is not one in which the policeman is commonly seen in the world at large; and, indeed, the creation of an organized police force in this country was strenuously opposed on the ground that a police system would be dangerous to liberty. A committee appointed by Sir Robert Peel in 1822 to consider the establishment of a police force in London reported that it was difficult

“to reconcile any effective system of police with that perfect freedom of action and exemption from interference which is one of the great privileges and blessings of society in this country. Your Committee think that the forfeiture or curtailment of such advantages would be too great a sacrifice for improvements in police or facilities in detection of crime, however desirable in themselves if abstractly considered”.

The danger that the police might be used by a tyrannically-minded Government as instruments of oppression was again the main ground of the opposition to a Bill introduced in 1856 which compelled counties to set up police forces and provided for inspection by the Home Office. One member said of this Bill:

“It was the most un-English measure he had ever read, and seemed more fitted for Naples than for England. No Government, however tyrannical, could have constructed a more dangerous measure. Let the House pass the Bill and England would soon be overrun by 20,000 armed policemen, perhaps Irishmen or foreigners, on whom a bad Government would rely for the perpetration of acts of oppression.”

Why is it that these gloomy forebodings have not been realized? Partly, perhaps, because British Governments are not really like those of the notorious Kings of Naples; partly because in Britain the police is not the instrument of the State; partly because it has been the business of the Home Secretary to see that they were not realized.

In Britain the policeman is a citizen appointed by his fellow-citizens to do for them various things which they would otherwise have to do for themselves. Except for the

Metropolitan Police, which is under the direct control of the Home Secretary, police forces are administered by local authorities. They are not the agents of the Central Government directly controlled, as are the French police and as were those of pre-Nazi Germany, by a Minister of the Interior; and this independence of central control prevents their being regarded either by themselves or by their neighbours as a body separate and apart, with interests different from those of the community they serve. People sometimes think that it must be hard for the police to be impartial, that like the rest of us they have political preferences and prejudices, and that these may affect their official conduct. In practice, a policeman who has had a few months' experience of dealing with political meetings and processions becomes so bored by political rhetoric that any political enthusiasms he may have had die an early death. A graver danger, and one for which the Home Office has to keep a vigilant look-out, is the danger that those who are charged with enforcing the law may be tempted to strain or break the law by zeal for the public good. The delusion that it may sometimes be the duty of a public servant to do, in the public interest, things which the law forbids, is pernicious in its effects and in the long run irreconcilable with constitutional Government. Rare though it is, it needs to be dealt with extremely firmly.

The Home Secretary has another function, and an important one, in relation to civil liberty. He is the channel of communication between the King and his subjects. It is his function to receive and consider petitions, memorials, and complaints from His Majesty's subjects on all sorts of matters which are the cause of grievance. Some relate to personal affairs, some to matters of public interest, some are within the scope of another department, in which case they are forwarded; but many are within the sphere of the Home Office if only because it is the business of the King's First Secretary of State to deal with matters not assigned to other Ministers.

About many of the complaints and protests which reach the Home Office, there is nothing that can be done; but it is the duty of the department, to give the complainant a

reply which will assure him that his representations have been seriously considered, and if he calls he must be sympathetically interviewed and made to feel that there is someone anxious to help him. Few things do more to foment discontent than a feeling among the public that the Government is inaccessible and deaf to their complaints. You will remember that Absalom was able to start an insurrection by standing beside the way of the gate and calling to "any man that had a controversy, 'See, there is no man deputed of the King to hear thee'." It is one of the duties of the Home Secretary to make the King's subjects feel that there is someone deputed of the King to hear them—that it is the business of one of the great officers of State to see whether any of His Majesty's subjects is being oppressed or is suffering a hardship or wrong that can be mitigated or redressed. For, as Milton wrote:

"This is not the liberty which we can hope, that no grievance ever should arise in the Commonwealth—that let no man in this world expect; but when complaints are freely heard, deeply considered and speedily reformed, then is the utmost bound of civil liberty attained that wise men look for."

There is one function in relation to civil liberty which is performed both by the Home Secretary and by Parliament, that is the scrutiny of new legislation and regulations made by Ministers under powers conferred by statute. People concerned with government naturally like their schemes to have a logical symmetry which appeals to the reason but does not always take account of the delightful unreasonableness of one's conduct and tastes. They are apt to forget that restrictions on individual liberty are justified only if they bear fruit in the form of greater freedom for other individuals and the community, and that logic and reasonableness are not a substitute for freedom. It is the function of the Home Secretary and of Parliament to remind them to say: "Is your regulation really necessary? Will it contribute to the freedom of His Majesty's subjects or will it merely contribute to the orderliness and symmetry of your proposals?" A rule which

has behind it all the force of the law and may be the means of putting a fellow-citizen in jail requires a good deal more justification than the rules by which one regulates one's own private affairs—not merely because individuals may suffer, but because the punishment of acts which are not condemned by public opinion discredits the law and by weakening respect for it may have a bad effect on the maintenance of law and order.

With the same purpose of holding the balance between liberty and order, the Home Secretary scrutinizes, and if necessary disallows, by-laws made by local authorities. Here again the principle on which he acts is that laws are passed to promote liberty and not to restrict liberty. It is not always easy to determine whether in order to promote the liberty of one set of people it is right to restrict the liberties of another set. When Mr. Churchill was Home Secretary a local authority proposed to make a by-law prohibiting the use of roller-skates on London pavements—the object being to protect the peace of elderly people who dislike being bumped into by boys on skates. Mr. Churchill decided that it was more important to protect the London boy against encroachments on his limited opportunities for adventure, and refused to confirm the by-law.

The function of scrutinizing new legislation was of special importance during the war when there was much legislation by Order in Council, and many departments had unaccustomed law-making powers conferred upon them. Although it was necessary, in order to preserve the independence on which all our liberties depend, to impose restrictions and endure invasions of individual liberty which would rightly not be tolerated in peace-time, the Home Office did everything possible to keep within reasonable bounds the natural inclination of people closely and urgently engaged in prosecuting the war to prohibit any activity, however innocent, which made their own vitally important work more difficult.

In the same way Parliament was careful to scrutinize—and not slow to criticize—the extensive subordinate legislation which had to be put before it during the war years.

Such subordinate legislation must commonly be laid before Parliament and either requires approval or may be annulled by Parliament within a given period. In June, 1944, the House of Commons equipped itself with a new Committee to bring to its attention Orders made by Ministers which appear to require special consideration on various grounds, for example, that the Order is made under an act which excludes it from challenge in the Courts.

However well-intentioned the Home Secretary and however vigilant the Courts, it is Parliament which provides the major safeguard of the liberty of the subject, and it has played the principal part in the struggle for that liberty. The main functions of Parliament in this regard are twofold, first to ensure that the executive does not act in an arbitrary manner and, secondly, to draw attention to any particular grievance which may arise and see that it is properly investigated. The first function is performed by the very careful examination of new legislation for which the procedure of Parliament provides and by the scrutinizing of subordinate legislation of which I have already spoken.

The function by which Parliament investigates the manner in which the executive carry on the Government of the country, as well as the investigation of apparent grievances, is provided for by the asking of Parliamentary Questions and the holding of Debates on the Government's administration. A Question draws immediate public attention to some matter which may be causing hardship to an individual or a section of the community, and forces the Minister to investigate the supposed grievance and either to put it right or to justify publicly what is being done. The institution of Question Time is an invaluable method of ensuring that any citizen can have his grievance ventilated, and is a reminder to those concerned in Government that their actions may at any time be subject to public scrutiny. It also serves as a means of removing or showing to be groundless grievances which if not brought to light might create serious discontent.

There is no topic on which Parliament is so quickly or

so easily aroused as a threat to the liberty of the subject. If a Question does not produce a satisfactory answer the matter will be raised on the adjournment, and the Member raising it will be widely supported, and not merely by his own Party, in pressing for a thorough investigation.

I have attempted to describe briefly in what our civil liberty consists and some of the means by which it is preserved, but let me repeat that civil liberty depends first and foremost on the people of the country and not on their Government.

If the people do not understand that the enjoyment of liberty demands of them an active and informed participation in public affairs and a determination to respect and defend the rights of their opponents equally with their own, liberty cannot survive. And they will not understand this unless they also understand that liberty is not to be taken for granted as something inseparable from the British climate, but is a right which can only be preserved by the acceptance of the corresponding duties and obligations. Sir Peter Wentworth, speaking in the House of Commons nearly four hundred years ago, said:

“Sweet is the name of liberty, but the thing itself is a value beyond all estimable treasure.’ So much the more it behoveth us lest we, contenting ourselves with the sweetness of the name, lose and forgo the thing, being of the greatest value that can come into this noble realm.”

THE PALACE OF WESTMINSTER¹

by SYDNEY D. BAILEY

Assistant Director of the Hansard Society

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 (1258), 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 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.

¹For 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.

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 inter-

rupted 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.¹

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 decay", 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 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

¹ 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.

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. A picture 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.

In the sixteenth century the arrangement had become more formal, as a picture 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 tallies¹ 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.

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

¹ 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. . . ."

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.¹

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.²

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 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

¹ Charles Bradlaugh was the last Member to be confined in the Clock Tower, in 1880.

² 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.

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 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.¹ 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.²

On either side of the Table is a dispatch box, that on the right of the Speaker marking the place of the Prime Minister 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

¹ 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.

² 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.

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,¹ 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 John Bellamy opened a small room for supplying food. In 1848, a Committee was appointed to control the Kitchen and Refreshment Rooms. In the centre of the Members'

¹ The rolls of Parliament for 1377 contain this entry: "Monsieur Thomas de Hungerford, Chevalier, qui avait les paroles pour les Communes d'Angleterre en cest Parlement."

Dining Room is a large oval table which is traditionally reserved for members of the Government.¹

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.

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

¹ 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.

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.¹ "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."

¹ For seventeen weeks in 1940, 1941 and 1944, both Houses sat at Church House, the building in which the Church Assembly meets.

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¹ Any of these books which are in print may be ordered through the Hansard Society.

