OUR PARLIAMENT

By

STRATHEARN GORDON
(*A Senior Clerk in the House of Commons*)

New and enlarged edition
[redacted] illustrations

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There are some books which it is difficult to praise too highly. This is one of them. . . . Mr. Gordon, versed in the history of the House, habitually illuminates a statement with an apt illustration always interesting and often quaint, and his whole approach is determined by a deep respect, almost a deep affection, for the greatest legislative assembly in the world. . . .

. . . There is nothing about Parliament worth knowing which Mr. Gordon has not managed somehow to fit neatly into his close-packed monograph.

WILSON HARRIS, *The Spectator.*

. . . this fascinating volume, as admirable in arrangement as it is lucid in exposition. Commander King-Hall, Honorary Director of the Society, is altogether too modest in his introduction. . . .

Times Educational Supplement.

. . . Nowhere is there, in short compass, such a lucid, accurate and authoritative statement of the origins and development of Parliament, and of the conditions under which it now does its work. Mr. Gordon has set a model of concise and careful writing . . . only a master of his subject could say so much in so little. . . .

W. W. HADLEY, *Sunday Times.*

The author, besides being one of those whose business it is to possess a high degree

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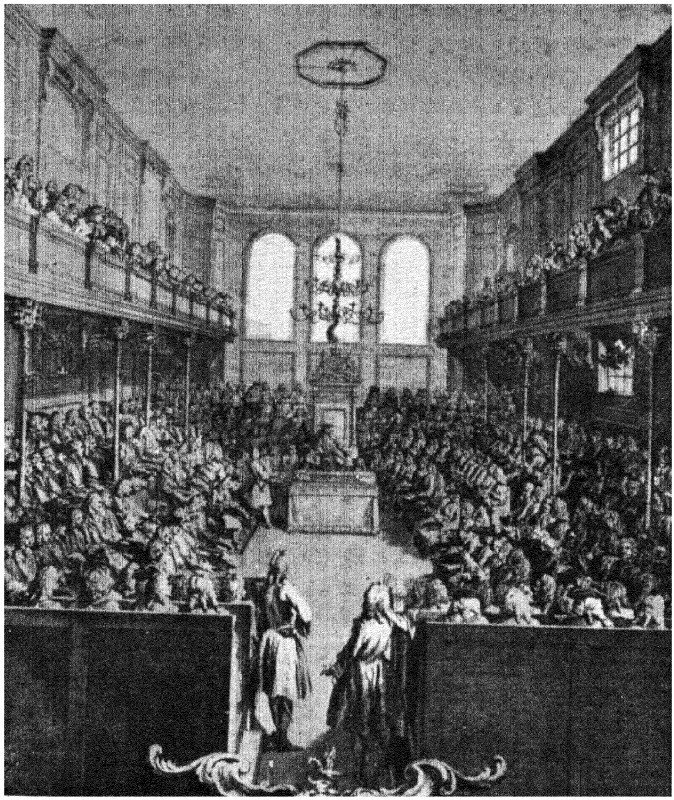
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THE HOUSE OF COMMONS IN 1742

The best known view of St. Stephen's in the 18th Century. Mr. Speaker Onslow is in the Chair and Sir Robert Walpole is addressing the House.

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STRATHEARN GORDON

(3rd Edition)

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CONTENTS

	Page
INTRODUCTION	7
AUTHOR'S NOTE	9
CHAPTER I.—THE ORIGINS AND HISTORY OF PARLIAMENT	13
The Witenagemot	14
The Great Council	15
The Model Parliament	18
The Tudor and Stuart Periods: the Struggle for Executive Power ..	23
Constitutional Monarchy: the Party System and the Cabinet	24
CHAPTER II.—THE CONSTITUTION TODAY:	29
The Sovereign	34
The Prime Minister	36
The Cabinet	37
The House of Lords	40
The House of Commons	41
CHAPTER III.—THE FUNCTIONS OF PARLIAMENT.. ..	42
CHAPTER IV.—MEMBERS AND THEIR DUTIES	49
CHAPTER V.—THE PALACE OF WESTMINSTER	65
CHAPTER VI.—THE HOUSE OF COMMONS AT WORK: ..	73
The Speaker and the Officials.. ..	73
The Parties and Their Whips.. ..	76
The Essentials of Procedure	86
The Details of Procedure	101
How the Proceedings Reach the People	130
CHAPTER VII.—THE HOUSE OF LORDS AT WORK ..	137
CHAPTER VIII.—BENEFITS AND RESPONSIBILITIES ..	149
GLOSSARY	154
INDEX	176

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LIST OF ILLUSTRATIONS

The House of Commons in 1742	*Frontispiece*
	Facing page
The Impressive Ceremonial Part of Parliament ..	32
The Essential Foundation of Parliament	33
The House of Commons in 1893	64
Westminster Hall	65
The Night of Saturday, 10th May, 1941 ..	96
The Future House of Commons	97
The House of Lords in 1742	136
Barry's House of Lords in 1945	137
Plan of the Palace of Westminster ..	*End papers*

"I pray that, with God's blessing, this light will shine henceforth not only as an outward and visible sign that the Parliament of a free people is assembled in free debate, but also, that it may shine as a beacon of sure hope in a sadly torn and distracted world."

Mr. Speaker's words on re-lighting the lantern above Big Ben on 24th April, 1945.

INTRODUCTION

Of all the institutions for which the British are famous; of all the contributions this island people have made to the business of living, there is none more noteworthy or renowned than that of Parliament.

Emerson wrote that an institution is the lengthened shadow of one man. Of the institution of Parliament it may truly be said that it is the lengthened shadow of our nation. It has been the dynamic centre from which the principles and practices of the free ways of life have radiated forth beyond the confines of Britain. Always changing, yet changeless in its spirit and purpose, Parliament has its roots in history of centuries ago, yet its branches reach out to the days still to come.

Parliament is part of the birthright of every citizen, the mirror of the people's minds and the guardian of their liberties.

It is the high duty of each one of us to be informed about Parliament and its purposes and to be concerned with its operations. We are, each and all of us, the custodians of the dignity of this famous national institution. Its efficiency as an instrument of governance depends upon the quality of its members and this, so far as the Commons are concerned, depends upon the skill, judgement and political honesty with which citizens discharge their electoral responsibilities. Democratic government enables the citizen to enjoy *rights*. Every right carries with it a corresponding *duty*. It is the duty of every citizen to inform himself about Parliament, which is the guardian of our liberties.

The Hansard Society, of which at this time I have the privilege to be the Honorary Director, is "a non-profit-making educational society founded to arouse interest in and spread knowledge throughout the world about all aspects of Parliament", and as a part of its work this society is sponsoring the publication of books and pamphlets about Parliament. The series began with *Books About Parliament*, by Norman Wilding, Assistant Librarian of the House of Commons, price 1s.

The second contribution is the book you are now reading. Though it is intended to be acceptable to the general reader

it is hoped that it will be respected by the expert as a competent and useful introduction to a great subject.

Whilst the Council of the Hansard Society accept full responsibility for the production and publication of this book, the Council is debarred by its constitution from expressing any opinion of a party, political or controversial character. The Council believe this book is as objective as any book can be, but where opinions are expressed they are those of the author.

The Council of the Hansard Society are satisfied that this book will be useful in schools, in the Services and generally to the elector who is anxious to improve his knowledge of the famous institution of Parliament.

Finally, the Council urge you to send for particulars of the Hansard Society in order that you may consider applying for membership and so participating in this work of national importance.

STEPHEN KING-HALL,
Chairman of the Council.

June, 1945.

INTRODUCTION TO THE THIRD EDITION

The remarkable success of "Our Parliament", which was immediately recognized, by expert and layman alike, as a contribution of outstanding merit to the literature of Parliament, has made it necessary to produce a third edition which includes the important changes in parliamentary procedure during the last three years. This edition is also provided with an index, for which thanks are due to Mrs. Dewar.

Public interest in the institution of Parliament continues to increase, and I take this opportunity of repeating my appeal to all good citizens to support in every possible way the work of the Hansard Society.

STEPHEN KING-HALL,
Chairman of the Council.

July, 1948.

AUTHOR'S NOTE

"Disinterested intellectual curiosity is the life-blood of real civilization."—G. M. TREVELYAN, *English Social History.*

Not long ago a mutual disappointment brought home to me how unfamiliar Parliament may be to some of the electors. I had got an elderly farmer friend into the gallery of the House of Commons to hear a debate. He is an old-fashioned type, a man of sense and judgement founded on experience rather than on books, a good neighbour and an excellent member of society. It was a long-standing promise. My friend walked through the lobbies and up the stairs to his seat with an expression of respect and keenest anticipation. The debate was quite up to the average in interest and incident. But when he came out it was evident that he had received a staggering disappointment. The picture he had conceived of the House of Commons, whatever it was, had been rudely shattered. "Well, I *never*", he kept repeating, "fancy us being governed by such a set of *ordinary*-looking fellows! A lot of bald heads and *ordinary* talk; I *am* disappointed."

I felt just as disappointed myself, as though I had taken him to such an extravagantly dull play that he had come out yawning. I tried to find out what was wrong. He was far too intelligent to have expected to see magnificent figures in powdered wigs and satin breeches delivering brilliant orations like those which made Fox and Sheridan famous 150 years ago. But I think he may have imagined a House still peopled with the politicians of his Victorian youth—the frock coats, silk hats and resounding formal speeches of a bygone age. At any rate he had completely failed to imagine Parliament as it is.

During the war, I remember noticing a man with a look of very temporary respectability, emphatically pointing out the Houses of Parliament to some American soldiers as "the dear old Abbey"; and I have had the greatest difficulty myself in

persuading two other G.I. Joes that Big Ben was not part of Westminster Abbey.

This book is an attempt to explain in simple terms how Parliament has grown up, what it is and how it works and affects people's lives today. It is offered to my friend who expected something so much less ordinary, to all the Americans whose interest is so intensely flattering to our institutions, to members of our own Services, and above all to the young people of Britain.

The subject should be approached without prejudice. Parliament has many qualities, but I wish most to point out its quality of *fairness*—its capacity, if properly worked, to ensure fair conditions of discussion and decision by our representatives of all the problems which affect our daily lives. Fashions have changed since the days of "It must be true: I have seen it in print." Many of the people who might have said that, now seem to approach such a subject as Parliament, if they approach it at all, in a mood of thorough-going cynicism. Nothing is to be believed unless it is base. The Government is the enemy: a set of clever fellows seated in London, who manipulate the strings of power and tax the people—probably mainly for their own selfish interests. "Why can't the Government pay our income tax for us?" was an earnest question put in perfectly good faith at a recent political meeting. It betrays a complete ignorance of the "system" which is so freely criticized, and an unhappy sense of antagonism. If even a few of those who think and speak so bitterly about "them" and "their Parliament", can be brought to feel about it as "us" and "our Parliament" (especially when their own party is *not* in power) then the purpose of this book will be amply satisfied.

If, too, these people will put aside their certainty that Parliament is a tyrannical and incompetent sham, and all politicians nest-feathering scoundrels, until they have read these pages, they may then know the answers to some of the questions which perplex them most, which I believe to be as follows: (*The references show where the answers are to be found.*)

1. Why doesn't Parliament *do* more? Why do they only *talk*? (pp. 42-48).

2. Why don't Members work harder? They always seem to be going for long holidays (pp. 61-64).

3. Why have Parties at all? Why not choose "the best men" and let them do the best for the country? (p. 76-84).

4. Why is procedure so complicated that even Members themselves don't understand it? (pp. 95-96).

5. Why does Parliament allow so much "red tape" and "bureaucracy" in Whitehall? (p. 126).

6. Why not abolish the House of Lords? (pp. 142-148).

So much for what we may call "the Opposition". Now for the others, who probably form the majority in the country. They are more or less dimly aware that Parliament is a great and famous institution, hundreds of years old. They believe that it is also "the Government"; and that it is somehow responsible for British liberties and freedom as well as for the income tax. They are proud of it as being part of their country and traditions; but just how old it is, how it works and how exactly it affects their own lives they have probably been too busy or too far off or too uninterested to inquire.

Such readers should take note of the following facts. A famous writer on Parliament in the last century, Walter Bagehot, used to divide the features of the Constitution into the *dignified* parts which existed to impress and remind people, and the *efficient* parts which did most of the work. It is easy to stare at the Sovereign driving in his gilded coach to the opening of a new Parliament, or to peer down from one of the galleries of the House of Commons—without being able to make head or tail of what is going on—at the Speaker with his long wig and buckled shoes sitting behind the mace. But it is far more important to come to grips with the basic principles of the Constitution and especially to grasp the system of its inner working parts—the Prime Minister, the Cabinet, the Parties and the Government Departments. To put it in another way, Big Ben's chime and bell would not be so famous if it did not also keep perfect time.

This book is partly a history book, since Parliament is in a double sense pure history. Every sentence which is spoken under its great sounding-board—perhaps in the reader's presence —passes into the annals of the nation. But it is also quite impossible to understand Parliament without some knowledge of its development, and only by carefully using the lessons of its long experience can Parliament carry out its tasks with efficiency. For that reason the accent is on history throughout the book. Any reader who is already acquainted with the origins and history of Parliament should skip Chapter I.

S. GORDON.

NOTE TO THIRD EDITION

The third edition of this book records four notable parliamentary developments which have occurred during the past two years. (1) As the result of a case of Privilege the House of Commons has by declaration clarified the problem of relationships between Members and outside bodies (p. 60). (2) A series of substantial changes in procedure have been incorporated in the Standing Orders (p. 99). (3) A Representation of the People Bill has been introduced to recast the electoral map into single-member constituencies, to abolish plural voting and to bring the electoral law up to date (p. 104). (4) Swamping in importance all these changes is the controversy which has been aroused by the Bill to amend the Parliament Act of 1911, which has precipitated discussions on the reform of the House of Lords and seemed at last to offer a chance of solution of that ancient, vexed question (p. 146). It is only by the reinvigorating process of developments such as these that Parliament remains fit to face the changing problems of the years. S. G.

East Hanningfield.
June, 1948.

CHAPTER I

The Origins and History of Parliament

"The roots of the present lie deep in the past."
Bishop Stubbs (1825-1901).

Definitions

In primitive societies a single man—the chief or king—could himself supply all the powers of government. He could declare the necessary rules of conduct or laws, supervise their execution and judge whether they had been broken. He could also decide quarrels, devise a policy to enable his people to defend themselves and improve their way of living, and act as their formal head, protector and spokesman. But in larger and more civilized states these powers are commonly separated and given the following names. The body of people who make the laws are known as the *Legislature* (late Latin: Legislatio=proposing of a law); those who carry them out—and in general *execute* the country's policy—are called the *Executive* (mediæval Latin: exsecutare=to execute); while the judges who decide whether the laws have been infringed form the *Judiciary* (Latin: Judices= judges). The *Constitution* of a country means the way in which it is governed or organized. The Constitution regulates the powers possessed by each of the parts mentioned above, and their relationship to one another, and the term includes the rights and duties of subjects in relation to the supreme power in the state. The name of the constitution is often taken from the nature of this supreme power. Thus, where it belongs to a king the constitution is an *Absolute Monarchy*; to a Dictator, a *Dictatorship*; to a few men, an *Oligarchy*; and to the best citizens or to the nobles, an *Aristocracy*. The word *Democracy* (Greek: demos=people) means a state wherein the supreme power belongs to the people or to their representatives. It is one of the purposes of this book to show that Parliament is the chief instrument through which that power can be kept where it belongs.

The British Constitution is a Democracy with a constitutional

monarch at its head, by which is meant that although the supreme power lies in the hands of the people and the representatives whom they elect, the formal head of the state is a king whose powers are restricted by constitutional laws and customs. We shall return to the British Constitution in the next chapter, and in the meanwhile, with but two more definitions—of politics and Parliament—we can set out upon our researches. *Politics* means the science and art of government, and a politician is one skilled or engaged or interested in that art. In the last restricted sense it is the duty of every man or woman living in a democratic state to be a politician. But what exactly is meant by *Parliament*? Originally, the word, meaning a talk, was applied to the after-dinner gossip of monks in their cloisters, which was condemned by the authorities as unedifying. It came into use for the national assemblies after the middle of the thirteenth century, and soon became established. Legally, it now consists of the King, the House of Lords and the House of Commons, *acting together*, but colloquially it is used for the House of Commons with a conception of the House of Lords in the background, or, still more loosely, for "the Government". This last is an inaccurate use of the term; the Government is the Executive, which Parliament controls. I propose to choose the middle one of these three definitions—the two Houses of Parliament—and since the House of Commons is so much the predominant partner, the space and attention devoted to it will be proportionately large.

All authorities remark upon the haphazard and "accidental" appearance presented by the growth of our Constitution. But though often misunderstood by those who were concerned in its evolution, it is the product of a natural development. However, a scrutiny of conditions at any stage inevitably involves an examination of their causes, so that the only safe method is to begin at the beginning.

The Witenagemot

If we search among the earliest records for a starting-point of Parliament, we are bound first to notice the *Witenagemot*, that famous assembly of the wisest of our Anglo-Saxon forefathers, who were summoned to give rede (counsel) to kings

with names like Alfred, Edward, Athelstan and Edmund, long years before the Conqueror fixed the immortal date of 1066 in our history. Even in those early times it was an English principle—similar conventions existed in most primitive European communities—that in important matters such as the interpretation of laws, the King ought not to act alone but should first obtain the advice and consent of the wisest of his people, and it was on this principle that he held "deep speech" with the witan, or council of the wise men, two or three times a year. Sometimes the meetings were attended by gatherings of the ordinary folk, who, after hearing the speeches of the leaders, gave a vote for or against the proposition by clashing their arms against their shields. But the characteristic witan seems to have been a small aristocratic body, of variable composition, with enormous powers, surpassing in some respects those of the modern House of Commons. "It can elect kings and depose them;" says one of our most brilliant historians,* "the king and witan legislate; it is with the counsel and consent of the witan that the king publishes laws; the king and witan nominate the ealdormen and bishops, make grants of the public lands, impose taxes, decide on peace and war, and form a tribunal of last resort for causes criminal and civil. It is a supreme legislative, governmental and judicial assembly." So that a free assembly, not elected, but representative in the sense that it was summoned from all parts of the country, existed in England over 1,000 years ago.

It should also be remembered that a form of local government was well established at this time. The country was organized in the "shires" we know so well (and in smaller units), with an ealdorman who commanded the local forces and belonged to the witan and a sheriff who represented the King's interests and presided in the shire court. Both sheriff and court survived the Conquest and are of high importance in the history of Parliament.

The Great Council

The Normans were despots and they ruled as despotically as they dared in the face of their turbulent followers, but they

* F. W. Maitland, *Constitutional History of England*, 1931 ed., p. 58.

gave a basis to the English Constitution in the shape of a strong kingship, making for national unity. William I emphasized the feudal system in England—the system under which the King made grants of land to his nobles in return for a promise of allegiance and of active help in time of war; and by which, similarly, the nobles became overlords to their tenantry, promising them justice and protection in return for services rendered in peace and war. He insisted that every landholder, however small, must owe him direct allegiance, which qualified the man's oath to his immediate overlord and made loyalty to the King the supreme and universal duty of all English freemen.

William and his successors held "Great Councils" which were probably assemblies of the King's tenants-in-chief, that is to say those who held land directly from him. The Saxon Chronicle of the Conqueror states that "Thrice a year King William wore his crown every year he was in England; at Easter he wore it at Winchester, at Pentecost at Westminster, and at Christmas at Gloucester; and at these times all the men of England were with him—archbishops, bishops and abbots, earls, thegns and knights." "All the men of England" probably meant the greatest of them only, but it seems certain that the few legislative acts of the period were done with the advice and consent of these Councils. It must be remembered that even the despotic Normans had no standing armies, no police and no civil service to support and defend the State. They were dependent upon the general public, and it was natural to them to carry on an immemorial tradition common to Normandy and to England, by governing with the help and consent of the greatest and the wisest of the free men whose lords they were.

It next becomes important to watch the transformation of these purely feudal bodies of great vassals called the Great Councils into something more representative of the whole nation. And here the first beginnings become visible of a connection between taxation and direct representation, when Henry II in imposing the famous Saladin tithe on movables in 1188 for the expenses of a crusade, got it assessed in each district by a jury of neighbours. Incidentally it was also probably the first attempt to tax personal property. It should be remem-

bered that the mediæval king (and his feudal subordinates) was normally expected to live "of his own". Hereditary revenues and customary dues, services and "fees" were supposed to suffice. All taxation (in our modern sense) was extraordinary. Hence the feeling that when the King asked for more, he was asking for something to which he was not entitled as a matter of course.

Magna Carta was the last great landmark before the first Parliaments in the modern sense. It was to prove of momentous importance to the liberties of Englishmen, largely owing to the optimistic interpretations placed upon it by later generations, but for our purpose it is enough to note that on a stormy day in 1215 on the marshy islet of Runnymede, a committee of twenty-five angry nobles extorted from their reluctant king a promise that in future he would adhere to the law of the land by refraining from imposing any feudal aid (tax), except the three customary ones for redeeming the King's body from captivity, for knighting his eldest son, and for marrying his eldest daughter, *save by the common council of the realm.* Thus was the doctrine of the necessity of consent firmly re-established. Further, something like a distinct definition of the common council was provided. It was to consist of prelates and great nobles summoned by name, and of tenants-in-chief summoned collectively through the sheriffs. The effect of the Charter upon King John seems to strike a somewhat modern note. "They have given me five-and-twenty over-kings", he shouted, flinging himself upon the floor and furiously gnawing the sticks and straw which were the carpet of the period.

The idea of representation, particularly in the organization of the Church, for judicial purposes in connection with juries, and for tax assessments, had long existed. Knights were probably first summoned to Westminster to give evidence in connection with legal cases brought up from their own County Courts and other affairs of local government. But in 1254, a great advance in the conception of parliamentary representation was marked when each sheriff was bidden to send two knights, chosen by the county, *to consider what aid they would give to the king in his great necessity.* The knights now came as delegates, no longer in their personal capacity as tenants-in-chief.

There, in the power to *grant or withhold supplies,* lies the

lever which time and again has served the people to increase their control over the King and his executive government. Even today, the ability of governments to rule despotically is limited (with other safeguards) by the necessity for securing votes of supply in the House of Commons.

In 1265 Simon de Montfort summoned his famous Parliament, famous because for the first time representatives were called from the cities and boroughs as well as from the shires.

The Model Parliament of Edward I

Finally, in 1295,* Edward I provided the model towards which all previous experiments had been tending and which slowly crystallized into the type of modern Parliaments. The process was very gradual. Many Great Councils were called after 1295 in which the Commons or the clergy or the knights were not represented; and throughout the Middle Ages many important statutes were passed without the consent of the Commons.

The Model Parliament, as it later came to be called, consisted of the archbishops, bishops and greater abbots, seven earls and forty-one barons, all summoned by name. The prelates were directed to bring representatives of the lesser clergy and the sheriffs to cause two knights of each shire, two citizens of each city, and two burgesses of each borough, to be *elected*. Thus, the assembly had ceased to be a feudal court, dependent entirely upon land tenure, and was becoming a body in which every class and interest had a voice. It was an assembly of the "Estates" of the realm, clergy, barons and commons, or, as Maitland calls them, "those who pray, those who fight and those who work". When these diverse Englishmen were brought together their discussions were bound to help towards forming a national as opposed to a sectional policy. They made friends (and quarrelled, no doubt), and learnt each other's local conditions and difficulties, and exchanged points of view. That is still as vital a function of Parliament today for the national well-being as it was in 1295.

By 1300, therefore, representative institutions were established,

* Some authorities choose the Great Council of 1275 as the first true predecessor of modern Parliaments.

much on the lines of our present Parliaments, except that only the archbishops and bishops now remain as representatives of the Church.

But it should be repeated that although the growth of Parliament, as outlined here, sounds simple and straightforward, by closer study it resembles a piece of tapestry of the period; the effect of the finished pattern is clear enough, but a nearer scrutiny reveals all kinds of beginnings, interweavings and unfinished ends, and the tracing of each single thread has occupied many a constitutional historian's whole life-time.

There are three vital ideas to be grasped about these early Parliaments.

(1) *Parliament as a Court of Justice.*—The original unit, out of which everything developed was the King's Court, with its varying functions. Parliament, in its beginnings, was regarded as the highest court of royal justice, and even under Edward III the dispensation of justice was still looked upon by contemporaries as its primary function. That is why the expression "The High Court of Parliament" may be echoing somewhere at the back of your mind. Although the only remaining judicial function of Parliament (apart from questions of "Privilege", (see p. 102), its duties in connection with Private Bills (p. 100) and the obsolete process of Impeachment), is today exercised by the Lords as the highest court of appeal for the whole country, and even that function is left in practice to its specialist judges, the idea of Parliament as the highest dispenser of justice for all grievances and for rich and poor alike, remains to this day, as we shall see in a later chapter.

(2) *Representation and Consent to Taxation.*—We have just watched the first steps by which representatives of the people were summoned to Parliament to grant money to the King. The doctrine of *consent* to taxation (in the Great Council of the realm) was a feudal one. It is likely that a virtual *consent* to taxation was necessary in the shire courts long before representatives of these courts were summoned to Westminster. At first it was *advice* which was sought by the Sovereign in Parliament, particularly in the case of the Commons, but better returns were produced when it was *consent* which was invited.

The practice of *representation* had been developed independently for other purposes, such as the assessment and collection of taxes imposed by the King in his Council. The two ideas were now linked together in the famous principle first affirmed by the Church and repeated in the writ of summons to the Model Parliament—"*Quod omnes tangit, ab omnibus approbetur*" ("What touches all should be approved by all"). Thus, the beginnings of the idea of financial responsibility to the electors, which is the essential element of a modern Parliament, and, (as we have said), the basis of modern parliamentary sovereignty, were born with the earliest representative Parliament, 650 years ago.

(3) *The Failure of the Estates System in England.*—The Model Parliament owed much to Edward I's wish to broaden the basis from which he drew counsel and help. It was convenient for the King to keep in close touch with the communities whose goodwill was so indispensable for the smooth running of government and the collection of taxes, and, once granted a place in the assembly, the humbler representatives soon took part in its development. Nor was it long before the nobles found occasion to desire their support. Both when Edward II was deposed by a Parliament, and Richard II by an assembly of Estates, the great men were clearly glad to share with the lesser the responsibility for such revolutionary actions. But the idea of the three Estates did not flourish in England, since from an early date the clergy as a body preferred to meet and to discuss their contributions of taxes in their own convocations. There is no evidence that the lesser clergy attended Parliament after the end of the fourteenth century, and in 1664 their subsidies to the State ceased and they were taxed with the laity. (It is typical of our irregular methods that this momentous constitutional change was first settled by a verbal agreement between Archbishop Sheldon and the Lord Chancellor Clarendon, without any express law.) The prelates remained in their capacity as feudal landlords and continued to sit with the greater barons. "Baron" in this sense meant a military tenant-in-chief. The "greater barons" were entitled to individual writs of summons to Parliament, and became the House of Lords. The knights of the shire were usually chosen from among the

lesser barons. They were generally gentlemen of birth but not necessarily of the military rank of knighthood. They were elected in the full shire court under the superintendence of the sheriff, whose writ also charged him to arrange for the return of the city and borough representatives in his shire.

After a period of uncertainty as to which of the lesser barons were entitled to a separate summons and as to how the new representatives would group themselves, the knights of the shire, possibly owing to jealousies of the greater barons engendered in local shire affairs, threw in their lot with the citizens and burgesses and sat separately (for purposes of deliberation) from those summoned by name. This separation dates at least from the middle of the fourteenth century and possibly earlier.

It is here that the importance of the county court in the development of the English Parliament shows itself. Henry II, by insisting on juries of knights to represent all the freemen of these courts, forced the knights to become the representatives of the Commons. Later, they found it natural to co-operate with the burgesses. French historians usually see in the county court (peculiar to this country) the ultimate cause of the difference in the development of the English Parliament as compared with its continental equivalents. Hence the development not of three Estates, as in France until 1614, but of two Houses, the Lords spiritual and temporal, and the Commons. Thus were avoided, probably by chance, all the dangers of the permanent separation of our political society into Estates or classes. The name "Commons" signified originally the organized communities from which came the representatives, but this meaning has been overlaid by a later notion of the common people who are represented—"The Commons of England".

Before leaving the momentous period of the Model Parliament two other points should be noted. First, that hitherto most of the arrangements we have been describing were tentative and uncertain. Parliament did not always meet in the same place. York was a favourite alternative to Westminster—for political or sanitary reasons. The decision as to who should be summoned, both to the Great Council and to Parliament, lay with the King and to some extent with the sheriffs, and depended

upon the locality of the meeting and the needs of the moment. Attendance was often expensive and onerous and absences were frequent. The whole system was highly variable and bristled with exceptions. But after 1295, usages gradually became fixed. Parliaments upon that first model were frequently summoned, and with their consent the King enacted statutes.*

The second point to be noticed is that Parliament was an expansion for temporary purposes of the King's Great Council, which not only continued to meet in its old form without the representatives of shire, city and borough, but gradually split up into functional parts such as the King's Courts of Justice and the Privy Council containing the great officers of state. It is a relic of those old days when some of the judges of the Supreme Court take their seats, as advisers, among the peers at the opening of Parliament, although the courts in which they preside were long ago separated from Parliament.

These early Plantagenet Parliaments have been likened by Sir Courtenay Ilbert† to an oriental durbar, a state audience with the King on his throne surrounded by his Great Council, hearing the petitions of his subjects and deciding how they should be met. The vital principle of "grievances before supply" was thus already established. The King asked for some special financial aid and his people naturally chose the moment to strike a bargain with him regarding the redress of their grievances, which were presented by or through Parliament in the form of petitions.

Several of the vital principles of financial procedure were beginning to be established in the fifteenth century. As early as 1407 Henry IV acknowledged that grants of supply must originate in the Commons and that the report of such grants should be made to him through the Speaker of the Commons.‡ (It is interesting to note that the practice is still maintained, 500 years later, when Bills for granting aids or supplies to the Crown are handed by the Speaker to the Clerk of the Parliaments to receive the Royal Assent). But the grantors preferred to restrict their grants to the necessities of the occasion, both

* A statute is a written law of a legislative body, *i.e.*, an Act of Parliament. Throughout its early stages, while it is passing through Parliament, it is called a Bill.

† *Parliament*, p. 19.

‡ Stubbs, *Constitutional History*, II, p. 65.

through normal parsimony and in order to keep a weapon wherewith to ensure the redress of their grievances. Frequent Parliaments were therefore required, sometimes two or more in one year, in each case involving a fresh election. It is said that Richard II, who packed his Parliaments with well-disposed adherents, devised the method of sessions and prorogations, to avoid the dispersal of an obliging assembly. The custom then followed that a Parliament once called remained in existence, unless dissolved, until the demise of the Crown. This system lasted until the Triennial Act of 1694, and is another typical example of the seemingly haphazard development of our Constitution.

The change from legislation by petition to legislation by statute took place in the sixteenth century. There had been many complaints that the statutes drafted by the King's Council in satisfaction of petitions did not in fact tally with them, and, Parliament having been dissolved, the Commons had no redress. In 1414 Henry V gave a vague promise that "nothing be enacted to the petition of the Commons contrary to their asking", but it was not until Henry VIII's reign that the practice was established of sending up Petitions (apart from those for Private Bills) to the King in the form of statutes, so that he could but assent or dissent.

The Tudor and Stuart Periods: the Struggle for Executive Power

The customs of Parliament gradually became more settled and its power increased, until Sir Thomas Smith, Queen Elizabeth's Secretary of State, was able to declare that "the most high and absolute power of the realm of England consisteth in the Parliament", by which he meant, in the Sovereign in Parliament. It was true, but nevertheless the most dominating of the Tudors contrived to have their own way, Henry VIII by overawing and using Parliament, Elizabeth by a mixture of scolding and tact.

In 1547 the House of Commons, which since before 1376 had sat in the Refectory or Chapter House of the Abbey, was allotted St. Stephen's Chapel in the Palace of Westminster, by Edward VI, and there it sat until the fire of 1834 destroyed the

chapel. Two fortunate results of much constitutional importance ensued from this more or less accidental Tudor decision. The comparatively small size of the chapel permitted a conversational tone of discussion and a cut and thrust of debate which are impossible in the large chambers commonly used by such assemblies, where a single speaker at a time mounts a rostrum and delivers an oration in a loud, unnatural voice. Secondly, the rectangular shape of the chapel in later days encouraged a system of two opposed parties sitting face to face, instead of the more numerous groups of opinion shading from left to right round the semi-circular benches so often seen in foreign chambers.

Under the Tudors, also, both Houses started to keep Journals, which form an unbroken record of their proceedings to the present day. The main lines of procedure, including the committee system, grew up under Elizabeth and James I; were enormously elaborated and stereotyped in the eighteenth century; and remained in force until the Reform Bill of 1832. The procedure described in 1844 in the first edition of Erskine May's famous treatise*—which in its later editions has remained the prime authority on the subject of procedure—was essentially the same as that in use by the Long Parliament.

The great civil war, ending in the defeat and subsequent execution of Charles I on the scaffold in Whitehall, was fought upon an issue which had in fact already been decided—whether the sovereignty should belong to the King or to the King in Parliament. But in vanquishing royal despotism the country also showed decisively its rejection of all other forms of despotism, whether of an individual, of committees, or of Parliament itself. It was found in practice that the Government could not be efficiently carried on except through persons enjoying the confidence of Parliament. Hence the gradual development of the system whereby the Executive has become a committee of the Legislature.

Constitutional Monarchy: the Party System and the Cabinet

The restored monarchy broke down when James II was suspected of trying to foist his religion upon an unwilling

* *The Law, Privileges and Usage of Parliament*, by Sir T. Erskine May.

country, and it gave place to an early form of the constitutional Monarchy we know. It would have been unnatural for the country not to try to mark their constitutional claims on the occasion of a change of monarchs in such circumstances as the revolution of 1688.

William III desired the Crown of England, but he was not so interested to hear about limitations of his power, and when, standing with his queen under a canopy of state in the banqueting room of Whitehall, he had to listen to the reading of the Declaration of Rights before the formal offer of the Crown was made, he replied with a "laconic and jejune" little speech, without directly noticing the Declaration. However, the Declaration became the Bill of Rights, and another land-mark was passed in the history of Parliament.

The Revolution Settlement, and in particular the Bill of Rights, says Maitland, placed the Sovereign distinctly below statute. He was to have no power to suspend or dispense with statutes; to create any new offence by proclamation; to exact money or to keep a standing army in peacetime without Parliament's consent. The judges were no longer to hold office during his pleasure. The people were to have a free choice of representatives in Parliament. Both Houses were confirmed in their right of liberty of debate. Moreover, the right of the people through their representatives to set whom they would on the throne was established. All theories of any rights to the throne independent of the law were abolished and all subsequent Sovereigns have occupied the throne by virtue of an Act of Parliament.

The two principal characteristics of the modified Monarchy were the party system and the Cabinet. Speaking of these great innovations Sir C. Ilbert says: "They were silent changes, not brought about by any act of legislature; gradual in their operation; developed, modified, deflected, retarded by strong personalities, like Walpole, Pitt, George III; imperfectly appreciated, misinterpreted, misunderstood."

Whether the division of opinion which produced the two historic parties can be more truly ascribed to the reign of Charles II, or of Charles I, or whether it should be dated back to the Reformation is still a matter of argument, but it can be

said that broadly the Tory Party of country squires and their dependents supported "Church and King", while the Whig landlords with the rising commercial classes stood for toleration and the supremacy of Parliament. The Revolution of 1688 confused the Tories and gave a clear advantage to the great Whig families who had brought over the new Sovereigns. Moreover, William had plenty to occupy him outside the kingdom. It is not surprising that the years after the Revolution showed important constitutional progress. The Bill of Rights confirmed the House of Commons in the sole right to tax the nation which they had formally claimed under Charles II, and when the House resolved to grant only annual supplies to the Crown, it achieved the supreme power in the State—because the King had to come to Parliament every year for his "aids"—though it did not for many years add to itself the power to control public policy. The Cabinet developed as a committee of the King's Privy Council, which can in turn be traced back at least to the beginning of Henry III's reign. Charles II tended to trust very few of his fifty or so Councillors with the dubious business which often occupied him, and a kind of inner council of five developed, which became known as the Cabal, from the initial letters of the participants' names. This system of an inner council persisted and crystallized into an institution, thus furnishing another example of a common development in our Constitution, whereby when a body becomes too large for effective action, its functions are gradually assumed by a smaller internal "management committee" of its own members. The process has been repeated in the War Cabinets and "Inner Cabinets" so familiar in the critical days since 1914.

All possibility of Cabinet government was almost prevented at an early stage by Parliament itself. The efforts of the Crown to wield influence by conferring pensions and "offices of profit" upon Members of the House of Commons soon caused alarm, and the Act of Settlement in 1700 provided that "no person who has an office or a place of profit under the King shall be capable of serving as a member of the House of Commons". This provision would have made Cabinet government impossible, but it was repealed before taking effect.

It is interesting to note that the framers of the American

Constitution also dreaded that corrupt influence might be secured to the Executive by these means. But they persisted with their remedy and the result has been one of the main differences between the American system of government and our own. Members of the President's Cabinet cannot be members of Congress. Consequently, Ministers in America do not have to face a daily battery of questions on the most delicate subjects of administrative policy to which Ministers here are constantly submitted. Under the United States Constitution the Executive is divorced from the Legislature and there is no such close relationship and no intimate control by the representatives of the people over the country's policy as exists here.

The subsequent history of the Cabinet is largely due to two circumstances—the desire of Parliament to take a constantly greater part in the Government, and possibly the accident that George I and George II could not speak fluent English and interested themselves less in the affairs of England than in those of Hanover. George I ceased to attend meetings of the Cabinet, and none of his successors resumed the Sovereign's seat, though George III tried hard to regain the executive power. The decision was vital; retirement from the Cabinet turned out to mean relinquishment of all real part in the determination of national policy. Most people still felt that the King was entitled to govern the country; but in practice he found that he could hardly do so unless he controlled the House of Commons. Hence the system of corruption—which was thought to be undermining the Constitution.

It was some time after the emergence of the great parties before all the members of an Administration came to be chosen from the same party. When such a Ministry was formed, in 1696, it received the disapproving title of "the junto". Most of Queen Anne's Ministries were mixed, as distinguished from coalitions, and it was Sir Robert Walpole's Whig Ministry of 1715 which first really established the practice of party solidarity.

The principle of the collective responsibility of a Ministry was of much slower growth. At first individual Ministers frequently dropped out for one cause or another. In the early days of parties the House of Commons disliked the presence of Ministers, and it was only gradually that it became resigned to

their presence and finally grew to regard them as a whole body, to be attacked or defended as representatives of the party in power, rather than the King's Ministers. From their own point of view, also, collective responsibility became an advantage to the Cabinet. It was a good defence in early days against a King who might hesitate to dismiss a Minister he disliked if it was to involve the resignation of all; against their opponents in Parliament if they stood united against the common foe; and even against one another if it was made impossible for individual Ministers to dissociate themselves from policies agreed upon in Cabinet which later came to grief.

Side by side with the development of party and Cabinet came the emergence of the Prime Minister. The twin requirements of a chairman for the Cabinet when the King no longer attended, and of a leader and spokesman for the Government both inside and outside Parliament, with a particular ability to control the House of Commons, have tended naturally to produce this central figure of our constitutional system.

Such are the bare bones of Parliament's history. How can this great array of facts best be summarized in a sentence or two? Perhaps we can say that England has been singularly fortunate in her political development. She has had autocratic Sovereigns, but they never achieved the power of tyrannical despots such as other countries have suffered. From early Saxon days there existed a Great Council of the wise men of the realm, which after 1295 slowly crystallized into Parliament, divided into Lords and Commons, approximately as it is today.

The executive power passed, gradually, over a period of about 400 years, and if not smoothly, certainly at the cost of a fraction of the blood shed in other countries, from the King and his few aristocratic adherents to the King in his Privy Council, and finally to a committee of that Privy Council presided over by a Prime Minister. Meanwhile the powers of the House of Lords were being whittled away, and the authority to tax, to grant supplies, and to appropriate those grants passed more and more completely to the Commons, bringing inevitably with it an increasing control over the Executive, until the political centre of gravity had entirely altered and reached its present position at the "top" of the House of Commons and dependent

inevitably on the support of the majority in the House and in the country.

All this was achieved, not by the fierce test of arms and bloodshed, apart from one unhappy civil war, but by the slower, rational and more durable test of argument, of persuasion and of experience gained from peaceful trial and error.

CHAPTER II

The Constitution Today

1576

". . . let us compare it [the English system of government] with common wealthes, which be at this day in esse . . . to see who hath taken the righter, truer, and more commodious way to governe the people as well in warre as in peace."

Sir Thomas Smith, "*De Republica Anglorum*"

1945

". . . this House of Commons, which has proved itself the strongest foundation for waging war that has ever been seen in the whole of our long history . . . the strength of the Parliamentary institution has been shown to enable it at the same moment to preserve all the title deeds of democracy while waging war in the most stern and protracted form."

Mr. Winston Churchill, *in the House of Commons, on Victory Day*

Before me lies open a copy of "The Constitution of the United States of America", starting with the words:—

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this CONSTITUTION for the United States of America."

It runs to sixteen small pages and can be purchased anywhere in America. If you ask for the address of a shop where you can buy a copy of the British Constitution, the answer is that no such document exists. Our Constitution is based upon a certain

number of statutes, such as the Bill of Rights, the Act of Settlement, the Habeas Corpus Acts and the Parliament Act of 1911*, but to a much greater extent upon judicial decisions and upon customs and conventions. It is described and discussed in countless text-books, but no one has ever sat down in this country to "ordain and establish" a Constitution, as did fifty-five American delegates in 1787.

Let us take a single example. Section I (1) of Article II reads:—

> "The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and together with the Vice-President, chosen for the same term, be elected as follows: . . ."

In our Constitution, on the other hand, the chief executive office, that of the Prime Minister, though in existence since 1721, was not formally recognized by the Legislature, even in a subsidiary connection, until the Chequers Estate Act of 1917 endowed him with a country house, and he was not defined as the principal Minister of State until the Ministers of the Crown Act of 1937. The first thing to notice therefore about our Constitution is that it is mainly unwritten.

Written Constitutions are usually found to be far more "rigid" than unwritten ones, since amendments of the original document require a special process of legislation which is apt to incur much opposition and delay. There have been only twenty-one Amendments to the American Constitution in 158 years. It is only fair to add, however, that custom has contributed much to its development and the epithet "rigid" would probably be hotly disputed.

The counterbalancing quality of "flexibility" which is enjoyed by our unwritten Constitution brings enormous advantages with it. The British Constitution has never stopped growing and is still going strong. Not having been cast into written form at any period, it has the more easily developed to meet new requirements. Think of a few of the issues which have faced it during the last 400 years alone. Two countries—Scotland and Northern Ireland—have been linked to the original

*See p. 40.

Kingdom. The Kingdom has been linked with an Empire; Colonies have been founded, some of whom have rebelled and drawn apart. With others, grown to Dominion status and given complete independence by the Statute of Westminster, 1931, relations are becoming ever closer. Three times invasion has threatened. One King was executed and succeeded by a Dictator: another fled from the Kingdom, dropping the Great Seal into the Thames in his flight: a third went mad: a fourth abdicated. In none of these cases was the continuity of the Constitution wholly broken.

But if we can proudly say that our Constitution is efficient and successful, we cannot claim that it is any more logical or tidy than others. "It is", says Sir William Anson*, "a somewhat rambling structure, and, like a house which many successive owners have altered just so far as suited their immediate wants or the fashion of the time, it bears the marks of many hands, and is convenient rather than symmetrical."

Nor is the Constitution easy to describe or the terms of its phraseology any longer convenient. To borrow Bagehot's vivid similes, which are as apt today as when he used them in 1867:—

> "When a great entity like the British Constitution has continued in connected outward sameness, but hidden inner change, for many ages, every generation inherits a series of inapt words—of maxims once true, but of which the truth is ceasing or has ceased. As a man's family go on muttering in his maturity incorrect phrases derived from a just observation of his early youth, so, in the full activity of an historical Constitution, its subjects repeat phrases true in the time of their fathers, but now true no longer. Or, if I may say so, an ancient and ever-altering Constitution is like an old man who still wears with attached fondness clothes in the fashion of his youth: what you see of him is the same; what you do not see is wholly altered."

The last and most important general characteristic of the British Constitution which we should notice is what is known as the Rule of Law, the fact that no exercise of arbitrary or unrestrained power by the Sovereign, the servants of the Crown, or anyone else is possible. The law, administered by independent

* Anson's *Law and Custom of the Constitution*, 5th ed., Vol. I, p. 1.

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THE IMPRESSIVE CEREMONIAL PART OF PARLIAMENT
Their Majesties driving in State to open a session of Parliament.

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THE ESSENTIAL FOUNDATION OF PARLIAMENT

"Freedom is political power divided into small fragments."—
THOMAS HOBBES (1588-1679)

The essence of British democracy is that all the people have the right to vote periodically, freely and secretly to elect their representatives to Parliament. The *absolute* freedom from influence or intimidation in a modern British voting station is the envy of many foreigners and would have been the wonder of our own ancestors.

judges, is supreme. It is true that the law-makers, Members of Parliament, can *alter* the laws, but once they come out into the streets they are as subject to all the laws of the land as the humblest private citizen.

This attribute was the especial envy and admiration of continental observers in the eighteenth century, when arbitrary power was widely exercised. "When Voltaire came to England", says Dicey,

> "—and Voltaire represented the feeling of his age—his predominant sentiment clearly was that he had passed out of the realm of despotism to a land where the laws might be harsh but where men were ruled by law and not by caprice."*

It is interesting to note how this independent status of the law, which has now become so strong a buttress of our Constitution, was built up by common sense and compromise, rather than by rigid political theory. Since the days of Edward III it was held that the Crown ought not to interfere with the Judiciary. Everyone remembers the legend of how King Henry V, as a young man, attempted by violence to free one of his servants who was a prisoner in the Court of King's Bench; of how Judge Gascoigne, after vainly pleading with the furious prince, committed him to prison; and of how Henry submitted with a good grace and thereby delighted his royal father. But as long as judges held office during the pleasure of the sovereign their conduct often varied with his needs, and as late as the reign of Charles II the judgments of the courts were frequently influenced by dismissals and new appointments.

By the Act of Settlement of 1700, however, the real independence of the judges was secured. Their salaries were fixed, they were to hold office "during good behaviour" instead of "during pleasure", and to be removable, only in case of gross misconduct, by the formidable process of an Address of both Houses of Parliament to the Crown. This procedure has indeed been used on occasion (Sir Jonah Barrington, a judge of the Irish Admiralty Court, was removed in 1830 for corruption), but, since 1700,

* *The Law of the Constitution*, 1923 ed., p. 185.

judges have enjoyed almost complete independence. Their position has been subsequently protected by statutes which have placed their salaries and pensions on the Consolidated Fund. This provides for their regular payment without question, and avoids the necessity for review and possible interference by Parliament in the annual Estimates.

The separation of the Judiciary from the Executive and the Legislature is, however, by no means so rigid as certain political theorists would like. Parliament can interfere to remove a judge, and is expressly charged with the supervision of the courts. No judge may sit in the House of Commons, though some sit in the House of Lords as Lords of Appeal. The judges are appointed by the Sovereign, on the advice of the Lord Chancellor, who is a member of the Government; but although his attention may naturally be attracted to the talents of prominent legal figures in his own party, it is a proof of the exceptionally high level of ability and integrity reached by the profession, that the appointments which are made suffer very little criticism from any quarter. As a result the laws of England are administered as fairly (though perhaps not as cheaply) as anywhere in the world, and that is one of the best of all securities for the protection of the subject.

Let us glance now at the separate elements which compose this largely unwritten and obscure, but living, flexible and above all, efficient Constitution.

The Sovereign

It is one of the pleasantest surprises in our constitutional history that, after the Sovereign has gradually been deprived through the centuries of most of his powers and reduced almost to the position of a figure-head, he has still an unexpected and valuable part to play. The oldest of all the *dignified* parts is seen to be after all an *efficient* part. It has been well said that "the King reigns, but he does not govern." But by virtue of his central position and continuous office the Sovereign has still enormous potential influence through the discussions which proceed incessantly between himself and the leading figures of the nation. He is perpetually in touch with the Government. You may have noticed how, when vital business is afoot, the principal Ministers are to be found calling at Buckingham

Palace. Whatever crises may arise have first to be brought before the Sovereign. The triumphs and sorrows alike of the nation impose their separate demands on the royal attention. "A constitutional monarchy", Mr. Attlee has said recently, "depends for its success to a great extent on the understanding heart of the monarch." He is the fount of honour, who dispenses to his people (usually on the advice of his Ministers) the titles and decorations which are the reward for honourable service to the State. Such experience is bound to develop very special qualities of sympathy and humility which inevitably serve to focus the loyalty of the Empire upon the Sovereign. It is said that the late King George V, after driving to St. Paul's Cathedral through scenes of extraordinary affection on the occasion of his Jubilee, remarked to the Archbishop of Canterbury, "I can't understand it. After all, I'm such an *ordinary* sort of fellow."

Bagehot has said that the King has three rights—the right to be consulted, the right to encourage, the right to warn. He adds that a King of great sense and capacity would want no others. The Sovereign's main constitutional functions are in appearance very limited. First, he appoints the Prime Minister, though generally the choice is already made, for the Prime Minister ought to be the leader of the party for the time being commanding the majority, and in the event of a choice between two or more persons, there will probably be the advice of the outgoing Prime Minister to be considered. Exceptionally, however, the Sovereign may have a real and a vital decision to make in this respect.

The second prime function of the Sovereign is to grant or refuse the Prime Minister's requests for a dissolution of Parliament. There is a latent prerogative power in the Crown to insist upon a dissolution, if it appeared, for instance, that the Ministry or House of Commons no longer represented the wishes of the people; but in almost every conceivable case he ought as usual to act upon the advice of his Ministers—here of his chief Minister. It has been stated that it has become customary for the Sovereign to grant one dissolution to every Prime Minister. If thereafter, however, it seemed that the request was being improperly made, as for instance, if the Prime Minister had differed from the majority of his Cabinet,

and had advised a dissolution for that reason alone, the King might possibly be justified in withholding his consent. Similarly, he might refuse to give a contingent assurance to create the necessary peers to secure a majority in the House of Lords (such an undertaking was given by King George V to Mr. Asquith at the height of the struggle over the Parliament Bill in 1910) if it plainly seemed that the opinion of the country had not declared itself in favour of such a decision.

But it must be emphasized that the Sovereign could only take these steps in the most exceptional circumstances, since an alternative Prime Minister must be at hand to accept responsibility for the action, and he in his turn could not remain in office without the support of the House of Commons.

Finally, there are certain dormant powers of the Sovereign, —such as the refusal of the Royal Assent to a Bill—whose revival is almost inconceivable, since the Cabinet in effect controls the entire legislative programme and the Sovereign acts only upon the advice of his Ministers.

The Prime Minister

The prestige and authority of the Prime Minister in power have constantly increased since the time of Sir Robert Walpole, both by reason of the shrinkage of the Sovereign's powers, and of the enormous increase in the volume and variety of the national business. His position has been well described by Lord Morley: "The Prime Minister is the keystone of the arch. Although in Cabinet all its members stand on an equal footing and speak with equal voice . . . yet the head of the Cabinet is *primus inter pares* ("the first among equals") and occupies a position which, so long as it lasts, is one of exceptional and peculiar authority. It is true that he is in form chosen by the Crown, but in practice the Crown is pretty strictly confined to the man who is designated by the acclamation of a party majority. . . . The Prime Minister, once appointed, chooses his colleagues and assigns to them their respective offices. . . . The flexibility of the Cabinet system allows the Prime Minister in an emergency to take upon himself a power not inferior to that of a dictator, provided always that the House of Commons will stand by

him." It should be added that when he resigns it is customary for all other Ministers to resign with him.

As has so often been noticed, many of the most important relationships and arrangements of our system are indefinite, intangible, and still in process of development.

But in any consideration even of such a powerful figure as the Prime Minister, it is indispensable to remember that the supreme control resides in the people's representatives in the House of Commons and behind them in the people themselves.

In the moulding of their Constitution, Englishmen have not only adhered to the principle expressed by Lincoln in 1854 when he remarked that "no man is good enough to govern another man without that other's consent", but they have also been careful to claim for themselves the right to revoke that consent. They will allow their rulers to wield enormous powers —but only temporarily, and always subject to criticism and the ultimate sanction of dismissal. So it is with all authorities in the land, from the Sovereign downwards: Parliament, responsible to the people, can unmake them all.

The Cabinet

It is one of the principal *conventions* (as opposed to *laws*) of the Constitution that practically all the executive powers required to govern the country are exercised by the Cabinet and their subordinate Ministers and civil servants. The Cabinet is really a committee of the Sovereign's Privy Council, or a committee of Parliament, whichever way you choose to look at it. In its origins it belongs to the first, in its functions to the second. All members of the Cabinet are Privy Councillors, and (with the most temporary exceptions), they must be members of one or other House of Parliament. As Bagehot says, the Cabinet is "a combining committee—a *hyphen* which joins, a *buckle* which fastens, the legislative part of the State to the executive part of the State." He points out that "the efficient secret of the English Constitution may be described as the close union and nearly complete fusion of the executive and legislative powers."

It is interesting to note the effect of the lack of such a buckle in the American Constitution. There, the Executive (the President and his Cabinet), *cannot* belong to the Legislature,

and as a result the two branches of the Constitution can come to loggerheads with each other and remain in that condition, to the great disadvantage of the public business. If such a situation arises here, it is bound to be resolved. One or other body must give way, or the dispute is decided by the voters at a general election.

Another constitutional convention which is generally maintained is that the heads of the great Departments of State should be men of high general ability rather than technical experts. The First Lord of the Admiralty is not normally an admiral, nor the Chancellor of the Exchequer a financier, nor the Minister of Health a doctor; though all Ministers have at their disposal the best technical advice, to which they constantly refer. Once again common sense is the guiding principle, it being considered that the opinion of a Minister of vision and general experience, fortified with the best technical advice, will usually outweigh the narrower and possibly prejudiced views of an expert.

When the Prime Minister's chosen colleagues, having accepted office at the King's hands, take over the responsibilities of the great Departments of State (the Treasury, Home Office, Admiralty, Ministry of Health, etc.), their powers come to them from two very different sources. The first is Parliament, which, by means of statutes, has defined many of the powers and duties, particularly of the younger Ministries. The second is the *Prerogative*, which is the residue of the discretionary powers which used to belong to the Crown and which have not been taken over by Parliament. It means the few things which the King can still do, and the many which his Ministers can do, without an Act of Parliament. We have already noticed the Sovereign's own slender personal prerogatives. It may be useful to form some idea of what his Ministers (the Executive) can do in his name. Incidentally the doctrine that "the King can do no wrong" originated long before the establishment of the constitutional Monarchy, under which the Sovereign has *nominal* but not *real* responsibility for the actions of his Ministers.

The following extract from Bagehot will illustrate just how substantial the prerogative powers still are, but if the passage alarms you, you must remember that the Ministers who alone

could exercise these powers are the servants of Parliament, and so the real power comes round again to the House of Commons.

Although Bagehot was writing in 1872, when the Sovereign was, of course, Queen Victoria, the present position so far as the Prerogative is concerned has not altered.

> "I said in this book that it would very much surprise people if they were only told how many things the Queen could do without consulting Parliament, and it certainly has so proved, for when the Queen abolished purchase in the army by an act of prerogative (after the Lords had rejected the Bill for doing so), there was a great and general astonishment.
>
> "But this is nothing to what the Queen can by law do without consulting Parliament. Not to mention other things, she could disband the army (by law she cannot engage more than a certain number of men, but she is not obliged to engage any men); she could dismiss all the officers, from the General commanding-in-chief downwards; she could dismiss all the sailors too; she could sell off all our ships-of-war and all our naval stores; she could make a peace by the sacrifice of Cornwall, and begin a war for the conquest of Brittany. She could make every citizen in the United Kingdom, male or female, a peer; she could make every parish in the United Kingdom a 'university'. She could dismiss most of the civil servants; she could pardon all offenders. In a word, the Queen could by prerogative upset all the action of civil government within the Government, could disgrace the nation by a bad war or peace, and could, by disbanding our forces, whether land or sea, leave us defenceless against foreign nations."*

No wonder that foreigners find difficulty in understanding our Constitution, if that passage is to be reconciled with the maxim that "the King can do no wrong".

The great authority, Professor Dicey, remarks that:—

> "If government by Parliament is ever transformed into government by the House of Commons, the transformation will, it may be conjectured, be effected by use of the prerogatives of the Crown."†

* *The English Constitution*, Introd pp xxxv and xxxvi.
† *Law of the Constitution*, 1931, p 464

From whichever source their powers come, the members of the Cabinet are responsible individually to their leader and collectively to the whole House of Commons, before which some of them usually appear daily while it is in session. A government of any complexion must at all times command a majority of votes in the House of Commons, and the Cabinet depends entirely upon the support of the party or parties which form this majority.

The House of Lords

The House of Lords is the oldest part of the Constitution with the exception of the Crown. Apart from its legal function as a final Court of Appeal, it has principally an important revising and, occasionally, delaying rôle, though its debates on general issues of policy are of the greatest interest and are often said to surpass in quality those of the Commons.

But the vast majority of peers sit in the second Chamber by virtue of heredity alone. They form a perpetual Conservative majority, responsible to no one but themselves, and they do not command the support which belongs to an elected body. To overwhelm a thorough-going opposition in the House of Lords a Labour Government would have to advise the creation of enough new peers to give that House a membership of about 1,500. Moreover, the House of Lords escaped the reforms which invigorated the House of Commons from the period of 1832 onwards.

The inevitable clash occurred early in this century, when the Lords, under threat of the creation of 500 new peers, passed the Parliament Act of 1911, which broke their power to delay Money Bills for more than one month or any Bills for more than two years. Two notable limitations of the new powers thus granted to the Commons were (1) that Bills for extending the duration of Parliament were exempted altogether and (2) that the desire of the people for the disputed legislation must have been plainly indicated by its passage in three successive sessions (which it is important to note need not be in the same Parliament) during the minimum period of two years mentioned in the Act.

A Bill to clip still further the powers of the Upper House by reducing this period to two successive sessions during a minimum

of one year has recently passed the Commons and been rejected by the Lords. It has revived the whole question of reform of the House of Lords and provided an opportunity for an agreed solution (see p. 146).

The House of Commons

The functions of the House of Commons and the relationship of its members to their constituents will be considered further on. For the moment it is enough to repeat that the Commons are ultimately the dominant power in the Constitution because they hold the power of the purse; that for the most part they criticize legislation prepared by the Executive, though they can originate it; and that, while not themselves the Executive, they produce, support, criticize, dismiss and generally control the Government.

In their turn the Members of the House of Commons are responsible to their constituents, before whom they must appear at the next general election which, except in war time, will be within five years of the last, at a time usually selected by the Prime Minister, in agreement with his colleagues. Bagehot objected to the expression "checks and balances" in the sense of characteristics supposed to be inherent in different forms of government and happily combined in our constitutional Monarchy, but it is a phrase which correctly describes the interdependent components of our system. We see the King, with little evident power but on occasion a decisive opportunity; the Prime Minister, holding the greatest power in the State but answerable with his Cabinet to the House of Commons; the latter divided into at least two parties, each responsible to their constituents, but all conscious of the Prime Minister's power to request the Sovereign to dissolve Parliament, thus causing them to face the electorate. The gradual growth and incessant interplay of these diverse elements provide a fascinating study of constitutional development.

CHAPTER III

The Functions of Parliament

"What the greatest inquest of the nation has begun its highest tribunal will accomplish."
Burke, during the impeachment of Warren Hastings, 1788.

The trial of Warren Hastings in Westminster Hall lasted on and off for seven years and ended in an acquittal. The process of impeachment has fallen into disuse, but "the greatest inquest of the nation" is still probably the best description for the House of Commons.

What does Parliament really *do*? As so often in our Constitution, there is quite a broad gap between what it *could* do and what it *does* do. De Lolme summed the matter up in the well-known maxim that "Parliament can do everything but make a woman a man and a man a woman."

Sir William Anson remarks that although the most striking attribute of Parliament is its legislative sovereignty, Members of either House may also:

> "Discuss all matters of national or imperial concern, and criticize the conduct of ministers; either House collectively may address the Crown on matters of general policy, may institute inquiries, in the public interest, into the conduct of persons or public bodies; while in the last resort Parliament may bring to justice a great political offender."*

It is usually convenient to separate these functions under the headings of legislation, finance and criticism.

Legislation

Sir Edward Coke† described the power and jurisdiction of

* *Law and Custom of the Constitution*, 5th ed , Vol. I, p. 48.

† Lord Chief Justice of England and one of the most famous of all English lawyers, 1552–1632.

Parliament, in the lawyers' sense of King, Lords and Commons, acting together, as being "so transcendent and absolute that it cannot be confined within any bounds". Blackstone* remarked in a classic passage that Parliament

> "hath sovereign and uncontrollable authority in the making, confirming, enlarging, restraining, abrogating, repealing, reviving and expounding of laws, concerning matters of all possible denominations, ecclesiastical or temporal, civil, military, maritime, or criminal. this being the place where that absolute despotic power, which must in all governments reside somewhere, is entrusted by the constitution of these Kingdoms. All mischiefs and grievances, operations and remedies, that transcend the ordinary course of the laws, are within the reach of this extraordinary tribunal. It can regulate or new-model the succession to the Crown; as was done in the reign of Henry VIII, and William III. It can alter the established religion of the land; as was done, in a variety of instances, in the reigns of King Henry VIII, and his three children. It can change and create afresh even the Constitution of the Kingdom and of Parliaments themselves; as was done by the Act of Union (with Scotland), and the several statutes for triennial and septennial elections. It can, in short, do everything that is not naturally impossible."

There are two necessary qualifications to these comprehensive assertions. The first is that Parliament only has a present power: it cannot bind itself or its successors not to make changes in the future. The second is, as we have seen, that the Parliament Act of 1911† largely varied the legislative powers of the two Chambers, leaving the House of Commons in a dominant position and able in exceptional circumstances to dispense with the concurrence of the House of Lords.

Finance

We have already seen how the Commons acquired their full and exclusive rights of taxation. During the Stuart period, the royal Executive was obliged to seek grants to meet exceptional liabilities of government from a reluctant House of Commons,

* Sir William Blackstone, another English Judge and famous author of the *Commentaries*, 1723-1780.

† See above, p. 40.

who had the power to provide for the carrying out of a policy and little control over its formation. Under Charles II the Commons first made use of "appropriation" to increase their control over the Executive. That is to say, they limited the use of the supplies they granted to stated purposes, and took care that their wishes in this respect were obeyed. But the system was not perfected until the setting up of the Public Accounts Committee in 1862 and the passing of the Exchequer and Audit Act in 1866 completed the new organization of control over the national accounts which had been instituted by Mr. Gladstone and his colleagues.

The financial functions of Parliament may be said to date in their modern form from the Revolution. Prior to 1688 the Crown handled the national finance alone. If the country could be run on less than the proceeds of the Crown Lands and the taxes settled on the King for life, the balance went into his own pocket. If there was a deficiency the Sovereign was obliged to apply to the Commons. The beginning of a vital change came with the reign of William and Mary. Gradually the Sovereign was placed upon an allowance known as the Civil List, at first combining the charges for the Civil Departments and for the royal establishment but ultimately confined to the latter. The Commons were forced, in a period of frequent wars whose cost was far beyond the Sovereign's resources, to take over the handling of the naval and military expenditure, and they took to voting the necessary sums annually, thus acquiring a further great power to review and control the conduct of the King's Ministers.

The relative financial functions of the constituent powers of Parliament are still most tersely and accurately summed up by the words of Sir T. Erskine May:—

> "The Crown demands money, the Commons grant it, and the Lords assent to the grant; but the Commons do not vote money unless it be required by the Crown; nor impose or augment taxes, unless such taxation be necessary for the public service *as declared by the Crown through its Constitutional advisers.*"

The Parliament Act in effect only underlined the position by withdrawing the power of the Lords to do anything but

assent to the supplies granted by the Commons to the Executive.

The financial functions of the House of Commons are therefore comprehensive. No tax is imposed and no expenditure sanctioned except by the authority of an Act of Parliament, which, in these respects, practically means the authority of the House of Commons. But only the Government may recommend the spending of public money—that rule is fundamental to the Constitution. They have to recommend the finding of the money as well as its spending. If private Members (those not members of the Government) were once permitted, except in the most general sense, to make proposals which would financially benefit their constituencies or the "interests" (see p. 57) which they represent, the result might be a return to the "jobs" and scandals of the eighteenth century, and the evils sometimes exposed in local government in present days.

The House first grappled with this problem in 1706, after a session during which a flood of petitions were presented from persons, such as officers claiming arrears of pay, whose demands "being often promoted by Members who were friends to the parties, and carrying with them the appearance of justice or of charity, induced the rest of the House to wish well to, or at most to be indifferent to their success; and by this means large sums were granted to private persons improvidently, and sometimes without sufficient grounds."*

Criticism

The remaining functions of Parliament, which we now class together under the general heading of "criticism", were admirably described by Bagehot by means of a sub-division into four parts. The most important he gave as that of *electing* the Prime Minister, and he compared the Commons favourably in this respect with the American electoral college, since the Commons not only elected but also dismissed and remained in incessant relations with the Prime Minister, leading and being led, and forming a close link between him and the country.

Second in order of importance, he said the House of Commons had an *informing* function, a duty to present grievances, not so much to the Crown, as in old days, as to the nation who are

*Hatsell's "*Precedents of Parliament*" (1818) III, pp. 241-2.

the modern sovereign power. He found the English fair-minded but not quick of apprehension, and claimed that it was of immense importance to have in the country one assembly where the championship of a cause or opinion, however unfamiliar or unpopular, by a certain number of Members, would at least secure to it consideration.

That was the task which he thought Parliament at the time was doing worst, for Lord Palmerston had for many years tried to give a light tone to the proceedings of Parliament. Bagehot says, in words which are at least as true today:—

> "The greatest teacher of all in Parliament, the head-master of the nation, the great elevator of the country—so far as Parliament elevates it—must be the Prime Minister: he has an influence, an authority, a facility in giving a great tone to discussion, or a mean tone, which no other man has."

The third function he named expressive, the expression of the people's will, and this *lyrical* function as he called it, he claimed was well performed:—

> "On foreign matters, where we cannot legislate, whatever the English nation thinks, or thinks it thinks, as to the critical events of the world, whether in Denmark, in Italy, or America, and no matter whether it thinks wisely or unwisely, that same something, wise or unwise, will be thoroughly well said in Parliament. The lyrical function of Parliament, if I may use such a phrase, is well done; it pours out in characteristic words the characteristic heart of the nation."

The fourth, Bagehot called the *teaching* function:—

> "A great and open council of considerable men cannot be placed in the middle of a society without altering that society. It ought to alter it for the better."*

Let us now take the most up-to-date authoritative opinion to be published upon this important subject. Dr. Jennings states that "the true function of the House (of Commons) is to

**The English Constitution* (1905), Chapter V, p. 130 *et. seq.*

question and debate the policy of the Government", and he goes on to balance in the most interesting manner the two main influences which play upon the House during the discussion of each kind of business. On the one hand is the Government, with their big stick of the threat of dissolution. On the other is the fact that government in this country is by consent of the governed, and does eventually rest upon the public will.

> "When the Government has a majority in both Houses, the 'transcendent and absolute' authority of Parliament is the authority of the Government. It is not really transcendent and absolute. Behind the Government and behind the House of Commons stands public opinion . . . The fact that no Government could secure powers to kill all blue-eyed babies is not due to any legal limitations in the power of Parliament but to the fact that both the Government and the House of Commons derive their authority from the people."*

Two notable recent occasions when the public has made its opinion felt are (1) in 1935, when widespread public criticism compelled the Government to denounce the Hoare-Laval agreement concerning Abyssinia, and (2) in 1936 during the Abdication crisis, when Members dispersed to their constituencies in grave concern to gauge public opinion, and returned to assure the Government of overwhelming public assent to its conduct. There have, of course, been several less spectacular occasions when the Government has given way to criticism expressed through Members of Parliament,† and infinitely more, especially during the war, when public opinion supported and "comforted" the Government's endeavours.

A recent case where the Government did *not* give way was the amendment to the Education Bill, carried in the House of Commons, giving equal pay for men and women teachers. But even here, in deference to public opinion, a Royal Commission was appointed in 1944.

* *Parliament*, by Dr. W I. Jennings, p. 9.

† Dr. W. I. Jennings gives some of them as follows: Withdrawal of Unemployment Assistance Regulations (1935); of Coal Mines Bill (1936); of proposals for a National Defence Contribution (1937); radical amendment of the Population Bill (1937).

The principal change since Bagehot's day has undoubtedly been a tendency for the Government's power to increase at the expense of Parliament. There is more essential business and it is more complicated. Less time is left for the activities of Private Members. Therefore it would probably be fair to accept the above account of Parliament's functions with an emphasis upon the added strength of the Government which Dr. Jennings describes. Parliament legislates, but it is largely the Government's legislative proposals and always the Government's financial proposals which are discussed. Parliament incessantly questions and criticizes the Government's policy, and, in the process, it still has enormous influence upon the choice of the Executive; it sometimes "breaks" a Minister by exposing his incompetence; it is still the great forum of debate for thrashing out all questions and for the expression of the people's will; it is still the grand inquest of the nation for the raising of all grievances; it still perhaps—on occasion—teaches. This provides some answer to our first question—Why doesn't Parliament *do* more? Why does it only *talk*? Parliament's business is to talk; to focus the wishes of the nation quickly and closely upon Downing Street and Whitehall (this it does supremely well); to debate, and by its debating, to procure the required action on the part of the Executive—the Government.

CHAPTER IV

Members and Their Duties

> "So that it is a matter most essential to the liberties of this kingdom, that such members be delegated to this important trust, as are most eminent for their probity, their fortitude, and their knowledge; for it was a known apophthegm of the great lord treasurer Burleigh 'that England could never be ruined but by a Parliament'."
>
> *Sir William Blackstone* (1723-1780).

As soon as the Sovereign has by Proclamation dissolved one Parliament and summoned another to meet in its place, preparations are started for a general election. But not until Nomination Day will it be known whether the election in any particular constituency need be contested. On that day, the eighth after the Proclamation, the Returning Officer, who is usually the Sheriff, Mayor or Chairman of the Urban Council, receives nominations from candidates, and, if more than one candidate is nominated, a contested election takes place nine days later. Nomination consists of handing in the candidate's name on a paper signed by a proposer, seconder and eight other electors of the constituency, and candidates are all obliged to make a deposit of £150, which is forfeited if they secure less than one-eighth of the votes polled.

From this point most people are perfectly familiar with the course of a general election. Party committee rooms spring up newly-painted in the streets, and the names and photographs of the candidates appear on every wall. Meanwhile, party programmes are published in the Press or in pamphlets, and the electioneering addresses of the candidates drop into the electors' letter-boxes. Canvassers call to explain and argue and persuade. Meetings are held in the open air, or in halls or schoolrooms, and loudspeaker vans tour the streets and villages. At last comes

polling-day, with (in normal times) cheering supporters wearing rosettes, and motor cars, decked with ribbon and streamers of party colours, to carry voters to the poll. In an orderly polling-booth the all-important cross is marked in secret and the slip of paper dropped into the ballot-box.

All British subjects of either sex are eligible for membership, who are not minors, lunatics, bankrupts, traitors or felons serving sentence, Peers (except Irish Peers not in the Lords), clergymen of the Roman Catholic or the two established Churches, judges, civil servants on the active list, and a few other categories of persons. Thus there is nothing whatever to prevent any reader of this book from himself standing for Parliament if he is not excluded under the above list and if he is prepared to produce or collect £150 and can persuade any ten electors in a constituency to nominate him to the Returning Officer. But in practice most candidates are party nominees.* Why this should be so and exactly how parliamentary candidates are selected are questions which lie outside the scope of this book. They have been fully dealt with recently by several authors, one of whom has spent ten years in studying the subject of parliamentary representation.†

Who *are* the best men for Westminster? Frenchmen believe that human perfection is reached by "*une belle femme avec l'esprit d'un honnête homme.*" Obviously what is required for Parliament is variety, both of men and women, with more ability and less self-interest than the rest of us; but the most essential requisite is still the "*honnête homme*". The institution of Parliament is often described as an intricate machine, superbly adapted to its varied tasks. It is all that and much else, yet it could be even more exquisitely contrived and still be worthless in the defence of our liberties, if its Members lacked the necessary qualities. Facing page thirty-three of this book the ballot box is given a place of honour, and indeed it is a vital part of the machinery of democracy—but only the machinery. Even the secret ballot can be circumvented. The real heroes of Parliament are those Members who, with or without exceptional ability, through its long history have fought for freedom and the general good with

* At the 1945 election there were 1608 party candidates as against 75 independents, of whom 626 and 14 respectively were elected.

† J. F. S. Ross: *Parliamentary Representation.*

courage, energy and common sense, and who have been, above all, *men without any personal axe to grind.*

If, after all this, the reader asks to have the pattern of the perfect Member of Parliament pointed out to him, one is tempted to pass over a great many brilliant and interesting names and to alight instead upon a very undramatic person. It is the stout, simple figure of John Charles Spencer, later Earl Spencer, who, as Viscount Althorp, was a Member of the House of Commons from 1804 till 1834, and led the Whigs as Chancellor of the Exchequer under Earl Grey throughout the struggles for the great Reform Bill. He was a shy, tongue-tied man, without the least grain of ambition, devoted to country pursuits and detesting politics, who was only kept in public life by the almost physical persuasions of his friends. He was a notably poor speaker, with no brilliant qualities whatsoever, yet he became "the very best leader of the House of Commons that any party ever had", and some claimed that the most important measure of the century would not have passed without him. "It was Althorp carried the Bill; his fine temper did it."*

How was all this achieved? The answer lies in Althorp's complete disinterestedness and integrity, which won eventually from friends and political enemies alike a confidence and regard which is perhaps unique in British politics. Lord Holland described him as "a man who acts on all matters with a scrupulous, deliberate, and inflexible regard to his public duty and private conscience". One likes to think of him standing at the box in the House of Commons, buttoned up to the chin "even in the hottest weather, when other Members were within a few degrees of suffocation",† imperturbable and serene amid the din of political strife; or, much more happily, working all day in his shirt-sleeves at the Smithfield Club, to get the beasts into their stalls for the next day's show; but always the lovable, simple, but effective English gentleman, representative of the best in any period and any rank of life. It is fortunate that few Parliaments—or Cabinets—have hitherto lacked men, universally trusted and respected, of a kind of whom Althorp was the perfect type.

Certain questions are often asked concerning the relations

* *Dictionary of National Biography*, Vol. LIII, p. 364.

† *Random Recollections of the House of Commons*, 1830-1835, by One of No Party, p. 174.

which ought to subsist between constituents and their Members:—

Do Members represent all their constituents or only those who voted for them?

The answer is that in so far as the minority have no one except the Member to represent them, he should (and does) serve them equally with his own supporters, but under our electoral system their political views must remain unrepresented.

Are Members of Parliament representatives or delegates, that is to say are they, once elected, free to use their own judgment (subject to any specific pledges they may have chosen to give) and to do their best for their constituents and the country generally, or are they restricted in voice and votes to act as the majority which elected them depute them to do?

Three authorities may be cited in reply to this question. Sir William Yonge, one of the most prominent politicians of his day, speaking of Members of the House of Commons, said in 1745:—

> "Every one knows that, by our Constitution, 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."

Secondly, Sir George Cornewall Lewis quotes perhaps the most useful definition, from David Hume, the Scottish philosopher, who was writing at about the same time as Yonge:—

> "Hume remarked long ago that this question (of instructions from or pledges to constituents), is, in fact, one of *degree*; all admit, he says, that a member ought to attach some weight to the views of his constituents; all admit that he is not absolutely bound by their instructions. The difficulty is, to hit the right mean between these

extremes. It cannot, indeed, be disputed that it is the duty of every representative to watch over the peculiar interests of that district which he more immediately represents and to which he is directly responsible; and to secure, so far as he is able, that a due regard be paid to its interest, in connection with the general interests of the community. But he must not pursue that interest exclusively, or make it his paramount object, as if he belonged to a federal diet, in which each member is an ambassador from a sovereign and independent State treating with the other ambassadors according to his instructions."*

Finally, the classic description of a Member's obligations is contained in Burke's address to the electors of Bristol in 1774. It is of sufficient importance to be quoted at length:—

"Certainly, gentlemen, it ought to be the happiness and glory of a representative to live in the strictest union, the closest correspondence, and the most unreserved communication with his constituents. Their wishes ought to have great weight with him; their opinion high respect; their business unremitted attention. It is his duty to sacrifice his repose, his pleasures, his satisfactions, to theirs; and above all, ever, and in all cases, to prefer their interest to his own. But, his unbiased opinion, his mature judgment, his enlightened conscience, he ought not to sacrifice to you, to any man, or to any set of men living. These he does not derive from your pleasure; no, nor from the law and the Constitution. They are a trust from Providence, for the abuse of which he is deeply answerable. Your representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion.

"My worthy colleague says his will ought to be subservient to yours. If that is all the thing is innocent: if government were a matter of will upon my side, yours, without question, ought to be superior. But government and legislation are matters of reason and judgment, and not of inclination; and what sort of reason is that, in which the determination precedes the discussion; in which

* Sir G. Cornewall Lewis, *Essay on the influence of Authority in matters of opinion*, p. 271.

one set of men deliberate, and another decide; and where those who form the conclusion are perhaps three hundred miles distant from those who hear the arguments?

"To deliver an opinion, is the right of all men; that of constituents is a weighty and respectable opinion, which a representative ought always to rejoice to hear; and which he ought always most seriously to consider. But authoritative instructions; mandates issued, which the member is bound blindly and implicitly to obey, to vote and to argue for, though contrary to the clearest conviction of his judgment and conscience—these are things utterly unknown to the laws of the land, and which arise from a fundamental mistake of the whole order and tenor of our Constitution.

"Parliament is not a congress of ambassadors from different and hostile interests; which interests each must maintain, as an agent, and advocate, against other agents and advocates; but Parliament is a deliberative assembly of one nation, with one interest, that of the whole; where, not local purposes, not local prejudices, ought to guide, but the general good, resulting from the general reason 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. If the local constituent should have an interest, or should form a hasty opinion, evidently opposite to the real good of the rest of the community, the member for that place ought to be as far as any other from any endeavour to give it effect."

It is over 200 years since Sir William Yonge's clear and forceful opinion was uttered, yet it and the others remain authoritative to this day. But what examples they must have provided to contemporary foreigners of the baffling and perhaps "hypocritical" divergence between theory and practice in our Constitution. Yonge was George II's "Stinking Yonge", of whom it was said that "his name was proverbially used to express everything pitiful, corrupt and contemptible." Burke was, of course, a very different character, but he lived in an age of notorious corruption, and a short digression may be useful to show how the character of Membership has improved during the last 150 years.

Before the Reform Bill of 1832 reorganized the law, bribery and corruption unblushingly controlled elections, particularly in the boroughs From two to twenty guineas per vote were figures commonly paid, and there are innumerable stories of how the contemporary laws against bribery were circumvented. A common attitude was for the voter to ask "You will do what is usual after the election, Sir, I suppose?"; while *The Times* of June 20th, 1826, speaking of the general election in that year, remarks: "At Sudbury, four cabbages sold for £10, and a plate of gooseberries fetched £25; the sellers where these articles were so dear being voters. At Great Marlow, on the contrary, things were cheap, and an elector during the election bought a sow and nine young pigs for a penny."

Voters varied in numbers from a handful in the small boroughs up to thousands in Bristol, for instance, or the City of London; but constituencies of less than a score were common enough. Elections (with public voting) were usually orgies of drunkenness and gluttony, at the candidates' expense, and although they could sometimes be managed cheaply, where electors were few enough to be gathered round a dining table, the cost was often enormous where they numbered thousands, and had to be carried to the poll from all parts of the country. In 1820 Mr. James spent £13,000 in *un*successfully contesting Carlisle, while in 1831 Lord Ashley (later Lord Shaftesbury, the great philanthropist) after failing to win Dorset as an anti-Reform candidate, was faced with bills for £15,600, of which £12,525 was paid to inns and public houses for refreshments for the people—at a time when most drinks were a penny or so a glass. Payments of far greater sums are recorded. The "patrons" who thus procured the "interest" of boroughs included the Treasury itself and members of the great landowning families. In 1816, out of 658 Members, it has been calculated that 300 were nominated by Peers and 187 by the Government and commoners, leaving only 171 to be returned independently. Boroughs were treated as property and advertised for sale in the papers. Between 1812 and 1832 £5,000 to £6,000 was the ordinary price of a seat purchased for a Parliament or £1,800 if rented for a year.*

* Porritt: *The Unreformed House of Commons*, p. 358.

Many of the men who bought or rented these seats aimed only, by voting or intriguing for the Government, at securing offices and appointments which would be a manifold recompense for their outlay on the road to Parliament. Thus, from the electors who regularly voted for "Mr. Most", to the patron who paid them, and from the Member who bought his seat to the Government who finally bribed him with a sinecure, the edifice of corruption was complete. But although it was a corruption of system and habit rather than of character, and Ministries governed patriotically in spite of it, Parliaments before 1832 were inconceivably different from those of today.

With the rarest exceptions the personnel of the House consisted of landed gentlemen, rich bankers, merchants, brewers and traders, and East Indian Nabobs; manufacturers and their sons were only beginning to arrive. By contrast, the occupations of the Members of the House of Commons elected in 1945 appear to have been as follows* :

Legal Professions	89	Engineers	18
Commerce, Industry and Finance	76	Lecturers	18
Trade Union Organisers and Officials	49	Miscellaneous	18
Mining	41	Agriculture	17
Authors and Journalists	39	Doctors and Dentists	16
Army	37	Transport	16
Not gainfully occupied	33	Clerks	14
Teachers	32	Co-operative Movement	11
Local Government	26	Navy	11
Administration	25	Other professions	11
Artisans	21	Accountants	9
		Air Force	9
		Ministers of Religion	4
		Total	640

Plenty of corruption lingered on after 1832, but enormous strides have since been made in the direction of a free and fair Parliament. Secret voting by the electorate, which prevented intimidation by employers, came with the Ballot Act of 1872.

* Taken from *"The Times" House of Commons Guide*, 1945. It can only be an estimation because several occupations are shown against many Members and none against others. For similar tables at previous elections see *Parliamentary Representation* by J. F. S. Ross. Chap. VIII.

New classes of male voters were added to the electorate in 1867, 1884 and 1918. Women were admitted in 1918 and 1928. The position to-day is that practically all men and women who have reached the age of twenty-one have the right to vote.*

Our democracy has also steadily progressed towards the ideals of "one man one vote" and "one vote one value". The Representation of the People Bill at present before Parliament (see p. 104) abolishes plural voting and rearranges the constituencies to contain equal numbers of electors so far as is possible having regard to historic and local unities and geographical considerations. The *average* number of electors becomes about 57,000, out of a total electorate of 36 millions and a total population of 50 millions.

Should Members receive financial support from their parties or from outside individuals or bodies?

This question has been much discussed lately, inside and outside Parliament. All that can be done is briefly to state the facts of the position.

In the Middle Ages, when a shilling was worth much more than the modern £, Members were paid at the daily rate of 4s. for Knights of the Shire, and 2s. for burgesses. At that date the relationship of a Member to his constituents was little more than that of a delegate. They paid him wages and often issued him with specific instructions as to his conduct in Parliament. The poet Marvell (1620-1678) is considered to have been the last Member to receive wages, freely paid by his constituents.

Before the payment of Members was re-introduced in 1911, the membership of working men would have been impossible without outside financial support, and the support available at the time was from Trade Unions and not from parties. Furthermore, the expenditure of Union funds for this purpose was sanctioned by the Trade Union Act of 1913. At the present time many Members receive support from their parties, and, in addition, it is an open secret that while on the one side the Trade Unions pay parliamentary allowances to the Members on their panels, on the other, great industrial concerns also subsidize Members to represent their interests, usually by the

* For conditions governing the franchise and list of disqualifications, see Wade and Phillips: *Constitutional Law*, 3rd ed., pp. 75-8.

method of appointing them to directorships.* The alleged danger is, of course, that these interests might, on occasion, run counter to those of the Members' own constituents, or of the country as a whole, and that, at the worst, such Members might degenerate into the paid delegates of sectional interests and pressure groups. In any case it is a far cry to the free and independent membership of the ideal House of Commons described by Yonge and Burke.

Some critics only see harm in these payments where they are secret, and go so far as to recommend that the details of Members' incomes should be published. Others condemn the practice without reserve, and look forward to a date when it will be as inconceivable as the corrupt practices, so prevalent before 1832, are today.

The salary of Members of Parliament was raised in 1937 from £400 to £600 a year, and they also enjoyed free rail, sea or air travel between their constituencies and homes and Westminster. Of this sum £100 was allowed free of income tax for secretarial assistance, postages, and other expenses; and if these could be shown to exceed £100, a further allowance was made, even up to the full figure of £600. It was still frequently pointed out that, under modern conditions, with probably two homes to maintain, enormous correspondence, and many calls on his purse both at Westminster and in his constituency, the most economical Member had difficulty in paying his way on under £1,000 a year, leaving a balance of £400 to be found from other sources. It was not always easy for him to find part-time work in another occupation, and hence the direct or indirect subsidies from "interests" which find it useful to be represented in Parliament.

The difficulty seemed to be how to hit on an adequate rate of salary for Members which was not high enough to encourage a class of "professional politicians" who would be quite alien to the spirit of our Constitution, since the assumption has always been that every Member is a private citizen, with his own profession, trade, or other means of livelihood behind him, from which he can bring useful experience to bear upon

*See *Parliamentary Representation* by J. F. S. Ross, pp. 138, 163. Dr. W. I. Jennings in his *Parliament* also quotes exhaustive tables showing the "interests" of Members.

public affairs, and to which he can return if unseated. This "representative" composition of the House of Commons has always been held to be essential to the health of the Constitution.

These objections are not entirely theoretical, since in countries where professional politicians do exist, they are not always held in high repute: in France; and in America, where Members of Congress are paid £2,000 a year with individual offices and secretarial help in addition. It is whispered that Washington knows an undesirable element of unseated lawyers, who become so identified with politics that, rather then retire to their practices, they prefer to remain near the seat of government, offering to make use of a boasted influence with the State Departments.

A Select Committee was appointed in 1945 to consider the salaries, expenses and conditions of Members in respect of their parliamentary and official duties. In their unanimous report,* presented in March, 1946, they employed a memorable phrase which was used by the late Earl Lloyd George when he introduced payment of Members in 1911. They considered that a Member ought to receive, in addition to his expenses, a sum sufficient to maintain himself "*comfortably and honourably, but not luxuriously*", while a Member of the House. In their view it was desirable that a Member should remain free, as heretofore, to divide his time between his parliamentary duties and his private affairs as seemed to him best, but that he should not be paid a professional salary large enough to demand his full time in return. This sum they assessed at £500 a year. In addition they estimated the reasonable expenses "wholly, necessarily and exclusively" incurred in the performance of his duties as a Member, at £500. Their main recommendation therefore was that the salaries of Members should be increased to £1,000 a year, of which £500 should be allowed as an expense allowance free of income tax. They did not recommend any general extension of the existing free travel, or any car allowance, or free postal, telegraph or secretarial services.

In May, 1946, the House agreed to these proposals with slight variations, and consequently Members are now paid at the rate of £1,000 a year, and may claim relief from income tax on

* Report from the Select Committee on Members' Expenses, H.C. 93 (1945-6).

any sums up to this total which they can show were incurred as expenses in the performance of their duties as Members.

It is not yet clear how far, if at all, this change will affect the question of whether Members should receive financial support from outside bodies, which was indirectly raised by a recent case before the Committee of Privileges and the House of Commons. It concerned a dispute between a Member and his Trade Union to whom he was under contract for payment to deal, among other things, "with all questions arising in the work [of the Union] which require Parliamentary or political action", though it was also specifically stipulated that he should "be entitled to engage in his political activities with complete freedom".

The following extracts from the Committee's report (which was not unanimous) indicate the attitude of the majority to the problem:—

> "The relationship between a Member and an outside body with which he is in contractual relationship and from which he receives financial payments is, however, one of great difficulty and delicacy, in which there must often be a danger that the rules of privilege may be infringed. Thus it would certainly be improper for a Member to enter into any arrangement fettering his complete independence as a Member of Parliament by undertaking to press some particular point of view on behalf of an outside interest, whether for reward or not. . . .
>
> "It has long been recognized, however, that there are Members who receive financial assistance from Associations of constituents or other outside bodies, and whilst those who enter into such arrangements must of course exercise great discretion to ensure that the arrangements do not involve the assertion or the exercise of any kind of control over the freedom of the Member concerned, Your Committee do not think that the making of such payments in itself involves any breach of privilege. . . ."

When the subject was debated in the House on 15th July, 1947, the following motion was agreed to after a free vote:—

> "That this House agrees with the Report of the Committee of Privileges, and in particular declares that it is inconsistent with the dignity of the House, with the

duty of a Member to his constituents, and with the maintenance of the privilege of freedom of speech, for any Member of this House to enter into any contractual agreement with an outside body, controlling or limiting the Member's complete independence and freedom of action in Parliament or stipulating that he shall act in any way as the representative of such outside body in regard to any matters to be transacted in Parliament; the duty of a Member being to his constituents and to the country as a whole, rather than to any particular section thereof."

So the matter stands at present, but the whole subject is a good example of a new constitutional problem which, though still in the fluid stage, is being solved, as so often before, in the clear light of public opinion. Students of Parliament should read the report* and the debate,† and study the important distinctions and cross-currents of opinion with which both abound. They could not take a better lesson in the procedure of the House of Commons.

Finally, let us glance at the daily round of the Member of Parliament and try to judge whether he earns his pay or not. Here is one opinion:—

> "As a result of seven years' experience, I am convinced that the average Member of Parliament works at greater pressure and for longer hours than nine-tenths of those who elected him, and that if the factory worker, miner, or engineer had the same strain put upon him, he would down tools within a month and demand better conditions of work."

Those are the words of the late Lord Snell, than whom no one, probably, of any party, could name a fairer witness. In his little book‡ he gives an interesting picture of the Member's daily business. Correspondence is a heavy job, because "modern constituencies are great multitudes, who use their pens freely and expect replies".§ There are letters from constituents about Bills, pensions, rewards and jobs; a dozen daily appeals for money; invitations to open bazaars and to attend meetings and

*Report from the Committee of Privileges, H.C. 118 (1946-7).
†Hansard for 15th July, 1947.
‡ *Daily Life in Parliament.*
§ Sir Courtenay Ilbert.

lunches; letters from tradesmen, moneylenders and madmen. Almost all have to be answered. "Letter-writing", says Lord Snell, "is the greatest torment that a Member has to suffer, and, unless he is able to employ a secretary, it takes up a large proportion of his time."

Members who are serving on morning committees have to be at the House by 10 a.m. to deal with their correspondence and papers before their committees meet—usually at 10.30 a.m. It is seldom realised outside what a vast amount of business Parliament transacts by means of committees, both official and unofficial, quite apart from the sittings of the House itself. From time to time efforts have been made to prevent committees from sitting simultaneously with the House. But then the press of business becomes too great, and the sittings are allowed to overlap, with the result that Members try to be in two places at once, which inevitably causes much strain and inconvenience—"business without work and idleness without rest", as Lord Morley called it.

The House now normally meets at 2.30 p.m. and continues nominally until 10.30 p.m., but in practice often far longer. The average annual number of hours *after* 11 p.m. which it sat during the years 1929 to 1939 was eighty-eight. You may at this point remind me that Members are not obliged to attend all day, or even at all, and that the House is often more than half empty, and ask where is your Member then? The answer is that he is upstairs, taking part in a select committee's investigation, moving an amendment in a standing committee, listening to the speeches of counsel for and against a "Private Bill", attending a meeting of his party, or a "private meeting" where he may keep abreast of events by hearing addresses from eminent persons—statesmen, travellers and experts, or discussing the parliamentary programme with any one of forty lobby correspondents. He may be in the library with his correspondence, assembling the facts for a speech, or reading a report. Again, he may have been called into the outer lobby by means of a "green card", to discuss "urgent and important business" which quite often turns out to be entirely frivolous. "The lobbies are infested", says Lord Snell, "by the

agents of a thousand causes, who seek him (the Member) out and try to induce him to put aside the nation's business in order to attend to theirs."

It is unnecessary to labour the point. Indolent Members there are, of course, but that is too often the fault of the indolent voters who accepted them. Parliament reflects the nation, and its imperfections are the mirror of national imperfections. But it is perfectly obvious to any observer of the Parliamentary scene that deficiencies in a Member's work for his constituents are due far more to overstrain than to inactivity.

Closely connected with this subject is another which is often raised—the length of the session. Why don't M.P.s work for more than about eight months in the year? The answer is that they do—but not at Westminster. Most Ministers undoubtedly look forward to the "holidays", when they are free from Parliamentary cares, as the periods when they can put their best work into their Departments. But for ordinary Members, too, reasonably long adjournments are a practical necessity. When a man has for many weeks been living a sort of double life, spending late nights at Westminster, speaking in his constituency at the week-ends, working in the train in between, with his private affairs neglected and his nerves in shreds, it is surely right to allow him time to recuperate and think. Three hundred and fifty years ago the Lord Keeper was expressing the idea in almost lyrical Elizabethan style:—

> "The sessions", he said, "cannot be long; by reason of the springtime, 'tis fit that gentlemen should repair to their countries; the justices of assize also to go to their circuits.
>
> "So the good hours should not be lost in idle speeches, but the little time we have should be bestowed wholly on such businesses as are needful to be considered of."*

In 1931 Mr. Winston Churchill made the following observations to the Select Committee on Procedure on Public Business. Would it be easy to quote a witness with greater personal knowledge of the working of Parliament or of human capacity for work?

* *Parliamentary History*, Vol. 1, p. 859. 19th February, 1592-2.

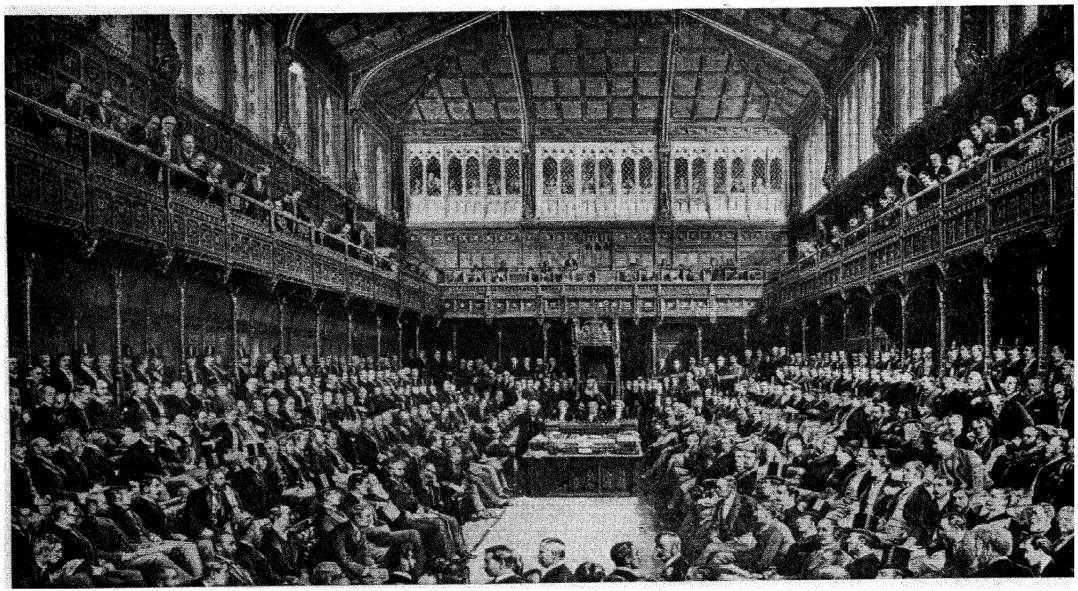
> "If you wish to say what is wrong with Parliament . . . it is that it sits far too long in the year. I would lay down that except in times of war or great national emergency Parliament should not sit more than five months, with the ordinary short intervals, say, occupying six months of the year. That ought to be the maximum."*

And these remarks from his speech in the debate on the Address in 1944 show him to be still of the same mind:—

> "Do not . . . ever suppose that you can strengthen Parliament by wearying it, and by keeping it in almost continuous session. If you want to reduce the power of Parliament, let it sit every day in the year, one-fifth part filled, and then you will find it will be the laughing-stock of the nation, instead of being, as it continues to be, in spite of all the strains of modern life, the citadel as well as the cradle of Parliamentary institutions throughout the world; almost the only successful instance of a legislative body with plenary powers, elected on universal suffrage, which is capable of discharging, with restraint and with resolution, all the functions of peace and of war."†

* Question 1527.
† *Parliamentary Debates* (*Hansard*), 29th November, 1944, c 26.

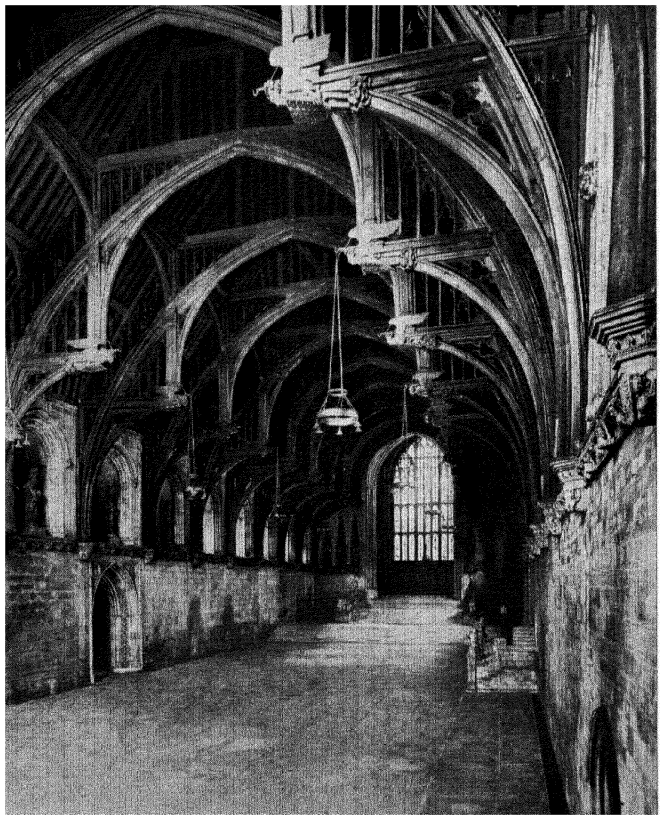
By kind permission of the Speaker. Photograph by Messrs. Adprint, London.



THE HOUSE OF COMMONS IN 1893

The successor to St. Stephen's Chapel. After the fire of 1834 this Chamber was built to the designs of Sir Charles Barry, somewhat to the North-East of the old site, and was completed in 1852. A German air raid destroyed it in 1941.

"Copyright Walter Scott, Bradford."



WESTMINSTER HALL

Built by William Rufus in 1097-9, and remodelled and heightened by Richard II in 1394-98, the Hall has associations with many of the great men and dramatic scenes of British history.

CHAPTER V

The Palace of Westminster

"It had been a Royal residence five hundred years before Catherine de Medicis laid the foundations of the Tuileries and the virile brain of Philip II of Spain conceived the grandiose idea of the Escurial."
Parliament Past and Present.—Wright and Smith.

Parliament "sits" in the Palace of Westminster, to which it is summoned to perform its duties by Royal Proclamation. Since the Houses of Parliament buildings still form part of the Royal Palace, they are controlled by the Lord Great Chamberlain, a hereditary "Great Officer of State". For those who pass the place daily on their way to work, the structure must be somewhat of a disappointment—eight acres of buildings four storeys high, with countless windows, and yet nothing ever to be seen on 364 days in the year except a trickle of legislators passing in and out. It would be more impressive if the actual "Chambers" in which the Members and Peers meet, were visible from the streets instead of being hidden in the centre of the building.

At the beginning of every session the House of Commons orders the Commissioner of Metropolitan Police to keep the passages through the streets leading to the House free and open for Members, and it is in pursuance of this Order that the police may be constantly seen holding up the traffic at the approaches to the Palace, to permit Members to cross the roads.*

The area where Westminster Abbey and the Houses of Parliament now stand used to be a dank, unhealthy island in the Thames—"Thorney Island", so called from a covering of dense undergrowth. Its earliest traditions were of religious settlements, but King Canute appears to have erected a royal

* For some interesting suggestions regarding the new House of Commons see the evidence given before the Joint Committee on Palace of Westminster (Accommodation) H.C. 116-I. (1944).

residence on the site. Its ascertained history starts with Edward the Confessor, who rebuilt the palace while he was superintending the rebuilding of the church which was the germ of Westminster Abbey.

William the Conqueror adopted the Confessor's residence, and almost every succeeding monarch seems to have taken a hand in the work of improving the structure, until it ceased to be a royal residence in the reign of Henry VIII.

The history of the building is in one sense a melancholy catalogue of great fires. The first devastated it in 1298, in the reign of Edward I. The second destroyed a great part of the palace in 1512,* and sealed its fate as a royal home. Henry VIII moved to Whitehall, and after 1547 his son Edward VI made over the chapel of St. Stephen's in the palace to the Commons for their use. It remained in this state until the fire of 1834 which, with the consequent demolitions, consumed everything save Westminster Hall, the crypt chapel and the cloisters. It seems rather extraordinary that a building of such importance and so fully manned should, time after time, succumb to the risks of fire. In the fourteenth century its twelve-and-a-half acres are said to have housed 20,000 persons, while after the fire of 1834, which was caused by gross carelessness in the burning of wooden Exchequer Tally sticks, witnesses admitted that hours before the fire broke out the Chamber of the House of Lords was so full of smoke that the Throne was scarcely visible and visitors were feeling the heat of the stone floor through their boots.

Finally, in 1941, fire caused by a great German air-raid again totally destroyed the Commons Chamber and damaged the roof of Westminster Hall.

The entire structure now visible from outside, with the exception of Westminster Hall, is the work of Sir Charles Barry, and was built between 1840 and 1852. It is in the Gothic style of the Tudor period and is everywhere profusely decorated with statues and symbolic ornamentation, designed by Pugin, of which full descriptions appear in the guide-books.† The

* There is an excellent illuminated model of the Palace as it was in the time of Henry VIII in the Lower Waiting Hall.

† Many of these facts are taken from *The Houses of Parliament*, a short guide by Sir Bryan Fell, K.C.M.G., C.B.; 4th ed. by K. R. Mackenzie.

present contents and past traditions of the building are, however, of far greater interest than the detail of the ornamentation.

By good fortune the ordinary stranger nowadays enters by way of St. Stephen's Hall, which is rebuilt on the exact site and to the exact size of the chapel of that name where the Commons sat after 1547 till 1834. He may soon feel the ghosts crowding thickly about him—from Burleigh and Walsingham to Palmerston and Gladstone. On the left, near Burke's statue, is the spot where the maniac Bellingham lurked, before pouncing out to murder Spencer Perceval, the Prime Minister, in 1812. This was the site of the House of Commons of the Tudors, the Stuarts and the first four Georges, of William IV and the great Reform Bill. "Within those walls the battles of humanity have been fought, the privileges of freedom vindicated, and the liberties of England won."*

Brass studs in the floor mark the position of the Speaker's Chair and the Table of the House—where Charles I came when he burst in with armed men to arrest the five Members in 1642 and provoked Mr. Speaker Lenthall's historic reply: "May it please your Majesty, I have neither eyes to see nor tongue to speak in this place, but as the House is pleased to direct me, whose servant I am here . . ."; where nine years later Cromwell appeared in true dictatorial style to close down Parliament and to order the removal of the "bauble" mace; where Chatham, Pitt, Fox, Burke, Sheridan, all the brightest wits and greatest orators of the eighteenth century enjoyed their triumphs; where the struggle for the great Reform Bill was fought and won. But in addition to memories there are statues† of many famous orators, and some colourful mural panels, notably those showing the secret reading of Wyclif's Bible, and Queen Elizabeth commissioning Sir Walter Raleigh to discover new countries.

If you now walk forward into the Central Hall (the huge, ornate, vaulted apartment where not only constituents but men and women of many nations come to interview Members), and stand in the centre, you will also be more or less in the exact centre of the Palace and at the hub of a cross formed by

* W. C. Townsend, *Memories of the House of Commons*, 1844, Vol. II, p. 464.

† The spur on Lord Falkland's statue was broken when a suffragette chained herself to it in 1908.

St. Stephen's Hall and three short corridors, on both sides of which are more panels of great interest. Ahead, overlooking the Terrace, lies a long series of libraries and dining-rooms, and above them committee rooms. Several of the latter contain interesting paintings, and one at least, the old No. 15, has a melancholy fame of its own. It was there, early in December, 1890, that Parnell wrestled day after day, amid scenes of indescribable bitterness, to keep the leadership of the Irish Party, until, at last, forty-five of his followers filed out of the candle-lit room, leaving him in stricken silence with his twenty-six faithful adherents.

I do not propose to drag you along the two miles of passages which the Palace contains, up and down the hundred staircases, nor into all of the eleven hundred rooms. With two exceptions, a straight line running due North and South through the spot where you are standing is the axis of all the principal apartments which we shall notice. To the right of the Central Hall, lie the Lords' Lobby, the Lords' Chamber, the Princes' Chamber, the Royal Gallery and the King's Robing Room. To your left, beyond a corresponding corridor, lie the Commons' Lobby and Chamber, now fast being rebuilt upon their old sites.

Up till May 10th, 1941, had you been standing on this spot when both Houses were sitting and all the doors between were open, you would have seen the Lord Chancellor (who acts as the Speaker of the House of Lords) on the Woolsack, and Mr. Speaker in his Chair, facing each other and exactly 425 feet apart. But when the Commons found themselves homeless the Lords generously requested that their Chamber should be allocated by His Majesty to the Commons and they themselves retired to the much smaller Robing Room, suitably fitted up, where it is said that their Lordships find themselves most comfortable. For short periods during the winter of 1940-41 both Houses sat in Church House, Dean's Yard, Westminster. They sat there again from May 13th to June 19th, 1941, and from June 20th to August 3rd, 1944, during the flying bomb attacks.

The apartments leading from the Robing Room to the House of Lords, being those through which the Sovereign

passes to open Parliament, are all richly decorated in a style considered suitable in the middle of last century. The Royal Gallery is of particularly impressive proportions and contains two enormous paintings, 45 ft. by 12 ft., of Wellington meeting Blucher at Waterloo and of Nelson's death at Trafalgar. One of the sailors in the latter shows the mark of a shell splinter from an air-raid of the 1914-18 war.

The Chamber of the House of Lords (where the Commons are now sitting), measures 80 ft. by 45 ft. with a height of 45 ft., and in normal times the principal effect is of a wealth of colour and decoration. The gilt tracery and rails of the Throne (designed by Pugin), the stained glass windows, the scarlet benches, the lofty ceiling, the dark, carved panelling—all combine to make a deep impression on the spectator, which is enormously enhanced on the occasion of the opening of Parliament, when hundreds of dimmed electric lights suddenly blaze up at the entry of the King and Queen, wearing their crowns and purple robes, and disclose the waiting Peers in their scarlet and ermine, the Peeresses in evening dress and jewels, the Bishops in their lawn, the wigged judges and the dazzling brilliance of the Diplomatic Corps, whose iridescent uniforms and sparkling decorations must indeed "be seen to be believed". But now, with its stained glass windows gone, the Throne curtained off and a temporary Speaker's Chair placed at the north end, the Chamber has a less stately and more workaday appearance.

At the opposite end of the axis, too, a transformation has taken place. The 45 ft. square Members' Lobby is shut off. It was here that the privileged "lobby correspondents" used to come, and so much informal political business and gossip took place among Members that it was said on important occasions to wear a livelier appearance than the Chamber itself.* The combined effects of Nazi fire-bombs and of the subsequent cleaning have given the stone work of the main doorway, which is to be re-erected, an extraordinary appearance of weatherworn antiquity, so that, rather as a man's hair turns white in a night from shock, it seems to have grown older by several centuries since the night of May 10th, 1941. But without doubt it

* The Lords' Lobby now serves the same purpose.

will in a few years time be serving its old purpose again with an inestimable addition of dramatic memories.

The House of Commons itself (the House of Disraeli and Gladstone, Asquith and Lloyd George, Chamberlain and Churchill, I suppose it will be called), now an ant-heap of busy craftsmen, was the same width as the House of Lords (45 ft.), but being some 12 ft. shorter and having a lower ceiling, and less richness of decoration, the effect was much more simple and intimate. The floor of the House seated only 346 Members, and there were seats in narrow side galleries for ninety-one more. Other galleries at the ends of the Chamber provided accommodation for the Press, Peers, Distinguished Strangers and for the general public. In front of the Speaker's canopied Chair was the large Table of the House, and at the other end, some 15 ft. in front of the door, was the Bar (a long brass rod hidden in a tube from which it was pulled out when required to mark the technical boundary of the Chamber), to which persons used to be called, to receive the thanks or censure of the House, and at which Members who were returned at by-elections stood while waiting to be introduced. Members could not speak from beyond the Bar, where they were technically outside the House. The "Division Lobbies" were on either side of the Chamber, and through them Members passed to have their votes counted by the "Tellers" and their names marked off for publication.

The new House of Commons, fast rising on the same site to the plans of Sir Giles Gilbert Scott, and his brother, Mr. Adrian Gilbert Scott, will be practically identical at floor level with the old one, and that decision illustrates the great difficulty of arriving at conclusions about Parliament without an intimate knowledge of its workings. Theoretically you might say that it would surely be advisable to build a Chamber large enough to provide every Member with a seat from which he could effectively speak—on the floor of the House. But that would mean a Chamber large enough to require a very different style of oratory from the "formal conversations" preferred by modern generations. Moreover, large attendances at debates are exceptional, and a spacious Chamber would on most occasions be depressingly empty. Accordingly, the Commons have decided by an over-

whelming majority to retain not only the rectangular shape of Chamber which is so congenial to the two- or three-party system, but also the restricted size which ensures warmth and intinlacy of debate.

On the other hand, the opportunity will be taken to include certain substantial improvements. All the galleries are to be enlarged to provide more seats for Members, Press and public: and, since the most up-to-date system of heating and ventilation can now be housed in one storey below the Chamber, where in Victorian days it required three, the saving of space will be devoted to rooms in which Ministers and Members may interview their constituents and secretaries—a notorious deficiency in the old House. The cost of the whole scheme is estimated at about £1,779,000, and it is hoped that it may be completed during 1950.

No sketch of Parliament should omit mention of the clock tower. It is 320 ft. high and contains on the first floor the "prisoner's" room in which Members—and if need be, unruly visitors—are confined by order of the House. Charles Bradlaugh, the well-known free-thinker, was the last Member to be so imprisoned. "Big Ben" itself—so called after Sir Benjamin Hall, the First Commissioner for Works at the time of the installation—must surely be the most famous clock in the world, and of all public clocks the most accurate. Apart from a few rare stoppages—once because a Member was pointing out its works with an umbrella—it has never been more than four seconds from Greenwich time, and for weeks it runs to within one-tenth of a second per day—and that, with four minute-hands each fourteen feet long and weighing nearly two hundredweight to be operated!

But of all the buildings in the Palace, Westminster Hall is the most famous. It was built by William Rufus (New Palace Yard was "new" in 1098) and remodelled by Richard II, who added the famous hammer-beam oak roof which is an artistic and architectural wonder.

The Hall has served many uses. It was the Great Hall of the old royal residence. For centuries the courts of law were held in or beside it. Simon de Montfort's Parliament and the Model Parliament assembled there. In Pepys' day it was a

popular public meeting-place and shopping market. It has been the scene of many notable State trials, including those of Sir William Wallace in 1305, Guy Fawkes in 1606, Lord Lovat in 1746 and Warren Hastings in 1788-95. Perhaps the most dramatic of them all was that of Charles I in 1649, during which the spirited Lady Fairfax created a famous disturbance by interruptions and murmurings until "sharp" dictatorial measures were taken in the modern manner, by a threatening order to the soldiers to fire into her box.* It has seen innumerable Coronation feasts, State ceremonies and in modern times the Lyings-in-state of Kings. From first to last an endless pageant, dramatic and tragic, has wound its way through Westminster Hall and into British history.

* Clarendon's *History of the Rebellion*, Vol. III. p 245.

CHAPTER VI

The House of Commons at Work

THE SPEAKER AND THE OFFICIALS

" . . . his voice great, his carriage majestical, his nature haughty, and his purse plentiful."
Mr. Speaker Yelverton, describing the qualities necessary to a Speaker, 1597.

The Speakership of the House of Commons is one of the most honourable, dignified and onerous offices in the world. The Speaker is elected by the House—usually unanimously—for the duration of a Parliament, but in practice he is almost always re-elected for as long as he wishes to serve. He was by ancient custom the "First Commoner in the Realm",* and he nowadays takes precedence behind the Prime Minister and the Lord President of the Council. He has a splendid residence in the Palace (now damaged by enemy action), a salary of £5,000 a year and is usually granted a pension of £4,000. Upon his retirement he is offered a peerage. Alone among subjects he holds "levées", where the guests wear court dress. It is only when he is driven in his coach on certain great ceremonial occasions that his dignities may be thought to shade off a little. He is entitled to an escort of *one* Life Guardsman. His gilt coach is very magnificent and older than the Royal State Coach or the Lord Mayor's coach; but it has no brakes, and, for the last hundred years, has been drawn by dray-horses provided by Messrs. Whitbread & Co., in which firm the then Speaker was a partner.

The real authority so essential to the occupant of the Speaker's Chair is derived from the incomparable traditions of his office, and from the support of his colleagues who elected

* The position is also inferred in *I. Witham and Mary*, Chap. 21, s 1.

him—which in turn will inevitably rest upon qualities he has shown as a private Member. It is unnecessary to dwell on these qualities of good temper, common sense and scrupulous fairness, irrespective of the party to which he once belonged: for the evolution of the modern type of Speaker is one of the proudest achievements of the British Parliament. "All Speakers become good Speakers", observed Lord Rosebery, and there is far more truth than irony in the remark.

In addition to his duties during debates (in which he never now takes part)—regulating the discussion, keeping it to the matter in hand, and deciding points of order, the Speaker must be ready, upon request, to interpret the rules of the House, to advise the humblest of his colleagues, and to keep the honour and interest of the House ever in his mind. On formal occasions, principally in connection with the Crown, he still exercises the function of spokesman for the whole House from which his name is derived.

He also executes the orders of the House: issues warrants for new writs, for the commitment of offenders and the attendance of witnesses, and administers reprimands. He exercises ultimate supervision and control over all the departments of the House. Finally, he takes the Chair at the rare "Speaker's Conferences" of Members of both Houses which make recommendations concerning electoral reform and other matters.

It has been well remarked that such an office does not require brilliant or rare qualities so much as common qualities in a rare degree. It needs a practical man with a sound instinct for justice, who does his task honestly, firmly and good-humouredly.*

Speakers have not always been so satisfactory. Since the earliest days—the roll dates in an unbroken line from 1377—their election by the Commons probably always masked a strong element of royal nomination, and the growing importance of the lower Chamber caused Tudor and early Stuart sovereigns to ensure that the key position of Speaker should be filled by a compliant candidate of their own choosing, who in effect managed the royal business in the Commons and reported upon the attitude of Members. As a result the Commons became for

* *A Speaker's Commentaries*, by the Rt. Hon. Viscount Ullswater, G.C.B., Vol. II, p. 298.

a time suspicious and distrustful of their Speakers. The prestige of individual occupants of the Chair fell low and such incidents as these appear in the records:—

> "16 July, 1610—Affirmed by Mr. Speaker, that Sir E. Herbert put not off his hat to him, but put out his tongue, and popped his mouth with his finger, in scorn";
>
> "that Mr. T.T., in a loud and violent manner, and, contrary to the usage of Parliament, standing near the Speaker's Chair, cried 'Baw' in the Speaker's ear, to the great terror and affrightment of the Speaker and of the members of the House."

Nor has their personal character always been good. In particular the tortuous Sir John Trevor sounds the very antithesis of what a Speaker should be. He was expelled from the House in 1695 for taking a bribe of 1,000 guineas from the City of London for "helping" a Bill through Parliament, and he suffered from such an atrocious squint that it is said two Members were habitually on their feet in different parts of the House, both under the impression that they had "caught Mr. Speaker's eye".

In the eighteenth century one of the greatest of all Speakers, Arthur Onslow (died 1768), raised the office for a time to a high level of impartiality, but it was not until about 100 years later that such a standard became fully established. Nowadays a Speaker may be nominated by a party, but from the day of his election he is bound to avoid every suspicion of favour—even to the length of shunning all social contact with other Members in the dining-rooms and smoking-room.

In the Chamber Mr. Speaker does not always preside. The House often sits, for certain purposes, not as a House but "in Committee", when debate is more informal and the Chair is occupied by the Chairman of Ways and Means, the Deputy Chairman or a temporary Chairman. The first two are party nominees, but while in office they act with the strictest impartiality; they can also relieve the Speaker in the Chair of the House, and they have other duties.

If the Speaker requires advice upon points of procedure, he can apply to the Clerk of the House—an office dating back at least to 1388—or to his two Clerk-Assistants, who sit, wigged and gowned, at the Table of the House, and formally record its proceedings. Other clerks have charge of the Bills which

are under the consideration of the House, attend upon its committees and write its Journals. The clerks must all bear constantly in mind that they are the servants of the House and not, as Civil Servants are, of the Executive.

Finally, the Speaker is assisted within and without the House by the Serjeant at Arms, who sits at the Bar in ceremonial court dress. His office has scarcely changed in five hundred years. He is still an officer of the Crown, lent to the Commons to assist in the preservation of order and in the last resort to enforce the orders of the Chair. He carries the mace, which is the symbol of the authority of the House, and, through the House, of the Speaker. "There is in the halo about the mace something also of the prerogative", says Sir Gilbert Campion, the present Clerk of the House.* At all events, it is decidedly one of the dignified and impressive accoutrements of Parliament.

THE PARTIES AND THEIR WHIPS

"A party is a body of men united for promoting, by their joint endeavours, the national interest upon some particular principle in which they are all agreed." *Edmund Burke.*

"I believe that without party Parliamentary government is impossible."
Benjamin Disraeli, at Manchester, 1872.

The answer to the question "why have parties?" is simply—"for convenience". There is nothing sacred about them, and although they existed in Athens in 600 B.C., the English Parliament functioned without them for hundreds of years. Parties in English politics, says Redlich, date from the division on February 8th, 1641, upon the question of the abolition of episcopacy.† They appear to suit the taste of the people, and, over a long term, the party system seems to be indispensable to the success of parliamentary government.

"But why", you ask, "set politicians against each other? Why not select the ablest among them and let them pool their

* *An Introduction to the Procedure of the House of Commons*, p. 50.
† *The Procedure of the House of Commons*, Vol. I, p 39.

talents and work out the best possible policy for the whole country? Why should we not all drive forward together in one tremendous surge of patriotic effort, to tackle the tasks ahead?" That is known as the "Council of State argument" and, however attractive it may appear, it is in radical opposition to our political system.

For one of the fundamental assumptions of our Constitution is that men's opinions upon best possible policies do honestly differ, and should, indeed, be encouraged to differ. Another fundamental assumption is that the clash of these opinions shall be resolved in a general sense by the ordinary men and women of the country voting peacefully at the elections; and in greater detail by their representatives voting peacefully in the House of Commons. Now, obviously, the best brains can be collected in a "Council of State"—that is exactly what happens in a desperate emergency like war,* when the need for unity is paramount—and a great deal of political controversy was raised over the desirability of continuing coalition government to cope with the problems of reconstruction after the war.

Under the normal conditions of a free society, however, the best brains, when not united by any loyalty to a party or committed to any party programme, would constantly be disagreeing and getting to loggerheads and so failing in their duties of government. For two or three hundred years, therefore, the active political elements in the country have found it increasingly convenient to group themselves together according to the general trend of their political feelings and desires. Cavaliers or Roundheads, Whigs or Tories, Unionists or Liberals, Socialists or Conservatives—the list is certainly not complete.

Under a Council of State system there is only one party, in peace as well as in war, to decide on the best possible policy in the interests of the whole people or "the State". The principles of unity and of "the general interest" (as interpreted by the party in power) are allowed to triumph over the rights of opposition parties and individuals, and the inevitable tendency, especially in face of difficulties at home or abroad, is for the single party in power to discountenance and crush dissenting parties and indi-

* Viscount Samuel recently remarked that "It is a necessary part of the working of the Party system in this country, for the Parties to know when to suspend Party controversy."

viduals with increasing force, and to tighten its authority until it achieves a permanent dictatorship. The only possible instrument for such a process is a widespread secret police, and against that instrument, as used by the late police states of Europe, there will remain, so long as any of us live, the most agonising memories.

Has the average elector the least idea, one wonders, of his debt to Parliament for its incessant vigilance in this respect alone? The police of the country are split into 179 separate forces. No party at Westminster wants a national police force, however attractive it may sound from a practical point of view, largely for fear lest one day it might become the instrument of a corrupt authority; and so anxious are all parties to avoid the possibility of such a danger that it is always difficult for any Home Secretary to persuade the House into allowing even the modest amalgamations of lesser police forces which are essential for efficiency.

The largest force in the country, the 20,000 men of the Metropolitan Police, is indeed under the direct authority of the Home Secretary; but no power is more jealously watched than his. On rare occasions, when the police are suspected of having exceeded their duty, a searching debate is likely to be raised in the House, in an atmosphere of peculiar tension. Many will remember the incidents of Flying Officer Fitzpatrick in 1933* and of Miss Savidge in 1928.† Faint echoes still linger down the years since 1887, when an entirely respectable young woman called Miss Cass was arrested for soliciting in Regent Street, and, at the conclusion of a series of heated debates on the subject of her arrest, the Government were defeated.‡ The absence of fear which the police inspire in our hearts to-day is due to the incessant vigilance of Parliament. It is a small price to pay for such a priceless security.

Experience has shown that if an authoritarian state rises, no Parliament such as ours can possibly survive, composed as it is of independent men and women holding different political opinions and attached to several parties, but free to change their views and allegiances. Conversely, no dictatorship could establish itself in face of such a Parliament.

* *Hansard*, July 26, 1933, cc. 2589-90, 2719-39.

† *Hansard*, May 7, 1928, cc. 1216-20, 1303-39.

‡ *Hansard*, July 1 and 4, 1887, cc. 1491, 1796.

But dictatorship is not the British choice. Under that system there are no alternative parties and none of the restraints which the watchful eyes of an Opposition inspire. "All power corrupts", said Lord Acton, "and absolute power corrupts absolutely". The British cherish their minorities, and even the individuals out on the fringes beyond. They remember their only dictator of three centuries ago, and they cling steadfastly to their beloved right *to change their own rulers.*

It is outside the scope of this book to describe what modern parties stand for, except perhaps to say that all parties tend naturally either towards the "Right" or towards the "Left", those extreme ways of thinking which Macaulay described so well, and the distinction between which, had, he said, always existed and always must exist:—

> "For it has its origin in diversities of temper, of understanding, and of interest, which are found in all societies. . . . Everywhere there is a class of men who cling with fondness to whatever is ancient, and who, even when convinced by overpowering reasons that innovation would be beneficial, consent to it with many misgivings and forebodings. We find also everywhere another class of men sanguine in hope, bold in speculation, always pressing forward, quick to discern the imperfections of whatever exists, disposed to think lightly of the risks and inconveniences which attend improvements, and disposed to give every change credit for being an improvement. In the sentiments of both classes there is something to approve. But of both the best specimens will be found not far from the common frontier. The extreme section of one class consists of bigoted dotards: the extreme section of the other consists of shallow and reckless empirics."*

Many people are apt to condemn what they call the "incessantly obstructive attitude" of a major party (if it happens to be in opposition to their own), without perhaps realizing that they are thereby striking at the whole basis of party parliamentary government. It is as much the duty of an Opposition to criticize as it is of a Government to govern. For once a Minister has decided upon a plan—especially if it has given him a lot of trouble and he happens to be overworked—

* *History of England* Vol. I, p. 99.

human nature ensures that he should easily overlook its deficiencies, and continue to swear (and perhaps to believe) that it is the best plan that ever was made. Party solidarity and the doctrine of Cabinet responsibility will also probably cause his colleagues to rally to his support in the House and in the country.

The criticism of a well-organized Opposition is exactly what is required to control this fault. It will be well-informed criticism, since some of the critics will have held office and will be in a position accurately to appraise the plan and its probable results: it will be responsible criticism because if it turns out to be sufficiently justified the critics will change places with their victims and themselves shoulder the Government.

The Opposition have thus in normal times come to be accepted as a sort of reserve government—almost a branch of the Government itself. The term "His Majesty's Opposition" was first used, half jokingly, by John Cam Hobhouse early in last century. It has been said that "No Government can be long secure without a formidable Opposition", and it was in recognition of the value of these arrangements that the "Leader of the Opposition", and therefore alternative Prime Minister, was in 1937 granted an official salary of £2,000 a year. That must be another strange sight for the foreign observer: every British Government paying its principal critic handsomely for his criticism.

It is in this clash of criticism, Opposition versus Government, resulting eventually in an exchange of places, that the success of our Parliamentary institutions chiefly depends. Even in this country, a single party or coalition continuing for very long in office might become as hard to dislodge as a continental dictatorship. When Mr. Quintin Hogg, M.P., wrote in a recent article "The truth is that Party is as vital a political institution in this country as Parliament: without Party, Parliament would wither and decline into a debating club without responsibility, or a *Reichstag*, whose business it would be to register approval of the decisions of a dictator or a bureaucracy", he was re-stating in modern terms what Disraeli emphasized a hundred years ago: "I say you can have no parliamentary government if you have no party government; and therefore, when gentlemen denounce

party government, they strike at that scheme of government which in my opinion, has made this country great, and which, I hope, will keep it great."

Another line of attack upon party government is that it encourages a type of Member who is nothing but a voting robot—the sort of whom W. S. Gilbert wrote:—

"I always voted at my party's call,
And I never thought of thinking for myself at all";

the sort who adheres to Disraeli's alleged advice: "Damn your principles; stick to your party." But, as has already been explained, the volume and complication of modern political business make it quite impossible for Members to inform themselves about every question they vote upon.

Nor must it be supposed that an Opposition is *always* opposing —that it is a sort of pull-devil, pull-baker arrangement, with the Government incessantly harassed and obstructed. Some of the business is quite uncontentious and the Opposition are glad to see it go through. Moreover, political opponents are often sincere friends both inside and outside Parliament.

Lord Balfour pointed out many years ago that our party system could only be worked under the best conditions if the differences between the parties were real, without being of such a revolutionary character as to divide the classes of society or sections of opinion "in hopeless alienation one from another". If differences scarcely exist, as in the eighteenth century, politics are not much more than a football match—or worse, a sordid game for the prizes of office. On the other hand, if the differences are too fundamental, as often upon the continent, then the system is apt to break down into disorder and civil war. "It is because", he said, "there seems to be some natural moderation in our British blood which enables us to be political enemies without attributing every infamous motive to those to whom we are opposed in politics—it is because we are capable, and can judge calmly, relatively calmly, and criticize charitably, relatively charitably, that we have made the British Constitution the great success it is."*

Certainly for many years past, the main parties have had much common ground in the political objects they desired—

* *Daily Chronicle*, 22nd September, 1902.

defence, employment, trade, and the welfare of all the peoples of the Empire. The differences have concerned method and approach rather than principle.

From past experience, more particularly of the last 100 years, it would clearly seem that the British Constitution works best upon the two-party system, or something near it, and, fortunately, that is the position which general elections have most often produced. That is to say, two powerful parties facing one another in the House, with not too great a disparity of support in the country. The party in power is then able to govern in the confidence that it is sustained by a majority in the country, while their opponents are encouraged to a healthy and vigorous criticism by the knowledge that no great distance separates them from the opportunity to test their own policies.

There have, of course, never been two well defined parties and two alone. Lesser parties, groups and independent Members are always present; but so long as one party has an absolute majority—*i.e.*, can always command more votes than all its opponents together—the principle of the two-party system is not disturbed. When no party has an absolute majority, however, the position is not nearly so satisfactory. None can enjoy the confidence which only a clear majority in the country* can give, and some sort of alliance must be arrived at to form a majority capable of governing. That in its turn entails the system of bargains and compromises which proved the bane of the French pre-war system, where a great number of minority parties grouped, flew apart and re-grouped, in kaleidoscopic and futile attempts to form a stable Government.

When all this has been said in praise of the two-party system it is only fair to add that it is not the only arrangement which could provide a powerfully critical Opposition to face the Government. There has been much discussion of recent years about the future of the party system, and a considerable increase in the number of "independents" in the House. It is important to distinguish between independent Members and electors who object to the political parties as at present constituted rather than to the idea of party expressed by

* But not necessarily an absolute majority of all votes cast.

Burke in the quotation at the head of this chapter, and independents who never wish to be associated with a group, and desire to make their contribution to public life as strict independents. (Members for the University seats often belong to this latter category.) It is at least conceivable that a substantial number of Members of the former type might together form a highly effective Opposition.

A Government party without organization in the House of Commons would resemble a crowd of untrained men on a football field. No matter how numerous, their trained opponents would almost inevitably circumvent and defeat them.

It is interesting to see how clearly Jeremy Bentham put the case 150 years ago. But his claim that the party system was essential for an efficient procedure, and that those of the same party ought to possess every facility for concerting their operations, applies nowadays with much greater force to the Government than to the Opposition side:—

> "Without this concert it is impossible that the arguments should be presented in the most suitable order, and placed in the most advantageous light. It is only by a continual correspondence among the members themselves, that they can prevent a multitude of useless operations, delays, contradictions, repetitions, inconsistencies, and other incidents, of which the common tendency is to interrupt that unity of plan which is necessary in conducting business to its termination. In this respect, party interests are the same as those of the public. It is necessary for the public good that each party should plead its cause with all its force—should employ all its resources; since truth only has everything to gain in the concussion."

We need only glance at the organization of a party outside Parliament.* There are local organizations in the constituencies, part of whose function is to carry on the work of their originators, the Registration Societies, who secured the registration of the new voters added by the Reform Bill of 1832. There are central organizations (dating from between 1867 and 1877) for purposes of control, co-ordination and research. There

* Further particulars can be obtained from the Head Offices of the Party Organizations.

are also funds for political education—"party is organized opinion", it has been said—for the financing of candidates and for many other purposes.

But the party organization inside the House concerns us closely. It is carried out by officials called Whips, who are all Members, and who, on the Government side, hold more or less nominal posts (some unpaid) either at the Treasury or in the Royal Household. The Chief Whip—also known as the Patronage Secretary—acts as a sort of Chief of Staff to the Prime Minister (and to the Leader of the House, if the two Offices are not jointly held) with whom he is in close and constant touch. With his assistants he is responsible for planning the Government's business in the House for months ahead, so that it shall fit in with certain fixed dates (relating particularly to the financial year), with the convenience of the House and of Ministers and with the time available. The negotiations which are carried on between the Whips of the different parties (usually in the most cordial manner) are said to take place "through the usual channels." The common description of the Whips' duties—"to make a House, to keep a House and to cheer the Minister" is a serious understatement. Besides ensuring that sufficient Members of their party are in the Chamber or in the precincts to form the necessary majority (one hundred) for a Closure Motion and to outvote the Opposition in any impending division, their chief duty is to act as active and tactful liaison officers between the Government and Private Members, explaining procedure, reporting complaints and keeping themselves accurately informed of all trends of political feeling.

The term "whip" is also used for the weekly circular of forthcoming business which is issued to Members by their party, and the withdrawal of which is the rare sanction which signifies a Member's excommunication from his party. The relative urgency of the items is intimated by a system of underlinings—"a two (or three) line whip". (See p. 85 for specimen.) Whips, underscored by as many as six lines, were sent to the King's friends in the House of Commons as early as 1621.*

* Porritt, *The Unreformed House of Commons*, I, p. 509.

A WHIP

On Tuesday, 24th April, 1945, the House will meet at 2 15 p.m

The Chancellor of the Exchequer will open his BUDGET.

Your attendance is requested.

On Wednesday, 25th April,)
and) the House will meet at 2.15 p.m
on Thursday, 26th April,)

General debate on the Budget Resolutions

Your attendance is requested.

On Friday, 27th April, the House will meet at 11 a.m.

Income Tax Bill; Committee.

Divisions may take place and your attendance at 11 o'clock and throughout the Sitting is particularly requested

Motion to approve the Purchase Tax Order relating to Aluminium Domestic Hollow-ware

JAMES STUART.

A specimen of the actual "Whip" for the week during which the Chancellor of the Exchequer opened his Budget in 1945. *The meaning of the expression "two-line Whip" is obvious.*

THE ESSENTIALS OF PROCEDURE*

> "In this bye-corner, an observing eye may trace the original seed-plot of English liberty; it is in this hitherto neglected spot that the seeds of that invaluable production have germinated and grown up to their present maturity, scarce noticed by the husbandman, and unsuspected by the destroyer."
>
> *Bentham, on British parliamentary procedure.*

> "The man in the street, from all classes, is surprisingly ignorant of all parliamentary procedure, and has never given it any serious consideration at all."
>
> *Mr. Speaker FitzRoy, to the Select Committee on Procedure*, 1931.

Are rules of procedure† necessary? The question scarcely requires an answer. A handful of friends called together to discuss the simplest project will at once vote someone into the chair, and that someone will immediately find himself in trouble, trying to keep the garrulous and irrelevant in check and to bring the group to a decision. If in doubt as to the truth of this assertion, the reader may recognise the justice of the following description of the abortive discussions constantly to be heard at any meeting where the speakers are unfettered by the Chair. After the real subject of debate has been raised,

> "somebody catches or pretends to catch the idea of something else more proper to be done. The next speaker takes this for his theme. Affections grow warm; and crowding about this second subject the first is insensibly departed from and forgotten. And so on, till men's minds are effectually confused, and their whole stock of time and patience gone."‡

Without some recognized code of rules, then, no handful of parish councillors can settle the least piece of contentious busi-

* The three best books on current practice and procedure, in order of size and completeness, are those by Sir T. Erskine May and Sir G. Campion already quoted, and the official House of Commons' *Manual of Procedure in the Public Business*, 1942 ed.

† From Latin, procedere, *to go forward.*

‡ Jeremy Bentham: *Essay on Political Tactics*, p. 342.

Votes and Proceedings of the House of Commons

Friday 13th April 1945

1. AUSTRIAN Government Guaranteed Loan, 1933-53,—Account *presented*,—of the sums issued out of the Consolidated Fund in fulfilment of the Guarantee given under subsection (3) of Section 1 of the Austrian Loan Guarantee Act, 1933, during the year ended 31st March 1945 [by Act], to lie upon the Table.

2. Adjournment,—House, at its rising this day, to adjourn till *Tuesday* next.—(*Mr. James Stuart.*)

3. Death of the President of the United States of America,—Notice taken of the death yesterday of the President of the United States of America.

Resolved, That this House do now adjourn.—(*The Prime Minister.*)

Adjourned accordingly at eight minutes past Eleven o'clock, till *Tuesday* next, pursuant to the Resolution of the House this day.

DOUGLAS CLIFTON BROWN
Speaker

MEMORANDUM

Mr. Speaker will take the Chair at a quarter after Two o'clock upon *Tuesday* next.

An average issue of the Votes and Proceedings contains perhaps a dozen items. The above issue is unusually short owing to the Adjournment of the House consequent upon President Roosevelt's death—the precedent mentioned on p. 103.

ness. How much the more essential is such a code to regulate the debates of over 600 various and often antagonistic persons who decide the vast and vital affairs of a great nation?

Granted then that procedure is necessary to enable the House of Commons to do its work, what fundamental principles ought to determine its nature? The standard authority on the *history* of procedure (Sir T. Erskine May's book was intended purely as a treatise on *practice*) is still the work of the late Dr. Josef Redlich, an Austrian scholar who undertook the drudgery of ransacking a long series of technical reports in a foreign language to produce his invaluable book in 1908.* He gave the opinion—which is still valid today—that the technical requirements for the formation of the will of a legislative assembly and for the state actions of such a body are "expressed to perfection" in Jeremy Bentham's *Essay on Political Tactics*, written towards the close of the eighteenth century. Let us see what these rules are, and, very shortly, how far modern procedure conforms to them.

Bentham names *publicity* as the essential foundation for a satisfactory procedure. It constrains Members to perform their duty, secures the people's confidence, and with it their assent to laws; the electors learn to act from knowledge, and the governors to know the wishes of the governed. By this Bentham means the fullest publicity, both external and internal, for everything which is to happen, is happening or has happened in Parliament, unless such publication should favour the projects of an enemy or result in injustice to individuals. It follows that Members should receive due notice of the hours of sitting and the business to be taken; that all questions in the House should be clearly stated; and that all debates, divisions, decisions and reports should be punctually published.

The House for long forbade the publication of its debates (see p. 132), but the principle of publicity in peace time is, of course, now firmly established; and even in time of war Parliament still holds as few secret sessions as possible (thirty-seven in five-and-a-half years of war, apart from those dealing only with the dates and times of sittings of the House).

The arrangements to ensure efficient "internal" publicity are

* *The Procedure of the House of Commons: a Study of its History and Present Form.*

House of Commons (Service in His Majesty's Forces)

Ordered, That leave be given to bring in a Bill to prevent membership of any of His Majesty's Forces being a disqualification for membership of the Commons House of Parliament, And that Mr Attorney-General, the Lord Advocate, and Mr Solicitor General do prepare and bring it in

House of Commons (Service in His Majesty's Forces) Bill

Bill 247

Mr Attorney General accordingly presented a Bill to prevent membership of any of His Majesty's Forces being a disqualification for membership of the Commons House of Parliament And the same was read the first time, and orderpd to be printed

Ordered, That the Bill be now read a second time

The Bill was accordingly read a second time

Resolved, That this House will immediately resolve itself into the Committee on the Bill — (Captain *McEwen*)

The House accordingly resolved itself into the Committee

(In the Committee)

Clauses No 1 and No 2 agreed to

Bill to be reported

Mr Speaker resumed the Chair and the Deputy Chairman reported, That the Committee had gone through the Bill and directed him to report the same, without Amendment

Ordered, That the Bill be now read the third time

The Bill was accordingly read the third time and passed

Ordered, That the Clerk do carry the Bill to the Lords and desire their concurrence

Isle of Man (War Legislation)

Ordered, That leave be given to bring in a Bill to enable His Majesty by Order in Council to extend to the Isle of Man Acts passed for purposes connected with the defence of the Realm And that Secretary Sir *Samuel Hoare* and Captain *Peake* do prepare and bring it in

Isle of Man (War Legislation) Bill

Bill 248

Captain *Peake* accordingly presented a Bill to enable His Majesty by Order in Council to extend to the Isle of Man Acts passed for purposes connected with the defence of the Realm And the same was read the first time, and ordered to be printed

Ordered, That the Bill be now read a second time

The Bill was accordingly read a second time

Resolved, That this House will immediately resolve itself into the Committee on the Bill — (Captain *McEwen*)

The House accordingly resolved itself into the Committee

(In the Committee)

Clauses No 1 and No 2 agreed to

Bill to be reported

The Bill was accordingly read the third time and passed

Ordered, That the Clerk do carry the Bill to the Lords, and desire their concurrence

Resolved That this House do now adjourn till to morrow at Twelve of the clock — (Captain *Margesson*) Adjournment.

And accordingly the House, having continued to sit till nine minutes after Eight of the clock, adjourned till to morrow at Twelve of the clock

[No 161.]

Sunday, 3rd September 1939.

The House met at Twelve of the clock

PRAYERS

MR Speaker acquainted the House, That a Message had been brought from the Lords by one of their Clerks, as followeth Message from the Lords

The Lords have agreed to the House of Commons (Service in His Majesty's Forces) Bill without any Amendment House of Commons (Service in His Majesty's Forces) Bill

The Lords have agreed to the Isle of Man (War Legislation) Bill, without any Amendment Isle of Man (War Legislation) Bill

The Lords have passed a Bill, intituled An Act to enable the Admiralty to dispense in certain cases, with the requirements of section five of the Navy and Marines (Wills) Act 1865 to which the Lords desire the concurrence of this House Navy and Marines (Wills) Bill [*Lords*]

The Lords have passed a Bill intituled An Act to provide for the prolongation of the service of men of the Royal Marine forces, to which the Lords desire the concurrence of this House Royal Marines Bill [*Lords*]

The Lords have passed a Bill, intituled An Act to impose penalties for trading with the enemy, to make provision as respects the property of enemies and enemy subjects and for purposes connected with the matters aforesaid, to which the Lords desire the concurrence of this House Trading with the Enemy Bill [*Lords*]

The Lords have passed a Bill intituled An Act to provide for the prolongation of the service of certain men serving in the armed forces of the Crown, to which the Lords desire the concurrence of this House Military and Air Forces (Prolongation of Service) Bill [*Lords*]

. . . .

Part of the "Journal" for the day on which war broke out. In the exceptional circumstances the House sat on a Sunday and dealt with a large number of vital Bills.

comprehensive. The *Votes and Proceedings* have been printed with but brief interruptions since 1680. They are circulated to Members on the morning after the day of which they form the record. The *Journal* records the proceedings permanently—in formal language, stereotyped since the eighteenth century. The printed *Journals* date back to 1547. (In the margin of the *Journal* of December 18th, 1621, is written, in a different hand, "King James, in Council, with his own hand rent out this Protestation." The Protestation concerned the privileges of the House. The *Journal* of December 4th, 1660, contains the following resolution: "Resolved, That the carcasses of Oliver Cromwell, Henry Ireton, John Bradshaw and Thomas Pride, whether buried in Westminster Abbey or elsewhere, be with all expedition taken up and drawn upon a hurdle to Tiburne and there hanged up in their coffins for some time, and after that buried under the said gallows.") The *Notice Paper* (delivered in the morning), details the current day's business. A glance at the electric annunciator in various parts of the Parliament buildings informs the Member of the item in progress and of the speaker who is on his feet. Reports, Bills and Papers are either delivered to Members or available in the Lobby "Vote Office".

So anxious was Bentham that every Member should be correctly informed while speaking, that he advocated a large frame above the Speaker's Chair with hooks similar to a cricket score board, upon which attendants would hang the words of the motion under consideration, with similar frames for amendments and rules of procedure.

We may mention, in passing, Bentham's insistence upon the necessity for the full attendance of Members, and upon the canon of the absolute *equality* of Members. The power and authority of men must needs vary in practice by reason of their different abilities, but all Members are still held to be theoretically equals—a principle which might on occasion prove invaluable in helping to check individual ambitions.

The second great principle of his theory of procedure is that of the *absolute impartiality of the president*, and no better sense has ever been written on the subject. After laying down that there should be only one president, chosen for a long period of time but with a substitute always available, he explains that

the president's (that is to say, the Speaker's) functions are of two kinds. He is a judge as between the individual Members and an agent of the whole assembly. From his actions as a judge there ought to be an ultimate appeal to the whole assembly. As an agent he should be subject to the immediate control of the assembly. In neither capacity ought he to possess any power, the effect of which would be to give him any control over the will of the assembly. For:

> "it is for the sake of the assembly and for their use alone, that the institution of this office is either necessary or proper. . . . It is only in as far as it may be conformable to the will of the assembly, that the will of this officer can, as such, have any claim to regard."

The idea which the Commons have shaped out for themselves about their president, a past Clerk of the House has remarked, "is to keep, to the fullest extent, the power in their own hands, while extending as much respect as possible to the occupants of the chair."*

Finally, to enable the president to act with complete impartiality, he should be excluded from all partisan activity. The description still closely fits the modern type of Speaker, in spite of the statutory and other duties since laid upon him.

One of the main duties of a parliamentary body is to ascertain its own will in regard to innumerable matters; but as the ideal goal of unanimity can seldom be obtained, it is customary to attribute to the united will of the majority the same effect as to that of the whole body. Bentham accepts this *principle of the majority* as part of the theoretical basis of parliamentary government without argument. "How far so ever the will of the simple majority may be from the really universal will, it is nearer to it than the contrary will." In early times unanimity was aimed at. In the seventeenth century the House went through a sort of ceremony on important occasions to show that the minority accepted the decision of the majority. Sir G. Cornewall Lewis describes the earliest decision by a majority of votes recorded in authentic history as follows: "Before the battle of Marathon the ten strategi were equally

*_The House of Commons_, by Reginald Palgrave, 1878 ed., p. 68. _See also Report from Select Committee on Parliamentary Elections (Mr. Speaker's Seat)_. 1939.

divided in opinion. The polemarch archon . . . gave his vote in favour of fighting, and decided the question, upon which the minority acquiesced. (Herod.,VI, 109.)"*

Bentham insists as his third principle upon certain vital points of procedure. A logical order of stages must be strictly observed in the formation of the will of the assembly, and a precise separation maintained between them. Proposition, debate and voting must not mingle, as they were allowed to do in French eighteenth century provincial assemblies with disastrous results. Above all, only one question should be debated at a time.

Modern practice in this connection dates from a few simple rules of the House laid down near the beginning of the seventeenth century:—

1. "Ordered, That nothing do pass by order of the House without a Question; and that no order without a Question Affirmative and Negative."

2. "When a Motion hath been made, the same may not be put to the Question until it be debated, or at least have been seconded or prosecuted by one or more persons standing up in their places."

3. "When a Motion hath been made, that matter must receive determination by a Question, or be laid aside by the general sense of the House before another be entertained."

4. "A Question, being once made, and carried in the Affirmative, or Negative, cannot be questioned again, but must stand as a Judgment of the House."

They show the House of Commons in its most business-like shape. It was by solving such technical problems as these that the early House proved itself to be an efficient body and survived, while many of its fellows in Europe then and since failed and disappeared. Although it now seems obvious to decide a matter by putting it to the vote, and accepting the decision of the majority, it took Western civilization many generations to evolve this seemingly simple process.

The process of debate nowadays passes through four stages. First, a Motion is proposed by a Member in such form that, if

* *An Essay on the Influence of Authority in Matters of Opinon, p.* 244.

carried, it can stand as a Resolution or Order of the House. Resolutions express the opinion of the House; Orders express its instructions: both must originate as Motions.

Next, the Speaker proposes the question in the same form. Debate ensues. It must be relevant to the question, but amendments may be moved to alter the latter, or attempts made to shelve it (*e.g.*, "Previous Question" in glossary). At the end of the debate all Members vote simultaneously and the decision of the majority is accepted as the decision of the House.

Bentham's final principle—that of complete *freedom of speech* to the extent of each Member speaking as often as he wishes, is the only one which has had to be modified to fit modern conditions. Together with the *protection of the minority* (it is the same thing with an alteration of emphasis) it, of course, forms one of the crucial problems of all Parliaments.

It was the first of the "great Speakers", Arthur Onslow (he occupied the Chair throughout the reign of George II), who insisted upon a strict adherence to the forms of procedure, since only by this means could the weaker party "be protected from those irregularities and abuses which these forms were intended to check, and which the wantonness of power is but too apt to suggest to large and successful majorities". That principle has been cherished ever since, and the instinct to "hear the other side" exists nowadays in the marrow of all good Englishmen.

There are two reasons why the ideal of complete freedom of speech advocated by Bentham has had to be modified:—the development of systematic obstruction and the ever-increasing press of business.

Obstruction in the House of Commons has hitherto assumed one of three forms. It has either been a sudden explosion of protest directed against a single measure or against the apparently overbearing conduct of the Government or the majority. Such action has always been understood and sympathetically treated by the House. Or, secondly, it has taken the form of protracting debate beyond the furthest reasonable limits of the most detailed argument, by means of dilatory Motions, repetition by relays of speakers and irrelevancies—all with the sole object of delaying an unpopular measure. The legitimacy of such obstruction is much in dispute today. The third

form of obstruction consists in the intensification of all the others with the tacit or avowed object of making the work of Parliament impossible. Throughout the eighteenth and the first half of the nineteenth centuries political feeling in England never reached such extreme bitterness as to threaten the allegiance of Members to the State. Hitherto, with all their failings, they had been good Parliamentarians. They had debated and disputed through the ages under the overriding assumption that Parliament could and should function. That was taken for granted. A convention existed that, after every reasonable opportunity had been taken by the Opposition to oppose within the rules, the Government's business should be allowed to go through. There was also the notion that no question should be decided while there remained any Member who still wished to speak upon it. Human nature being what it is the notion was often obscured. In the eighteenth century the practice called "rubbing out" obtained—"a cursed hawking, and spitting, and shuffling of the feet, at any Member the House does not like to hear speak".* Just prior to 1832 this had become a shouting down or laughing down of tedious speakers, and towards the end of the evening, when the Speaker saw that the House was ready to come to a decision, he chose the chief protagonists for the concluding speeches and by a sort of general consent any smaller men who sought to speak would be drowned in clamour until the division was called. The modern form of this mild closure is a talking down, combined with a steady chant of "vide-divide-divide".

But in the 70's and 80's of last century the Irish Home Rule Party, inspired by Parnell, created an entirely new position. Their political feelings became so embittered against a Parliament which was not prepared to attend to the Irish question that they determined to try to wreck the whole business of government by impeding the work of the House *within its rules*. In the session of 1881, which lasted for 154 days, fourteen Irish Members between them delivered 3,828 speeches—a daily average of almost twenty-five speeches from that group alone. In the same session, questions were multiplied several times over, so that *Hansard* required nine volumes for the complete

* Pearson's *Political Dictionary*, 1792, p. 50.

debates of the year, compared with four or five in former years. Such obstruction is in effect nothing less than a repudiation of the existing Constitution of the country.

The attempt was bound to fail, and, at 9.30 a.m., on Wednesday, February 2nd, 1881, after a sitting of forty-one hours, and the most patient consideration extending over months, Mr. Speaker Brand delivered his celebrated *coup d'état.* He put the question while Irish Members still wished to continue the debate and thus instituted the "closure". Once accepted, the retention of the closure was necessitated as much by the increasing flood of parliamentary business as by a fear of the recurrence of systematic obstruction, and the procedure was hastily adapted to enforce the authority of the Government over a recalcitrant Opposition.

Four other points should be made before we can attempt a summing-up of the essential characteristics of procedure. The first is its complexity. A suspicion seems to lurk that procedure has in the past been unnecessarily elaborated into a kind of "nonsense on stilts", serving only to confuse Members and to delay beneficent legislation. The only basis for this belief is that, in the eighteenth century, the rules and stages of debate were multiplied with the object of decreasing the opportunities for surprise.

In the nineteenth century the history of procedural reform consists largely in the safeguarding of the Order of Business by stripping off these and many other forms and the framing of fresh methods to restrict debate and to facilitate the Government's business.

Let us take one example of the inevitable increase and intricacy of modern procedure—the well-known and valuable "parliamentary Question". The inside of an hour is all that can be spared for oral Questions, and in that time only about seventy can secure the sought-after publicity of an oral reply. There are about twenty Government Departments to be questioned and only four question days in the week, so that a highly intricate system has to be worked out to try to give Members the fairest chance of questioning the Departments in turn and in some proportion to their importance. But that is not nearly all. Question time is far too valuable to be wasted, so that questions

of the following types, to take only a few examples, are ruled out:—

The identical question repeated daily or at short intervals;

Advertisement of some person or article masquerading as a question;

Abuse of an individual disguised as a question;

The giving of information or the continuation of a previous argument disguised as a question.

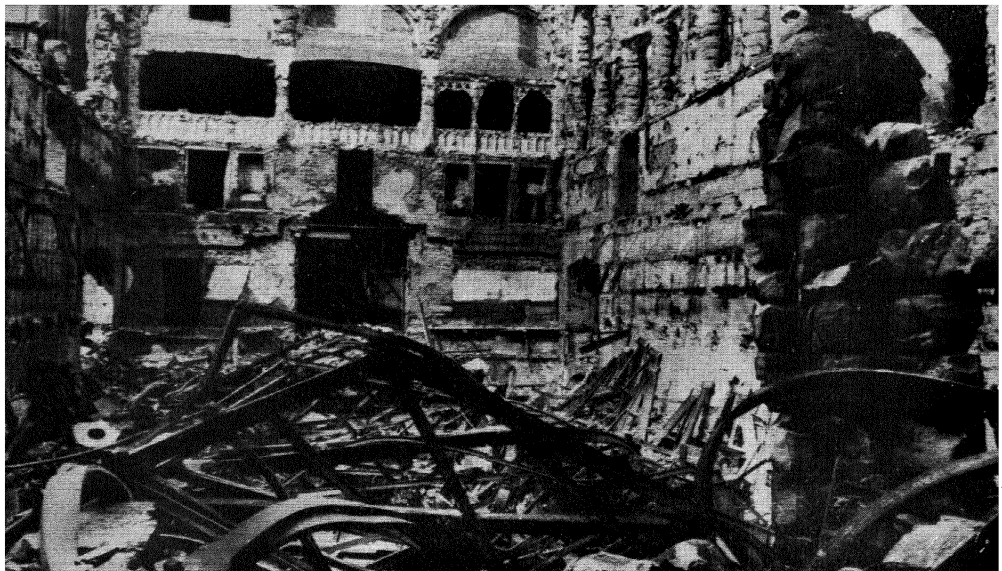
Upwards of thirty-eight further rules, on the subject of questions alone, have to be administered with the most meticulous fairness, apart from rules governing the other sections of parliamentary business—such as Bills, Committees, the scope of debate, divisions and ballots. That is the answer to those who click their tongues and toss their heads against "a lot of red tape". and wonder why "a dozen simple straightforward rules" would not suffice.

Secondly, it cannot be stated too plainly that the House of Commons is entirely free at any time to adapt and alter its rules as it thinks fit, and as it has repeatedly done throughout its history. That would seem to supply the complete answer to all those critics within the House of Commons who point to its detailed procedure as the obstacle to efficiency. Nor does the House's reverence for tradition prevent it from sweeping away old forms if it finds them unsuitable. The ancient system of using Latin dates (still in vogue in the House of Lords), which obliges those of us with no Latin and a little French to come round by way of the latter, was exchanged for English by unanimous consent, as the first act of the first House of Commons which Mr. Gladstone led in 1866.*

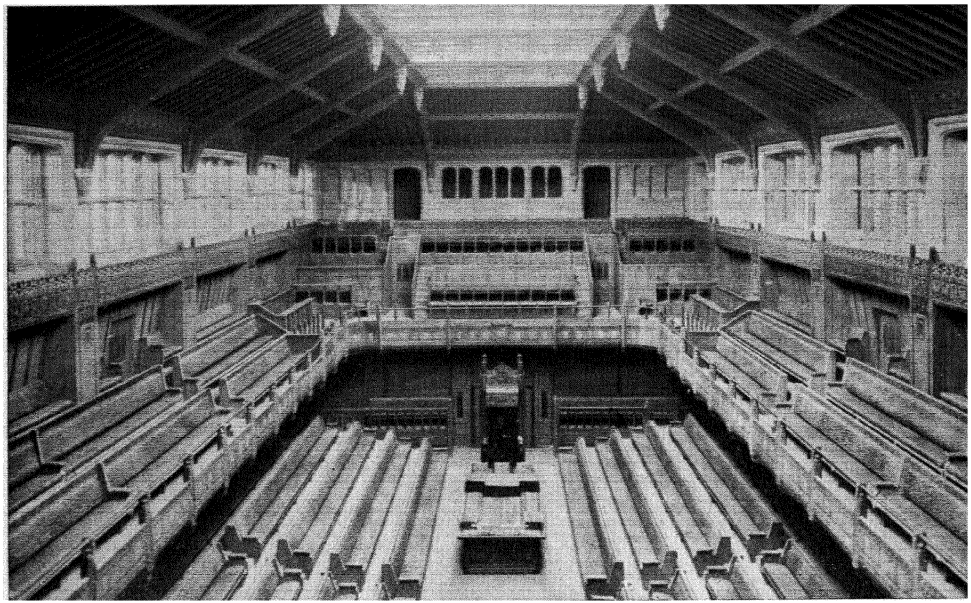
The third notable consideration is that the question of reform has for many years been treated from the point of view of the interest of the State, and not in any party spirit. Remembering that the Opposition of today may be the Government of tomorrow, Members have regarded the rules of the House as machinery common to all parties, and if they have opposed the rearrangement of the rules to the advantage of the Government it has been because they believed that political responsibility is

* Sir G. O. Trevelyan, *The Early History of Charles James Fox*, p. 382.

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THE NIGHT OF SATURDAY, 10th MAY, 1941
Showing what an incendiary bomb did to Barry's House of Commons.



THE FUTURE HOUSE OF COMMONS

A view into the model of Sir Giles Gilbert Scott's proposed Chamber, now under construction and due to be completed in 1950. The two illustrations facing the title page and page 64 span the history of the House of Commons from 1547 to 1941. For how many centuries will the glimpse shown above stretch into the future?

laid on all Members alike and that the lessening of this responsibility is prejudicial to the interests of the State. Such an attitude greatly cements the parliamentary system.

Fourthly, it should be noted how powerfully the House has defended the principle of minority rights in its attitude to the reform of procedure. The regular succession of events before one of the Select Committees which has customarily considered the subject over the last 100 years has been for witnesses to propose a series of much needed reforms. The Committee in their recommendations would prune down this list and diminish the severity of its effect upon the Private Member, to whom the House would still further temper the wind by adopting a mere fraction of the original proposals—usually by Sessional Order for a trial period only. Soon the Government's difficulties would become clamant once more and the whole process would start anew, from a point a little in advance of the last investigation. But the tendency has always been the same—the higher the authority the more reluctant it has proved to countenance any reduction in the rules which protect the minority. That is perhaps one of the healthiest aspects of the British Parliament, and one of its greatest difficulties. As Sir George Cornewall Lewis pointed out in 1875, the procedure is almost *too* fair: "The forms of the English House of Commons are avowedly contrived for the protection of minorities; and they are so effectual for their purpose, as frequently to defeat the will of the great body of the House, and to enable a few members to resist, at least for a time, a measure desired by the majority."* The trouble is that opinions vary on how long that time ought to be.

Mr. Attlee, in almost his first speech as Prime Minister in the House of Commons, on 16th August, 1945, clearly stated the position as follows:—

> "I have sat too long on the Opposition benches not to be sensitive of the rights of the Opposition and of the rights of private Members. It is the right and duty of the Opposition to criticise the administration and to oppose and seek to amend the legislation of the Government, but it is none the less the right and duty of the Government to govern and

**An Essay on the Influence of Authority in Matters of Opinion*, p. 219.

to pass into law the programme which it has been elected to carry out. The successful working of our Parliamentary institutions depends on harmonising these conflicting rights and duties. It will be the object of the Government to preserve the rights of minorities as an essential feature of democracy while, at the same time, ensuring that democratic institutions are not wrecked by a failure to carry out and implement the will of the majority."

The other real obstacle to the reform of procedure lies in its growing volume and complexity. Parliament, during its long history, has coped with a multitude of varied situations, the records of which may, at any moment, be required to meet similar cases. Procedure, therefore, like freedom, "slowly broadens down from precedent to precedent", until it now demands years of study and experience to span its vast extent. Exceptions and qualifications necessarily abound, and we may glance back with admiration at Elsynge, the Clerk, who sat below poor timid and confused Speaker Lenthall in the Long Parliament and was much commended as "so great a help to the Speaker and to the House in helping to state the question and draw the orders *free from exceptions*, that it much conduced to the despatch of business and the service of Parliament."*

The House alone can alter its own procedure and few Members can find the time to master all its complications (which have vastly increased since Elsynge's time) and to prune away what dead wood there may be. However, a Select Committee still periodically conducts an investigation into the matter. The last one sat from July, 1945, until October, 1946, and its three reports† and evidence provide as rich an education in procedure as did those of the Committee of 1931-32.‡

The Government decided to recommend to the House some of the Committee's proposals and some of their own which the Committee had rejected. During an all-night debate on 4th November, 1947, which was continued on the next day,

* Whitelock's "*Memorials*" ii, p. 364, ed. 1832. (The present writer has feelingly italicised three words.) See also *The officials of the House of Commons*, by O. C. Williams.

† See First, Second and Third Reports from the Select Committee on Procedure: 9-1 and 58-1 H.C. (1945-6); 189-1 H.C. (1946-7).

‡ See Evidence and Report of Select Committee on Procedure on Public Business 1931-32 The Student of procedural reform will also find the following most useful: *Parliamentary Reform* and *Parliament Must be Reformed*, by Dr. W. I. Jennings; *How to Reform Parliament*, by R. S. W. Pollard.

country, and it gave place to an early form of the constitutional Monarchy we know. It would have been unnatural for the country not to try to mark their constitutional claims on the occasion of a change of monarchs in such circumstances as the revolution of 1688.

William III desired the Crown of England, but he was not so interested to hear about limitations of his power, and when, standing with his queen under a canopy of state in the banqueting room of Whitehall, he had to listen to the reading of the Declaration of Rights before the formal offer of the Crown was made, he replied with a "laconic and jejune" little speech, without directly noticing the Declaration. However, the Declaration became the Bill of Rights, and another land-mark was passed in the history of Parliament.

The Revolution Settlement, and in particular the Bill of Rights, says Maitland, placed the Sovereign distinctly below statute. He was to have no power to suspend or dispense with statutes; to create any new offence by proclamation; to exact money or to keep a standing army in peacetime without Parliament's consent. The judges were no longer to hold office during his pleasure. The people were to have a free choice of representatives in Parliament. Both Houses were confirmed in their right of liberty of debate. Moreover, the right of the people through their representatives to set whom they would on the throne was established. All theories of any rights to the throne independent of the law were abolished and all subsequent Sovereigns have occupied the throne by virtue of an Act of Parliament.

The two principal characteristics of the modified Monarchy were the party system and the Cabinet. Speaking of these great innovations Sir C. Ilbert says: "They were silent changes, not brought about by any act of legislature; gradual in their operation; developed, modified, deflected, retarded by strong personalities, like Walpole, Pitt, George III; imperfectly appreciated, misinterpreted, misunderstood."

Whether the division of opinion which produced the two historic parties can be more truly ascribed to the reign of Charles II, or of Charles I, or whether it should be dated back to the Reformation is still a matter of argument, but it can be

all these alterations (and others already under trial by Sessional Resolution) were incorporated in the Standing Orders. The most important may be described in simple language as follows:

1. The consideration of the Estimates in Committee of Supply is now to occupy 26 "allotted days" instead of 20; but this is in fact a slight reduction, as Supplementary Estimates and other fresh matters are now included.

These days may now be distributed throughout the year, and, with the concurrence of the Government, any of them (instead of only four non-allotted Supply days as heretofore) may be used to raise grievances and questions of policy and administration by means of amendments to the question "That Mr. Speaker do now leave the Chair." The scope of debate has also been slightly widened on these occasions by allowing incidental reference to the need for legislation, which reference has hitherto been forbidden. Members will ballot for the right to choose the subjects of these debates on the same four occasions as hitherto, on first going into Committee of Supply for the main Civil and Service Estimates; otherwise they will be chosen by the Opposition.

To assist these arrangements, in addition to the usual final Supply "Guillotine" before 5th August, an interim two-day "Guillotine" is now provided (after at least six other allotted days have been taken) to secure the Supply required by 31st March, the end of the financial year.

2. The bottleneck which menaces Bills at the Committee stage is being eased by providing more and smaller Standing Committees to cope with them—a few heavy battleships are exchanged for several fast cruisers.

The "Guillotine" procedure is also applied to Standing Committees in case of necessity; they are to have more help from the Law Officers; and an obsolete rule is revived which allows the House to adjourn on certain afternoons to free Members for more urgent work in those Committees.

3. A "Business Committee" (also provided for in Standing Committees) composed of Chairmen and other Members of the House is to be set up to sub-divide the time allocated either by a "Guillotine" motion or by voluntary agreement, to the Committee and Report stages of certain Bills.

4. The powers of Chairmen to restrict debate on Bills are slightly strengthened.

5. The hour at which the main business of the House is supposed to finish (it rarely does) has been put back from 11 p.m. to 10 p.m. (with corresponding alterations of other fixed times); and so the famous "Eleven o'clock rule" becomes the "Ten o'clock rule".

6. The Report stage of the Budget Resolutions, one of the six stages during which the annual taxation proposals of the Government can be discussed, is to be "formalised", Members being entitled to vote upon the Resolutions, but not to debate or amend them.

7. Whenever any business is postponed owing to one of the rare emergency debates on "a definite matter of urgent public importance," (Standing Order No. 8), a period equivalent to the time lost is to be recouped later in the evening for the postponed business.

8. Members are to be permanently assured of a full half hour at the end of each day's business for raising miscellaneous grievances by means of motions for the adjournment (see p. 122).

As regards Private Members' time, the Government had stated on 17th March, 1947, that in due course they would favour a re-arrangement on the lines suggested by the Select Committee (which gave the first 20 Fridays after the debate on the Address to Private Members for their Bills and Motions instead of a complicated calculation of Wednesdays and Fridays). But the Government have since suggested that the question could best wait until Private Members' time is restored.

Briefly, these changes fall under four heads. They confirm an established trend by remodelling the Supply procedure to the advantage of debates on policy and administration and to the detriment of purely financial analysis and criticism. They streamline the machinery of Standing Committees with a view to devolving more of the work of the House upon them. Private Members gain a solitary victory with their daily "half-hour adjournment" motions. The remaining miscellaneous innovations (apart from the new hours of sitting) all tend to facilitate the legislation and secure the business of any government in power.

The House of Commons also agreed, on 28th April, 1948, to some interesting proposals to allow the Scottish Standing Committee (which at present only takes the committee stage of Bills) a greater share of purely Scottish business. In future the House may, on the motion of the Government, and while retaining its own overriding control:

(i) remit the Scottish Estimates to the Committee to be considered on a maximum of six days;

(ii) in the case of Bills relating exclusively to Scotland, allow the Second Reading debate (in fact though not in name) as well as the Committee stage to be taken in the Committee.*

To sum up, we find that the procedure of the House of Commons is, in its essentials, very old; very complicated and

*See 1947-8 (Cmd. 7308) Scottish Affairs.

always evolving. Procedure was originally a shelter and defence against the Crown and the Executive, but the forms used for this purpose were adapted for the protection of minorities. It may at any time be altered by the House, but such alterations are only carried out after full discussion (and often by common consent, which is the best security for maintaining procedure) and with the strictest attention to the rights of minorities. Just as Bentham's words quoted at the head of the chapter point to the close relation between the history of procedure and of our liberties, so Dr. Redlich shows the connection which it has with the Constitution. He calls the working of Parliament:—

> "A political pressure gauge, indicating the tension in the parliamentary machine and thence in the whole organism of the state.
>
> "An attack upon any of the great fundamental principles which we have learnt to recognize as the theoretical bases of procedure is a danger signal. If equality among members, or publicity of the proceedings, or freedom of speech, or the majority principle is consciously challenged by one of the constituents of parliamentary life, we have an indication of the existence of some serious internal defect in the life of the State."

THE DETAILS OF PROCEDURE

> "Members exhibit, in their collective demeanour, the peculiarities of our national disposition; and those very qualities which make the Empire what it is—simple straightforwardness of action, deference to the will of the majority, and reverence for ancient usage—symbolize the express genius of Parliament."
>
> Sir R. Palgrave, "*The House of Commons*".

> "The facility for compromise, which is all that the British 'genius for government' means . . ."
>
> Dr. W. I. Jennings, "*Parliament*".

There is no secret about the detailed procedure of the House of Commons. It is divided into three parts of very unequal size. The smallest consists of procedure which must be observed because it is the law prescribed by Act of Parliament, of which much the most important item is procedure under the Parliament Act regulating the powers of the two Houses in respect of disputed Bills. The next part consists of more than a hundred Standing Orders (apart from those regulating Private Business, whose fundamental object, it should be observed, is to give to all affected parties due notice and opportunity to protect their interests) and a few Sessional Orders. Only three Standing Orders date back before 1832. The remainder have been necessitated by the busy conditions of modern Parliaments. The third and by far the largest part is composed of a huge mass of traditions and precedents collected in the *Journals* and in certain text books, and in the experience of Members of Parliament and of the officials of the House. Because the Standing Orders are so much less in extent and so much more easily accessible to Members than the practice as interpreted from lengthy text books and scattered precedents, the relation of the one to the other has been likened by the present Clerk of the House to an iceberg—a tiny visible fraction giving warning of a huge invisible mass looming below.

The precedents which form the basis of so much of Parliament's procedure are, as the dictionary says, "previous cases taken as examples for subsequent cases, or as a justification".

"The House conducts both its business and its manners", says Sir Reginald Palgrave,* "according to chance remarks, or casual rules, recorded in the *Journals* of about three centuries ago; which rules were, in their turn, founded upon custom and usage of immemorial antiquity." And through the ages those rules have been pored over, discussed, used and refined until they form what has been called "the distilled common sense of centuries". It is as hard to argue effectively against a sensible and well-used precedent of procedure as against an established classic in literature.

Let us take two examples of precedents, one old and one new. Readers may have been puzzled on occasion to hear that

* *The House of Commons*, 1878, p. 9.

some Member has been "named" for disorderly conduct in the House—a process which in Parliament is as effective as "shooting the ringleader" in a less civilized community. A precedent of June 9th, 1641, supplies the answer. On that day Mr. Speaker Lenthall, having tried in vain to silence "divers members who were talking at the lower end of the House, in the west corner under the gallery, at last called on Sir W. Carnabie, by name, to desist".* The picture immediately springs to life: Mr. Speaker endeavouring to obtain silence by the usual method of calling "Order! Order!" without singling out individuals, then clearing his throat and glancing with increasing irritation at the offenders, until at last by calling out the name he breaks an old convention and makes a new one. For long the naming of a Member was the Speaker's ultimate sanction. Under Standing Orders Nos. 17 and 19† the process now almost automatically entails the suspension of the Member.

New precedents are constantly being formed. Quite recently, on Friday, April 13th, 1945, the House decided to adjourn out of respect for the late President Roosevelt. Never before has an adjournment taken place upon the death of the head of a foreign State. The incident will go to swell the mass of parliamentary traditions and to be called into use in the future.

Questions

The emphasis in the last chapter was on the *fairness* of procedure; let us now try to judge how *efficient* it is by watching the two Chambers at work; and since so much of the proceedings may easily be missed during a first visit, let us make a strictly practical approach. It is well worth arriving in plenty of time to have a close view of the Speaker with his officers marching in dignified procession behind the mace to the Chamber. Once installed in the gallery a glance down will prove, I hope, that the threads of previous chapters are all drawing together to form an intelligible picture. We recognize the Chamber of the House of Lords as the temporary home of the Commons with the Speaker in his Chair and the Clerks at the Table before him. The mace will be lying *on* the Table and the Serjeant at Arms seated at the Bar. We shall recognize the principal Members of the Government—perhaps from caricatures—on

* Sir R. Palgrave, *The House of Commons*, p. 11.
† The Standing Orders are due to be renumbered.

the "Treasury Bench" to the Speaker's right, with their supporters behind them and facing the Opposition benches, occupied, as you will observe, by lively critics of the Government. Minor opposition parties occupy the seats on the Speaker's left, but below the gangway.

In 1945 the House of Commons was temporarily increased from 615 Members to 640, to deal with certain overgrown electoral areas, while Boundary Commissions were recasting the whole country into single-member constituencies.* The Representation of the People Bill, now before Parliament, accepts their recommendations for five extra constituencies for England and one for Wales, and adds others, but also abolishes—in pursuit of the ideal of "one man one vote"—the twelve University seats and the separate representation of the City of London. These decisions reverse the findings of the Speaker's Conference of 1944 and have excited much controversy; but, subject to further modifications of the Bill, the next House of Commons will consist of 625 Members; 506 returned from England, 71 from Scotland, 36 from Wales and 12 from Northern Ireland.

The Bill (which incidentally repeals the famous Reform Act of 1832) also brings the electoral law up to date by a host of amendments relating to such subjects as the registration of electors, the conduct of elections and expenses of candidates. In a matter so vital to democracy as the election of its representatives no detail is unimportant. The presiding officer at a polling station must know how to deal with an elector who arrives drunk, or has no hands, or is deaf, dumb *and* illiterate, or marks his voting paper with half a cross, or simply with the word "Nap".

How many Members will be present at any particular time depends upon the interest and importance of the business in hand, but Question time generally produces a good attendance.

The first few minutes may be occupied with "Private Business", which usually means the stages of a special class of Bills dealing with some local or personal matter which requires the sanction of Parliament—the extension of the powers of a local authority, a railway, gas or water company, for instance, or regulating a private estate. [Bills of this kind, even when

* See initial Reports of the four Boundary Commissions, 1946-7 (Cmd. 7231); 1947-8 (Cmd. 7260), (Cmd. 7270) and (Cmd. 7274), all well garnished with maps.

† See *Hansard* for 16th February, 1948, c. 839 *et. seq.*

opposed, do not occupy more than a few hours of the House's time, but for their Committee stage they are formed into "Groups", and four Members, sitting in a semi-judicial capacity, hear the case for or against them argued by Counsel. It is an example of essential but unostentatious work required of Members.]

During these few moments, while Private Business is going on amid a low hum of conversation, it is advisable to glance through the "Notice Paper" (secured from a gallery attendant) and to mark thereon any of the "Questions" which are of personal interest to the visitor. There are Questions to suit every taste. They relate as often to personal grievances as to matters of wide interest and they cover every conceivable subject. Not long ago the following typical questions were answered on the same day in the House of Commons:—

SQUADRON-LEADER SIR GIFFORD FOX asked the First Lord of the Admiralty who is to bear the loss of the four Admiralty safes and contents, the largest weighing 13 cwt., which were stolen by lorry on 6th September, 1945, from the R.N. Air Station, Culham, containing £6,900, of which £200 belonged to Lt.-Commander Howard, R.N.V.R., proceeds of the sale of his car; £30 to the 3rd W.R.N.S. officer, being balance of her uniform allowance on being commissioned; £200 from the ward room mess fund; £180 from the sailors' money in the ships' funds; when a decision is likely to be taken, and what rate of interest will be paid?

THE PARLIAMENTARY AND FINANCIAL SECRETARY TO THE ADMIRALTY: "Individual officers and men and treasurers of mess funds are permitted to deposit non-public moneys with naval supply officers for custody only, and are warned that they do so at their own risk, and that the State is not liable to make good any losses. The question whether any exception can be made in the cases referred to is under consideration."

MR. DRIBERG asked the Prime Minister whether the forthcoming atomic bomb experiments in the Pacific are the sole responsibility of the U.S. Government, and whether British and other allied scientists and observers are to take part in the experiments?

THE PRIME MINISTER (MR. ATTLEE): "The forthcoming atomic bomb trials in the Pacific are the sole responsibility of the United States Government. . . ."

MR. ARTHUR LEWIS asked the Minister of Food whether he is aware of the profiteering now going on concerning the sale of toffee apples; and what action he proposes to take to reduce the current price of 1s. each to a more reasonable figure?

THE MINISTER OF FOOD: "Yes, Sir. My enforcement officers are co-operating with the police in dealing with offenders against the price regulations. A price of 1s. each for toffee apples would be well above the legal maximum."

By the end of Question time the visitor will have guessed that many Questions have a past history of differences between Members and Departments, and that they are as often designed to press for action in remedying some grievance as to obtain information. He will also have some appreciation of the vast field covered by Parliament. During this time it will have been exercising its *critical* function, and Ministers of the Crown will be the best witnesses as to its efficiency: the Treasury Bench is not always a comfortable seat at this hour. Questions are a comparatively recent development of procedure. The earliest instance was in 1721, but the first printed Questions did not appear on the Order Paper until 1835 and a fixed time was not given up to them until 1869. Originally their place was taken by numerous other opportunities for debate and by petitions, laboriously prepared, often with thousands and even millions of signatures. The saving of time and trouble resulting from the substitution for a petition of a Question concerning thefts, atomic bombs or toffee apples, may be imagined. In early days a Member could ask as many Questions as he wished, but pressure of time has compelled a restriction first to eight, then to four, and (since 1920), to three. All Questions which are "in order" are placed on the Notice Paper, any in excess of a Member's daily allowance being put down for a later date.

A New Member

Although the next item on your Notice Paper is "*Police (His Majesty's Inspectors of Constabulary) Bill; Second Reading*", several proceedings may intervene. Let us imagine two of them. A new Member, elected at a by-election, is standing at the Bar between his two sponsors. At the Speaker's invitation they walk up the centre of the House, stopping three times to bow, and Mr. —— then takes the oath, signs the Test Roll and is introduced to Mr. Speaker. Yesterday he was an ordinary citizen; today he is a Member of Parliament.

The Resolution of the House requiring Members elected at by-elections to be introduced by sponsors "so that they

may be the better known to the House" was passed in 1688. On April 17th, 1945, a newly elected Member refused to accept sponsors, on the ground that there were none of his 'party in the House. It was decided upon a division not to dispense with the rule, and on the following day the Member accepted two sponsors and was introduced in the usual fashion.

Privilege

A sudden buzz of interest causes you to lean forward. A back-bench Member, the Chairman of a Private Bill Committee, is on his feet to raise a point of "Privilege". He has a newspaper cutting in his hand and is claiming that a provincial editor has questioned his fairness in the conduct of the Committee. The "Privileges" of the House form a special sort of law—its own law, interpreted and administered by itself within the walls of Parliament, but acknowledged and recognized everywhere as part of the law of England—which has grown up through the ages for the express purpose of maintaining the dignity and independence of the House and of its Members. The Privileges of Members include freedom of speech, freedom from arrest (except on a criminal charge) and protection against assaults and indignities. Privilege must not, however, be thought of as some special favour which enables Members to ignore the ordinary law. It is a very necessary protection, without which a Member could not defend the electors' own interests. The Privilege of Members is therefore to be regarded as the privilege of every citizen. No new Privileges may be created and the present practice of the House seems to be to insist upon no more than the bare minimum of its rights necessary to uphold its proper dignity and efficiency. If necessary, a complaint of breach of Privilege is referred to the Committee of Privileges—the most authoritative of all Committees—and after they have reported a majority of the House must agree with the report and decide what sanctions are to be imposed, if the offender is punished at all.

Legislation

The House will next proceed to the "Orders of the Day".

On the following pages is a copy of the Bill in question, in case the reader has never seen one. The principal point to observe is that certain words—those imposing a financial charge on the country—are printed in italics, as a reminder of the special procedure required for this part of the Bill. As we have seen (p. 45), only "the Crown" (*i.e.* the Government) can propose such a charge, and the "Financial (or Money) Resolution", which is said to "cover" it, is printed on page 113. But, in order to allow Members some latitude, the Resolution should be drawn more widely than the wording in the Bill, so that alterations of the incidence of the charge, *and even increases* in its amount, may be proposed, so long as they are within the Resolution. This Resolution has to be agreed to both in Committee of the Whole House and in the House itself, before the particular clause can be proceeded with in the Committee on the Bill. If for any reason the Government wish *themselves* to increase the charge beyond the original Money Resolution they are bound either to withdraw it and introduce another, or to introduce a supplementary Resolution covering the extra charge.

The purpose of these additional stages (which some critics of parliamentary procedure consider superfluous) remains what it was when they were adopted almost 300 years ago by the House of Commons "in the exercise of that great and most important privilege, 'the sole and exclusive right of granting aids and supplies to the Crown': in order (as it is their duty, when they are imposing burthens upon their fellow subjects, to give every opportunity for free and frequent discussions) that they may not, by sudden and hasty votes, incur expenses, or be induced to approve of measures, which might entail heavy and lasting burthens upon themselves and their posterity".*

It is difficult for the uninitiated to realize the amount of work which goes into a Bill before its appearance in the House. Even such a slight Bill as this one will have been thoroughly thought out and discussed in all its bearings, and in the case of an important and complicated measure such as an Education

* Hatsell's *Precedents*, ed. (1818) iii, p. 176-7.

Bill or a Coal Mines Bill the labour is enormous. It is said that Mr. Gladstone originated the system of preliminary consultations with affected interests, and this procedure saves much time. In addition, there will be thorough discussion with the Treasury and other Departments, and numerous drafts may have to be prepared before approval for the introduction of the Bill is finally secured from the Cabinet Committee on Legislation.

The expert barristers who put the required ideas into proper legal form are called "Government draftsmen". "One might fairly say of these draftsmen", writes Sir Cecil Carr, the present Counsel to Mr. Speaker, "that they are, in fact and of necessity, the key men of Whitehall, the hardest-worked, the most severely tried. Having no politics themselves, they have to know . . . every move in the political game. They could—but you may be sure they will not—tell you the truth about many a famous Minister, his strength and his weakness. . . . Their knowledge of law must be extensive and accurate. Their responsibility is grave."*

In spite of the care taken in the preparation of Bills, many emerge as Acts whose interpretation puzzles the shrewdest judges in the country. To the man in the street they are almost unintelligible. The following extract is taken at random from the Local Government Bill, 1947:—

> "(4) There shall be paid out of moneys provided by Parliament to the council of each such county or large burgh as aforesaid such sum as bears to the excess of the amount estimated under subsection (2) of this section in relation to the county or large burgh over the amount estimated under sub-section (3) of this section in relation thereto the like proportion as the number of days in the part of the year 1948-49 which precedes the appointed day for the purposes of Part II of the National Health Service (Scotland) Act, 1947, bears to the number of days in the whole of that year."

Further confusion results from legislation by reference back and amendment of previous Acts, of which the following, taken

* *Concerning English Administrative Law*, p. 171.

A BILL

Police (His Majesty's Inspectors of Constabulary) Bill.

FINANCIAL MEMORANDUM.

The County and Borough Police Act, 1856, limits to three the number of Inspectors of Constabulary who may be appointed under that Act, and the Police (Scotland) Act, 1857, provides for the appointment in Scotland of only one Inspector of Constabulary. The Bill provides for the removal of these limitations; and also permits the appointment of a Chief Inspector for England and Wales, and a Chief Inspector for Scotland.

In wartime, additional Inspectors of Constabulary have been appointed under Regulation 40 of the Defence (General) Regulations, 1939.

The actual number of appointments which would be made under the Bill would depend to some extent on post-war developments, but it is not anticipated that, for England and Wales, more than two or, at most, three permanent additional posts will be needed. If three additional appointments are made, and one of these is the appointment of a Chief Inspector, the additional cost, compared with the cost of the Inspectorate before the war, will be about £6,000. This figure includes a sum for travelling allowances and incidental expenses.

The question whether any additional appointment would be made in Scotland would depend on post-war circumstances, but it is not expected that more than one permanent additional post will be created. If one additional appointment is made, and a Chief Inspector for Scotland is appointed, the additional cost, compared with that before the war, will be about £2,000. This figure includes a sum for travelling allowances and incidental expenses.

A

B I L L

TO

Remove the restriction upon the number of His Majesty's Inspectors of Constabulary that may be appointed under section fifteen of the County and Borough Police Act, 1856, or section sixty-five of the Police (Scotland) Act, 1857, to provide for the appointment of Chief Inspectors for England and Wales and for Scotland respectively, and to amend the law as to the reports upon matters affecting the police which are to be laid annually before Parliament. A.D. 1945.

* BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) The number of inspectors of constabulary that may be appointed by His Majesty under section fifteen of the County and Borough Police Act, 1856, shall be such as a Secretary of State may, with the consent of the Treasury, from time to time determine; and of that number one may be appointed as His Majesty's Chief Inspector of Constabulary for England and Wales. Amendment of 19 & 20 Vict. c. 69, s. 15

(2) So much of the said section fifteen as requires a report upon the matters therein mentioned to be made by each of the inspectors appointed thereunder shall cease to have effect, and such report upon those matters as a Secretary of State may direct shall be made to him annually, and copies thereof shall be laid before Parliament.

2.—(1) The number of inspectors of constabulary that may be appointed by His Majesty under section sixty-five of the Police (Scotland) Act, 1857, shall be such as a Secretary of State may, with the consent of the Treasury, from time to time determine; and of that number one may be appointed as His Majesty's Chief Inspector of Constabulary for Scotland Amendment of 20 & 21 Vict. c. 72, s. 65

* This enacting formula dates from the 15th century.

A.D 1945.

(2) So much of the said section sixty-five as requires a report upon the matters therein mentioned to be made by the inspector appointed thereunder shall cease to have effect, and such report upon those matters as a Secretary of State may direct shall be made to him annually, and copies thereof shall be laid before Parliament.

Expenditure.

3. *Any additional expenditure incurred by reason of the provisions of this Act shall be defrayed out of moneys provided by Parliament*

Short title.

4. This Act may be cited as the Police (His Majesty's Inspectors of Constabulary) Act, 1945.

Police (His Majesty's Inspectors of Constabulary).

A

B I L L

To remove the restriction upon the number of His Majesty's Inspectors of Constabulary that may be appointed under section fifteen of the County and Borough Police Act, 1856, or section sixty-five of the Police (Scotland) Act, 1857, to provide for the appointment of Chief Inspectors for England and Wales and for Scotland respectively, and to amend the law as to the reports upon matters affecting the police which are to be laid annually before Parliament

Presented by Mr. Secretary Morrison supported by Mr. Secretary Johnston Mr Chancellor of the Exchequer, Miss Wilkinson and Mr Westwood

Ordered by The House of Commons, *to be Printed, 2nd February* 1945

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Price 1d. net (P. 2817)
[Bill 19]

This Bill has been selected because, though not of particular importance, it is short, completely uncontentious and includes a Financial Memorandum and an italicized "Money" clause.

A FINANCIAL (OR MONEY) RESOLUTION

H

Police (His Majesty's Inspectors of Constabulary) [Money] (King's *Recommendation* signified),—*considered* in Committee under Standing Order No. 69:—

(In the Committee)

Resolved, That for the purposes of any Act of the present Session to remove the restriction upon the number of His Majesty's Inspectors of Constabulary that may be appointed under section fifteen of the County and Borough Police Act, 1856, or section sixty-five of the Police (Scotland) Act, 1857; to provide for the appointment of Chief Inspectors for England and Wales and for Scotland, respectively, and to amend the law as to the reports upon matters affecting the police which are to be laid annually before Parliament, it is expedient to authorise the payment out of moneys provided by Parliament of any additional expenditure incurred by reason of the provisions of the said Act of the present Session removing the said restrictions and providing for the appointment of such Chief Inspectors.—(*Mr. Secretary Morrison.*)

Resolution to be reported.

Report to be received upon *Tuesday* next.

Extracts from the "Votes and Proceedings" of 8th February, 1945, showing the Financial Resolution which must be agreed to, first in Committee of the Whole House and then (on Report) in the House itself, before the part of the Bill which imposes a charge on the public revenue can be considered (*See p.* 108).

from sub-section (5) of section 21 of the Finance Act 1936, is a terrible example:—

> "Sub-sections (2) and (3) of Section twenty of the Finance Act, 1922, shall have effect as if references to paragraph (c) of sub-section (1) of that section included references to the foregoing provisions of this section, as if references to a disposition included references to a settlement, and as if the reference to the making of a disposition included a reference to the making of or entering into a settlement, and sub-section (4) of that section shall have effect as if the reference to that section included a reference to the said provisions of this section."

(Where the amended matter is short it is sometimes printed as a schedule to the new Bill with the amendments shown by typographical devices, but this attempt at clarification can only be used in certain cases).

The explanation given by the draftsmen is that this involved style is unavoidable owing to (*a*) the extreme complexity and wide range of modern legislation, (*b*) the desire of Parliament to control its effect as closely as possible, (*c*) the necessity of avoiding difficulties of interpretation in the Courts. They add that legislation by reference is often a convenient and economical method, since the alternative to amending old Acts is to repeal them and to enact whole new measures, which involves much extra printing and throws the entire new measures open to discussion and amendment by Parliament, instead of only the matters requiring alteration.

But the making of laws seems fated to be a thankless task. In 1825, for instance, the Treasury had but a single specialist draftsman at their disposal and many Bills were drawn in a very defective manner, "so abounding in errors of grammar even, that the very printer puts *sic* in the margin."* The "highest legal authorities" were as dissatisfied then as they are today, but they found the legislation unintelligible for an opposite reason—the Acts were "so loosely worded that no proceedings could be instituted upon them" and they were "passed in ignorance of the practice they tried to improve".

* Wicken's *Argument for Division of Labour, Part I, p. 22.*

The effect upon the unfortunate citizen at both periods appears to be identical: "Any attempt of the unlearned public to understand the statutes is like an endeavour to interpret a Runic inscription." Perhaps some committee of lawyers and men of letters and other sensible speakers of the King's English may one day examine this matter which so nearly affects the work of Parliament. They might enjoy the task of selecting monstrous specimens and first calling critical experts to suggest alternatives, and then the draftsmen to defend their drafting and to criticise the critics. Together they might all hammer out some recipes for more intelligible laws; but even if they found that *no* improvement was possible, that in itself would be a comfort and a reassurance to the man in the street.

It is unnecessary to follow the smaller details of procedure on a Bill. Everyone has heard of its three "Readings"—dating back, of course, to days before printing. The First Reading stage has for long been formal. It is merely a signal that such a Bill is on its way. Between First and Second Readings the Bill is printed and circulated to Members. Upon the Second Reading the *principle* of the Bill is discussed and a wide debate may take place; in Committee its *details* are examined, line by line and word by word. Then follows the Consideration (or Report) stage, in the House, with further opportunities for amending the Bill. Finally, on the Third Reading, debate may be raised on the Bill as it stands. If the Bill has passed all these stages without the House voting for its rejection at any stage, it is then sent to the Lords. The endorsements on Bills passing between the Houses are still made in Norman French—in this case "Soit baillé aux Seigneurs" (let it be forwarded to the Lords). The whole process is repeated in the second Chamber. The Lords either agree to the Bill as it stands or return it with Amendments, and in the latter case it continues to pass between the Houses until either an accommodation is reached and it becomes an Act by receiving the Royal Assent (from a Commission representing the Sovereign) with the words "Le Roy le veult", or neither side will give way and the Bill is lost. No Government Bill had been rejected by the Lords since 1914 (when two were forced through by the Parliament Act) until they threw out the amending Parliament Bill in June, 1948.

Disagreements over Amendments are rarely pushed to extremes. Although in 1930, after repeated Messages had passed between the two Houses, a deadlock seemed inevitable, in the case of the Unemployment Insurance (No. 2) Bill, the Commons gave way, and in the case of the Coal Mines Bill the Lords did so. Private Members' Bills and Private Bills, however, often pass through one House only to be rejected or shelved in the second.

In the case before us the Bill is a slight one, a mere fragment of a chapter to be added to the great body of existing law. Nevertheless the little debate (lasting about thirty minutes) upon the Second Reading is conducted on model lines. The Minister explains the measure; two or three interested Members raise queries; these are answered by an Under-Secretary, and the House is satisfied and allows the Second Reading. Some days then elapse before the Committee stage, according to the usual practice. But let us suppose instead that it is necessary for the Bill to pass at once. The Serjeant at Arms will put the Mace below the Table top and the Speaker and Clerk will leave their chairs for a few moments while the Chairman of Ways and Means, from the Clerk's place, conducts the Bill through its Committee stage. A few small Amendments may be incorporated or withdrawn in face of an explanation from the Minister in charge of the Bill. Then, after the Speaker and Clerk have resumed their places and the Mace has reappeared, the Bill, if amended in committee, is considered; then the Third Reading is taken and the Bill is passed. (These details are inserted to explain the actions and pauses during the proceedings which visitors must often find rather baffling.)

The process is exactly the same, though much longer, for more important measures. The Second Reading, for example, may occupy two or even three days, and the Committee stage (which is now generally taken upstairs, in a Standing Committee), several weeks (see p. 123.)

A Second Reading can be opposed either by voting against the question "That the Bill be now read a Second Time" or, more usually, by moving an Amendment in one of the two forms: (1) to substitute the words "This day six months" (or three months) for "now", which, if successful, is accepted as

a definite rejection of the Bill or (2) a "reasoned Amendment", setting out the grounds on which the Bill should be refused a Second Reading. Again, if carried, the Amendment will almost certainly be fatal to the Bill. To comply with the principle of "publicity", notice of the great majority of parliamentary proceedings is required before they come on in the House.

In Committee both the supporters and opponents of a Bill may attempt to secure its alteration in detail by proposing Amendments to it. Since the possible number of such Amendments is unlimited, certain steps have had to be taken to prevent an indefinite hold-up of business. (1) The Chairman and his Deputy have been granted a permanent power to select Amendments, known as "the Kangaroo", since the choice leaps over some Amendments to descend upon others—those not selected being ignored. In this selection they have the advice of various experts and endeavour to treat all Members with scrupulous fairness, by selecting those Amendments which cover the widest ground. (2) Various forms of closure have been instituted (see glossary). Of these the old form of demanding "That the question be now put", after each Amendment has been under discussion for a reasonable time, is not effective enough in its action, and, in the case of long and controversial Bills, has been largely superseded by the "Guillotine" system: a Motion proposed by the Government and which must be agreed to by the House, to allot fixed periods of debating time for the stages of a Bill or for its detailed parts during one stage. But in recent years a voluntary agreement for this purpose has often been found equally effective.

These are the means by which Parliament exercises its *legislative* function. That it can work fast in an emergency was proved once again at the outbreak of war in 1939, when forty-nine Bills passed through both Houses in three weeks; a great deal of preparatory work had, of course, been done by the Departments in anticipation of the crisis.

Before leaving the subject of legislation a word should be said about White Papers, when they take the form of explanatory statements of Government policy on a particular subject. Of

late years the custom has grown up of testing opinion by a Motion such as:

> "That this House approves the Proposals of His Majesty's Government for Civil Aviation contained in Command Paper No. 6712,"

before introducing the relevant legislation. This saves time by clarifying the views of the House and of the country at an early stage, and presents the subject to the public in a form more intelligible than that of a Bill. The procedure of discussion by White Paper was followed during 1944 in the cases of some of the great projects of our time, the establishment of a National Health Service, Social Insurance and Industrial Injurics Insurance.

The Main Debate

By this time the House is packed to the doors if, as we shall suppose, you have been very lucky and the main business of the day is a great debate upon, say, foreign affairs. Since the House will not in all probability wish to come to any particular Resolution upon such an occasion, and since some question should always be before the House,* the debate will proceed upon the Motion "That this House do now adjourn". After the Chief Whip has formally moved this Motion, the Prime Minister opens the debate with a general statement upon the trend of events and the Government's policy. And it is on such an occasion that you are most likely to come under the spell of the House of Commons. You will feel the excitement of the crowded and traditional setting, the exhilaration of fresh news (for the House likes well to be first informed), the jests sparking like electricity across the Floor, sudden sallies of laughter, the cheers and counter cheers, above all a sense of being really at grips with the subject. There is much ill-informed and misinformed talk in the House—but not so much as outside. After listening to a House of Commons debate it is difficult not to feel that one is at any rate nearer *a chance* of arriving at the truth. That is the advantage of listening to the Grand Inquest of the nation at its work.

* There are exceptions to the rule demanding that a question shall always be before the House, such as "Questions" themselves, statements by Ministers and personal explanations; but exceptions and less common proceedings have had to be ignored in this sketch, to try to give the reader a view of the wood without smothering him among the branches of the trees.

After the Prime Minister's opening speech, Member after Member will be selected to speak from the number who rise in all parts of the House. You will soon have a just suspicion that "catching the Speaker's eye" is not the pure hazard which it sounds. Members with special authority or qualification to speak, diplomatists, service Members or economic experts, will have previously informed the Speaker of their desire to take part, and he will have these names in mind during the debate. This is another instance of a rule of absolute fairness tempered by common sense. The element of chance still remains and on the whole the arrangements work to the advantage and satisfaction of the House.

Later in the debate specific and relevant matters or grievances may be raised, such as the merits of certain disputes, or conditions affecting British subjects in different parts of the world. You may perhaps be surprised by the simple, almost conversational style of speaking. That has been the trend for at least the last hundred years. In the eighteenth century a handful of aristocratic protagonists on each side delivered speeches of several hours duration, in the grand style, modelled on the orators of the ancient world and packed with classical quotations, while the masses of country squires sat by, applauded, and scarcely spoke at all themselves. The main change came with the new type of Member in 1832 and since then there has been a steady tendency towards shorter and simpler speaking. "If I were asked to supply in three words the clue to good parliamentary speaking at the present time, those words would be, *clearness, simplicity, restraint*", says Lord Snell.* The House hates hollow declamations and false sentiment—but above all it hates bores. As early as 1819 Sir T. Buxton remarked that "The House loves good sense and joking, and nothing else", and more lately a writer has cruelly called the House of Commons "a body without any principles or prejudices, except against bores".

The Adjournment

Unless a motion to extend the usual hour of sitting has been moved by the Government and agreed to by the House (a

* *Daily Life in Parliament*, p. 46.

AN ESTIMATE

CLASS VII.—COMMON SERVICES.

— 1 —

HOUSES OF PARLIAMENT BUILDINGS.

I. ESTIMATE of the amount required in the year ending 31 March 1946 for expenditure in respect of Houses of Parliament buildings.

One hundred and twenty-two thousand two hundred and fifty pounds.

II. Subheads under which this Vote will be accounted for by the Ministry of Works.

	1945.	1944.	Increase.	Decrease.
	£	£	£	£
A.—NEW WORKS, ALTERATIONS AND ADDITIONS	70,500	20,500	50,000	—
B.—MAINTENANCE AND REPAIRS ..	36,775	37,345	—	570
C.—FUEL, GAS, ELECTRIC CURRENT AND WATER	8,600	8,750	—	150
D.—CLEANING, &c.	4,050	4,055	—	5
E.—FURNITURE, &c.	2,500	1,150	1,350	—
GROSS TOTAL .. ..£	122,425	71,800	51,350	725
Deduct— F.—APPROPRIATIONS IN AID	175	550	375	—
NET TOTAL .. ..£	122,250	71,250*	51,725	725

NET INCREASE .. £51,000

* Total Original Net Estimate, 1944 £51,250
Add—Supplementary Estimate (H C 30 of 1944–45) .. 20,000
£71,250

These two pages show the complete Estimate for "Houses of Parliament Buildings."

III. Details of the foregoing.

A.—NEW WORKS, ALTERATIONS AND ADDITIONS

	Total Estimate		Probable expenditure to 31 March, 1945	Vote required for 1945	Further amount required for completing the service	Voted 1944
	Works Services.	Furniture and removal expenses				
	£	£	£	£	£	£
I.—WORKS IN PROGRESS: House of Commons: Rebuilding ..	1,250,000	-	20,000	70,000	1,160,000	20,000
II.—URGENT UNFORESEEN WORKS	—	—	—	500	—	500
			Total £	70,500	—	20,500

	1945	1944
	£	£
B.—MAINTENANCE AND REPAIRS:		
1. Maintenance and repair of buildings (including new works of a minor character not exceeding 500*l*), wages of industrial staffs in connection therewith, and miscellaneous charges	19,425	19,815
2. Engineering works and services and wages of industrial staffs in connection therewith	13,350	13,130
3. Restoration of stonework	3,500	4,000
4. Maintenance of Victoria Tower garden, &c	500	400
TOTAL	£36,775	37,345
C.—FUEL, GAS, ELECTRIC CURRENT AND WATER:		
1. Fuel	100	250
2. Gas	900	1,000
3. Electric current	6,700	6,500
4. Water	900	1,000
TOTAL	£8,600	8,750
D.—CLEANING, &c.:		
Cost of staff engaged in cleaning the buildings (3,800*l*.), laundry (200*l*.) and household articles (50*l*.)	£4,050	4,055
E.—FURNITURE, &c.:		
Repair and replacement of furniture, blinds and floor coverings, including carpet beating, &c., and wages of industrial staff	£2,500	1,150
F.—APPROPRIATIONS IN AID:		
Rents, sale of old materials, &c.	£175	550

Whether a Member wishes to have an estimate decreased or increased his method of criticism is to move for a reduction. For example, if he wished to procure either an acceleration in the restoration of the old stonework, or a suspension of this work, he would put down the following Motion:

Mr.——,—On Civil Estimates, Class VII, Vote 1: to move to reduce Sub-head B, Item 3 by £100.

frequent practice nowadays) or unless "exempted business" (see glossary) is under discussion, the House at present concludes its main business of the day at 10 p.m. The remaining half-hour before the House finally rises is eagerly sought after by Members to raise small debates on a Motion for the Adjournment. Formerly this period used often to be seriously bitten into by certain formalities, but as some indemnification for the loss of practically all Private Members' debating time during and since the war, they have now been assured of a full half-hour for this purpose. It is a useful and popular opportunity to raise topics and grievances of a somewhat urgent character, often arising out of "Questions". For example, a Member was much disturbed recently to find a "wounded soldier" on crutches begging in the rain outside an American Service Club, who told him that he had been discharged by an ungrateful country without a sufficient pension. The Member raised the matter first with the Minister of Pensions and then on the evening Adjournment, when the man was shown to be an impostor.

Two other types of Adjournment Motion should be mentioned. (1) Motions moved upon the eve of the parliamentary vacations, which provide opportunities for general debates, and (2) the rare Adjournment under Standing Order No. 8, to discuss "a definite matter of urgent public importance". The latter requires the Speaker's assent as to its definiteness and urgency, and its public importance is to some extent ensured by the stipulation that at least a quorum of the House must support it. A debate was successfully claimed under this Standing Order on April 10th, 1945 (the eve of the departure of the Government's delegates to the San Francisco Conference) to discuss: "The failure of the Government to take immediate steps to ensure the safety of passengers carried by Transport Command."

Committees of the Whole House on Bills or Resolutions

A Committee of the Whole House is composed of all the Members of the House sitting under the presidency of a Chairman instead of the Speaker, and with the Mace below the Table. Members are free to speak more than once on the same question, no seconders are required, and the whole atmosphere of debate

is more informal. The ordinary "Committee of the Whole House" deals with the Committee stage of Bills which are either of Constitutional importance, or in other respects too important or too urgent (and this sometimes includes small uncontroversial Bills) to send to Standing Committees. Committees of the Whole House also deal with Resolutions authorizing the grant of public money, mainly for the purposes of legislation (see p. 108).

Standing Committees and Select Committees

The majority of Bills go upstairs for their committee stage to Standing Committees. These are microcosms of the House itself, each composed of about 50 Members, in party proportions corresponding to those in the House. Select Committees are set up to examine special matters, and sometimes Bills, and are small enough (usually not more than 15 Members) for conveniently hearing evidence and examining witnesses.

The Committee of Ways and Means

Two other "Committees of the Whole House" exercise the principal financial functions of the House. On Budget day, when the Chancellor of the Exchequer makes his comprehensive review of the national accounts, the necessary changes in taxation are proposed in "Committee of Ways and Means". They must later be reported to the House itself and agreed to, and subsequently embodied in the annual Finance Bill which has to pass through all the usual stages within certain limits of time. (For other functions of this Committee, see Glossary, p. 158).

The Committee of Supply

Certain expenses of government (such as the Civil List and the salaries of Mr. Speaker, the judges and the Comptroller and Auditor General) are charged directly upon the "Consolidated Fund", which is the public purse, with the express object of avoiding the necessity for them to be annually voted and reviewed. The remainder, almost 70 per cent. of the total, are provided for out of "moneys provided by Parliament" in the form of "Estimates" which, after the most careful preparation in the Departments, and scrutiny by the Treasury, and, if necessary, the Cabinet, are presented to the House and voted in

"Committee of Supply", which is another Committee of the Whole House.

The Committee of Supply, therefore, grants the money which is later found by the Committee of Ways and Means. But there is one final step. It would be no use, for instance, voting an Estimate of millions of pounds for all the branches of the Army if the War Office chose to spend it all on pay for the men or for the officers. One of the Consolidated Fund Bills (known as the Appropriation Bill) therefore closely "appropriates" the money to its intended objects, and it is later the duty of a small committee of the House, the Public Accounts Committee, and one of its officers, the Comptroller and Auditor General, to ensure the strictest adherence to this measure.

About twenty-six days are occupied by the Commons in considering the estimates in the Committee of Supply; but, as they cover all the vast field of the Government's activities, it is rarely possible to examine the details of financial administration, and the debates are usually concerned with questions of policy. However, pursuing the ideal of fairness, as ever, it is the practice to allow the Opposition or Oppositions a free choice of subject on these days and they may plunge in their dip or sampler and bring up any item they wish for discussion. Moreover, a practice still exists which dates back to the earliest Parliaments, when the Commons were only called together to vote sums to the Sovereign, and it was their right first to have their grievances discussed—the old doctrine of "grievances before supply". This practice is as follows: upon certain occasions of going into Committee of Supply (see p. 123) a question is put "that Mr. Speaker do now leave the Chair", and by moving Amendments to this question attention can be drawn to relevant grievances or subjects. Apart from four such occasions when Members ballot for precedence in moving Amendments, the choice of subject for debate lies with the Opposition.

For instance, in March, 1945, to the question "That Mr. Speaker do now leave the Chair" for the Navy Estimates, a Member who had been fortunate in the ballot moved an

Amendment to leave out all the words after "That", and to add instead the words:—

> "This House, being convinced that the maintenance of adequate armed forces in the post-war era is a necessary condition for the preservation of world peace, the unity of the Empire and the welfare of our people, is of opinion that to enable us to discharge our obligations and ensure the integrity and security of the Commonwealth and Empire the strength of the Royal Navy should at all times be sufficiently maintained."

After debate, the Member stated that he was fully satisfied with the Government's replies, and asked leave to withdraw the Amendment.

Two smaller committees help the House to maintain control of expenditure. (1) The Public Accounts Committee, who, as already mentioned, are largely concerned with the appropriation of sums voted for the past year. They may also make recommendations for improving the form and method of the national accounts. (2) The Estimates Committee, who in normal times examine the current Estimates, and report what, if any, economies, *consistent with policy*, may be effected in them. During the war, the place of the Estimates Committee was taken by the National Expenditure Committee, who covered a wide field of investigation into possible economies in war expenditure, both by personal visits to factories, etc., and by calling thousands of witnesses before them.

That is how the House of Commons exercises its *financial* functions. It raises all taxes and grants their proceeds for specific purposes to the Crown. It is only the *initiation* of financial policy which belongs to the Executive, and that policy must at every step be authorized by the House.

The Commons exercise this control over policy and administration by means of debates on the main Estimates in Committee of Supply. Detailed control, so far as it exists, comes through discussions on the Supplementary Estimates and through the work of the Public Accounts and the Estimates Committees.

No sketch of the House of Commons would be complete without mention of two other matters, "Delegated Legislation" and the Private Member's struggle for time.

Delegated Legislation

Delegated legislation means exactly what it says. Since the province of Government is nowadays so gigantic that Parliament has neither the time nor the knowledge itself to make all the necessary laws and rules, it delegates by Act some of its legislating power to other authorities. Some, but not all, of the resulting "Statutory Instruments" have to be laid before Parliament and subjected to some degree of control. It is a very old practice, dating back from before the Reform Bill of 1832, and has grown with the increase of the scope of government, until, by 1947, no fewer than 2,916 such Instruments were made. As a Member has remarked, that works out at one every three hours, day and night, throughout the year.

The outcry against "Bureaucracy" and complaints about "red tape" relate principally to this delegated legislation. For some time past a great deal of alarm has been voiced concerning what has been felt to be an increasing and, perhaps, undue power and discretion which this practice takes from Parliament and gives to the Ministers and officials in Government Departments who make these Statutory Instruments. A book on this subject called *The New Despotism* was written in 1929 by the then Lord Chief Justice.* A famous Committee sat in 1932† and made recommendations. It found no evidence of any conspiracy on the part of the Civil Service to secure illicit powers such as was suggested in *The New Despotism*, but it recommended a number of safeguards. Nothing definite was decided until, with the war, the quantity of delegated legislation, particularly under the Emergency Powers (Defence) Acts, still further enormously increased and provided inevitable examples of irritating regulations and unsatisfactory drafting. The point was reached when a citizen could not even wave a handkerchief at an aeroplane or drop a tram-ticket in the street without infringing the law. A debate in the House, on May 17th, 1944, resulted in the setting up of a scrutinizing Committee to examine all Orders of a certain class, and its working is being anxiously

* Lord Hewart of Bury.

† The Committee on Ministers' Powers, 1932.

watched.* The conclusion seems to be that, although there is no cause for alarm, the large measure of minor legislation which it is essential for Parliament to delegate to the Departments does result in instances of mistakes and delays which can profitably be exposed by a vigilance committee of the type which has now been set up.

The Select Committee on Procedure recommended in 1946 that the subject of delegated legislation should be inquired into by a Select, or Joint Select, Committee, but the Government found the request premature until experience of the working of the new Statutory Instruments Act was available.

The Private Member Versus the Executive

The main problem of the House of Commons in action is one of time: how to reconcile the legitimate demands of the Government to get its growing volume of business through, with the legitimate demands of the Private Members of all parties to exercise their initiative in bringing forward Bills and Motions. It is easy to say that the former is the more important; but the contributions which Private Members desire to make are often extremely fresh and valuable; without them it is impossible for Parliament to be the full and free forum of debate which it ought to be for the discussion of all questions of national interest and importance. Moreover, the incessant struggle for freedom of action by Private Members (including many of the Government's own supporters) against the justifiable claims of the Administration, is but the counterpart of the tension which exists in the breasts of most of their constituents, where equal passions for freedom and for order wage battle constantly, to produce the independent yet law-abiding character of the average Briton.

The power of the Executive has been continually growing during the last 150 years. In 1832 the Government had precedence for their Orders on two days only, and that by courtesy. It was not till 1861 that a third day was given to them. By 1888 the Government were taking two complete days and about two-thirds of the sittings on the other three days. By 1939 Private Members, if they were lucky, had perhaps eight

* See First Special Report from the Select Committee on Statutory Rules and Orders etc., dated 1st May, 1945, and relating to unjustifiable delay in publishing the Ploughing Grants Regulations, 1945, H C. 82. See also H.C. 12 (1947-48) 2nd Report.

Wednesdays to bring forward Motions and thirteen Fridays for their Bills during a session. If they were unlucky, as has happened since 1939, the Government absorbed the whole of the time except Questions, the four days of "grievances before supply" Motions, and the daily Adjournment Motion which has now been fixed at a definite half hour. But the diminution of actual time is no measure of the loss of debating opportunities. In the middle of last century the initiative of a Private Member was almost unrestricted. He could move the Adjournment at any moment and raise any subject upon it; or he could move an Amendment to the motion for reading any Order of the Day and again talk upon any matter. Discussion was allowed to wander within wide limits. No amendment had needed to be relevant to the main subject; in 1831, for instance, on a motion for the Speaker to leave the Chair for the Committee on the Reform Bill, an Amendment was moved for the production of papers on the state of Poland. Nowadays, the scope of debate in various circumstances is strictly confined in accordance with a series of rulings from the Chair which have been worked out since the 1850's. Speaking generally, the rights of Private Members to force the consideration of "grievances before supply" and to secure a discussion on any subject—even against the convenience of the Government—have been seriously curtailed during the last hundred years owing to the ever-increasing quantity of government business which must be transacted. But the essential importance of these rights, which are the foundation of the control of the House of Commons over the Executive, remains.

The position regarding Private Members' Bills depends upon two considerations; first, the opinion which the individual concerned may hold as to the necessity for much or little legislation—which is likely in turn to depend upon how far he tends to the Left or the Right in politics; and secondly, the fact that most modern legislation requires highly expert knowledge in its preparation. Since the Government alone possesses this knowledge through the staffs of the Departments, Private Members' Bills are likely to be of a minor importance, though the handful which do get through in a normal year are generally of considerable interest. One of the most famous of all

Private Members' Bills was Sir A. P. Herbert's Matrimonial Causes Bill of 1937, which fundamentally altered the divorce law of the country. Other notable instances have been Mr. Banfield's Baking Industry (Hours of Work) Bill (1938), which at last abolished the evil system of permanent night baking, and the late Miss Ellen Wilkinson's Hire Purchase Bill of the same year, which controlled the abuses which had grown up round the Hire-Purchase trade.

As regards opportunities for raising particular topics, Mr. Churchill has recently pointed out that they exist in plenty if diligently sought out:—

> "Of course, anyone who chooses to learn parliamentary procedure will see that in the course of a session there are very few topics that he cannot find occasion to vent, but careful study of the rules of procedure is recommended to those who wish to find these opportunities."*

This view is constantly being confirmed by the sight of an active new Member asking Questions, diligently balloting, applying regularly for the Adjournment and contriving somehow to "get in" on specialized debates as well as the "wide open" ones such as the Address (see Glossary), Consolidated Fund Bills and the major Adjournments.

In conclusion, another short digression may be permitted in pious memory of a Member who, by indomitable perseverance and will-power, taught the House of Commons to exercise one of its functions and proved the eternal importance of the individual quality of membership, under any system of procedure.

Joseph Hume was a retired Indian surgeon who, in the years before and after the Reform Bill of 1832, kept an office and a clerk at his own expense to examine the Estimates and to prepare his statements and facts. Very little interest was taken in the Estimates in those days; a sprinkling of Members attended, many of them dozing or lying sleeping on the benches. Hume was the most assiduous attender in the House, sitting every day from the meeting till the adjournment almost without interruption, and dining off a pocketful of pears as he sat,

* *Hansard for 29th Nov.* 1944, c. 33.

rather than leave his post of duty.* For almost forty years, with the help of a handful of supporters, he waged a ceaseless and disinterested war for economy in the national finances. Almost alone, he in some measure achieved what 100 years later many witnesses stated to be impossible, even with all the professional aids which could be devised—a detailed control of the Estimates by Parliament. He procured the abolition of sinecure posts and pensions; the reduction of Mr. Speaker's allowances. No detail was too small for his scrutiny; even the gilt edging of the paper used for reports and notices was abolished at his behest. In a double sense Joseph Hume achieved an honourable niche in the temple of House of Commons fame. As a memorial to his labours, his bust stands in the Oriel room of the House of Commons Library, while the following tribute was paid to his work by Mr. Gladstone: "Mr. Hume did more, not merely to reduce the public expenditure as a matter of figures, but to introduce principles of economy into the management of the administration of public money, than all the men who have lived in our time put together. This is the kind of labour which we want above all things."

HOW THE PROCEEDINGS REACH THE PEOPLE

> "It is not natural, nor rational, that the people who sent us hither should be not informed of our actions."
>
> *Sir Francis Winnington, M.P.* 1681.

The attitude of the House of Commons towards the publication of its proceedings and debates must, until recent years, have appeared vacillating, parsimonious and unhappy. But it should be remembered that Members had, at different times, sound reasons to fear the vengeance of an overbearing Sovereign or of the capricious London mob.

In early times Acts of Parliament were promulgated in the county courts,† and, at any rate from the beginning of Elizabeth's reign until about 1641, all the other proceedings of the House

* *Random Recollections of the House of Commons* (1st Series), 1830-1835, by One of No Party, p. 7.

† Report of Select Committee on Publication of Printed Papers, 1837.

of Commons were supposed to be secret. "Every person of the Parliament", says a contemporary Member,* "ought to keep secret . . . the things done and spoken in the Parliament House to any manner of person, unless he be one of the same House, upon pain to be sequestered out of the House . . ." It should be remembered, however, that at all periods private diaries and notes kept by Members and others in the House have leaked out to a greater or less extent.

By a series of orders made from 1641 onwards, for printing specific Votes and Resolutions, the House showed its desire that the public should be made aware of its proceedings, *but only through its own action and through official channels.* In 1680 the supervision of the printing of the Votes was confided to the Speaker and the order has since been repeated on the first day of every session. The more formal records of the House's proceedings comprised by the Journals—which are almost continuous since 1547—are on sale to the public, and copies are sent to various libraries and Government Departments, at home and abroad. The Votes and Proceedings were originally printed, by Order of the House, with the intention of providing an accurate record of its actions, available within a few days, in place of the often inaccurate reports which appeared in News Letters. The Journal, being the full record of its proceedings, took a long time to prepare and was not published. Gradually, however, the Votes also became tardy and voluminous, and a Select Committee in 1817 recommended that they should be converted into the concise record of transactions, available on the following morning, which they have ever since remained. Specimen copies of a page of the Journal and of the Votes and Proceedings are reproduced on pages 89 and 87.

Division lists were published for the first time, unofficially, as electioneering literature, in 1689. It is interesting to note that in 1696 the Commons declared that the printing of the names of a minority was a breach of Privilege, as destructive of the freedom and liberties of Parliament;† but again it should be remembered that the House has always held that all its

* Hooker, in Lord Mountmorres' *The History of the Principal Transactions of the Irish Parliament from* 1634-1666. Vol. I, p. 143.

† Porritt, *The Unreformed House of Commons*, p 587.

members are bound by the decision of the majority. In 1770 Burke advocated the official publication of the lists, but it was not until 1836 that the present practice was adopted of officially publishing the votes of every Member day by day. The Official Report of Debates also records the full list of names for each Division.

There only remains to trace the somewhat unhappy history of the publication of the debates themselves. In the reign of James I, if a stranger found his way into the House he had to swear at the Bar not to disclose what he had heard in the Chamber. This practice and the frequent nervousness shown by the House when its proceedings were published without leave were of course due at this time to a fear of the Sovereign's displeasure and, as Macaulay says, were inseparably associated with constitutional freedom. The Commons even ordered their own Clerk Assistant, Rushworth, "not to take any notes here without the precedent directions and commands of the House, but only of the orders and reports made in this House." Nevertheless, Members and others continued to take notes, which found their way into the coffee-houses and news-letters of the day. News-letters were both the precursors of modern newspapers and the pioneers of parliamentary reports. They were distributed in manuscript, for a payment of two or three guineas a year, to subscribers who were mainly members of the county families. For over 100 years the policy of the House vacillated. Between the Restoration and the Revolution much latitude was allowed to the news-writers, who plied their business in the lobby as freely as correspondents do to-day. But in 1694 a writer called Dyer was reprimanded kneeling at the Bar, "for his great presumption" in reporting the proceedings of the House, and news-writers were forbidden henceforth to meddle in the debates. There was, however, an increasing public demand for parliamentary news, and other writers followed Dyer to the Bar.

When news-letters gradually gave place to printed magazines and newspapers the conflict was transferred to them and it became clear that what the House principally feared was misrepresentation, though it was also urged that to print speeches tended to make Members accountable outside the Chamber for what they said within, which, it was felt, would

conflict with their dignity and privileges. In 1738 the House declared it "a high indignity and notorious breach of Privileges" to print accounts of debates or proceedings in letters or papers and, in 1762, it further threatened "to proceed with the utmost severity against offenders". The newspapers had at first disguised the names of speakers and adopted other evasions, but by 1771, at the instigation of Wilkes and encouraged by the popular clamour for news, they boldly printed debates with the names of the speakers attached. The House promptly took action by summoning the printers of the papers to the Bar, and there ensued the unseemly contest which ended in the defeat of the House. The printers failed to attend and their servants insulted the Serjeant at Arms who was sent to apprehend them. The Corporation of the City of London, headed by the Mayor and an Alderman, both Members, and inspired by Wilkes, championed the printers' cause. As a result the House committed the Mayor and Alderman to the Tower. There they were so overwhelmed with visits, compliments and presents, that their imprisonment became one long ovation. There was no doubt on which side the public sympathy lay. After six weeks' confinement the Prorogation released the prisoners, and a year later the sheriffs were able to boast with justification that the House of Commons had "tacitly acquiesced in the claim made by London citizens on behalf of the public at large that the constituents had a right to be informed of the proceedings of their servants in Parliament."*

The great constitutional contest was over and the public had won. The House, however, refused to acknowledge their defeat; the publication of debates was still declared to be a breach of Privilege, though the offence was committed with impunity. Reporters had still to crowd into the gallery with other strangers and it was not till 1803 that their right to the back bench was acknowledged by the Speaker and the Serjeant at Arms. After the fire of 1834, a separate reporters' gallery was, for the first time, provided in the temporary Chamber and in 1845 the presence of the reporters was recognized in an Order of the House. The permanent accommodation allotted to reporters in Barry's Chamber had several times to be enlarged, but ample

* Porritt, *The Unreformed House of Commons*, p 594.

and commodious space has been provided in the designs for the new House.

Since the debates were for so long reported unofficially and under conditions of the greatest discomfort, it is not surprising that they were also incomplete and inaccurate. Everyone knows the story of how Dr. Johnson (a staunch Tory), who had "reported" for the *Gentleman's Magazine* about 1740, by composing splendid speeches which he put into the mouths of politicians, was asked whether he had treated the parties fairly. "Yes", he replied, "but I took care that the Whig dogs should not have the best of it."

Another famous reporter was William ("Memory") Woodfall, whose astonishing powers of memorizing speeches won him a great reputation at the end of the eighteenth century. Charles Dickens was also a reporter for a few years in his youth and readers may remember the vivid account of Bellamy's Kitchen and a brilliant description of the expulsion of an intruder from the House in *Sketches by Boz*.

Shorthand reporters were at work in the gallery by 1786, but it was not until nearly 100 years later, in 1878, that a special corps was officially engaged, and not till 1909 that it became part of the staff of the House. It consists today of an editor, three assistant-editors and eighteen reporters; these last named take regular "turns" in the gallery. The turns vary from fifteen minutes by day down to five minutes late in the evening, and one man is generally sufficient to take the "note", with another sitting by, ready to relieve him or to help in a difficulty. At question time, when several Members are apt to speak simultaneously, a full "check note" is always taken. Later the note has to be transcribed, corrected and printed, and it is a remarkable achievement in normal times that, day after day, the full report, from the time the House meets until about midnight, is delivered to Members early on the following morning.

The doctrine of absolute fairness affects the verbatim report by rigidly excluding such enlivening and descriptive touches as "laughter" and "loud cheers" which used to be freely entered but which were sometimes unfairly attributed. The only expression permitted is a strictly neutral one—[interruption], except

that [laughter] is printed if required to explain the context of a speech, and, for the same reason [Hon. Members: "Hear, hear"]. The Press Gallery is also open to a large number of newspaper correspondents, who take reports, verbatim or condensed, write parliamentary sketches, or act as political correspondents. A number of rooms are available for their amenities and the affairs of the gallery are managed by a committee, elected annually from among all the reporters, sketch writers, and holders of Lobby tickets. The Lobby Correspondents also elect their own committee, to regulate their own affairs, as distinct from those of the gallery as a whole.

The name "Hansard" is the name of the most famous family in the history of reporting parliamentary debates. In 1812, T. Curson Hansard, son of Luke Hansard, the printer of the Journals, took over publication of a report of the debates started in 1803 by William Cobbett, the celebrated parliamentary journalist and reformer. The enterprise continued without public subvention until 1855, when the Treasury subscribed for 100 sets to T. C. Hansard, junior, grandson of Luke. Thereafter a history of ever-changing and always insufficient subsidies from the Treasury ended in the sale of the enterprise by Mr. Hansard in 1890 to the "Hansard Publishing Union", which undertook to carry it on without a subsidy and promptly went bankrupt. It was followed by various printers who failed to extract a sufficient grant from the Treasury even to cover their expenses, and it was not until 1909 that the Government shouldered its rightful burden and placed the production of the debates in the hands of the Stationery Office, but under the direction of Mr. Speaker. The name "Hansard" had disappeared from the title page in 1890, but in view of its close associations with the debates of Parliament and in response to representations inaugurated by the Hansard Society it was replaced by order of the Speaker in 1944.

Copies of *Hansard* (Lords and Commons Debates) may be purchased by the public from H.M. Stationery Office. They are delivered free to Members.

It was William Cobbett who first conceived the idea of compiling a *Parliamentary History of England from the Norman Conquest*

in 1066 *to* 1803, by sifting the Journals of both Houses, constitutional and general histories, the diaries of Peers and Commoners, memoirs, manuscripts and the meagre reports of news-letters, magazines and newspapers. With the help of a man called John Wright,* whose name deserves to be placed beside that of Hansard, this was accomplished, and, together with *Cobbett's Parliamentary Debates* and the later *Hansards*, forms a continuous, though extremely patchy, record.†

The Best Speech in Parliament

It is only in comparatively recent years that debates have been reported verbatim, and if, for instance, we indulge in a search for "the best speech of all" the results are disappointing.

It is manifestly impossible to find the superlative among speeches, but there was little doubt among those living at the beginning of last century as to the best speech of their generation. It was Sheridan's oration in the House of Commons on 7th February, 1787, in which he charged Warren Hastings with plundering the Begums of Oude. The *Hansard* report is unexciting and compiled from the incomplete versions of listeners. Sheridan spoke for five hours and forty minutes, and so tremendous was the excitement created when he sat down that the House had to be adjourned. "The whole House, the members, peers and strangers, involuntarily joined in a tumult of applause . . . loudly and repeatedly clapping with their hands." Burke said it was "the most astonishing effort of eloquence, argument and wit united, of which there is any record or tradition". Within twenty-four hours Sheridan was offered £1,000 for the copyright of the speech. He refused—because, it is said, he was too indolent to re-write it.

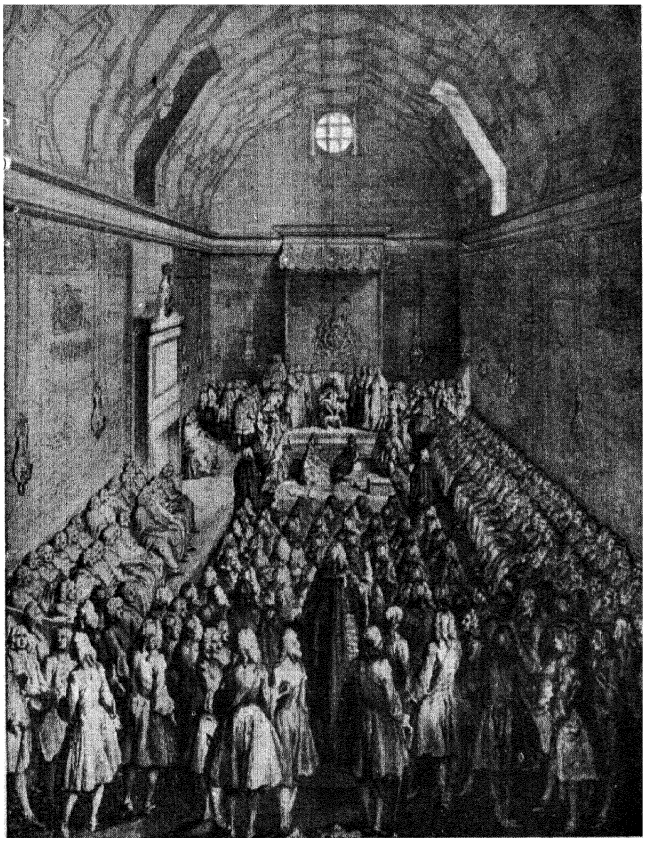
There are no Sheridans in Parliament today, and no orations in that style. But some of those who were privileged to hear a certain speech in the House of Commons in the fateful June of 1940 will be in no uncertainty about the most famous speech of their time: "We shall fight on the beaches. . . ."‡

* Michael MacDonagh, *Parliament, Its Romance, Its Comedy, Its Pathos*, p. 346.

† A somewhat similar scheme, originated by the late Lord Wedgwood, aimed at compiling biographies of all members from 1264 to 1918. The first two volumes of the thirty planned had appeared when war broke out. In 1940 a Trust of eminent members and officials of both Houses assumed control of the work, which has been temporarily suspended since 1942.

‡ See *Hansard* for June 4th, 1940.

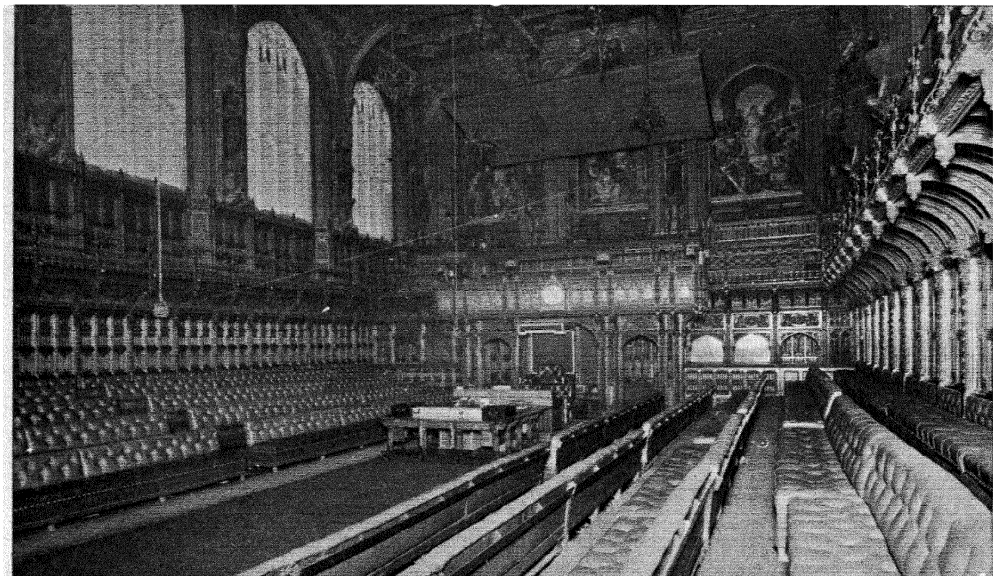
From an engraving by John Pine.
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THE HOUSE OF LORDS IN 1742

Mr. Speaker Onslow and Members of the House of Commons attending to hear the Royal Assent to a Bill.

Photograph by Ministry of Works. Reproduced by permission of the Controller, H.M. Stationery Office.



BARRY'S HOUSE OF LORDS IN 1945

This Chamber was built to the designs of Sir Charles Barry after the fire of 1834. It was completed in 1852 and is at present lent for the temporary use of the House of Commons.

CHAPTER VII

The House of Lords at Work

"The order of nobility is of great use, too, . . . in what it prevents. It prevents the rule of wealth--the religion of gold."

Bagehot, *The English Constitution.*

We have seen that the House of Lords descends directly from the Great Councils of feudal landowners and notables of the Norman Kings, and even from the earlier Witenagemots. But the element of family continuity which it contains should not be exaggerated. The present House of Lords contains a relatively small proportion of the heirs of the "greater Barons" who were summoned to early parliaments. This is partly because comparatively few ever existed—twenty-nine only were summoned to the first Parliament of Henry VII—and partly because the families concerned destroyed one another in early feuds such as the wars of the Roses, or have otherwise died out. In later days peerages were created by the King by letters patent, and were usually restricted to descendants in the male line. Many of these also died out by degrees and were replaced by others, so that the number of extremely old creations is small. For instance, of the 508 Barons existing in 1947 only sixty-five were of creations prior to 1800.

Apart from the hereditary question, however, an interesting form of personal continuity exists in both Houses. The late Lord Wedgwood has stated that, at least from long before 1600, every House of Commons has contained Members who also sat in the preceding Parliament.* In the House of Lords, a similar unbroken chain of valuable experience probably stretches back indefinitely—if only with the help, on occasion, of contemporary "Quislings".

* Wing-Commander Sir A. W. James, M.C., *How Parliament Works*, p 10.

The actual composition of the House of Lords in February, 1948, was as follows:

Peers of the Blood Royal	3
Archbishops	2
Dukes	21
Marquesses	27
Earls	133
Viscounts	94
Bishops	24
Barons	507
Life Peers	9
Scottish Representative Peers	16
Irish Representative Peers	8
Total	844 (of whom 26 were minors who had not yet taken their seats).

The Bishops are those of London, Durham and Winchester and the twenty-one senior appointments among the remaining Bishops. The Life Peers are all legal appointments. The sixteen representative Peers from Scotland are elected for the life of each Parliament by all Scottish Peers, under the Act of Union of 1707. The eight Irish representative Peers are the survivors of the twenty-six who had been elected for life (under the Act of Union of 1801) before the Irish Free State Act of 1922 abolished the machinery for electing such Peers. By one of the Constitutional anomalies which will by now be expected by the reader, Irish Peers (but not Scottish) who are not elected representative Peers, may serve as Members of the House of Commons. The present "father of the House", Earl Winterton, is one of these.

Let us forget for a moment that the House of Lords, having courteously surrendered their Chamber to the homeless Commons, are now sitting in the King's Robing Room, and let us think of them as being back in their own Chamber to which they will return in due course. The House sits for ordinary business in the afternoon, and debates rarely last for more than about three hours. The Lord Chancellor, who acts as Speaker of the House of Lords, will be seated in front of the empty throne, not on a Chair but on the Woolsack—a square couch or ottoman,

originally stuffed with sheep-shearings to serve as a constant reminder of England's staple trade, and nowadays filled with wool from all parts of the Empire. The Woolsack is not within the House and Peers may not speak from that part of the Chamber.

The Lord Chancellor's full-bottomed wig, court dress and gown are similar to the Speaker's, and the Clerk of the Parliaments and his colleagues at the Table resemble their counterparts in the Commons. But if the visitor expects to see any substantial proportion of 844 Peers seated on the scarlet benches of the Chamber or to see them in their robes, he will be disappointed. Robes are only worn on State occasions, or by a new Peer and his sponsors when he takes his seat. Some of the Peers are minors, others invalids. A great many rarely or never attend the House. Only about 100 attend regularly and of these perhaps sixty take an active part in its business. The quorum is three. Only on exceptional occasions do the "backwoodsmen" turn out. In 1909 the Lords defeated the Liberal Budget by 350 votes to seventy-five, and in 1927 329 Peers voted in the debate on Prayer Book revision.

On an average day, therefore, only a sprinkling of ordinary-looking gentlemen are to be seen on the Government and Opposition benches and on the "cross-benches" which face the Woolsack nearer to the Bar and denote the non-party attitude of their occupants. The Bar of the Lords forms a kind of large box or pen with standing room for 150 persons, where the Commons, headed by their Speaker, attend to hear the Speech from the Throne at the opening and closing of a Session and the Royal Assent given to Bills at intervals during its course. At the beginning of a new Parliament they are also summoned to receive the King's direction (through a Commission) to appoint a Speaker and to receive the Royal approbation to their choice.

In the House of Lords the Serjeant at Arms is an officer of the Lord Chancellor rather than of the House. The duties carried out by the Serjeant in the Commons—including attendance at the Bar—are performed in the Upper Chamber by the Gentleman Usher of the Black Rod and his deputy the Yeoman Usher. One of these officers is sent to summon the Commons

to attend the King or Royal Commissions, and on every such occasion the ancient ceremony is repeated of barring the door of the Commons Chamber in his face until he has rapped three times. The practice dates from the stormy period of our constitutional history, when the Commons often dreaded interruption, particularly from a royal messenger, in which capacity Black Rod comes, and it is intended to demonstrate the right of the Commons to close their doors and deliberations against all comers if they so wish. It has sometimes been suggested that this procedure of summons might be curtailed, at least on the majority of occasions, to save precious time.

There are many points of difference between the two Chambers. The Lord Chancellor, unlike the Speaker, is able to take part in party controversy, and to speak in debates. He is a member of the Government, and usually of the Cabinet. He is also head of the Judiciary and responsible for the administration not so much of a department as of a whole group of departments. Indeed his duties and responsibilities as described to a recent Joint Committee of both Houses, are terrifying in their scope.*

It is interesting that although the Lord Chancellor is the Speaker of the House of Lords he has been granted no powers or authority with which to maintain order. He cannot direct his Serjeant at Arms to remove a recalcitrant debater, as is done in the Commons. Indeed, the only existing means of restoring order is for some Peer to move "That the clerk at the Table do read the Order of the House relating to asperity of speech". The order dates from 1626 and runs as follows:—

> "To prevent misunderstanding and for avoiding of offensive speeches when matters are debating, either in the House or at Committees, it is, for honour sake, thought fit, and so ordered, that all personal, sharp, or taxing speeches be forborne, and whosoever answereth another man's speech shall apply his answer to the matter without wrong to the person; and as nothing offensive is to be spoken, so nothing is to be ill taken if the party that speaks it shall presently make a fair exposition or clear denial of

* See evidence given before the Joint Committee on Accommodation in the Palace of Westminster, 1944-45.

the words that might bear any ill construction; and if any offence of that kind be given, as the House will be very sensible thereof, so it will sharply censure the offender, and give the party offended a fit reparation and full satisfaction."

The most recent use of the Order was on June 17th, 1872, when a "scene"—of a sort still quite common in the lower Chamber—threatened in connection with the Ballot Bill. The reading of the Order was completely successful in calming the House.

It will be correctly deduced from the above that proceedings in the Lords are simpler, quieter and shorter than in the Commons. The procedure has developed on much the same lines in both Houses, but since the Lords have never had to cope either with the sustained pressure of business or the systematic obstruction which have afflicted the Commons, there has been no necessity for the same number of restrictive rules, and the practice approximates much more to the leisured ways of the Commons 100 years ago. There are very few Questions; many fewer Public Bills than in the Commons; practically no financial business; but far more short, privately initiated debates, founded on Motions "for Papers", which are used because they entitle the mover to a right of reply. Usually no specific documents are required from the Government and the motion is withdrawn. There is no form of closure, apart from the right which every Peer has to move that a brother Peer "be no longer heard", but the House can at any time alter its rules, and in 1926 a closure motion was accepted by the Lord Chancellor and put without debate.

Divisions are fewer than in the Commons—in the fifteen years between 1922 and 1937 there were 456, about as many as occupy two sessions in the Commons—but the system is similar, with separate lobbies for the "Contents" and "Non-Contents". The historian Burnet (1680) relates how Lords Grey and Norris were tellers in a division on the Habeas Corpus Act. "Lord Norris, being a man subject to vapours, was not at all times attentive to what he was doing; so, a very fat lord coming in, Lord Grey counted him for ten, as a jest at first, but seeing Lord Norris had not observed it, he went on with his

mis-reckoning of ten. So it was reported to the House and declared that they who were for the bill were the majority, though it, indeed, went on the other side. And by this means the bill passed."

The Committee system corresponds to that of the Commons, except that there are no Standing Committees or Committees of Supply or Ways and Means.

The composition of the active part of the House of Lords also profoundly affects the nature of its debates. It is formed partly of the most politically interested among the older creations of Peers, who are, of course, of all ages; and partly of new creations of politicians, diplomatists, governors and other eminent men, who are usually advanced in years. Also, although the House is organized in parties, with Whips and the usual machinery, the facts that there is a permanent Conservative majority and a much larger independent element than in the Commons, and that Peers have no worries about re-election, have prevented the development of the party strife which is a feature of the other House. Together these conditions produce a staid and dignified atmosphere in their Lordships' debates which is seldom broken even by enthusiastic applause.

Before considering the work which the House of Lords actually does, let us see approximately what the functions of a Second Chamber ought to be. The authoritative Bryce Conference in 1918, composed of thirty Members drawn from all parties, held that they were to revise Bills from the House of Commons, to initiate non-controversial Bills, to delay a Bill long enough to secure the opinion of the nation, and fully to discuss important questions which the House of Commons has no time to investigate. It considered that the Second Chamber should not have the power to compel dissolution or to overthrow a Ministry, nor should it have equal rights with the Commons over finance. It should represent the views of the nation as a whole and should be so constituted that no party should have a permanent majority.*

It may be convenient to consider the functions of the House of Lords under the same headings as those of the House of

* The summary is taken from the excellent section on the subject in W. Edwards' *Crown, People and Parliament*, p. 202.

Commons. The *critical* and *deliberative* function is exercised mainly by means of the small debates—on motions "for Papers"—already mentioned. Since the active "inner circle" of Peers of all parties collectively command vast experience and abilities on almost every subject, these debates are often of the highest quality, and provide a splendid (and cheap) education in public affairs for all who care to read them. A few of the subjects recently dealt with are as follows:

The importance of correct pronunciation of English
Neglected and homeless children
Monopolies and Cartels
Soil fertility
Hearing aids
War memorials
Road Casualties
Legal aid for poor persons
Empire Migration
Conditions in the Police service
Perils of Atomic warfare
Naval policy

The *legislative* function of the Lords is seriously curtailed by the fact that they have no right to control finance and that Bills of major importance usually originate in the House which contains the country's elected representatives. About one-third of the less important Public measures and half the Private measures are, however, originally introduced in the Lords. In addition a great deal of "tidying up" of Commons Bills is done by means of Amendments in the Lords, and a legitimate complaint sometimes lies against the Commons for sending up too many Bills together at the end of the Session. Only a few Bills are initiated by Private Peers (*cf.* "Private Members' Bills").

Theoretically the *financial* function of the Lords is non-existent. The Lords are not supposed even to initiate Bills or amend provisions in Bills dealing with local rates—let alone public expenditure or revenue. But to enable them to take a larger share in the work of Parliament than they otherwise would the Commons often waive their privileges in respect of Amendments, and there are various devices to enable lesser Bills

containing financial provisions to originate in the Lords. The most common is to omit such provisions in the Bill which is sent down by the Lords; the blanks being filled in by the Commons in Committee.

Therefore, when rude things are said about the sittings of the House of Lords—such as the remark of the irreverent wit quoted by Erskine May: "It has often been observed that when the Commons are sitting night and day, the Lords sit scarcely long enough to boil an egg"—it must be remembered that they are precluded by constitutional practice from taking a full share in public legislation and that they do in fact take their full share in the onerous and unspectacular tasks of private legislation. For these services they receive neither salary, nor allowances, and even the right to free railway travel to Westminster has only recently been granted.*

The Lords also possess *judicial* functions of the highest importance, which the Commons do not. They come down from the Witenagemot and the Norman "Great Council" and are the residue of the legal powers left over when the Common Law Courts were established. The most important part of these functions is to act as the supreme court of civil and (on points of law) criminal appeal—though it is interesting to note that the Appellate Jurisdiction of the House of Lords was abolished in 1873 and re-established in 1876. Theoretically all Peers have a right to hear appeals, but in practice they are heard (in the Chamber) at morning sessions, before professional judges drawn from among those who have served as Lord Chancellors or held high judicial office and from the "Lords of Appeal in Ordinary", who are Life Peers. Perhaps it should be added that the House of Lords may also act as a Court for the trial of a brother Peer accused of treason or felony. But the procedure is costly and antiquated and proposals have been made for abolishing it. The last case was that of Lord de Clifford, who was acquitted after a trial attended by the usual ceremonial in 1935. The verdict was given in accordance with the advice of four judges acting as advisers. A Bill to abolish this form of trial (the Trial of Peers

* See *Hansard* (Lords) 21st May, 1946 and *Hansard* (Commons) 29th May, 1946.

(Abolition of Privilege) Bill) was passed by the Lords in 1936, but was dropped in the Commons.*

Ought the House of Lords to be abolished? The general weight of opinion seems to be that a Second Chamber is a necessary and convenient part of the Constitution; convenient to assist in originating and revising legislation and as an auxiliary forum of debate; necessary to ensure (by interposing a minimum of delay) that public opinion really has declared itself concerning measures of fundamental importance which might be rushed through by a single Chamber.

But the problem has another important aspect. From earliest times the House of Lords has been identified with great wealth, but with something far greater, too. No thoughts of abolition should fail to take into account the other idea which has been present since the earliest times—the idea of peerages as honourable rewards *distinct from wealth* for distinguished abilities and noble service. The House of Lords is still the visible focus of that idea. In continuation of the quotation at the beginning of this Chapter Bagehot wrote:

> "This (the religion of gold) is the obvious and natural idol of the Anglo-Saxon. He is always trying to make money; he reckons everything in coin; he bows down before a great heap and sneers as he passes a little heap. . . . From this our aristocracy preserves us. . . . Money is kept down, and, so to say, cowed by the predominant authority of a different power."

Nevertheless, it is widely agreed that the present House of Lords ought to be reformed, though hitherto there has been no agreement among reformers as to the best line to follow. The main attack is, of course, directed against the hereditary principle, and the preamble to the Parliament Act still records the intention "to substitute for the House of Lords as it at present exists a Second Chamber constituted on a popular instead of a hereditary basis". The reader, in comparing the functions exercised by the House of Lords with the requirements of a Second Chamber as described by the Bryce Conference, may have noticed that the main discrepancy lies in the fact that the House of Lords always has a large Conservative majority and cannot be said always to reflect the views of the whole

* The attempt is being renewed in Committee on the Criminal Justice Bill, 1948.

nation. The result is that, although the House of Lords lost its legislative veto by the Parliament Act, its "braking" power is liable to be exercised much more powerfully when the majority in the House of Commons is anything other than Conservative.

Let us glance at a few of the most notable proposals for reform which have been advanced from time to time:

1. In 1888 Lord Rosebery suggested that some members of a reformed House of Lords should be elected by the Peers themselves and others by County and Borough Councils.

2. In 1918 the Bryce Conference proposed that 246 members should be elected by the House of Commons in thirteen "natural geographic areas" and eighty-one by a Joint Committee of Lords and Commons.

3. In 1933 a Bill was introduced by the Marquess of Salisbury, leader of the Conservative party in the House of Lords, containing suggestions for a reformed Chamber composed in the main of 150 Peers elected by their own order and 150 members from outside according to a method to be prescribed by resolutions of both Houses.* The Bill passed its Second Reading but went no further.

The object of the indirect elections which these proposals require is to avoid the danger of the Second Chamber becoming simply a rival of the House of Commons.

4. The Labour Party manifesto for the general election of 1945, *Let Us Face the Future*, stated that ". . . we give clear notice that we will not tolerate obstruction of the people's will by the House of Lords".

5. The question of reform has recently been brought to a head by the new Parliament Bill. On 27th January, 1948, it seemed to face certain rejection by a tense House of Lords in the close-packed little Robing Room, but the general desire for a comprehensive settlement persuaded the Government to enter into conference. Consideration of the Bill was therefore adjourned, while leading members of the Parties met to discover whether a basis of agreement existed for a full-scale Conference upon both the composition and powers of a reformed House of Lords.

*These proposals are summarized in W. Edwards' *Crown, People and Parliament*, p. 199 *et. seq.*, and dealt with at length in Dr. W. I. Jennings' *Parliament*.

On 4th May, 1948, a White Paper* announced the failure of the negotiations by a narrow margin. An understanding had quickly been arrived at on the question of *composition*. Granted a parallel agreement on *powers*, all parties consented to take as the basis for detailed discussions the conception of a Second Chamber complementary to, but not rivalling, the Lower House, and in which no Party would be assured of a majority. Members of the modified House of Lords, who could be of either sex, would be called "Lords of Parliament". Apart from certain descendants of the Sovereign, and Spiritual and Law Lords, they would be appointed on grounds of personal distinction or public service from among hereditary Peers, or from commoners who would be created life Peers. Lords of Parliament would receive salaries and would be disqualified in case of neglect of duty or incapacity. Thus, the present hereditary right to attend and vote would disappear, but hereditary Peers who were not appointed Lords of Parliament would be entitled to vote at elections, or to stand for election, to the House of Commons.

The question of *powers* was limited to considering what should be a reasonable time for the due performance of its functions by a Second Chamber. As explained on p. 40, the new Parliament Bill seeks to reduce from two years to one (dating from the first Second Reading in the House of Commons) the period during which a disputed Bill may be prevented from passing by the Second Chamber. The Government were prepared to concede, as part of a general settlement, an alternative period of nine months from the first Third Reading, whichever was the longer. The Opposition stood upon a period of eighteen months from Second Reading, or, as a final concession, one year from Third Reading; and thus, the difference upon which the conversations foundered was whittled down to three months.

But both sides admitted an underlying difference of fundamental principle. The Government claimed that a longer period than nine months would jeopardize most Bills introduced in the fourth (and of course the fifth) session of a quinquennial Parliament, and might enable a Second Chamber, not directly responsible to the People, to impose its will upon the elected

* 1947-48 (*Cmd.* 7380).

House of Commons, and force the Government to seek a general election. The Opposition, on the other hand, contended that the period of nine months was barely sufficient to ensure full parliamentary consideration by both Houses, whereas there must also be an interval for reflection by the country, after debate in Parliament had clearly defined the matters at issue between the Houses. Without this additional period they believed that the Second Chamber would lose its value as a balancing factor in the Constitution, a situation which would tend towards Single-Chamber government and endanger the liberties of the People. The Liberals sided with the Government and deplored the rupture on the narrow difference of three months. On 9th June, 1948, the Lords rejected the Parliament Bill by 177 votes to 81. It may still be reintroduced and forced through under the provisions of the Parliament Act of 1911.

So the matter stands, and it is seen that the dispute centres more upon the significance of the power of delay still allowed to the Lords than upon its duration. Is the famous "brake" only to produce a warning shriek and a shower of sparks, or may it, exceptionally, bring some hurtling legislative project to a stand-still for inspection by the owners of the railway? If the outstanding difference were split the disparity would be no more than six weeks on either side. Perhaps such a narrow gap may still be bridged. "I believe", said Viscount Samuel on the eve of the discussions:

> "that it would be quite possible for the leaders of the three Parties at this moment to agree upon a scheme which would command the assent of four-fifths of the nation. That would be a sign of great moral and political strength in our ancient Constitution, and especially in this House. Its long centuries of service to Britain would culminate in an act of statesmanship which would live for ever in history. It would be brought to a conclusion at the cost of self-sacrifice on the part of individual Members, but your Lordships' House would be able to provide for its own continuance in a finer form, able to render to the people better service, while embodying still, as I hope and believe may be provided, what is best in its ancient traditions and its present membership."

CHAPTER VIII

Benefits and Responsibilities

"Sweet is the Name of Liberty, but the Thing itself a Value beyond all inestimable Treasure."
Peter Wentworth, M.P., 1575.

The intelligent elector may by this time be saying, "This is all very well. You have told me a great deal about Parliament and in a sort of a way answered some important questions. I admit that it is an ancient and honourable institution. But the biggest question remains. How do *I* come into it? Once in a while I am allowed a vote and after that, especially if my candidate is beaten, I don't seem to have the least influence on anything to do with the government of the country. Besides, how does the existence of a Parliament secure my personal liberty? Surely a Parliament which can do everything but turn a man into a woman can take away my liberty to-morrow?"

A facile reply would be to ask "How much influence do you expect?" In an electorate of 36 millions, if the power of government were to be equally divided, each person's share would be $\frac{1}{36,000,000}$, which is not substantial, and the casting of one vote every few years is a not unreasonable expression of its weight. But the real answer is that government in this country is always keyed to public opinion, not directly, as by the referendum,* but in the sense that it does really depend upon the consent and the support of the people. The influence which any elector has in addition to his vote varies therefore in proportion to the interest he takes in politics. The more he thinks, writes, argues and persuades about political matters, the greater his political influence is likely to be. Moreover, he can bring pressure on a Member directly by letter or interview, or indirectly by enlisting

* A practice in use in Switzerland, Australia, and other countries, by which an issue (generally a Bill) is placed directly before the electors, who vote "Yes" or "No". Mr Churchill suggested in May, 1945, that it might be used to ascertain the country's wishes regarding the necessity for a general election.

the Press, or a Member's other constituents, in support of his cause.

The answer to the second part of the question is that Parliament has the greatest possible importance in preserving our liberties. The Acts of Parliament of 1679 and 1816 made the right to writs of Habeas Corpus effective and secured the right to *personal freedom*. The essence of the whole Habeas Corpus transaction, says Dicey, "is that the Court can by writ of Habeas Corpus cause any person who is imprisoned to be actually brought before the Court and obtain knowledge of the reason why he is imprisoned; and then having him before the Court, either then and there set him free or else see that he is dealt with in whatever way the law requires, as, for example, brought speedily to trial". That is the procedure which alone stands between the ordinary citizen and the concentration camp, and the necessary suspension, during the war, of this protection, to enable the Home Secretary to imprison citizens whose activities *might* endanger the country, caused Parliament grave concern and many long debates.

The right to *freedom of discussion* depends more on an absence of the common law's restraints—a freedom from licence and censorship. As Dicey says: "Freedom of discussion is, then, in England little else than the right to say anything which a jury, consisting of twelve shopkeepers, think it expedient should be said or written." But the important point is that the principle of absolute freedom of speech has been incessantly repeated and maintained in and by the House of Commons.

The *freedom of public meeting* is nothing more than a combination of the individual freedoms of liberty of the person and of speech.

Sometimes, as in the cases of Wilkes and Bradlaugh, the House of Commons, instead of speaking for the people, has, by adopting an unfair and illiberal attitude, come into collision with the public; but the quarrels were openly thrashed out, and, after serving a useful purpose, they remain on record as public precedents of great value.

It should be remembered, as has already been pointed out, that although Parliament is primarily responsible for their maintenance, our liberties also receive an indispensable protec-

tion from the scrupulous fairness of the independent judges who administer the law in the courts.

Since the House of Commons has complete power to alter its own procedure, the majority could (perhaps by stigmatizing criticism as obstruction and obstruction as disorderly conduct) by a simple Resolution expel the Opposition. With the help of a majority in the House of Lords they could repeal the Habeas Corpus Act, and consign their victims to prison. With a sufficient following outside to overawe the judges, they could usurp the sovereign power and maintain a tyranny. "We can never be really in danger", said Junius, "till the forms of Parliament are made use of to destroy the substance of our civil and political liberties: till Parliament itself betrays its trust, by . . . employing the weapons committed to it by the collective body to stab the Constitution."* The safeguard against such events is the fact that with all their failings—and these have been many—Members who have sat in the House of Commons have never been persons who, in the final issue, put personal power before the welfare of the country. The responsibility for the continuance of this parliamentary tradition rests ultimately upon the ordinary voter.

How then can a citizen who desires to benefit from and maintain the freedoms so painfully gained in the past, honestly discharge his responsibilities? In six ways at least.

1. *By voting:* which in fairness to those who submit themselves to his choice should entail reading the slender literature of each candidate and attending at least one meeting of each.

2. *By paying a visit to Westminster:* which entails a pleasant saunter round Westminster Hall and meditation on the twenty generations of Lords and Commons who have trodden the ground before us.

3. *By attending Debates:* all of which—even the dullest—may affect the life of the individual citizen.

4. *By reading Hansard:* "Let me tell you," said Disraeli, "how to get on in the House of Commons.

* *Letters of Junius.*

When the House is sitting, be always in your place. When it is not sitting read *Hansard.*" Certainly the voter cannot be expected always to be reading *Hansard.* But if he will read it sometimes; know his way about it; refer to it when something of particular interest to himself has been discussed: that is the closest bond with Parliament he can have, next to a personal visit. There is a sense of satisfaction, a feeling of getting to the heart of the matter, in reading the verbatim report, which the abridged newspaper accounts, excellent though they are, can never provide. Indeed, it is hard to exaggerate the importance which this contrast may have for the future of democracy. How many British subjects live and die without hearing or reading a parliamentary debate in full? Without realizing that, although a Press report may be accurate, lucid and even of sensational interest, it lacks by its very nature the completeness and the personal touches which invest the speaking Members with living personalities—whether sympathetic or the reverse—and draw the listener (or reader) intimately towards an appreciation of democratic government as nothing else can? Moreover, it will probably surprise most people who conscientiously read through—or better, sit through—a number of debates, to find that before the end of each one, some Member has expressed their exact feelings and desires upon the subject under discussion—probably far more clearly than they could themselves do.

"White Papers" can be good reading, too, and provide the same sense of getting at the pith of a subject.*

5. *By reading some of the "light" books about Parliament* which exist in abundance. It seems that at Westminster the onlooker has often seen most of the game,

* Some recent and short White Papers of interest have been:
1943-4 (Cmd. 6511) The Atlantic Charter in Basic English (4 pages).
1944-5 (Cmd 6626) Buchenwald Camp (6 pages).
1946-7 (Cmd. 7203) Food Consumption Levels in the United Kingdom (18 pages).
1946-7 (Cmd. 7217) Treaty of Alliance with France (7 pages)
1947-8 (Cmd. 7257) Ceylon, status as a Dominion (4 pages).

and two classes of onlookers, doorkeepers and reporters, have been particularly happy in their sketches. Among the former Joseph Pearson in the eighteenth century and William White in the nineteenth; and among the latter, Dickens, Grant, Whitty, O'Connor, Jeans, MacDonagh, and the incomparable Lucy ("Toby, M.P."), have all written highly entertaining descriptions. In addition, there are, of course, innumerable interesting memoirs by Members themselves.

6. *By discussing Parliament* sometimes, and perhaps, instead of taking the easy line of attacking and deriding it, by taking the still easier line of defending and upholding it. Ten years ago, Peter Wentworth's words sounded archaic and superfluous to those who praised the realism of dictators; today they ring out like silver bells against the ghastly horrors of the Europe that did away with "talk" and took to "action".

For generations Parliament has efficiently controlled the affairs of the nation and guided those of an empire. For hundreds of years it has remained the admiration of the world. The secret of its success is the idea of fairness and of regard for the rights of others (amounting almost to a mania) which inspires the whole of its procedure.

The nation will do well to ensure that none but its finest representatives come to Westminster to use in its service the matchless political instrument which is the heritage and responsibility of seven centuries of Freedom.

GLOSSARY

OF PARLIAMENTARY TERMS IN COMMON USE

NOTE.—*Owing to the constantly evolving history of Parliament it is difficult and dangerous to try to define parliamentary terms with precision. They have meant different things at different times and different things to different people at the same time. The following pages attempt to explain some of the expressions most frequently met with. They relate almost exclusively to the House of Commons.*

The Standing Orders are due to be renumbered.

Address.—The name given to a communication or representation made by either House to the Crown. See also *King's Speech.*

Adjournment, Motions for.—"That this House do now adjourn", or "That the debate be now adjourned". In Committee the corresponding Motions are "That the Chairman do leave the Chair" and "That the Chairman do report Progress and ask leave to sit again". These are all known as "dilatory Motions", and are used (1) with the intention of bringing the proceedings to a close, often in order to postpone or avoid a decision, or to discuss an incidental matter; but if the object of the Motion appears to the Chair to be obstructive it is either not accepted or it is put without debate; (2) as a convenient form on which to hold a general debate, especially when it is not desired to record a formal conclusion on the real subject of debate, and (3) at the end of each day's regular business, for debates of half an hour's duration upon subjects of which Members have given previous notice. Such subjects are usually of local interest, or complaints of administrative action. This half hour provides an opportunity for Private Members to ventilate matters affecting their constituents for which there is no other opportunity. Legislation may not be proposed.

Adjournment Under S.O. No. 8.—A Member may at the end of the hour appointed for Questions claim to move the adjournment of the House *for the purpose of discussing a definite matter of urgent public importance.* If the Speaker considers the Motion to be in order and the Member secures the support

of forty Members the Motion stands over for debate at a fixed hour later in the evening. The definition has in practice been strictly interpreted, and this procedure has tended to be reserved for occasions when immediate action was necessary or when grave injustice threatened an individual.

Affirmation.—Members who object to swearing an oath have now a statutory right to affirm instead.

Allegiance, Oath of.—See *Oath.*

Allocation of Time.—See *Closure.*

Allotted Days.—A maximum of twenty-six sitting days (of which at least eight must be taken before March 31st) are allotted before August 5th in each session for the consideration by the Commons of the annual Estimates, and a few kindred matters.

Alternative Vote, the.—The Single Transferable Vote (q.v.) applied to single-Member constituencies, to ensure that the successful candidate has a majority of the votes polled. The elector places the candidates in order of preference. Should no candidate secure an absolute majority, the first preferences given for the lowest candidate are ignored and the second preferences of those voters distributed among the remaining candidates.

Amendments.—Alterations proposed to be made to a Motion, Bill or Amendment. Amendments must be relevant to the matter to be amended.

Appropriation Bill, the.—Authorises the issue out of the Consolidated Fund of the main sums required for the annual Estimates (apart from the Vote on Account) and appropriates *all* sums issued out of the Consolidated Fund during the session to the specific purposes for which they were voted.

Appropriations in Aid.—Payments received by a Department in connection with the public service and set off against the gross amount of its Estimate, under Treasury sanction.

Army (Annual) Act, the.—Since the days of Charles II Parliament has been resolved to keep tight control over the Army. Hence the Army Act (without which the maintenance of an army would be illegal) is not permanent, but has to be renewed annually by means of the Army (Annual) Act—or, in modern times, the Army and Air Force (Annual) Act.

Back Bench Members or Private Members.—Members who are neither Ministers nor, as a rule, ex-Ministers. They occupy any bench except the front two on the Speaker's right and the front one on his left, as far as the centre gangway.

Ballots.—The relative precedence of Private Members to introduce Bills at the beginning of a Session and to move certain Motions is decided by ballots, during which numbered slips of paper corresponding to the names of Members who desire to compete are drawn from a box by a Clerk at the Table.

Bar of the House, the.—Forms one of the boundaries of the House proper inside the Chamber. Members may not speak from outside it.

"Behind the Speaker's Chair."—An expression denoting the frequent informal discussions and arrangements between parties which take place in the vicinity of the Chamber—often in fact behind the Chair—and by means of which a great deal of official business is substantially facilitated.

Bills.—Drafts of Acts under consideration by either House, up to the time they receive the Royal Assent and become Acts.

Bills, Hybrid.—Public Bills which are found to affect private interests. They are dealt with by a special procedure, following partly Public Bill and partly Private Bill practice.

Bills, Private.—Drafts of Acts with a local or personal application only. Not to be confused with Private Members' Bills, which are Public Bills introduced by Private Members—instead of by the Government.

Bills, Provisional Order.—Bills to confirm Orders which have been issued by a Government Department, often after the holding of a local inquiry. The procedure is a simplified and shortened scheme of Private Legislation, and takes an average of three months between presentation and Royal Assent.

Bills, Public.—Drafts of Acts of a public and general character, usually affecting the whole country.

Blocking of Bills or Motions.—After a fixed hour every day, opposed business cannot be taken. Then, by simply saying "object", any Member can force the postponement of an item of business. The same result is achieved by continuing the debate on the preceding item long enough to prevent a contentious Bill or Motion being reached.

Blue Books.—A colloquial name for those official reports and other publications which are sufficiently bulky to be given a blue cover.

Blue Paper or Vote, the.—A composite mass of papers circulated to Members in the morning and formerly printed on blue-coloured paper. It comprises mainly (1) the Votes and Proceedings of the previous sitting; (2) notices given

at the previous sitting of Questions, Motions and Amendments for future sittings; (3) the agenda for the day; (4) the proceedings of recent sittings of Standing Committees; (5) collected and marshalled lists of Amendments to be proposed to Bills soon to be considered; (6) Division lists.

Budget, the.—The annual review made by the Chancellor of the Exchequer of the country's accounts for the past year and of his financial proposals for the current year. The word is an eighteenth century slang term for a "bag of papers".

Chairman, Deputy.—See *Deputy Chairman.*

Chairman of Ways and Means, the.—A Member elected at the beginning of every Parliament, on a Government Motion, to act as Chairman when the House is "in Committee". He also acts as Deputy Speaker and has important duties connected with Private Bills. Though a party Member he carries out his official duties with complete impartiality.

Chairmen, Temporary.—A panel of experienced Members appointed by the Speaker to act as temporary chairmen in Committee of the Whole House and as the regular chairmen of Standing Committees. They have no power to accept motions for the Closure, or to select Amendments, *in Committee of the Whole House.*

Chaplain, the.—Reads prayers before every sitting. The appointment is in the gift of the Speaker, whose personal officer the Chaplain is.

Charge upon the People.—Any tax or other burden charged on the people.

Charge upon the Public Revenue, or Public Funds.—Any public charge, whether out of the Consolidated Fund or out of money to be provided by Parliament, but exclusive of local rates. See *King's Recommendation.*

Chiltern Hundreds.—A Member who wishes to resign has to do so by the indirect method of applying for one of the Offices of Profit under the Crown which automatically vacates his seat. The two sinecure appointments used for this purpose are those of steward or bailiff of His Majesty's three Chiltern Hundreds of Stoke, Desborough and Burnham, or of the Manor of Northstead. These offices can if necessary be held by Members in quick succession. Though technically Offices of Profit, they carry no salary.

Clerks.—The officials responsible for keeping the records of the House, advising the Speaker and Members upon procedure, attending Committees and other duties.

Closure, the.—Procedure for closing a debate by majority decision while Members still wish to speak. The question for the *simple closure* is "That the question be now put"; for the *kangaroo closure*, *e.g.*, "That clause 10, down to the word 'then' in line 7, stand part of the Bill"; while the *guillotine* (or closure by compartments) takes the form of a time-table allocating definite times to each part or stage of a Bill. In the first two cases a Member can only claim the closure; it remains with the Speaker or Chairman to decide whether the question "That the question be now put" shall be put to the House; and for the House to decide whether it shall be carried.

Motions for the closure, to be effective, require the support of at least 100 Members voting in the majority in the Chamber, or twenty in a Standing Committee.

Such Motions may be accepted in the House by the Speaker (or, when his absence has been formally announced, by the Chairman of Ways and Means, and similarly, in the absence of both, by the Deputy Chairman); in Committee of the Whole House by the Chairman of Ways and Means or the Deputy Chairman; and in Standing Committees by all chairmen.

Committee of Privileges, the.—The most experienced and authoritative Committee of the House, to whom are referred questions of breaches of its Privileges.

Committee of Selection, the.—Is chosen from among the most experienced Members of the House and nominates Members of Standing Committees and Private Bill "groups".

Committee of Supply.—A Committee of the Whole House (q.v.), but the business is to consider and vote all State expenditure (except those items charged directly upon the Consolidated Fund) in the form of Estimates, Supplementary Estimates, Votes on Account and Votes of Credit.

Committee of Ways and Means.—A Committee of the Whole House (q.v.). Its business is to consider and vote all Resolutions imposing taxes and making good the Supply granted to the Crown and certain other payments into and out of the Consolidated Fund, excluding those payments (such as the Civil List, and salaries of judges, the Speaker and others) which are charged directly upon the Consolidated Fund by existing legislation.

Committee of the Whole House.—The Whole House sitting (in the Chamber) as a Committee, generally to consider the

committee stage of a Bill or a Money Resolution. The atmosphere and conditions of debate are more informal than when the House sits as a House.

Committee on National Expenditure, the.—Took the place of the Estimates Committee during the war and conducted investigations into possible economies in war expenditure.

Committees on Unopposed Bills.—Deal only with Private and Provisional Order Bills which are not opposed.

Committees, Joint.—Select Committees formed of an equal number of Members from each House to consider a Bill or matter in which both Houses are interested. The procedure followed is that of the House of Lords.

Committees, Select.—All committees which are not Committees of the whole House, or Standing Committees, *viz.*, those set up to inquire into special matters or Bills, and the usual Sessional Committees.

Committees, Sessional.—Certain Select Committees regularly set up at the beginning of every Session, such as those on Privileges, Public Petitions, Selection, Public Accounts, Estimates, Publications and Debates Reports, Private Bill Standing Orders, and Kitchen and Refreshment Rooms.

Committees, Standing.—Committees of about fifty Members set up to consider the Committee stage of Bills. The personnel is composed partly of Members nominated for the duration of the Session and partly of specialist Members added for particular Bills, but in both cases the representation strictly follows the party proportions in the House.

Consideration stage, the.—Occurs in the House after a Bill has been reported to the House from a committee: (*a*) when it has been amended in Committee of the whole House, or (*b*) after it has been sent to any other committee, even if not amended there. Fresh amendments may be proposed at this stage.

Consolidated Fund Bill.—A Bill authorizing the issue of a sum of money out of the Consolidated Fund for the payment of authorized services, pending the passing of the Appropriation Bill towards the end of the Session.

Consolidated Fund, the.—The general revenue account into which all public monies are paid—the public purse.

Count, a.—Any Member may call attention to the fact that a quorum (forty members) is not present (except between 7.30 and 8.30 p.m., or, on Fridays, between 1.15 and

2.15 p.m.). A bell is rung forthwith all over the House, and if at the end of two minutes forty Members are not present, the Speaker adjourns the House till the next sitting.

Delegated Legislation.—The power to make subsidiary laws which is delegated by Parliament to the Executive by statute (see p. 126). The expression is also used of these subsidiary laws themselves, most of which are now known as Statutory Instruments.

Deputy Chairman, the.—A Member elected at the beginning of every Parliament on a Government motion to act as deputy to the Chairman of Ways and Means and if necessary to the Speaker. Though a party Member he carries out his official duties with absolute impartiality. He is specially concerned with Private Legislation.

Dilatory Motions.—See *Adjournment.*

Disorderly Conduct.—See *Suspension of Members.*

Dissolution.—The conclusion of a Parliament by Royal Proclamation. The same Proclamation summons the next Parliament.

Divisions.—Votes of the House, taken by Members walking through separate Lobbies, where they are counted by pairs of Members called Tellers.

Dropped Orders of the Day.—Orders which are reached and called by the Clerk, but neither disposed of nor postponed to a future day.

Dummy Bill, a.—A form or sheet of paper on which are written the Title of the Bill and the names of the Members by whom it is introduced or prepared. The dummy is used at the first stage, before the House orders the Bill to be printed.

Duration of a Parliament.—Under the Parliament Act must not exceed five years. In periods of emergency this limit is extended by Act, usually for a year at a time.

Eleven O'Clock Rule, the.—Now the Ten O'Clock Rule (q.v.).

"Erskine May."—See "*May.*"

Estimates, the.—The detailed annual statements of the sums of money required by each Government Department—divided into Classes, Votes, Sub-heads and Items.

Examiners of Petitions for Private Bills, the.—Officials (not Members) of each House who examine Private Legislation and documents related thereto (*e.g.*, Memorials, q.v.) at certain stages to ascertain whether the relevant Standing Orders have been complied with. See also *Select Committee on Standing Orders.*

Excess Vote, an.—A Grant to make good an overspending by a Department in excess of the money appropriated to it.

Exempted Business.—The following items are exempted from the operation of the Ten O'Clock Rule and may be taken after 10 p.m., even though opposed:—

1. The proceedings on any Bill originating in Committee of Ways and Means (Consolidated Fund Bills, Appropriation Bills, Finance Bills and a few others).
2. Proceedings made in pursuance of any Act of Parliament (including proceedings on the Army and Air Force (Annual) Bill) and Addresses and Resolutions dealing with the confirmation or annulment of Statutory Instruments.
3. Proceedings in pursuance of any Standing Order.
4. Proceedings on the reports of the Committee of Ways and Means and of Committees authorizing the expenditure of public money, *except* the Committee of Supply.

Explanatory or Financial Memorandum, an, is often prefixed to a Bill to explain its provisions in non-technical language. It is not part of the Bill and the wording must be uncontentious. [These memoranda descend from the briefs or "breviats" which used to be prepared to assist the Speaker in very old days in "opening the substance" of a Bill to the House.]

"Father of the House," the.—The Member who has been longest in the House without a break, even though he has sat for several constituencies.

Finance Bill, the.—Embodies all the alterations of taxation, in both directions, and all the consequential administrative changes which are required for the year.

Friday Sittings.—The House meets at 11 a.m. on Fridays, when no Questions are as a rule taken. Opposed business cannot be taken after 4 p.m., and the House rises not later than 4.30 p.m., unless exempted business is to be taken.

Front Benches.—The front bench on either side of the House, as far as the centre gangway. On the Speaker's right (the "Treasury" bench) sit the Prime Minister and leading members of the Government, on the left (usually) the leading members of the Opposition who have formed or are likely to form the alternative Government.

Guillotine, the.—See *Closure.*

Hansard.—The name of the family which for so long reported the debates of Parliament that the two became identified (see p. 135). See *Official Report.*

Hybrid Bills.—See *Bills, Hybrid.*

Instructions, are given by the House to one of its Committees ordering or empowering them to do something they might not or could not otherwise have done, *e.g.*, directing a Select Committee to report specifically upon some matter lying within their terms of reference; or empowering a Standing Committee to divide a Bill into two or more Bills.

Irrelevance or Repetition in Speeches.—A Member guilty of persistent irrelevance or tedious repetition may, after a warning, be directed by the Chair to discontinue his speech.

Joint Committees.—See *Committees.*

Journal, the.—The official record of the proceedings of the House, which dates back to 1547. It is fuller than the Votes and Proceedings, and has a valuable index.

Kangaroo, the.—See *Selection of Amendments.*

Kangaroo Closure, the.—See *Closure.*

King's Consent, the, is required to certain Bills, Public or Private, which concern the Royal Prerogative, the hereditary revenue or the personal property or interests of the Crown or Duchy of Cornwall. It is signified by a Privy Councillor. [If the Prince of Wales is of age it is given on his behalf in respect of the Duchy of Cornwall.] In the case of Public Bills a communication from the Crown is sometimes received, "placing its interest at the disposal of Parliament". The King's Consent should not be confused with the Royal Assent or the King's Recommendation.

King's Recommendation, the, must be given (under Standing Order) by the Crown (the Executive) to every motion involving public expenditure. It is signified by a Minister of the Crown before the Committee Stage of the Resolution.

King's Speech, the.—A statement of policy framed by the Cabinet and delivered at the beginning of every session by the King in person or by the Lord Chancellor or a Royal Commission. Except for a reference concerning Supply, which is made to the Commons alone, the speech is addressed to both Houses of Parliament. The first part deals with foreign relations and policy, the second with home policy and contains a summary of the proposed legislative programme. It is answered by "an humble Address" which affords an opportunity for a wide debate in both Houses, lasting, in the Commons, for several days. A somewhat similar speech at the end of the session summarizes the legislation which has been carried through.

Leader of the Opposition, the.—The leader of the largest party in opposition to the Government, in either House. In the Commons he is paid a salary of £2,000 a year (see p. 80).

Legislation by Reference.—The practice of altering the law by referring to, and amending, an old Act in a new one; instead of by repealing the old measure and re-enacting it in amended form (see p. 109).

Lobby Correspondents.—Newspaper correspondents who have special passes entitling them to mingle with Members in the Members' Lobby.

Locus Standi.—The ground or right of a petitioner against a Private Bill, etc., to be heard upon his Petition. See *Referees*.

Lords of the Treasury.—The Prime Minister is nowadays invariably the First Lord and the Chancellor of the Exchequer the Second. The Junior Lords are Whips.

Mace, the.—The symbol of the Royal authority delegated to the Speaker. The House is not properly constituted and cannot sit unless the Mace is lying on the Table. In Committee the Mace is placed on brackets below the end of the Table. If an offender is to be reprimanded at the Bar the Serjeant at Arms stands upon his right with the Mace. The Mace does not enter the House of Lords but is left outside.

Maiden Speech, a.—A Member's first speech in the House. By courtesy a maiden speech is not subject to interruptions and takes precedence of others. The Member is expected to show diffidence, and is customarily congratulated by the next Member to speak.

Manor of Northstead.—See *Chiltern Hundreds*.

"May".—The standard treatise on parliamentary procedure. It was originally written in 1844, by Thomas Erskine May (at that time Assistant Librarian of the House of Commons) and entitled "A treatise upon the Law, Privileges, Proceedings and Usage of Parliament". He held the appointment of Clerk of the House from 1871 to 1886, and was created Lord Farnborough shortly before his death in the latter year.

The book has been constantly revised in succeeding editions, of which the fourteenth is the latest.

Members, Disorderly Conduct of.—See *Suspension of Members*.

Memorials.—Notices of objection taken by interested parties to Private Legislation, on the ground of non-compliance with Standing Orders. See also *Examiners*.

Minister, a.—A term used colloquially for anyone holding Office in the executive Government. In addition to the Ministers so called (*e.g.* of Food, of Health, etc.) it covers the Secretaries of State, a number of Ministers with individual titles (*e.g.* Chancellor of the Exchequer, President of the Board of Trade, Postmaster-General), the Under-Secretaries, Law Officers and (generally in the form "Junior Minister") the Whips. A Minister is almost invariably a member of one or other House.

Minister of State
Minister without Portfolio } Members of the Government without Departmental responsibilities.

Money Bills are of two kinds:—

1. "Parliament Act Money Bills", which contain *only* provisions dealing with taxation, the imposition or repeal of charges, or certain other exclusively financial matters. They receive the Speaker's certificate and the benefit of the Parliament Act provisions.
2. Ordinary Money Bills, whose *main* object is to authorize expenditure or to impose taxation. It used to be obligatory to introduce those authorizing expenditure upon a Money Resolution, with the Recommendation of the Crown. But since 1938 they have, to provide for a wider debate than the old procedure allowed, been presented and proceeded with under Standing Order No. 64A in the same manner as Bills in which the imposition of a charge is subsidiary to the main purpose. The old procedure is still available.

Monk Resolutions, the.—The detailed schedules moved in Committee of the Whole House to sanction the virement (q.v.) between votes (generally for each) of the fighting services. Mr. Monk was the Member who first moved for these Resolutions, in 1879.

Mother of Parliaments, the.—An expression first used (of England) by John Bright at Birmingham in 1865. With the possible exceptions of the Hungarian and Icelandic Parliaments the English is the oldest surviving in the world. Some of its features were copied in the United States Congress. Some, owing to a description sent by Romilly to Mirabeau about 1790, found their way into French Parliamentary law, and thence into several other nineteenth-century European Parliaments. The Dominion Federal and State Legislatures closely follow the British model.

Motion, a.—A form of words containing a proposal which a Member wishes to submit to the House. If agreed to it becomes an Order, by which the House gives an instruction to someone (from the Speaker downwards) or a Resolution, by which the House expresses its corporate opinion.

Motions, Notices of.—Notice has normally to be given to the House of an intention to move a Motion.

Naming a Member.—The power given to Mr. Speaker under Standing Orders Nos. 17 and 19 to indicate a Member who has disregarded the authority of the chair, abused the rules of the House or been guilty of grossly disorderly conduct, by calling upon him by name. The leader of the House then moves that the Member be suspended.

Notice Paper, or Order Paper.—That part of the Blue Paper which comprises the agenda for the day's sitting, including all relevant notices.

Oath of Allegiance, the.—The promise of loyalty required of all Members when they take their seats. They must either swear as follows: "I swear by Almighty God that I will be faithful and bear true allegiance to His Majesty King George, his heirs and successors according to law, so help me God." or they may make an affirmation of allegiance. Heavy penalties, including the vacation of his seat, attach to a Member who sits or votes without having taken the oath or made an affirmation.

Official Report, the.—The verbatim report of the daily debates in the Lords and Commons—known also as *Hansard.*

Order Book, the.—A chronological list, published daily, of the items of business of all kinds so far appointed to be taken in the House on future days.

Order Paper, the.—See *Notice Paper.*

Order, a Point of.—A point raised for the decision of the occupant of the Chair or the House itself relating to the rules and Orders which the House has made for the regulation of its business, including the orderly conduct of debate. This is one of the most misused of all Parliamentary terms.

Orders.—All Orders of the House originate or are assumed to have originated as Motions and to have been put as questions. When agreed to they become directions to be carried out by its Members, officers or Committees. They are of the following types:—

1. Standing, *i.e.*, permanent until repealed or modified.

There are over 100 regulating Public Business and 249 regulating Private Business.

2. Sessional, *i.e.*, valid for the duration of the Session, *e.g.*, the order relating to free passage for Members through the streets leading to Westminster, mentioned on p. 65.

3. Specific, such as those made for the attendance of a witness or the production of a document.

4. Orders relating to business and Orders of the Day (q.v.).

Orders in Council.—See *Statutory Instruments*.

Orders of the Day.—The ordinary business of the House is divided into Notices of Motions and Orders of the Day. The former consist of new proposals to be submitted by Members, the latter of matters of business appointed by the House to be considered on that day: usually, but not invariably, Bills or adjourned debates.

Outlawries Bill, the.—A Bill which is given its First Reading (and never gets any further) at the beginning of every Session, before the King's Speech is taken into consideration. The ceremony dates from before 1603 and serves to show that Parliament has a right to deliberate without reference to the immediate cause of its summons.

Pairs.—Two Members of opposed parties who agree to be absent from the House together and thus to neutralize each other's votes. [Members who "paired" were defined by an eighteenth century doorkeeper of the House of Commons as "Two sneaking scoundrels, not worth a piece of dog's meat to either party!"*]

Parliament Act, 1911, the.—Best known as the Act limiting the powers of the House of Lords, but see pp. 40 and 146.

Personal Explanations, are occasionally made after Questions, by an ex-Minister to explain his reasons for resignation, or by any Member to explain his conduct or to remove misunderstandings.

Petitions, Public, are decreasing in importance, having been largely superseded by Questions. They must be presented by a Member, either orally or dropped into a bag behind the Speaker's Chair, and they must be drawn up in conformity with certain prescribed rules. Except in the case of

* Joseph Pearson, *A Political Dictionary*, p. 40.

present personal grievance or privilege, where immediate action is necessary, no debate on the presentation of a petition is allowed. They stand referred to the Committee on Public Petitions, whose powers are very limited.

Petitions Relating to Private Bills.—Every Private Bill is still founded upon a petition to Parliament for leave to bring in a Bill. Other petitions are directed against such Bills, or for or against alterations in them.

Prayer.—A colloquial term covering a Motion or an Address for the annulment of a Statutory Instrument.

Preamble, a, to a Public Bill is now rare. Its former purposes —to state the reasons and intended effects of proposed legislation—are now filled by an explanatory memorandum. In a Private Bill the Preamble sets forth—often at length—the reasons why the Bill is required.

Precedence of Private Members' Bills and Motions.—See *Ballot.*

Previous Question, the.—A method of shelving the question before the House, once popular but now rarely used. The Motion is "That the Question be *not* now put". If carried, the House passes to the next business, but the superseded question may be put on a future day. If the motion is negatived the Question has to be put immediately.

Private Bills.—See *Bills.*

Private Members.—See *Back Bench Members.*

Private Members' Bills.—Public Bills introduced by Private Members—(not by the Government).

Private Notice Questions.—See *Questions.*

Privilege.—Part of the law of the land, which by protecting the rights and dignities of Members inside Parliament enables them to serve and protect the interests of their constituents outside.

Privilege, Breach of.—Questions of breach of Privilege in the House of Commons should be raised at the earliest opportunity and they take precedence of all other business. They are decided by the House itself, usually after reference to the Committee of Privileges. No Privilege not already existing may be claimed.

Progress, Motions to Report, in Committees of the Whole House (or Supply or Ways and Means) correspond to Motions in the House for the Adjournment of the debate. When a Bill has been partially considered in Committee of the Whole House, for instance, the Chairman is directed to report

Progress and to ask leave to sit again; or the Motion may be used to interrupt a debate in order to clear up some matter.

Proportional Representation.—An electoral system designed to ensure that every substantial party or section of opinion shall be represented in proportion to its numerical strength. It requires large constituencies containing several seats.* (see also *Single Transferable Vote* and *Alternative Vote*).

Prorogation.—The termination by the Crown of a Session of Parliament (not to be confused with Dissolution, which ends a Parliament). It is effected by an announcement in the House of Lords by the Sovereign or a Royal Commission, and kills all Bills which have not passed through all their stages in both Houses. (The Government statement which used to detail those Bills for which time could not be found was known as the "Slaughter of the Innocents".)

Provisional Order Bills.—See *Bills*.

Public Bills.—See *Bills*.

Putting the Question.—Every matter is decided in the House of Commons upon questions put from the Chair, which are either affirmed or negatived or withdrawn (see p. 92).

Questions, Parliamentary, to Ministers.—These are of several types:—

1. "Oral", requiring an oral answer in the House.
2. "Non-Oral" or "Written", requiring a written reply.
3. "Private Notice", in effect "oral" questions of an urgent nature, which, by special permission from the Speaker, receive a reply at the end of the Question hour, even on the day when first raised.
4. "Supplementary", which follow replies to "oral" questions, out of which they are supposed to arise impromptu, though in fact they are often previously prepared. An experienced Member is an adept at using supplementaries to drive home a point or to twist a knife in a wound.

Quorum.—In the House of Commons, forty; in the House of Lords, three. In the House of Commons, no business can be transacted if a Member draws attention to the absence of a quorum. See *Count*.

Readings of Bills are among the stages through which Bills must proceed on their way to the statute book.—See p. 115.

Recess.—The adjournment which follows a Prorogation—also colloquially used of vacations within a session.

* The Speaker's Conference of 1917 recommended Proportional Representation: that of 1944 rejected it. For a recent debate giving the arguments on both sides, see *Hansard* for Tuesday, 10th October, 1944, cols. 1642-1708.

Re-committal of Bill.—Since no Charge may be imposed or increased except in Committee, if it is desired to move an amendment containing such a Charge after the Bill has emerged from Committee, it must be re-committed. A Bill may also be re-committed for other reasons, *e.g.*, to be divided into two Bills, or to have its provisions extended to another part of Great Britain, under an Instruction (q.v.) from the House.

Referees, the Court of.—The Members who (together with Mr. Speaker's Counsel) determine whether a petitioner against a Private Bill has a sufficient *locus standi*—or right to be heard.

Report Stage.—Colloquially used for the Consideration stage (q.v.), since it occurs after a Bill is reported to the House.

Reserved Speech.—A Member may move an Order of the Day, or second a Substantive Motion, by raising his hat or by some other sign, and reserve his speech until later in the debate.

Resignation of Members.—See *Chiltern Hundreds.*

Right of Reply, a, belongs to the mover of a Substantive Motion.

Royal Assent, the.—The Sovereign's Assent given in the House of Lords (almost invariably nowadays by a Commission) to Bills which, having passed through all their stages in both Houses, are thereby converted into Acts of Parliament. The last occasion when the Royal Assent was refused was in 1707 when Queen Anne refused it to the Scotch Militia Bill.

Royal Commissions (apart from those representing the Sovereign in Parliament) are appointed by the Crown, sometimes as a result of an Address from Parliament, to inquire into matters of great importance. The persons best qualified to consider the subject, whether inside or outside of Parliament, are invited to be members of the Commission.

Scope of Debate, the.—One of the most important uses of procedure is to delimit the scope of debate upon different stages of Bills and items of business and so save time. Until about 100 years ago the scope of debate was very much wider than the pressure of business nowadays permits. Since then a series of carefully worked out rulings have been given from the Chair and their effect is laid down in the manuals of procedure.

Second Speech, a, by the same Member (apart from a Right of Reply), on a question before the House, may be allowed only by general assent.

Secret Session.—See *Spying Strangers.*

Secretaries.—The eight **Secretaries of State** are among the principal Ministers of the Crown, each responsible for his own Department of State. **Under-Secretaries of State, Parliamentary Secretaries** and **Financial Secretaries** are minor Ministers. **Permanent Secretaries, Permanent Under-Secretaries of State and Permanent Under-Secretaries** (with Second Secretaries, Deputy Secretaries, Under Secretaries, Principal Assistant Secretaries and Assistant Secretaries below them) are the Civil Servants at the head of the corresponding Departments. **Parliamentary Private Secretaries** are Members who act as unpaid assistants to Ministers, in a semi-official capacity. **Private Secretaries** are not Members; they are personal assistants to individuals and may be either private persons or officials.

Select Committee on Standing Orders, the.—Deals exclusively with the Standing Orders relating to Private Business, and decides all cases of non-compliance with Standing Orders which are reported by the Examiners; and recommends dispensations.

Select Committee on Statutory Instruments, the.—The so-called "scrutinizing committee" (see p. 126) which examines all delegated legislation which is subject to parliamentary proceedings. The committee is concerned with the form, but not the merits and policy of the Statutory Instruments.

Select Committees.—See *Committees.*

Selection of Amendments.—The power given to the Speaker (in the House), to the Chairman and Deputy Chairman in Committee of the Whole House and to all chairmen in Standing Committees, to select which Amendments they shall call from those on the Paper, (known as the Kangaroo).

Serjeant at Arms.—An official appointed by the Crown and lent to the House of Commons to act in the House upon such orders as he may receive from the Chair for the preservation of order and decorum among Members and strangers. He is, by statute, Housekeeper of the House, and supervises the departments of the police, office-keepers, messengers and cleaners.

In the House of Lords the Serjeant at Arms is exclusively a personal attendant upon the Lord Chancellor.

Session, a, is a period of parliamentary sittings which is terminated by command of the Crown in the form of a Prorogation. It is usually broken up by adjournments, as the parliamentary vacations are called. The necessities of annually renewing the Army Act and securing financial supplies nowadays require annual Sessions, but a year may contain more than one Session. The duration of a Session used to be from February to August, with autumn sittings if required to complete business. Lately the session has begun and ended in the autumn.

Unless all stages of a Bill in both Houses are completed within one Session, the Bill is lost.

Sessional Orders.—See *Orders.*

Short Title of a Bill, the.—See *Title.*

Single Transferable Vote, the.—A method of voting which secures Proportional Representation (q.v.) when used in constituencies returning two or more Members. The elector has one vote only, transferable in accordance with his preferences, which he indicates on his ballot paper. To secure election, a quota, not a majority, of the votes cast is required, and the Returning Officer distributes the surplus votes (above the quota) of successful candidates (and if necessary all the votes of the least successful candidates) among the others until all the seats are filled. This system is at present in force in University constituencies returning two or more Members (see also *Alternative vote*).

Snap Division, a.—A sudden division (usually carefully engineered) by which the Opposition hopes to catch the Government at a disadvantage and thus inflict a defeat.

Speaker, the.—Is the presiding officer of the House of Commons. He is a Member elected at the beginning of a Parliament for its duration, but generally remains in office for longer (see p. 73).

Speaker's Conference, a.—A Committee of Members of both Houses, under the Chairmanship of the Speaker, which is from time to time set up to make recommendations on questions of electoral reform and other matters.

Speech from the Throne, the.—See *King's Speech.*

Speeches.—Members ought not to read their speeches, but may refresh their memory from notes. Speeches are supposed to

reply to preceding arguments and so form part of a continuous debate, not to be set and independent orations. (See also *Irrelevance.*)

Spying Strangers.—The method in use to clear the House for a debate in private is still for a Member to rise and state that he "spies strangers", when the House may—if necessary upon a division—order all strangers to withdraw. A further Resolution is required to convert the sitting into a "Secret Session".

Standing Committees.—See *Committees.*

Standing Order No. 10.—See *Ten Minute Rule Bills.*

Standing Orders, the.—See *Orders.*

Statutes.—Bills which have become Acts of Parliament, by passing both Houses and receiving the Royal Assent.

Statutory Instruments.—Subsidiary laws made (by virtue of an Act of Parliament) principally (1) by His Majesty in Council (2) by a Government Department or (3) in relation to a court of law. They are known as Delegated Legislation.

Statutory Rules and Orders.—Now known (except for N. Ireland Orders) as *Statutory Instruments.*

Substantive Motion or Resolution, a, is a self-contained proposal submitted for the approval of the House, and drafted to express a decision of the House.

Supplementary Estimates are presented for sums found to be required in addition to those already asked for.

Supplementary Questions.—See *Questions.*

Supply.—See *Committee of Supply* and *Allotted Days.*

Suspension of Members.—A Member guilty of disorderly conduct may be ordered by Mr. Speaker to withdraw from the House for the remainder of the sitting. In worse cases the House may order his suspension for varying periods.

Suspension of Sitting.—Mr. Speaker has power to suspend a sitting in case of grave disorder, or (with general assent) for convenience, *e.g.*, to provide an interval in an unusually long ministerial speech.

Tellers.—Two Members from each side of a question who count the voters as they emerge from the Division Lobbies. They work in pairs and so act as a check upon each other.

Temporary Chairman of Committees.—See *Chairmen, Temporary.*

Ten Minute Rule Bills, are brought in under Standing Order No. 10, if the House gives its permission after hearing a brief

explanatory statement from the Member in charge of the Bill, and from one opponent if the Bill is opposed.

Ten O'Clock Rule, the.—On Mondays, Tuesdays, Wednesdays and Thursdays all opposed business except certain exempted items must end at 10 p.m., unless the rule has been suspended by the House.

Test roll, the.—The roll of parchment which a Member subscribes after taking the oath or making an affirmation.

Title of a Bill, the.—There are at least two titles to a Bill:—

1. The Long Title, which defines the purposes of the Bill. It may be amended to cover an extension of these purposes, within certain limits.
2. The Short Title, or Citation Title, which is quoted at the end of the Bill ("this Act may be cited as the Act, 19 ") and by which the Act will be known and cited. The Title by which the Bill is known during its passage through the House, called the Tag, is usually, but not invariably, the same as the Citation Title.

Treasury Bench, the.—See *Front Benches.*

Unopposed Bills, Committees on.—See *Committees.*

Unopposed Business.—Business to which no Member raises any objection.

"Usual Channels", through the.—Negotiations conducted through and between the Whips' offices. They are often used to ascertain the general consensus of opinion of the various groups of Members in the House on different matters. (See also *Behind the Speaker's Chair.*)

Virement.—The statutory power given to the Admiralty, War Office and Air Ministry (but not to the Civil Departments) to transfer surpluses arising in some of the votes of their Estimates to meet deficiencies in others. The virement must receive Treasury sanction at the time; and parliamentary approval subsequently, first by means of Resolutions in Committee (see *Monk Resolutions*) and later by the Appropriation Act.

Vote, the.—See *Blue Paper.* Also used, of course, in the sense of a Division.

Vote on Account, a.—An instalment granted annually in advance to the Crown before the main Civil Estimates are voted.

Vote of Censure, a, is usually moved by the official Opposition. The Government invariably find time for the debate and if beaten as a result of it, must in practice resign or ask for a dissolution.

Vote of Credit, a, is a sum (generally large) demanded by the Government for the public service at a time when, as in war, only the total sum required can be named, without details.

Votes and Proceedings.—The itemized record of the business transacted in the House—to be distinguished from the Official Report (*Hansard*) which is the verbatim report of the debates. (See also *Journal.*)

Ways and Means.—See *Committee of Ways and Means.*

Whips.—Members who are party officials and, on the Government side, the holders of minor Treasury or Household posts (see p. 84).

The same word is used for the weekly circulars issued to Members by their Whips, detailing the programme of business and the relative necessity for their attendance during the week (see p. 85).

White Paper.—The name is colloquially used for Government and official statements, reports and other publications not sufficiently bulky to be given a blue cover and to become "blue books".

"Who Goes Home?"—The cry which is echoed round the precincts by policemen at the close of each sitting. It dates back for centuries to the time when Members walked home in groups for mutual protection against footpads.

Writs of Summons are issued from the Crown Office directing the election of Members to a new Parliament. To fill casual vacancies during the Session the Speaker issues his warrant for a new Writ to the Clerk of the Crown upon the order of the House. During recesses he has power under Statute to do so himself.

Bibliographical Note

The majority of books referred to in this volume, together with many others, are collected in an annotated list and bibliography, published (price 1*s*.) by the Hansard Society and entitled *Books about Parliament.* by N. W. Wilding.

INDEX

A	Page
Abdication crisis	47
Acton, Lord	79
Acts of Parliament	22, 23
Addresses	154
Adjournment—	
motions for	122
of debate	154
of House	122, 154
Affirmation	155
Allocation of time	117
Allotted days	155
Alternative Vote	155
Althorp, Viscount	51
Amendments—	
selection of	117
Anson, Sir W.	32, 42
Appropriation Bill	155
Appropriations in Aid	155
Aristocracy	13
Army (Annual) Act	155
Attlee, Mr.	35, 97

B	
Bagehot, on the Constitution	32, *et seq.*, 145
Balfour, Lord	81
Ballot, the	156
Ballot Act of 1872, the	56, 141
Banfield, Mr.	129
Bar, the	70
Barrington, Sir J.	33
Barry, Sir C.	66
"Behind the Speaker's Chair"	156
Bellamy's Kitchen	134
Bellingham	67
Bentham, Jeremy—	
on parties	83
on procedure	88
Big Ben	71
Bill of Rights	25
Bills—	
How they become Acts	108-117
Hybrid	156
Private	106
Provisional Order	156
Public	108
Readings of	115
Black Rod	139
Blackstone, Sir W.	43
Blocking Bills or Motions	156
Blue Books	156
Blue Paper or "Vote"	156
Books about Parliament	152
Bradlaugh	71
Brand, Mr. Speaker	95
Bryce, Lord	142, 146
Budget	123
Bureaucracy	126
Burgesses	18
Burke's address to the electors of Bristol	53
Burnet, Bishop	141
Buxton, Sir T.	119

C	
"Cabal," the	26
Cabinet, the	25, 27, 37
Inner	26
War	26
Campion, Sir G.	76
Candidates for Parliament—	
money deposit	49
nomination of	49
persons excluded	50
Carr, Sir Cecil	109
Cass, Miss	78
"Catching the Speaker's Eye"	119
Central Hall, the	67
Chairman of Ways and Means	75, 157
Chairmen, Temporary	75, 157
Chamberlain, Lord Great	65
Chaplain	157
Chapter House	23
Charge upon the People	157
Charge upon the Public Revenue	45, 108, 157
Chiltern Hundreds	157
Church House	68
Churchill, Mr.	63, 129
Citizens	18
Civil List, the	44
Civil Servants	76, 126
Clergy	18, 20
Clerk of House of Commons	75
Closure—	
by compartments	117, 158
Kangaroo	117, 158
simple	95, 117
Cobbett, William	135
Coke, Sir W.	42
Committee of—	
Privileges	107
Selection	158
Supply	123, 158
Ways and Means	123, 158

	Page
Committee of—	
the Whole House	122, 158
Committee on—	
National Expenditure	125
Standing Orders	170
Unopposed Bills	159
Committees, Joint	159
„ Select	123
„ Sessional	159
„ Standing	123
Commons, House of—	
Clerks of	75
composition of	56, 104
description of	70
functions of	42
place of, in Constitution	41
rebuilding of	70
Commons, meaning of	21
Consent to taxation	19
Consideration stage of Bills	115
Consolidated Fund Bill	159
Constitution—	
meaning of	13
of the United States of America	27, 30
to-day	34-41
Constitutional Monarchy	14, 24
Corruption at elections	55
"Council of State theory", the	77
Count	159
Critical functions of Parliament	45
Crown, recommendation of, required for public expenditure	45, 108, 162

D

Debate, process and rules of	92
Declaration of Rights, the	25
Delegated Legislation	126
de Lolme	42
Democracy	13
de Montfort, Simon	18
Deputy Chairman	160
Dicey, Professor	39, 150
Dickens, Charles	134, 153
Dictatorship	77-79
Dilatory motions	154
Disorderly conduct	103, 172
Disraeli, B.	80
Dissolution	160
Distinguished Strangers' Gallery	70
Division Lists	131
Division Lobbies	70
Divisions	70, 141
Draftsmen, Government	109
Dropped Orders of the Day	160
Dummy Bill	160
Duration of a Parliament	23

E

Elections—	
description of	49
expenses of—	
in past times	55
Electors—	
share in government	149
Eleven o'clock Rule	160
Erskine May	24, 44, 163
Estates of the realm	18, 20
Estimates	120, 125
Estimates Committee	125
Examiners of Petitions for Private Bills	160
Excess Vote	161
Exchequer and Audit Act, 1866	44
Executive	13
Exempted business	161
Explanatory Memorandum	161

F

"Father of the House"	138
Feudal system, the	16
Finance—	
Bill	123
functions of Parliament regarding	43
Financial Memorandum	110
„ Resolution	108, 113
Fitzpatrick, Flying Officer	78
Freedom—	
of public meeting	150
of speech	150
personal	150
Friday Sittings	161
Front Benches	161

G

Gilbert Scott, Mr. A.	70
„ „ Sir G.	70
Gladstone, Mr.	44, 96, 109, 130
Government, the	14
Government Draftsmen	109
Grant, J.	153
Great Council, the	15
"Grievances before Supply"	22, 124
"Guillotine", the	117

H

Page

Habeas Corpus Act . 31, 150
Hall, Sir B. . . 71
Hansard . . . 135, 151
Hastings, Warren . . 42, 72
Herbert, Sir A. P. . . 129
Hoare-Laval proposals, the . 47
Hobhouse, J. C. . . . 80
Hogg, Q. 80
House of Commons, *see* Commons, House of
House of Lords, *see* Lords, House of
Hume, David . . . 52
Hume, Joseph . . . 129
Hybrid Bills . . . 156

I

Ilbert, Sir C. . . 22, 25
Independents . . 82
Instructions. . . 162
Introduction of Member . 108
Irish Home Rule Party . 94
Irrelevance in debate . . 162

J

Jeans, W. 153
Jennings, Dr. . . 46
Johnson, Dr. . . 134
Joint Committees . 159
Journal, the . . 89, 90, 131
Judges 33
Judiciary . . . 13, 33
"Junius" . . 151
"Junto, the" . . . 27

K

"Kangaroo", the . . . 117
"Kangaroo closure", the . 158
King, the—
"Can do no wrong" . 38, 39
King's Consent . . . 162
,, Recommendation 45, 108, 162
,, Speech . . . 162
Knights of the Shire . 17, 18, 20

L

Leader of Opposition—
functions of . . . 80
salary of . . . 80
Legislation—
by Parliament . 42, 107
by petition . . 23
by reference . . . 109
Legislature 13
Lenthall, Mr. Speaker . 67, 103
Lewis, Sir G. Cornewall 52, 91, 97
Lobby Correspondents . . 163
Locus Standi . . . 163
Lord Chancellor . . 139, 140
Lord Great Chamberlain . 65
Lords, House of—
as final Court of Appeal . 144
composition of . 138, 142
description of . . 69
functions of . . 142, 145
place of, in Constitution . 40
reform of . . . 145
Lucy, Sir H. . . . 153

M

Macaulay, Lord . . . 79
MacDonagh, M. . . . 153
Mace, the 76
Magna Carta . . . 17
Maiden speech . . . 163
Majority, principle of . . 91
Manor of Northstead . 157
Marvell, A. . . . 57
May, Sir T. Erskine . 24, 44, 163
Members' Lobby . . . 69
Members of Parliament—
back-bench . . . 155
daily routine of . 61
disorderly conduct of . 172
duties of . . . 49
equality of . . . 90
expenses of . . . 59
naming of . . 103
new . . . 106
occupations of 56
pay of . . . 57
representatives or delegates 52
subsidies to . . . 57
suspension of . 172
Memorials 163
Minority—
protection of . . 97
Model Parliament, the . 18
Monarchy—
Absolute . . 13
Constitutional . 14, 24
Money Bills. . . 164
Money Committees . 123
"Monk Resolutions" . 164
Morley, Lord . . . 36, 62

	Page
'Mother of Parliaments", the	164
Motions—	
dilatory	154
for adjournment	154
"for Papers"	141
Notices of	165
N	
"Naming a Member"	103
National Expenditure Committee	125
News-letters	132
Nomination Day	49
Notice Paper	90, 105, 165
Notices of Motions	165
O	
Oath of allegiance	165
Obstruction	93
types of	93
O'Connor, T. P.	153
Official Report (Hansard)	135
Official Reporters	134
Oligarchy	13
Onslow, Mr. Speaker	75, 93
Opposition—	
functions of	80
leader of	80
Order—	
point of	165
Order Book	165
Order Paper	165
Orders—	
in Council	172
of the Day	166
Sessional	166
specific	166
Standing	99, 102, 165
Outlawries Bill	166
P	
Pairs	166
Palace of Westminster	65
Palgrave, Sir R.	91n, 102
"Papers", Motions for	141
Parliament—	
as a Court of Justice	19
functions of	42
"High Court of"	19
history of	14
meaning of	14
Model, the	18
origins of	14
place of sitting	21, 23
powers of	42
Parliament Act, 1911	40
,, Bill, 1948	40
Parliamentary draftsmen	109
Parliamentary Questions, *see* Questions	
Parnell—	
and Committee Room 15	68
and obstruction	94
Parties, and Party system—	
need for	76
origin of	25, 76
Organisations of	83, 84
"Patronage Secretary", the	84
Pearson, J.	153
Peers—	
Irish representative	138
life	138
Scottish representative	138
Perceval, Spencer	67
Personal explanation	166
Petitions—	
relating to Private Bills	167
public	166
Plural voting	57, 104
Politician	14
Politics	14
"Prayer", a	167
Prayers	157
Preamble	167
Precedence of Private Members' Bills and Motions	127
Precedents	102
Prerogative, the	38
powers of	39
Previous Question	167
Prime Minister, the	28, 31, 36
place in Constitution	36
Prince's Chamber	68
Private Bills	104
Private Members' Bills	127
,, ,, Motions	127
,, ,, versus the Executive	127
,, Notice Questions	168
Privilege	107
Privileges Committee	107
Privy Council	26
Procedure—	
books on	86n
details of	101
essentials of	86
reform of	96, 98

	Page
Proceedings, how they reach the People	130
Progress, motion to report	167
Proportional Representation	168
Prorogation	168
Provisional Order Bills	156
Public Accounts Committee	44, 125
„ Bills	108
„ Funds, charges on	108, 157
„ Petitions	166
„ Revenue, charges on	157
Publications and Debates Reports, Committee on	159
Pugin, R. W.	66
Putting the Question	168

Q

Question, the Previous	167
putting the	168
Questions—	
non-oral	168
oral	95, 104
private notice	168
supplementary	168
time for	104
Quorum	168

R

Readings of Bills	115
Recess	168
Recommendation, King's	45, 162
Recommittal of Bill	169
Red tape	126
Redlich, Dr. J.	76, 88, 101
Refectory	23
Referees, the Court of	169
Reform Bill of 1832, the	55
Repetition of speeches	162
Report stage	115, 169
Representation	19, 52
Representation of the People Bill, 1948	57, 104
Reserved speech	169
Resignation of Members	157
Resolutions	93
Revenue, public, charges on	108, 157
Revolution Settlement of 1688	25
Right of Reply	169
Robing Room	68, 138
Rosebery, Lord	74, 146
Ross, J. F. S.	50n, 56n
Royal Assent	115, 169
„ Commission	115, 169
Royal Gallery	68
"Rule of law", the	32
Rushworth, J.	132

S

St. Stephen's Chapel	23, 66
Savidge, Miss	78
Scope of debate	169
Second speech	170
Secret Sessions	88, 172
Select Committee on Standing Orders	170
Select Committees	123
Selection, Committee of	158
Selection of amendments	117
Serjeant at Arms	76
Session, the—	
length of	63
Sessional Committees	159
Sessional Orders	166
Sheridan's speech	136
Sheriff	15, 17, 18
Shire court	15
Shorthand writers	134
Single Transferable Vote	171
Smith, Sir Thomas	23
Snap division	171
Snell, Lord	61, 119
Sovereign, the—	
place in the Constitution	34
powers of	35
Speaker, the—	
character of	74
coach of	73
duties of	74
escort of	73
house of	73
impartiality of	74, 90
of the House of Lords	138
Speaker's Chair	156
„ Conference	74, 171
Speaking, style of	119
Speech from the Throne	162
Speeches	136
Sponsors	106
Spying Strangers	172
Standing Committees	123
„ Order No. 10	172
„ Orders	102, 165
„ „ Committee	170
Statutes	22
Statutory Instruments	126, 170, 172

Page

Statutory Rules and Orders 126, 170, 172
Strangers, admission of . . 172
Substantive Motion or Resolution 172
Supplementary Estimates . 172
„ Questions . 168
Supply . . . 123-25
Suspension of a Member . 172

T

Table of the House . 67, 103
Tellers . . . 70, 172
Temporary Chairmen of Committees . . . 75, 157
Ten-Minute Rule Bills . . 172
Ten O'clock Rule . . 173
Test roll, the . . 106, 173
Thorney Island . . . 65
"Through the usual channels" 84
Title of a Bill—
Long 173
Short 173
Trades Unions . . . 57
Treasury Bench . . 104, 106
Trevor, Mr. Speaker . . 75
Triennial Act . . . 23
Two-party system . . 82

U

United States Constitution 27, 30
Unopposed Bills, Committees on 159
Unopposed Business . . 173
"Usual Channels," through the 84

Page

V

Virement, ... 173
Voltaire, on English laws . 33
Vote, the 156
„ of Censure . . . 174
„ of Credit . . . 174
„ Office . . . 90
„ on Account . . 173
Votes and Proceedings . 87, 90, 131

W

Walpole, Sir R. . . . 27
Ways and Means . 123, 158
Wedgwood, Lord . 136n, 137
Wentworth, P. . . 149, 153
Westminster Hall . . 71
Westminster, Palace of . 65
Whips—
duties of . . . 84
"two-line" . . . 84
White Papers . 117, 152, 174
White, W. 153
Whitty, M. . . . 153
"Who Goes Home?" . . 174
Wilkes, J. 133
Wilkinson, Miss . . . 129
Witenagemot . . . 14
Woodfall, "Memory" . . 134
Woolsack, the . . . 138
Wright, J. 136
Writs of Summons . . 174

Y

Yonge, Sir W. . . .52, 54



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