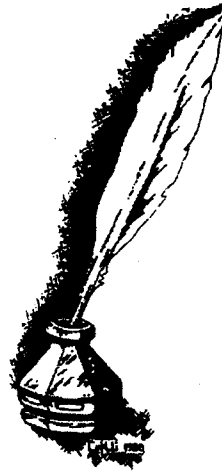




Canadian
Study
of Parliament
Group



Association
of Clerks-
at-the-Table
in Canada

*The Role of Clerks in the
Parliamentary System*

*An address given by Sir Clifford Boulton,
Clerk of the House of Commons of the
United Kingdom*

*Senate Chamber
September 26, 1994*

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The Canadian Study of Parliament Group (CSPG) was created with the object of bringing together all those with an interest in parliamentary institutions and the legislative process, to promote understanding and to contribute to their reform and improvement.

The constitution of the Group makes provision for various activities, including the organization of seminars, the preparation of articles and various publications, the establishment of workshops, the promotion and organization of public discussions on parliamentary affairs, participation in public affairs programs on radio and television, and the sponsorship of other educational activities.

Membership is open to all those interested in Canadian legislative institutions.

Michael Weir
President

The Association
of Clerks-
at-the-Table
in Canada

The Association of Clerks-at-the-Table in Canada was founded in 1969. Originally, any Table Officer in a Canadian province or in the House of Commons or the Senate was eligible to be a member. In 1972, it was the unanimous decision of the Association to amend its constitution to include Table Officers from the Northwest Territories and the Yukon.

The primary objectives of the Association are to advance the professional development of its members, to foster discussion of subjects of common interest, to contribute to the dissemination of knowledge about legislative institutions and parliamentary procedure, and to promote excellence, integrity and professionalism among its members.

To this end, the Association has held a meeting annually since its inception. Procedural, administrative and, recently, technological matters are the central focus of discussion at the Professional Development Seminars. The Association has also appointed Standing Committees on Professional Development, Education, and Technology.

Missy Follwell
President

Introduction

Sir Clifford Boulton, Clerk of the House of Commons of the United Kingdom, visited Canada recently and while in Ottawa gave a presentation entitled *The Role of Clerks in the Parliamentary System*. Sir Clifford has served the British House of Commons in various capacities since 1953, and as Clerk since 1987. He retired at the end of October 1994.

His presentation given in the Senate Chamber on September 26, 1994, was co-sponsored by the Association of Clerks-at-the-Table in Canada and the Canadian Study of Parliament Group. This address is the subject of the present publication.

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The Clerk of the Senate and Clerk
of Parliaments,

Paul Bélisle

The Clerk of the House of Commons,

Robert Marleau

Ottawa, 1994

THE ROLE OF CLERKS IN THE
PARLIAMENTARY SYSTEM

An address given by Sir Clifford Boulton, Clerk of the
House of Commons of the United Kingdom

Senate Chamber

September 26, 1994



Mr. Paul Bélisle, Clerk of the Senate:
Greetings, Sir Clifford and Lady Boulton, my good friends from the House of Commons and the Senate, distinguished guests from Lesotho, Zimbabwe and Zambia, and members of the Canadian Study of Parliament Group.

We are here today to hear a presentation from Sir Clifford Boulton, who is soon to retire from his position as Clerk of the House of Commons of the United Kingdom.

Sir Clifford and Lady Boulton are here in Ottawa for a few days while on their way to Banff to attend the Commonwealth Parliamentary Conference. We are honoured to have you with us today.

I understand that you will be speaking on the role of the Clerk in the modern Parliament, and I am sure we are all anxious to hear what you have to say.

Before I ask you to come to the lectern, I thought that, by way of an introduction, I might review briefly your distinguished career in the British House of Commons.

Sir Clifford has been Clerk of the House of Commons since 1987. By the time of his appointment, he had already been in the service of the house for more than 30 years, having joined the staff there in 1953.

In his progress through the ranks, he served on numerous select committees, including two on procedure and one on privilege. He was then Clerk of the Overseas Office for almost three years, between 1977 and 1979, when he became Principal Clerk of the Table Office, a position he held until 1983, when he became Clerk Assistant; and finally, in 1987 as I already said, he became the Clerk.

I might also note that his prominent service to the house has been recognized by his steady progression in the knighthood of the Bath that has been bestowed upon him by the Queen. In 1985, Sir Clifford was made a Companion; in 1990, a Knight Commander; and this year he was awarded the highest rank of Knight Grand Cross.

Sir Clifford, I do not know what achievement you would single out with particular pride during your tenure as Clerk but, in my opinion, it is safe to say that for us it would be your work as editor of the Twenty-first Edition of *Erskine May's Parliamentary Practice* which appeared in 1989.

This text remains an indispensable authority on procedure throughout much of the Commonwealth. It is definitely an invaluable resource here in Canada. *Erskine May* is consulted often by us who work in the Senate and the House of Commons and, I am sure, by our colleagues in the different provincial and territorial legislatures.

In the many editions of *Erskine May* that have been produced over the 150 years of its history, several have stood out as a testament to the knowledge and vision of the editor, as much as to the genius of its first author. This is clearly the case, for example, with the Fourteenth Edition that was edited in 1946 by Lord Campion, perhaps the foremost Clerk of this century.

I think that the Twenty-first Edition will stand out in a similar way. As Sir Clifford noted in the preface to his edition, the work included:

...certain changes intended to improve clarity, and to give greater emphasis to current rather than former practice.

In this, I think that you have succeeded admirably. To my own mind, the cast you have given to this magisterial work restores to a significant degree the original intent of the author, which was to provide a "general view of the proceedings of both houses of Parliament." It is now more thoroughly a manual of practice rather than a comprehensive collection of precedents. For this reason alone, I think your edition will serve to keep *Erskine May's Parliamentary Practice* an invaluable reference and authority for years to come.

The practical turn of mind which you have shown in editing the Twenty-first Edition is also evident in your choice of topic for today's presentation on the role of the clerk in the coming years. We all look forward to hearing what you have to say.

Sir Clifford Boulton, Clerk of the House of Commons, United Kingdom: I wish to thank you, Mr. Bélisle, for your very generous welcome, your very generous comments, and also your generosity and largeness of spirit in making available this most splendid and dignified setting for a contribution which I am sure will fall well short of its surroundings.

I am also grateful for the very kind things you have said about *Erskine May*. It reminded me of the fact that about 130 years ago, *Erskine May* told a procedure committee:

It appears to me that all avenues of further procedural improvement have now been exhausted. I see no need for any further changes.

Erskine May

What he said might have been true at the time, to the extent that he felt satisfied that the balance required for the functioning of Parliament had been achieved at that time. I should like the theme of my address this afternoon to be that we all should remain constantly vigilant to ensure that, in our own age, we should attempt to achieve that kind of balance.

I also wish to express my thanks to Robert Marleau for his kind invitation to visit Ottawa on our trek across Canada en route to Banff. It is a great pleasure to come and meet him on his home territory.

You will be aware that there are only the two Clerks of the House of Commons in the world. However, we are not an endangered species — or so I should like to think — because we personally are aware of this constant need to ensure that our parliamentary institution is able to fulfil its purpose within our respective constitutions.

This occasion is billed as a seminar. I hope that its most productive part will be the exchanges of comment, and questions and attempted answers. However, I would open with a few general thoughts intended to be on the theme of the defence of parliamentary government; indeed, in praise of parliamentary government.

I should emphasize that everything I say will be based on my experience in the United Kingdom. I do not presume to comment on Canadian developments. However, along with our parliamentary systems, our two countries do share a healthy scepticism about politics and politicians which sometimes spreads to the very institutions of the constitution, and I would like to take every opportunity to put in a good word for them, at least.

Let me first tell you what I see to be the advantages of our parliamentary system as opposed to one where there is a rigorous separation of powers.

We have, first, effectiveness in the rapid implementation of policies approved by the people. We do not have to suffer the conflict between, say, an executive and a legislature, each able to claim

quite legitimately that it has its own democratic mandate.

We have the advantage of the presence of ministers in Parliament with the reaction of members fed to them directly on a daily basis. Having just come from the House of Commons and having seen it in operation here today, there is no doubt that, by being present and amongst their colleagues, ministers are frequently updated on the reactions of their colleagues, brought to them from all over their country.

There is a single mandate which means that the electorate knows who to blame when election time comes. The responsibility, being complete in the power that it gives, is also something which must be answered for, without too many credible excuses, when judgment time comes around.

However — and we must recognize this — the simplicity is bought at a price. The advantages of parliamentary democracy which I have mentioned can look after themselves. Those of us who have the long term interests of our institution at heart must face up to the weaknesses that exist, and see what we can do to minimize their effect.

The basic weakness was pointed out fairly brutally by Rousseau over 200 years ago.

The English people think they are free; they are quite wrong. They are free only during the election of Members of Parliament. As soon as those Members are elected, the English people are slaves; they are nothing.

Jean-Jacques Rousseau

This criticism is heard just as directly today. Parliamentary government — especially, some would say, without proportional representation — produces an elective dictatorship.

Therefore, the first thing that a parliamentary institution should aim to do in rebutting this charge is to make sure that ministers do not feel like dictators; that there is no erosion of minority rights; quite simply, that there is a reason for minorities to attend and take part. Majorities must have their way, but minorities at all levels of parliamentary activity must have their say or they will be tempted to take their politicking elsewhere, with all the unfortunate consequences that that entails.

There is also a rather separate potential weakness of the parliamentary system which is sometimes overlooked. That is the fact that the road to membership of government is exclusively through Parliament. In my opinion, this produces better ministers, but it does mean that they are recruited

from a restricted base. For that reason, as well as some more general ones, everything must be done to enable us to achieve a wide range of talents and experience, as wide as possible, to serve in Parliament, even including, dare I say it, paying members properly.

Those of us whose role it is to assist in keeping our parliaments working well must also be aware of their proper role. Parliamentary government does not mean government by Parliament, but government by the government who asked for the job in a parliamentary context. We shall do more harm than good if we encourage the idea that Parliament should share in executive power. It is not equipped for that role. Its whole approach is different. However, we must ensure, as far as possible, that Parliament is able to match in its supportive, critical, analytical function the many and various forms that governmental activity takes.

In the United Kingdom, for instance, there has been a great devolution of day-to-day administrative matters to executive agencies, for whom a minister is ultimately responsible but whose chief executive is in direct charge. We are still coming to terms with this change but it illustrates the sort of challenge that I have in mind.

If I may, I will now refer briefly to some of the aspects of balancing majority and minority rights that we employ in the United Kingdom, after which I hope that we can pursue this aspect and any others you might have in mind by way of question and answer or just comment.

The character of the House of Commons in the United Kingdom is government very much by the sheer pressure of business. We are not a federal constitution. Everything must come through us, from local problems right up to regional, national and international questions.

We have 651 members. We have the same number of days in the year as you have. We actually meet on 170 days a year, and that, in itself, is one of the highest figures for Parliaments anywhere in the world.

One of the most distinctive things that we have done to achieve the balance of which I have spoken, and it is something which is not always appreciated, is that we have made the office of Speaker in the United Kingdom a very special one. Obviously the term "Speaker" is used throughout the Commonwealth, and it is easy to assume that because something has the same name it has the same character. However, from our very large

membership, we have in fact been able to extract one person from whom we ask a degree of political abdication which is not seen anywhere else, as a result of which we can entrust that person with very large powers.

Our Speaker is not necessarily chosen from the government side of the house on first election, although that normally has been the case. Our present Speaker was chosen from the opposition benches. The first consequence of accepting election is that the Speaker must not only resign from his or her own party, but never join it again. This is the end of party politics for this individual in Britain, and it is recognized that holding the office of Speaker will be the climax of your public life. You will be treated as such. A pension goes with the job, and you are offered membership in the House of Lords, so there are some consolations.

The real reward is at the end of the day when you ask yourself, "Was I a good Speaker?" If you are to be able to say that, then you must be trusted by your colleagues to exercise all your powers very fairly and independently.

Because our members do trust their Speaker for that very basic reason, the Speaker is able to choose absolutely freely whoever is called in debate. No lists are served up or provided by the party. If a party presumed to give the Speaker a list of people they wanted called, she would tear it up. She is given very powerful discretionary powers, not just who to call or not to call and find invisible for a short period, but which amendments to call, which to ignore, whether or not to accept the closure or refuse even to entertain it. These sorts of powers give our Speaker a very strong personal control over the management of business.

I cannot emphasize too strongly: At no time do we in the United Kingdom ever say, "That is what we do, and why don't you give it a try?" We always say that people of every constitution and every society must develop their own system, having roots that genuinely come from the soil of their own situation. This is just an illustration of what we do in the United Kingdom to maintain this very important confidence in minorities; that there is someone there whose job it is to actually look after them.

We also guarantee time for the opposition. Twenty days a year are reserved for the opposition to choose the business. They determine what the subject of debate will be. We subdivide that for the smaller minority parties.

We have 22 days a year for private members' opportunities, roughly divided between motions for

resolutions and legislation. Quite a large amount of legislation reaches the statute books originating from private members. Clearly these bills do not have a great deal of political content, but many of them have very significant sociological content and are difficult, hot subjects, sensitive subjects of national interest. Abortion is an example of major legislation which originated with backbenchers.

Sometimes sheer force of personality can get a bill through. Mrs. Thatcher made her maiden speech to introduce a bill which was rather controversial at the time. She seemed, by some kind of magnetism, to be able to get it to Royal Assent as her first accomplishment after arriving in the House of Commons. She did not rest on her laurels at that point, as you will recall.

We have made great progress in the development of our departmentally related committees. This is an area where one has to be very cautious about trying not to see one's committees getting a taste for making decisions and recommending what governments should do directly in the implementation and development of policy. Great responsibility in our situation rests upon the Clerks to effectively help their chairmen understand that it does not serve the long term usefulness of committees for them to be in constant battle with their related department as to who does what.

After some false starts in the early years of our committee system, we now have a system which was developed in 1979 and which is working well. Obviously this is an area on which some of you may have questions in a moment.

Regarding staffing of Parliament itself, again, we have the advantage of scale. By having large departments, we are able to run a clear system which effectively enables people to immerse themselves in the ethos of Parliament as their choice of career for the rest of their lives, although that is not exclusively so. Particularly, we acquire a short term staff, for instance, for our committees.

Basically we try to provide a career structure for those who wish to choose to work in the public service for Parliament rather than for government. This allows members to gain confidence in the staff, and to see by example and instance, as the years go by, the fact that the staff behave absolutely impartially by second nature.

You must develop the kind of skill which enables you, one minute, to advise a member how best to achieve something, and the next minute to advise another member, who has heard what that first member is up to, the best way for the other member

to stop the first one doing it. They both must be able to come to you and feel comfortable that, first, it will be totally confidential and, second, it will be right. Developing a system which provides correctness and quality is something which is an enormous strength to the parliamentary wing of the constitution.

The whole service must be efficiently and effectively managed. It must be seen as a complete parliamentary service. I do not think it can become compartmentalized. I do not think one can say one service can act totally in ignorance or independence of what another service is planning. The whole thing must be drawn together in some way by some organization or some person who is prepared to take responsibility for giving that coordinated service. To come back to the point I mentioned about there being two Clerks in the House of Commons, Robert Marleau and I think alike on that subject. Everyone must establish a system, if they possibly can, which achieves that kind of coordination.

Those are really the general considerations that I wanted to raise with you, and I hope they might have put a few thoughts into your minds as to things we can pursue together. You will notice there are various matters I have not talked about, such as parliamentary privilege and other things. Feel free to raise any matters that you care to do. Thank you very much.

Mr. Rob Walsh, House of Commons: I have never visited the British House of Commons, at least not professionally. However, I have been there for a personal visit.

Do you have a Law Clerk there, or someone of that ilk whose job it is to look at things from the perspective of some legal training?

Mr. Boulton: We have an officer called Parliamentary Counsel. In fact, we now have three legally qualified officers who perform specific functions to do with legal correctness of material, whether it is in respect of people seeking private bills, or for committees that may have the job of examining delegated statutory instruments to see if they are correct.

We do not have anyone who assesses government bills for their ultimate legality, or anything like that. We rest on the assumption that parliamentary sovereignty means that if we pass something, it is the law. Our legal advisors do not perform the same function as Law Clerks in other parts of the Commonwealth.

Mr. Richard Greene, Clerk Assistant, Senate: Before we proceed any further, we have a request

from our stenographers. They are taking notes in *Hansard* style, and they request that anyone who wishes to ask a question to please identify themselves.

While I am on my feet, I would like to welcome Sir Clifford and Lady Boulton to the Senate chamber. We were together two weeks ago in Copenhagen in connection with the Association of Secretaries General of Parliaments meetings, and also in relation to the Association of Commonwealth Clerks. There are a number of people in the audience who have prepared replies to numerous questionnaires that have come from those two associations. As a matter of fact, in Copenhagen we discussed the working methods of our association and the great number of questionnaires that do come out and are very time consuming.

Can you explain to the people here just what we do with the Association of Secretaries General, and also the Commonwealth Clerks?

Mr. Boulton: I am a strong believer that the meetings that we have throughout the duration of these plenary conferences are much more worthwhile and productive than what is going on in the plenary hall. We all have something in common to talk about in a constructive and uncontroversial way. Such meetings are very useful in bringing together people of very different experiences.

We perform functions, the importance of which we recognize but which are very little understood or known about in the societies where we live. It is very good for morale for Clerks engaged in this rather thankless task to meet together and just realize that there are other people having the same sort of problems. We do not meet just to weep on each other's shoulders. We have a constructive agenda, and put together reports on specialized aspects of our work.

I detected some slight questionnaire fatigue in Richard's voice. I agree with that. Quite frankly, communication with each other is now so easy that if you really have a specific point on which you require an answer, you do not go back into the archives of the Association of Secretaries General. You send a fax or make a telephone call, and get a quick answer directly on current practice.

We must be very sparing in the amount of work we ask colleagues to do in relation to our questionnaires, and as far as the association is concerned, we intend to do so. The Society of Clerks associated with CPA is much more homogenous. We have far more in common there, and there is much

more of a club atmosphere. There again, we are reinforcing each other in the work we do. It is particularly interesting to be able to help new members, or members who are rejoining. The Society of Clerks of the Table was actually started by a South African Clerk, and it will be of great satisfaction to have a South African Clerk back in Banff. That is certainly one of the areas where we are very successful.

Mr. David Gussow, House of Commons: You mentioned one of the possible deficiencies of the parliamentary system was the fact that the members of the ministry had to come from within Parliament. Is there any legal impediment to that?

I know there have been cases both in Britain and here in Canada where, for a short term, there have been members of the cabinet from outside Parliament. Is there any legal impediment on a long term basis for that, or is that something that could be corrected if it is really a so-called deficiency?

Mr. Boulton: There is no legal impediment, but of course there is a political imperative that ministers should be responsible to Parliament. If they are recruited from outside, they have to find a seat quickly. We, of course, have the facility of the House of Lords to take care of that sort of thing, but you cannot put a key cabinet minister into the House of Lords just like that.

When I said there was a weakness, yes, it was a point which created a challenge, but I did also say that they make better ministers if they come through the parliamentary method. On those occasions when we have produced successful businessmen, or people from outside, out of a hat and brought them into Parliament, they have not been particularly successful. I think their formative years ought to be learning how to be responsive to elected members of Parliament. The methods of the boardroom are not appropriate for dealing with a parliamentary chamber.

I want us to go on recruiting that way. What I am saying is that there are enormous strains on anyone going into Parliament these days. There are things you ask them to give up, and their colleagues or contemporaries from university, or wherever it might be, will be moving off into a different kind of atmosphere. The wives and children of his contemporaries will be having a standard of living different from that which the parliamentarian can provide on his £30,000 a year. It is a matter of concern that if we are to keep up the quality of cabinet, we must keep up the quality of the general recruiting base from which they are drawn.

Mr. Mark Audcent, Senate: I should like to focus on the question of the administration of the houses. Administration has become an ever-growing burden in the last half of this century.

I understand that in the United Kingdom the Clerks of the houses have become corporations sole, which is a very different way of doing things than we have adopted in Canada. We have gone to boards and committees.

Can you comment on your experience of being a corporation sole?

Mr. Boulton: I sealed a document just before catching my plane to spend £1.4 million hiring two giant cranes for erecting our new parliamentary building, and that money is marked down to me, so to speak.

Obviously, the Clerks were not elevated to this strange position in order to go off and make these vast decisions without any backing from the membership. Simply, the legal position in Britain is that the Houses of Commons and Lords are not persons in the legal sense, and able to enter into contracts. A way had to be found of producing a parliamentary person. No Clerk in his right mind would set off and use this power without making sure that, in my case, the House of Commons Commission was supportive of what he was proposing to do.

I work very much as the principal adviser of the House of Commons Commission, which is a body chaired by the Speaker and which, incidentally, has only one member of government on it. The government is in a totally hopeless minority on that board. It is expected to behave in a House of Commons way. It is responsible for the tabling of the estimates for all House of Commons public expenditure, for which I am the accounting officer, and therefore I must account for the way those funds are spent, and encourage them to spend what I think they should spend.

We are not, for instance, bound by the government's own self disciplines of no more expenditures this year, or something like that. We strike our own estimate, and it will be up to the government to try to persuade the house as a whole, if they really came into conflict with the commission, to throw out the estimates. It is thought very unlikely that the government would have much luck in that direction.

Mr. Charles Robert, Senate: Would you be willing to speculate on what you think might happen to privilege in the future? Some years ago, a

report came out suggesting that privilege should be expanded to include correspondence between members of the house and ministers. The idea behind that was that members now have an ombudsman role on behalf of their electors, and that this correspondence should now fall within the scope of privilege.

Several years ago, there was a case reviewed by the Association of Parliamentary Counsel and legislative counsel, during their conference here, which challenged the traditional interpretation of Article 9 of the Bill of Rights. The courts had determined that indeed they can use parliamentary debates in an attempt to construe ambiguous legislation, or ambiguous clauses in legislation.

It seems as if there is some change afoot. One would think that there might be more, given that proceedings now in the British house are broadcast, not just simply by radio but now by television. The institution is becoming more and more a public body, much more so than it was in the past.

Do you think that this broadcasting situation will have an impact on the perception of what privilege is, and should be?

Mr. Boulton: I think there are several questions there. First, I cannot see on the horizon a formal attempt to redefine proceedings in Parliament. What you are opening up there is a whole area of what the courts see as the limits of parliamentary privilege, and what a house would see as its privileges. There are one or two developments that make me worry that we will have one or two conflicts of such kind on the horizon.

As to whether or not correspondence between a member and a minister constitutes a proceeding, I think that the house will behave with great discretion in that area, and will almost certainly only ever claim that a correspondence is a proceeding if it is very identifiably related to something which is pending in Parliament, rather than something that a member has chosen of his own initiative to pick up and take as a constituency matter.

I am keen that members of Parliament should not think that they have some personal privilege. Parliamentary privilege is not for members; it is for their business. I do not think members ought to be able to declare letters that they write to be parliamentary proceedings.

We extended the rules of declaration of interest to letters that members write to ministers. Therefore, the house as such has seen that there is a parliamentary interest in the contents of the letters.

However, so long as it is used with great discretion, as it was in the Strauss case itself, I do not see us going to the courts on that one.

In *Pepper v. Hart*, we have a case where our courts have said that, in future, if they are in genuine doubt about the meaning of a statute, they will feel free to have a peek into *Hansard* officially — not sort of unofficially as we gather they have been doing for some time — just to see what the intention was. I think we can avoid conflict simply by their saying, “We see now what the house meant.” However, if we get some counsel from the other side of the argument saying, “It is well known how ministers will say anything to get a bit of progress on a bill. You don’t have to believe anything they say after 10 o’clock at night” — the moment we start to get that kind of argument in the courts, rubbishing our proceedings, there will be no doubt at all that our proceedings are being questioned. We thought they were being questioned from a pure point of view. In fact, we thought even looking at them at all was questioning them. If you like, we have lost that round by default, but we are not pursuing it. We shall watch carefully to see what kind of arguments the courts allow to be presented before them.

You asked another question?

Mr. Robert: It was simply to do with broadcasting.

Mr. Boulton: Yes. We have had some increased complaints from the public, business people perhaps, who have been referred to in the house, complaints that a member has abused his privilege. I do get quite a number of letters, as does the Speaker, from people who say, “That was an outrageous abuse of privilege. It has damaged me. What kinds of redress do I have?”

The Australian Senate has introduced a system whereby someone who feels they have a complaint of that kind can have their written complaint assessed for publication in the Senate’s official report as a kind of rebuttal. I do not see us going down that road.

Our Speaker, as I say, has a very active role in seeing that members behave properly. She will never publicly speak in terms of there being such a thing as abuse of freedom of speech just like that because, if it can be abused, it is not a freedom; it is a limited freedom. We want it to be a total freedom.

Administrative action will be taken to curb members who turn out to be irresponsible in what

they say. They tend to get less visible to the Chair, sometimes.

Mr. Michael Weir, Canadian Study of Parliament Group: You talked about the need for balance between the role of the backbenchers and the role of the ministry, and how that played in the house. In particular, you talked about the increased evaluation or analytical support available to the select committees, and you talked about the evolving role of executive agencies with increasing contact between the bureaucracy and Parliament.

I have three questions coming out of that: How would you characterize the trends in the way that that balance has evolved over the last five years? How do you see it moving over the next five years, and how has that affected the operations of the house and the Table officer?

Mr. Boulton: I am not pessimistic about it. You are never able to cover all the ground. You will never be able to produce a total critique of everything the government does. What you must do is to produce work of sufficient value and sufficient range to make all civil servants and ministers accept the fact that the work they do on a daily basis might be examined. You must get them to accept the fact that they are performing a public service which is subject to scrutiny.

The way to do that is to increase the quality of the reports, and first of all, their effectiveness by their usability. I am not advocating deep, scientifically researched, study reports which, in fact, fall like heavy stones straight into a pool and hardly make a splash. You should remember that you are writing the reports for people who will not have gone through all your mental processes and study, and therefore the reports should be readable and accessible.

You do not need to build up a parliamentary bureaucracy of experts. If you have a large staff of economists and scientists, you never have quite the scientists or economists that you want for a particular inquiry. Although we have some short term, special advisors to help us understand technical evidence, we like to get all our real expertise in the shape of short term, ad hoc staffing from eminent people who will give us a few months, or we initiate the evidence through witnesses.

We have our committees by and large — although not wholly — weaned off looking for a quick political response, or headline grabbing, in effect. We are coming to quite a good realization that in order to keep its value, a committee report

must be respected when it comes out, and not just be a reflex, knee-jerk reaction to some apparent error that a government has made. I am quite cheerful that we have learned a lot of lessons well, and that, generally speaking, our reports are good and worthwhile in producing that effect.

On the particular aspect of agencies, that has not quite worked out. It could be said that, in some ways, governments appear to be trying to gain approval both ways, and that ministerial responsibility is not at the moment, perhaps, being brought out to the members' satisfaction. Just making governments feel as though they are not able to do things in the dark is the answer.

Mr. Stephen Knowles, House of Commons: I am in the Private Members' Business Office of the House of Commons.

I believe, Sir Clifford, you mentioned that there are 22 days of private members' business in the British House of Commons. As you know, we have a daily private members' hour, and a system of lotteries which determines how and when members get their items on the *Order Paper*. I would be curious to know how that aspect of the process is handled in the United Kingdom. In other words, how do members bring forward their items, such as bills and motions? By what procedure is that business conducted?

Mr. Boulton: Precedence is also basically worked out by chance, by lotteries. There is a principal lottery for bills held once a session. The days are fixed at the beginning of each session as to when the private members' bills will have precedence. We draw a number of members' names, two of which will have precedence on those days. There may be about 20 names altogether.

However, there are still further opportunities for the introduction of private members' bills. For instance, twice a week there is a 10-minute slot when a backbencher or private member can introduce a bill, and explain it. If someone wishes to oppose that bill, they can do so by speaking against it for 10 minutes. That happens twice a week at prime time. Thus, there is an opportunity to test vote on big issues, such as capital punishment or other sorts of things. There can be a test vote twice a week on the proposition of bringing in the bill. That is in addition to those who have a precedence already for a second reading.

These things find their level according to the degree of controversiality that they contain. As a member, if you are low in the ballot that I have

talked about, you will often introduce a kind of token project which you know will not get very far. If you have a prime time slot, a really good opportunity, then you have a serious question to ask, which is: "Will I introduce something that will really get on the statute books? It will be my bill, my act. Or will I have a demo?"

That is how it is done. As I say, there are new bills coming along all the time. Some of them are introduced by way of speeches. Otherwise, members can hand them in at any time. Such bills go to the bottom of the list. In order to pass, they would need to get through with unanimous consent. However, every session quite a few bills get through without a word spoken on them at any stage.

We have a regular series of ballots for the private members' motion days because, obviously, we want them to be on topical subjects. Ten days ahead of the date that has been set down for a private member's debate — which would last all day — we pick three names out of the hat. Those lotteries are actually conducted in the chamber. A great box is brought into the chamber, and the Clerk Assistant, the one in the middle, stirs it around like a pudding and brings out three numbers, one after the other. The Speaker calls out the names of the lucky winners. Normally, getting number two is like winning second prize in a beauty contest — it is no good to anyone. Usually, the first one chosen takes up the whole time allotted. However, the lottery selection is done 10 days ahead, and they are deliberately spread evenly throughout the whole year.

Ms Irene Jenkins, House of Commons: I am with the House of Commons. I should like to ask a question about the language used on the floor of the U.K. House of Commons. I am not referring to parliamentary or unparliamentary language but, rather, to whether the Plaid Cymru are allowed to use their own language in the house, and what kind of pressure they exert. Do you see any changes planned for the future? Is there any Welsh in the official transcripts? I would be interested in knowing how the system works there.

Here in Canada, we have English and French as our two official languages. I know that Welsh is not an official language in the United Kingdom, but I am sure the Plaid Cymru must be exerting some kind of pressure.

Mr. Boulton: As far as the House of Commons is concerned, the pressure is not terribly great, because there is not a great deal of benefit in speaking a language which the 645 other members

in the chamber cannot understand. In order for them to do so, of course, we would need to introduce a simultaneous translation service.

It is not a really live issue for us. There are also one or two members who speak the Gaelic from the north of Scotland. However, the most frequent request I get is, "Please, may we take the oath in our own language?" They take the oath in the chamber at a sitting of the house. At such sittings, the Speaker must be in the chair, and all of the members take the oath individually.

I do allow members to take the oath in their own language, after they have first taken it in the statutory language, because we must do so in order to comply with the act.

We do have arrangements for the Welsh select committee, for instance, to take evidence in Welsh with translation. Thus, Welsh people are not excluded from giving evidence and sending in memoranda in their first language.

To be honest, there is no great pressure at the moment to introduce bilingualism or trilingualism into the chamber. In fact, the Speaker would stop a member from saying even a sentence in Welsh.

Ms Monique Tomka, Senate of Canada: I am the Director of the *Journals* of the Senate. My question is an administrative one with two parts. I would like to know how many people are on staff at the Office of the Clerk of the House of Commons and, secondly, how many of them are women.

Mr. Boulton: The whole staffing strength of the House of Commons is divided into the two groups: members' personal staff, which numbers just over 1,000, and the official staff of the house, which numbers slightly more than 1,000. There are approximately 1,200 staff members.

In the department of the Clerk of the House, there are about 160 members at the moment, of whom one-third, approximately, are Clerks. Of those Clerks I would think there are currently 12 women.

I have only just been able to appoint the first woman at the principal Clerk level. We have had some women sitting at the tables as Clerks for several years, as part of our experience program for training potential senior members of the department so that they do not experience total shock when they first sit in the chamber. However, as I say, I now have one woman as a more senior Clerk.

I may say that, as far as the board of management is concerned, the head of the Library

research service is a woman, as is the head of the refreshment department. Therefore I have two female members on the board of management.

Mr. Michael Lukyniuk, House of Commons: I am with the House of Commons. One of the things that you said intrigued me. Yours is a unitary state where you deal with everything from dog licences to international treaties. In Canada, we have separation of powers between provinces and the federal government.

I was curious to hear your impression with respect to the capacity of the House of Commons to accommodate the needs of Parliament, both from the government benches in getting legislation through, and also from the opposition benches in scrutinizing it. Do you feel that the way of the future will be through increased research staff, or through an increased number of committees and so forth?

Mr. Boulton: We made a small contribution in that direction by abolishing dog licences.

The serious answer to your question is that I am a great believer in business finding its own level. I do not believe in allocating time, almost as a matter of principle, to every bit of business and packaging it all up into neat parcels. I quite agree that members with responsibilities in the parties must have good advice. However, if your Parliament is working properly, they should identify those matters on which they want to spend time, and those matters which they can let pass. I would much rather things find their own level in that way.

I think that we have devolved quite a number of things to committees, such as the examination of secondary legislation. You will understand that our membership in the European Community has increased the amount of work that we have. We have devolved most of that to the committees. But we do have a system of analysis whereby we have a kind of sifting committee of members. Anything which they recommend should be kept on the floor of the house is kept there. Other things are devolved.

In my opinion, the business of Parliament can best be managed by a system of care and proper preparation, rather than by the multiplication of staff. As I say, we do not want a parliamentary bureaucracy, any more than we want a political bureaucracy.

We do finance our minority parties. Over £2 million a year, for instance, is now paid to the Labour Party, which is the official opposition, for their own parliamentary staff in addition to the

individual staffers that members employ. Therefore we do spend money on financing minority parties so that they can have strong secretariats. Of course, I agree with you that that is a very important thing.

However, sometimes the members do get overbriefed. It is an awful thing when members have such a personal commitment to their staff that they need to read out every speech that is written for them so that the staff members do not get upset. I get rather bored with that sometimes.

Mr. Robert Marleau, Clerk of the House of Commons: Sir Clifford, the pleasant task has fallen to me to thank you for having accepted our invitation. Before I attempt to at least reflect upon what you have said, I want to thank the parliamentary group and the Association of Canadian Clerks for organizing this little get-together.

When I invited Sir Clifford, I wrote, "Please drop into Ottawa on your way to Banff." There was then some interest expressed in his addressing parliamentary staff, and people who take an interest in parliamentary issues. I then faxed him a note, asking if he would kindly do this, and a fax came back which read, "Dear Robert, I should be happy to sing for my supper." Apart from being the other Clerk of the House of Commons, Sir Clifford also has a good sense of humour.

He also neglected to point out that another similarity between us is that we were both appointed Clerks in July of 1987. We are each married to a wonderful woman named Anne. However, I shall not try to compare myself with the obvious experience and knowledge that we have witnessed this afternoon.

I would simply like to share with you three points that I have retained from Sir Clifford's remarks.

One statement you made struck me personally: that is, your fleeting but important comment, which was well-placed, and no doubt one on which you could make an entire speech, concerning the

concept of the recruitment of members, the problems associated with their remuneration, and the sacrifices that our populations demand of those in political life. In my opinion, those circumstances are starting to have some dire consequences, at least in Canada and other modern democracies, in terms of the quality of the candidates that we may be attracting. That is not to say that we do not have quality people, but certainly we are losing quality candidates as a consequence.

Another important concept that you raised was that of our parliamentary staff and their loyalty to the institution, and the duty of us all to make sure that we nurture a staff whose first and only loyalty is to the institution. That is very much a part of the parliamentary concept that we have inherited from Westminster.

Finally, a line you did not use here today, but one which you used in private with me and reflected on this afternoon, is that the beauty of this system and its strength at the same time is that it nurtures dissent without necessarily equating it with disloyalty. I think I borrowed those words from you, after hearing you use them several years ago in one of our conversations. You talked about the importance of allowing the minority to be heard — indeed, the duty of all of us to be vigilant when serving minorities represented in Parliament. We must keep in mind that dissent is part of our system. It is supposed to be healthy, and should be used in a constructive fashion.

Those are the only three points I have retained. I could have added eight or nine others, each of which could itself be the subject of a speech. I have seen several persons taking notes, so other points have certainly been noted.

This has been a most enjoyable session. On behalf of the two associations, and on behalf of all the parliamentary staff who attended this afternoon, I thank you and Lady Anne for being here.

The chamber session concluded.