Time limits on speeches and debates

A. Introductory Note by Professor Costas Beys, Secretary General of the Chamber of Deputies of Greece

1. According to Article 60, paragraph 1, of the Greek constitution Deputies have the unlimited right to express their opinions and to vote according to their conscience. Incidentally, according to Article 66, paragraph 2, Ministers and Secretaries of State have free access to the sittings of the Chamber and may speak when they wish to do so.

It is obvious that the exercise of the unlimited right of expression by Deputies and Ministers during debates in the Chamber could paralyse the good running of its work, since, if it was exercised, it would completely impede the normal conduct of debate.

After the first few examples of normal work being hindered in this way, particularly during discussion of legislation, the need to limit the exercise of this right was felt and new provisions were made in the Standing Orders of the Chamber.

2. The Standing Orders of the Chamber which had been in force since 1975 governed the length of speeches as follows:

2.1. When Deputies formed parliamentary groups, it was accepted that there would be important restrictions on the right of speech except for the representative of each parliamentary group and his substitute (to whom were granted special speaking rights).

Thus Article 19 of the Standing Orders made a distinction between parliamentary groups recognised under Standing Orders and simple groups.

For the leaders of parliamentary groups recognised under Standing Orders and for Ministers, the rules provided that they may speak whenever they wish and for an unlimited time. Substitutes for party leaders had a right to speak for a maximum of 30 minutes and for no more than three times on each subject.

For the leaders of parliamentary groups not recognised under Standing Orders as parties, as well as for every other Deputy belonging to a party or being an independent, the Standing Orders imposed important restrictions.

The rules allowed each Deputy to speak twice on the same subject, unless the Chamber by a special decision allowed him to speak for a third time. The length of a rapporteur's introduction of a bill as well as the speech of each party's spokesman, if there is no rapporteur, was limited to 30 minutes. For other Deputies on the list-of speakers, their speeches could not exceed 20 minutes. The right to a second intervention on a draft or proposed law under discussion was confined to 10 minutes and on individual clauses to 5 minutes.

2.2. The rights extended to leaders of parties recognised under the Standing Orders applied also to the following people:

2.2.1 To Members who were previously recognised as party leaders for three legislative terms or in one of the two most recent terms.

2.2.2 To former Prime Ministers who had obtained a vote of confidence from the Chamber (Article 20).

3. It is evident that the application of these provisions to debates on legislation caused delay and made it necessary to have special procedures for the discussion and adoption of urgent legislation (that is to say with a delay of three sittings which could be extended if necessary to five), or for the immediate introduction by the government of measures of a legislative nature which are retrospectively sanctioned by the Chamber.

Faced with this situation, the committee responsible for drawing up the new Standing Orders, sought solutions to enable parliamentary business to be conducted without hindrance and to enable the legislative process to be carried out in a regular and unimpeded manner.

The new Standing Orders include the following modifications:

3.1. In the first place it limited the number of people who enjoy the right to make extended speches by withdrawing it from former party leaders, and former Prime Ministers.

3.2. The new rules introduce for the first time a limit on the speaking time of Ministers and Chairmen of parliamentary groups with certain exceptions. In principle, the length of speeches by Ministers and Chairmen of parliamentary groups may not exceed 40 minutes (Article 97, paragraph 2). These same

people are only allowed 10 minutes for each intervention during a discussion (Article 97, paragraph 4). Interventions by the Prime Minister and by the chairmen of parliamentary groups are not covered by these restrictions.

Limitations on speaking time have also been introduced for substitutes speaking for parliamentary groups and their first speech cannot exceed 30 minutes, the second 15 minutes and the third 10 minutes. A limit of 30 minutes has been preserved for rapporteurs and specialist spokesmen as well as a limit of 20 minutes for all Members on the official list of speakers.

3.3. All the above applies provided that the proposed law under discussion is not following the special procedure of "organised debates".

For such organised debates, the Bureau decide the total number of sittings necessary for a proposed law (bill) to be considered as well as the length of each sitting. Also prescribed in this way is the time allowed for the discussion on the principle of the bill as well as the amount of time allowed on discussion of particular clauses (Article 107, paragraph 5). The time allowed for the discussion of the principle of the bill is decided by the Bureau and divided among the political groups as follows:

In the first place, an equal minimum time is allocated to each groups, and the total minimum time attributed to parliamentary groups is deducted from the total time allocated to discussion of the principle of the bill. The remaining time is allocated proportionately among the political groups according to their size. The Bureau determines equally the speaking time allowed to independents according to their number proportionately to that allowed to parliamentary groups (Article 107, paragraph 6). At the beginning of the debate on the principle of a bill the parliamentary groups submit to the Bureau a list of their speakers, setting out their order and the length of time for which they will speak as well as any second speeches by rapporteurs, all within the total time limits allocated to their groups.

The length of time for Ministers, chairmen of parliamentary groups and their substitutes in an organised debate is confined to half of the speaking time to which these individuals would be allowed during an ordinary debate. It is not calculated out of the total time allowed to each parliamentary group (Article 107, paragraph 8). These new arrangements received particular attention in Parliament when the new Standing Order were being considered.

This subject may have been important in other parliaments. It is for this reason that it has been chosen for a topical discussion in which there could be

an exchange of information and experience at the next session of the Association of Secretaries General of Parliaments.

B. Topical discussion (October 1987 — extracts from the minutes of the Association)

The PRESIDENT (Sir Kenneth Bradshaw) said that in the absence of Mr. Beys (Greece), Mr. Hadjioannou (Cyprus) had agreed to introduce the topical discussion.

Mr. HADJIOANNOU referred to the main points in Mr. Beys' introductory note (which had been circulated to members before the session). In **Cyprus,** article 73 of the Constitution provided that no Member could speak unless he had put his name down in advance to do so, or if the President gave him permission. The average length of speeches was about 10 minutes. Article 34 of the Standing Orders said that no one could speak more than once in a debate unless (i) his speech had been the object of criticism by other Members, or (ii) he had introduced the motion or a substantial amendment or (iii) if he had introduced an argument contrary to that of a colleague on a precise point, or, (iv) if he was making a personal statement. Except in the case where debate had taken place earlier in committee, a Member could always call for a report on the discussion. Proposals for the organisation of debates by the leaders of parliamentary groups had not yet borne fruit. In fact, each speaker listed for a debate spoke three or four times. The small number of Representatives in the Cypriot Parliament made it unnecessary to have any limitation on speaking time.

Mr. CASTIGLIA **(Italy),** speaking on behalf of Mr. Longi, said that innovations had recently been introduced in the Italian Chamber of Deputies, regarding time limits. All the new provisions were introduced to counter the phenomenon of fillibustering which (particularly in 1976 and 1983) was assuming worrying dimensions. Referring to time limits during the general debate on bills and motions, two changes had occurred. The time limit, which did not exist before, was fixed at forty-five minutes; it was later reduced to thirty minutes. However, the greatest innovation was the abolition of a provision which allowed a given political party to be exempted from the time limit in particular cases. This rule had permitted those who were always making use of exceptions to completely disregard time limits. The time limit of sixty minutes had been fixed also for debates on confidence motions, which had previously not been covered by time limits.

Shorter time limits had recently been fixed in the following cases: twenty minutes for speakers introducing orally a written report; fifteen minutes in a

debate on preliminary and suspension motions; twenty minutes for the debate on each article of a bill and its amendments; five minutes in cases of points of order, references to the agenda and, in general, all incidental matters.

Another new provision had recently been introduced for the extension of the powers of the President of the Chamber to enable him, given the importance of the subject matter, to prolong the time limits. Following these other innovations, for particular subjects only, a single speaker could take the floor representing each political group.

Despite these strict limitations of time for each Deputy, so far it had not been possible to set out a real timetable which would permit an accurate schedule of a given session, or forecast the length of a legislative or political debate. There existed a detailed programme of proceedings yet it did not allow the President to fix time limits beyond those already mentioned. This issue was at present being examined. A number of proposals suggested introduction of the so-called global scheduling of debates' which would permit the end of the debate on the bill to be known in advance. This applied at present only to debates on the national budget which had to be concluded by a fixed date.

In conclusion, parliamentary work in Italy could now proceed at a faster pace. In addition to the aforesaid, it had to be pointed out that the Standing Committee on the Rules of Procedure was presently examining an urgency procedure to be applied for particular bills/namely, those introduced by the government.

Mr. GUYOMARC'H **(France)** said that in the French Senate, speaking time was always limited even if the limits varied from a few minutes to more than three-quarters of an hour. The Presidential Bureau had general responsibility for arranging the length of debates. The total time was split proportionately between political groups and the number and length of the speeches was always limited. The Constitution prevented any regulation of the speaking time of the government.

Mr. BOULTON **(United Kingdom)** said that in the House of Commons the problem of time limits on speeches was particularly acute. The House of Commons had in effect 650 Members and held only 185 full sittings a year. In the organisation of debates, priority was given to the government, to opposition spokesmen and to senior back benchers. It was rare in these conditions for a new Member to be able to speak in a major debate more than three times in the course of a year. It was not practical for time to be allocated on a party basis. Each party was a coalition of ideas, and so it was unacceptable for the party leadership to be given responsibility for deciding the allocation of time

between individuals. It was the Speaker's responsibility to organise the debates during a sitting. There were, however, 2 cases in which specific time limits were laid down: an application for an emergency debate (3 minutes) and one form of presentation of a bill (10 minutes).

Mr. NDIAYE said that in **Senegal** the Standing Orders of the Chamber fixed a maximum time for speeches of 15 minutes. The Presidential Bureau could nevertheless decide to limit speaking time more drastically. This applied particularly during consideration of the Budget. This limit of speaking time although it was contrary to the well-understood rights of parliament, was made necessary by the large number of proposals tabled in such proceedings. If no Member could return to the same subject more than 3 times during the course of debate, there was no limit on supplementaries to questions to Ministers.

Sir JOHN SAINTY **(United Kingdom)** said that in the House of Lords, debates was relatively well organised. During a general debate, members, other than the proposer, could speak only once. Ministers and Chairmen of Committees could speak more than once. In a debate on legislation, each Member could express his opinion. The practices of the Lords meant that the strict limitation on speaking time was not necessary. In time-limited debates a fixed time was given to the proposer of the motion and the rest was divided among those who had put their names down to speak.

Mr. SAUVANT said that in **Switzerland** limits on speaking time were simple and strict. A spokesman of each group was allowed 10 minutes, proposers of draft bills were allowed 10 minutes and other Deputies only 5. No Member could speak more than twice in the same debate. Members of the government could speak whenever they wished, but the Standing Orders required them to be brief. In fact, there was no attempt to delay the work of the Council. This was not just due to procedural rules, but equally to the Swiss political system. If calls for a roll-call vote had become more frequent recently, this was more out of a desire for votes to be published than to cause any delay.

Mrs. LEVER said that in the **Canadian House of Commons,** Standing Orders provided limits on speaking time and on the length of debates in particular cases. The government also had other means of limiting the length of debates. The principal ones were the closure (Article 57), which could be called for on any occasion, and the timetabling of debates on draft bills (Articles 115, 116 and 117). The closure of debate on a motion was the most draconian procedure but it was rarely invoked. The first use had been made in 1913 by Prime Minister Bourden in relation to a draft bill on the Navy. Once

the closure on **a** motion had been called for by the Prime Minister and accepted by the Chambre, no Deputy was able to speak for more than 20 minutes. The motion was then put to the vote. Articles 115 and 116 allowed for the government to negotiate with the opposition parties an agreement to determine the length of proceedings on each stage of a draft bill. If no agreement was reached, Article 117 enabled the government to propose its own time schedule for the debate. Maximum speaking time was fixed at 10 minutes, but the minimum time for consideration of each stage was 1 day's sitting.

Mr. ROLL **(Federal Republic of Germany)** said that the German Constitution provided that each Member of Parliament could speak for as long as he wished. In practice, the Standing Orders of the Bundestage limited speeches to 15 minutes (or 45 minutes for the leaders of parliamentary groups). The Bureau usually determined the length of time allocated to each parliamentary group. In practice, there were 3 types of debate: first, 5 minute debates in which each group including the government were confined to that length of time; secondly, 10 minute debates in which each group had 10 minutes and the so called "Bonn hour" debates (sixty-one minutes) where the majority coalition and the government had a total of 34 minutes, the opposition had 20 minutes and the Green Party had 7 minutes. These 3 ways of organising debates were used more or less equally. It ensured that the majority could not deprive the minority of its legitimate right of expression in so far as subjects which the opposition wished to raise and the government did not want to have discussed, were automatically put on the Orders of the Day at the end of 6 months.

Mr. ANDERSON said that in the US **House of Representatives** there were 9 procedures to limit the length of debates. In general, the Rules Committee limited a general debate to 3 or 4 hours. The speaking time was divided equally between the majority and the minority. The total time could not be extended even if there was agreement between the parties to do so. On consideration of clauses, each representative could speak for 5 minutes on each clause. In the same way that 435 Members of the House could speak on each amendment tabled. It was possible for the majority spokesman to call for the debate to be limited. This was generally agreed to by the minority. In cases of disagreement, the question would be put to the vote. The introduction of television had considerably modified the behaviour of Members and led to an increase in the number of sittings.

Mr. JOHANSSON **(Sweden)** said that the Riksdag had always been very reluctant to reduce the speaking time of Members. The right to speak was

considered in Sweden as a fundamental democratic principle which should not be limited either in respect of the number of people who could speak or the length of their speeches. Nonetheless, debates have become longer and longer, particularly after the introduction of the unicameral system in 1971. The new Chamber had 349 Members. The desire to bring debates within reasonable limits had led to some self-imposed agreements between the political parties. In addition, the Standing Orders of the Riksdag had been amended to provide for certain limits on the length of debates. Thus, if the President recommended it, the Riksdag could decide to limit the number and length of speeches that each speaker was able to make on a particular subject. This procedure had not yet been used. Also it had been decided that in debates on general policy, the length of each speech made by ministers and the leaders of political groups should be limited to 30 minutes (speeches made by other Members of the Chamber were limited to 15 minutes in such debates).

Mr. YATOMI (Japan) said the time allocation for questions and debates was a matter related to the management of the House. It was therefore put to a meeting of the Committee on Rules and Administration held prior to a plenary sitting. The allocated time for each speaker was, in general 15 minutes for questions and 10 minutes for debates. In Japan, apart from such matters as approval or disapproval of a bill, the time allocation was usually decided unanimously as a matter of House management. The presiding officer of either House could allocate the time for questions, debates and any other speeches, unless otherwise decided in advance by the House. If one-fifth or more of Members present raised objection to the time allocated by the Presiding Officer, he had to put the issue to a vote (Article 61 of the Diet Law). It was also possible for Members to table a time allocation motion on which the House would decide. Motions of this kind were usually put to an open vote. Two other ways of allocating time for debates and speeches were often used when confrontation between the ruling and opposition parties was particularly sharp. No time allocation could be decided at a meeting on the Committee on Rules and Administration before plenary sitting, so the question Is dealt with instead at the beginning of the session.

The number of speakers in the debate was usually considered by the Committee on Rules and Administration and even if this was not done, 20 or more Members could present a motion for completing the questions or debate where it appeared that the business could not be finished easily because there were many other Members wishing to speak. Because the time allocated to each speaker was limited, in the ways mentioned above, the motion for closure in this way involved limiting the total time for consideration of the specific item. When the speaking time had been limited in this way, the

Speaker warned any Member who was not likely to finish his speech within the time limit. There had been a case in which the Speaker had to order a Member who did not obey his repeated warnings to stop his speech (Article 116oftheDietLaw).

Mr. CHARITONS said in the **Council of Europe** the relative problems of limiting speaking time were particularly acute because of the brevity of its sessions and the absence of organised parliamentary groups. Standing Orders limited the length of speeches rather than the number of speakers. The rapporteur of the Committee responsible for the subject was generally allowed 15 to 20 minutes, rapporteurs giving opinions had 10 to 12 minutes, and other speakers, 7 to 10 minutes. When the time fixed by the Bureau for the end of the debate had passed, it was possible for speakers who had registered their names to speak in a debate and who were present in the Assembly to give their speeches to the Bureau for publication in the official Journal. Even after the time limit had passed, the Committee always had the right to reply to speeches made in the debate.

Mr. HONDEQUIN (Belgium) said that the Standing Orders of the **Belgian Senate** contained a series of provisions intended to limit speaking time of Members. As in France, the Bureau could fix a total time for certain important discussions with a speaking time being shared proportionately between political groups. The Presiding Officer could equally reduce the speaking time of all speakers if he thought it necessary. Recently, an important modification had been made in the Standing Orders of the House of Representatives. This enabled financial legislation as well as draft legislation and questions which the Bureau had chosen for public consideration in Committee to be dealt with without a full debate on their text in the plenary sitting. In such cases, only explanations of votes were allowed in the plenary sitting.

Mr. TUAN said that in the **Ivory Coast,** there was no restriction on speaking time except for the consideration of bills.

Mr. HJORTDAL **(Denmark)** submitted a note saying that time limits for speaking were given in the Rules of Procedure of the Folketing. They differed according to the type of case on the agenda and the stage of its consideration (whether it was First, Second or Third Reading of a bill or a question to a minister, or an interpellation). Party spokesmen spoke in rotation according to the size of the parties, with the largest first. Yet the President could change the rotation by calling on other spokesmen or Members who addressed the Folketing in short remarks of up to 2 minutes duration. Time limits were independent of the party's size. During consideration of a bill, the minister proposing it would reply after party spokesmen and other Members had

spoken. On the First Reading of a Private Member's Bill the minister would initiate the debate.

As a consequence of the rules described above, the length of sittings was mainly determined by the number, nature of the items put on the agenda by the Speaker. The Speaker was responsible for the preparation of weekly plans for legislative proceedings of the Folketing, and would naturally make an effort to distribute the workload evenly on the coming sitting days, on the basis of his experience and the provision laid down in the Rule of Procedure. During the last ten years the number of sitting days per year had been fairly stable around the number of 100, with the average sitting lasting for 4 to 5 hours.

Mr. BAKINAHE **(Rwanda)** said there were no time limits on speeches in his parliament. Speakers were heard in the order in which they had put their names down, provided that the minister and the rapporteur could speak whenever they wished. The President could stop any Member speaking if he became irrelevant or otherwise broke the rules by making personal remarks etc. It was worth noting that Points of Order or proposals to alter the order of business always had priority over the main matter under discussion.

ANNEX I

Rules governing restrictions on debate in Sweden

Sweden

The Swedish Riksdag has shown considerable moderation on the question of debate restrictions. It has been regarded as a fundamental democratic principle that the right of a Member to speak should not be restricted either as regards the number of speeches or the length of speeches. On the other hand, debates have become longer after the introduction of the unicameral system in 1971. The new Chamber has considerably more members (349) than the former Second Chamber (233). The primary means of keeping the length of debates within reasonable limits have been voluntary agreements on restraint between the parties. But some facilities for imposing restrictions have been introduced in the Riksdag Act as an instrument of last resort. For example, on

the recommendation of the Speaker the Riksdag can decide—but hitherto never has decided—to limit the number and length of speeches each speaker may give when the Riksdag is debating a particular question. Moreover, it has been directed that in general political debates the length of each speech made by Ministers and party leaders is limited to thirty minutes and those made by other members to fifteen minutes.

The rules governing restrictions on debate read as follows:

Art. 14 In supplementary provisions to this Riksdag Act the Riksdag can prescribe limits on the number of speeches which a speaker may make during the deliberation of a question and the time for each speech. In that context a distinction may be made between different categories of speakers, such as Ministers and representatives of a majority or a minority in Committees or of party groups and also between speakers who have complied with the request of the Speaker of advance notification before a deliberation and speaker who have failed to do so.

Limitation of the right to speak pursuant to the first paragraph can also be decided on the proposal of the Speaker especially in connection with the deliberation of a specific question. The decision shall be taken without previous deliberation.

When applying this Article it shall be always be observed that any member who wishes to speak on a question may speak for six minutes. The right of refutation and rejoinder stated in the second paragraph of Article 15 stands, irrespective of any decision made in accordance with this Article.

Supplementary provisions

2.14.1. A member who wishes to speak at deliberations in the Chamber should, if possible, notify the Secretariat of the chamber not later than the day before the meeting at which the deliberations shall begin. In such a notification shall be stated the estimated duration of the speech.

Speech by a member who has failed to give advance notification may not exceed six minutes unless the Speaker considers there are grounds for allowing a longer time.

The provisions of the first and second paragraph shall not be applicable when a qustion is answered.

2.14.2. Speeches at a specially arranged debate, which has no connection with other deliberations, may not exceed fifteen minutes or, in the case of speeches by Ministers or of a specially appointed representative of each party group, thirty minutes.

A party group shall notify the Speaker of the name of the representative referred to in the first paragraph.

Art. 15. The Speaker shall, before the deliberation of a certain question, determine the order in which speakers shall take the floor among those who have given advance notification. Those members who ask permission to speak in the course of a debate shall speak in the order in which they have notified the Speaker.

A Minister may, notwithstanding the provision contained in the first paragraph, make a short speech in order to answer another speaker. With the permission of the Speaker a member can be allowed to speak, irrespective of the order of speakers, for the purpose of making a rejoinder to another speaker.

Supplementary provisions

2.15.1. Irrespective of the order in which Members are to speak, the Speaker may give the floor to a member to make a rejoinder which contains information or correction in connection with the speech delivered by the preceding speaker or for refuting an attack. The time limit for a rejoinder may not exceed three minutes unless the Speaker grants an extension to six minutes for special reasons. Each speaker may make two rejoinders in connection with the same main speech.

2.15.2. Irrespective of the order in which members are to speak, a Member may, during the deliberation of a question, concur with the immediately preceding speaker without stating his grounds.

2.15.3. A brief speech on a particular subject by a Minister to refute another speaker may not exceed ten minutes. If the Speaker has already permitted a Member to make a rejoinder, this Member may speak before the Minister.

ANNEX II

Time limites on speeches

A. Ordinary Bills

Oral introduction: 10 minutes

First reading:

	1st time	*2nd time*	*Following times*
Spokesmen for the proposers	10 minutes	5 minutes	
Party spokemen and other Members	5 minutes	3 minutes	
Ministers	15 minutes	10 minutes	10 minutes

Second reading:

	1st time	*2nd time*	*Following times*
Spokesmen	10 minutes	5 minutes	
Other Members	5 minutes	3 minutes	
Ministers	30 minutes	10 minutes	10 minutes

Third reading:

I. *Motions for amendments:*

	1st time	*2nd time*	*Following times*
Spokesmen	10 minutes	5 minutes	
Other Members	5 minutes		
Ministers	15 minutes	10 minutes	10 minutes

II. *General Debate:*

	1st time	*2nd time*	*Following times*
Spokesmen	10 minutes	5 minutes	
Other Members	5 minutes		
Ministers	20 minutes	10 minutes	10 minutes

When on the first, second or third reading, two or more Bills are put to the debate collectively, the time limit shall be twice as long of that allotted for one Bill.

When the reading of a Bill is resumed after having been discontinued pending the examination of the Bill in a committee, cf. section 9, subsection 1, second period, speeches made before the reading was resumed shall not be taken into account in the time allotted for speaking.

B. The Finance Bill

Oral introduction: no time limits.

First reading:

	1st time	*2nd time*	*Following times*
Spokesmen	20 minutes	10 minutes	
Other Members	10 minutes	5 minutes	
Ministers	No time limits	No time limits	No time limits

Second reading:

(The time limits shall apply also to the Supplementary Appropriation Bill)

	1st time	*2nd time*	*Following times*
Spokesmen	20 minutes	10 minutes	
Other Members	10 minutes	5 minutes	
Ministers	30 minutes	15 minutes	10 minutes

Third reading:

(The time limits shall apply also to the Supplementary Appropriation Bill)

I. *Motions for amendments:* Same time limits as on second reading

II. *General Debate:*

	1st time	*2nd time*	*Following times*
Spokesmen	20 minutes	10 minutes	
Other Members	10 minutes	5 minutes	
Ministers	60 minutes	30 minutes	10 minutes

C. Motions for Resolutions

I. *Motions for Resolutions moved by* the Government or the Members of the Folketing:

The time limits allowed for oral introduction shall be 10 minutes, on first and second (last) readings the time allowed for speaking shall be the same as that allowed for the first and third readings of Bills.

II. *Other Motions for Resolutions,* unless otherwise prescribed in the Standing Orders:

The time limits allowed for first and second (last) readings are the same as those allowed for second and third readings of Bills.

D. The Opening Debate

(The Constitution Act, section 38)

The time limits shall be the same as those applying to the first reading of the Finance Bill.

E. Ministerial Statements

Introduction: 30 minutes.

The Debate:

	1st time	*2nd time*	*Following times*
Spokesmen	10 minutes	5 minutes	
Other Members	5 minutes		
Ministers	20 minutes	10 minutes	10 minutes

Debate on accounts and on E.E.C. proposals cf. section 19, subsection 6. Time limits on speaking as at first readings of draft Bills.

F. Questions to the Ministers

Oral explanatory statement of reasons for the question:	1 minute
The Minister's reply	2 minutes
The Questioner:: Twice for (once for 2 minutes and once for one minute, if oral explanatory statement of reasons has been given).	2 minutes
Other Members: Once for	1 minute
The Minister in addition to the reply: each time for	2 minutes
Other Ministers: each time for	2 minutes
Possibly: Questioner and other Questioners: Supplementary remarks (questions) for	1 minute

G. Interpellations

Statement of reasons for the interpellation :	5 minutes
The Minister's reply:	30 minutes

Thereafter:

	1st time	*2nd time*	*Following times*
Interpolator	10 minutes	10 minutes	
Spokesmen for the political parties	10 minutes	5 minutes	
Other Members	5 minutes		
Ministers	20 minutes	10 minutes	10 minutes

When being also spokesman for one of the political parties, the interpellator shall—after having stated the reasons for the interpellation—be allowed to speak only for the time allotted to an interpellator.

H. Motions for Resolutions on the Order of Business

When during the debate on a matter, a motion for a resolution on the order of business is moved, the Members who at that time might have spent their speaking time shall be entitled to speak for another 5 minutes. The same rule shall apply if during the same debate new motions on the order of business be moved (section 24, subsection 3).

I. Deviations from Time Limits on Speeches

When the extent of a matter may so require, the President may allow deviation from the time limits prescribed in the Standing Orders and in the Annex to it. Application for extended speaking time shall be made not later than the day before the sitting in which the matter is to be considered. (Section 28, subsection 2).

/. Short Remarks

Notwithstanding the time limits prescribed, the President may, to the extent the President finds reasonable, call upon Members to address the Folketing by *short remarks* of up to two minutes' duration. Under special circumstances, the President may call upon a Member to make a brief reply of up to five minutes' duration. (Section 28, subsection 3).

The parliamentary experience of newly-independent countries

A. Introductory note by Mr. Pedro MONTEIRO DUARTE, General Secretary of the People's National Assembly of Cape-Verde

Introductory note

In attempting to bring this question before the Association of the Secretaries General, and revive questions that appear to be opportune and important as regards the organizational stage of the young parliaments in the world, we should begin by saying that we would like to include among our concerns the parliaments which being affiliated to the IPU have emerged with the organization of the newly independent States, particularly in the African Continent.

These States have generally maintained certain similar or common characteristics, but are, to a more or less degree, confronted, at the present conjuncture, with several constraints, needs or difficulties inherent in the transition phase from colonized country to a sovereign one.

Being, as we think, liberation movements of an eminently popular nature, the role reserved to the parliamentary institutions of these young States is of capital importance, particularly during the decisive phase of democracy establishment and assertion, our National Assembly being, in the concrete case of Cape-Verde, constitutionally considered the Highest Organ of the State Power. For that reason, the dialectic relation that seems to us to exist between the affirmation and the consolidation of the political independence of these young States and the strengthening of each economic development process now initiated, must necessarily go through the reinforcement of the democratic institutions of each of these countries, on top of which are their parliamentary structures.

We therefore think that an organized assistance stimulated through the world parliamentary movement, which the IPU and its consulting and sup-

porting organs so well represent, are one of the most important, and certainly efficient ways, to help advance our parliaments and consequently the newly independent States, most of which, we think, consegrate highest constitutional competence to their parliament both in the political-administrative, economic-socio-cultural field and, as is our case, in the field of inspection and control of the action of their respective Executive.

The socio-economic and culture development of a country is not the exclusive task of the Executive. It rather results from the congregation of efforts from all the organs of the State power and the population to accomplish that immense work. We are therefore convinced that the parliaments, because of their legitimate and fundamental political legislative vocation, are compelled to play an importante role in the collective efforts towards the progress and well-being of the still less privileged peoples, the strengthening of the parliamentary institution needs to the supported by the care and assistance that at bilateral and multilateral level the Governments of the rich countries can give to the parliaments of the developing countries as well as concrete actions which in that sphere, the specialized bodies of the UN can develop in conjunction with the IPU on behalf of those parliaments.

The activities already developed by our UNION to promote the parliamentary institutions that are affiliated to it, are, however, well known, through the International Centre for Parliamentary Documentation of the IPU, supported by an Executive Committee of Experts of which the President of the Association of the Secretaries General is an essencial part. So the introduction of the subject for a topical discussion aims, furthermore, to contribute to increase the motivation, not only of our Union itself towards the promotion of the parliamentary institutions, possibly opening other ways for observation and study, but, above all, to stimulate the parliaments of the more developed countries to widen their horizons and cooperative intentions, increasing therefore their availability for assistance regarding the young parliaments, making it possible this way to carry out concrete actions, either coordinated by our Union, or developed on a bilateral basis, in a more orderly, intensive and efficient manner. There is all convenience in and need for the intensification, from now on, of a comprehensive worldwide campaign of parliamentary solidarity, since the Union incarnates, above all, a movement of solidarity among the peoples, inspired by deeply democratic ideals and those of safeguard of the fundamental rights of man, for which reason a transcendent role is reserved to it at the present stage of the political evolution of the world, when concertation and dialogue in the analysis of situations and quest for peace, are the sure and constructive ways to promote understanding between men.

What is aimed at, by the introduction of this subject in the topical discussion is:

1. The affirmation and consolidation of the young parliaments of the newly independent countries, of the world parliamentary movement and of the IPU consequently;
2. To call the IPU's attention to the high meaning of the affirmation and consolidation of these parliaments aiming at the defence of the universal rights of man, of democracy, at the strengthening of the parliamentary institutions at the national level and the strengthening of their respective States by right;
3. To call the attention of the Association of the Secretaries General of the Parliaments and their Bureau and Executive Committee, as well, to the organizational deficiencies of the young parliaments so as to ensure **a** minimum of capacity to meet the operation requirements of the parliamentary services, providing them with better working support and assistance methods to the action of the Representation, looking, at the same time, for a better collaboration betwen these young parliaments and those with greater parliamentary experience.
4. To call the attention of the General Secretariat of the IPU to the need for the organized and efficient type of parliaments to be amplified and activated, following a survey on the constraints, needs and difficulties of these young parliaments, both with respect to the material and a minimally adequate staff, and by activating the coordination between these parliaments and other parliaments in the more advanced better provided world, and also, by implementing the relationship with other international organizations.

B. Topical discussion (September 1985 — extracts from the minutes of the Association)

The PRESIDENT (Dr Walter Koops) thanked Mr. Duarte for having prepared an introductory note on this subject and welcomed Mr. Peter Dawe, the Head of the International Centre for Parliamentary Documentation, who would also contribute to the discussion.

Mr. DUARTE **(Cape-Verde)** spoke as follows:

"On 5th July this year the Republic of Cape Verde celebrated the 10th Anniversary of its national independence which unfortunately coincided with almost the 21th year of a severe drought. We are young both as an independent state and as a Parliament. It is worth noting that certain countries which were colonised such as Cape-Verde did not during the long period of colonial rule gain any experience of parliamentary organisation. Other young countries which were colonised by countries with different political and administrative systems did gain some elementary forms of parliamentary organisation which have proved of great value to them. Apart from fundamental questions which are largely of a political nature and to which I have referred in my introductory note for this discussion, I ought to draw the Association's attention to the following points: first, the inevitable dependence of Parliament on the overall economic and financial situation in the young country. For instance, Cape Verde has suffered for almost 20 years the severe consequences of a persistent drought. Secondly, the inherent difficulties in training the necessary staff to run a Parliament in a newly-independent country. Thirdly, the limited knowledge of fundamental questions needed for choosing equipment, working methods and operating techniques appropriate for the real tasks of different services in the Parliament. Fourthly, the relative delay in setting up the legislative body in some young countries compared with the executive body, sometimes resulting from the indirect influence of the executive in the organisation and internal life of young parliaments. This influence seems to me on the whole negative. 1

"As far as financial and administrative needs and problems are concerned, I can say that the People's National Assembly of Cape-Verde is, legally speaking, an autonomous institution which depends financially on funds allocated to it in the national budget which is coordinated by the Executive. Certainly it is the National Assembly which approved the national budget and the law relating to it. Within this budget the Assembly approves an amount which will be given to it as a parliamentary institution with autonomous administrative and financial responsibility. Limited economic resources and financial means available make it necessary for the National Assembly to discuss with the Executive the total amount to be put under this head in the budget. At the moment, this figure does not enable our Parliament to meet all its essential needs at this stage in the economic and social development of the country. Our sources of income are very limited and come mainly from the sale of several brochures which does not amount to very much. The possibilities of obtaining an increase in the amount allocated to parliament in the annual national budget are very small. For this reason we depend entirely on

the amount allocated in the national budget which is controlled by the Executive.

"As far as certain forms of financial aid coming from outside the country are concerned, Cape-Verde has received over the last 10 years substantial assistance, thanks for the cooperation of the National Assembly and Government of China, and this has enabled us to construct a modern parliament building in the national capital Praia. At the moment we are faced by several difficulties, resulting from shortage of funds, including an inability to furnish and equip this great building even to the minimum extent which our own budget covers normal running costs. We have other difficulties with which we are always confronted, whether in the upkeep and maintenance requirements or the equipment which we need. But one of our great handicaps is our inability to train and improve our staff at certain levels.

"This makes us even more dependent on the Executive in our country and on outside aid. International aid will not be effective unless it is well coordinated and stimulated by world-wide parliamentary solidarity. In my view it ought to be increased through the United Nations and bilateral relations between parliaments of different countries. At the end of next December our Assembly, after elections, will be in its third legislative term (of five years). In order to increase its parliamentary and constitutional responsibilities, and to achieve a better representation at the national level, the number of Deputies will be increased from 63 to about 80. The political decision to do this was taken at national level. We are sure that it will have some economic and financial implications which have already been discussed and accepted in general terms. In this context, and since these new conditions will require better organisation of our Parliament, we are studying the possibility of making more professional certain functions within the parliamentary service and in our international representation. As concerns our method of recruitment and appointment of administrative and technical staff, we have had various problems in the first phase of our Parliament's organisation because the national constitution gives to the Government alone power to appoint civil and military officials. We have overcome this difficulty nevertheless by a strict and logical interpretation of the law during a plenary sitting of the Assembly and this situation has now improved. Also we maintain links between Assembly staff and the relevant parts of the Civil Service Department of the State.

"There are still some difficulties in the area of recruitment and training of parliamentary staff tied to similar problems experienced by the executive in the training of similar staff. Some staff have already been trained and others

are undergoing training abroad thanks to the cooperation with friendly countries but this matter still gives us plenty of difficulties. Under the law governing the administrative organisation of the National Assembly there are 4 bodies which report directly to the Standing Committee of the Assembly, namely, the Administrative Council, chaired by the first Vice-president of the Standing Committee; the Secretariat General; the advisory Council; and the Administrative Committee of the National Assembly building. These organs are not fully working on account of shortage of staff. Given the size of our Assembly, this structure would be able to meet its needs if most of the posts were filled".

MR. DUARTE concluded by saying that these were the main issue which he wished to draw to the attention of the Association.

The PRESIDENT thanked Mr. Duarte warmly for his detailed explanation of the difficulties encountered by a young parliament in Cape-Verde. He called upon Mr. Peter Dawe, Head of the International Centre for Parliamentary Documentation.

Mr. DAWE spoke as follows:

"I would like to express my very great pleasure at being invited to participate in today's meeting. It is a matter of some regret that the pressure of activities at the IPU Conference prevents me from getting to know the members of the Association better. I also feel that the IPU Secretariat, in particular the staff associated with the CIDP, have much to learn from the discussions held by the Association. I accordingly greatly welcome this opportunity to be present on this occasion.

The topic of discussion is "the experience of Parliaments in countries which have recently gained independence". I would like to say a few words about the Union's Technical Co-operation Programme which was created, to assist in stengthening the infrastructure of Parliaments of developing countries.

Background and objectives

The Inter-Parliamentary Union, through its work of promoting contacts between parliamentarians and undertaking studies of the problems facing Parliaments in various countries is, and always has been, active in the development of parliamentary institutions. However, in the 1960s the idea was put forward on several occasions that it might be possible to take a more direct initiative in the direction of strengthening representative institutions.

Lack of financial means and adequate mechanisms prevented this idea from bearing fruit until 1971, when the Inter-Parliamentary Council approved a programme of technical co-operation aimed at assisting the Parliaments of developing countries, particularly those of recent origin, to improve their technical facilities and capabilities and thus meet the requirements of their members more effectively. Two years later the programme was initiated with a project to assist the Cameroon Parliament build up its Library and documentation services.

Funding for projects under the technical programme

Requests for assistance under the Union's Technical Co-operation Programme are handled on a project basis with funding from a variety of sources. Until this year activities were funded mainly through the United Nations Development Programme. This source of funding however placed certain limitations on the resources available and on the kind of projects which could be undertaken. The IPU Council in March 1985 accordingly adopted a proposal for a "multi-bilateral" type of programme similar in principle to certain programmes operated by some United Nations agencies.

In essence, as applied to the Union's programme, this involves the Union drawing requests for assistance to the attention of potential contributors to seek their support. The contributor may then decide whether to support a particular projects or part of a project.

The multi-bilateral approach complements the UNDP source of assistance by widening the field of potential contributors to include other intergovernmental agencies, government agencies and, in particular, Parliaments. In this connection it should be noted that a major feature of the programme is the international assistance which can be offered, based on the experience of long-established Parliaments. In addition, several donors may contribute to a single project and thereby mutually reinforce the likelihood of its success. Contributions may be in cash or in kind, and may be applied to a specific part of a project if so desired. Contributions in kind are intended to cover intangible elements such as training or expert advice, as well as gifts such as books or equipment.

In this respect the Union is deeply appreciative of the valuable contribution made by those Parliamentary Groups which offer to provide in-house training for staff from other Parliaments; which undertake expert investigative missions overseas for projects; which foster the cause of particular project with their respective Government aid schemes; or which offer support in other ways.

It is evident that operation of the programme involves preparation of documents and considerable liaison and other work by staff of the Union. The costs of these activities are absorbed as overheads in the general running expenses of the Union. They thus represent a further contribution by all member Parliaments to the programme. The programme also invovles certain contingency costs, particularly those associated with feasibility studies at the preliminary stages of a project, before any formal funding for the project is available. Such contingencies are met by a small fund in the Union's budget to cover general technical co-operation expenses.

Fieldofapplication

The programme aims at developing the infrastructure of Parliaments. Its field of application accordingly covers the strengthening of parliamentary Secretariats through training, analysis and rationalisation of methods, as well as organisational improvement in the various support services of Parliament. The programme can also include assistance related to enlarging, renovating or equipping parliamentary premises.

Typesofassistance

Assistance provided under the Technical Co-operation Programme can take several forms. Sometimes it is sufficient to arrange for an expert consultative mission, or such a mission may form an essential first step to explore the situation and facilitate subsequent project planning. Sometimes on-the-spot training courses by experts may be provided, or fellowships offered for training in another Parliament and/or an appropriate educational institute. Sometimes study tours to gain needed background and experience may be more appropriate. Assistance may also be given through the provision or improvement of basic equipment or the supply of books or publications.

Operation ofthe programme

A project is initiated by an approach to the Union made by a Parliament seeking some form of assistance. This initial approach may be made formally in writing or informally by telephone or discussion at a conference. From this point, a sequence of actions is necessary to carry through a typical project. These include:

— determination in greater detail of the extent of the technical and infrastructural needs of the Parliament requesting assistance;

— preparation, in consultation with the Parliament, of **a** written "project specification" (this activity may call for feasibility studies or on-site inspection and discussion);
— investigation, in co-operation with National Groups, of possible contributions from potential donors such as Parliaments, government agencies and intergovernmental agencies;
— contact with potential contributors to obtain firm pledges of financial support or other assistance;
— co-ordination of negotiations between contributors and the recipient Parliament to agree details of project timing and implementation.

The IPU Secretariat facilitates implementation of a project by acting as a go-between in organising and monitoring activities between the various parties involved. The Secretariat also ensures that project progress, with appropriate financial accounting, is reported to contributors and to the IPU's government organs. This includes an overall evaluation on completion of a project.

Somestatistics

To date the Union has received 29 requests for assistance. At one end of the spectrum are relatively simple requests such as for provision of expert information, or help in arranging contacts for study of various parliamentary matters. At the other end are major projects to establish facilities and train associated staff. In between are requests for study tours and in-service training in other Parliaments, or requests for particular items of equipment or for expert advisory missions on the improvement of operations.

Of the 29 requests, two are in progress (Djibouti and China) and two are at the preliminary stage awaiting further information (Cape-Verde and Congo). Nine requests have been satisfied in various ways either by completion of the project (Algeria, Bangladesh, Cameroon (2 projects), India, Sri Lanka), by the Union providing the information requested or assisting to establish the required contacts (Kuwait and Zimbabwe), or by the Union being instrumental in bringing about the desired result (Zambia). Five projects came to a standstill after the Parliament involved had been suspended (Bangladesh, Rwanda, Upper Volta and more recently, Sudan and Uganda). Some of these projects may eventually be re-established. The remaining 11 requests were, in the main, not followed up by the Parliament concerned after a first response had been made by the Union to the initial request.

Informationseminars

The Union also provides another scheme which is relevant in the context of technical co-operation. In April 1973 the Council decided to allocate part of surplus receipts from unforeseen budget savings towards financing a complementary technical assistance scheme. Under this scheme parliamentary staff of developing countries, who were also members of their Inter-Parliamentary Group Secretariat, were to receive specialised training related mainly to the activities of the Union. Trainees from Bangladesh and Sudan attended the first course at the end of 1973.

Since then the scheme has developed into a regular information seminar for staff associated with Inter-Parliamentay Groups. It is held at the Union's headquarters over about 10 days each year. The course is sometimes offered in English and sometimes in French. Since 1973, 100 participants have taken part from 53 different Parliaments of both developing and developed countries. The next seminar in this series will be held in November this year. The Union carries the cost of living expenses during the seminar. Travel costs are met by the participants' Parliaments.

Mutualself-help

The institution of Parliament, for all its shortcomings, is the best way man has yet found for ordering his affairs and providing some safeguard against tyranny, anarchy and oppression. It is not necessary to convince anyone here present in this distinguished gathering of Secretaries General of Parliaments, of the importance of reinforcing the institution of Parliament. Parliamentary staff are, in a most immediate and enduring sense, the custodians of parliamentary tradition and the protectors and defenders of their respective representative institutions.

This is a responsibility which concerns us all and it behoves the long-established, experienced and well-endowed Parliaments to succour those which are less well-endowed. This is the fundamental idea behind the Union's Technical Co-operation Programme and much can be done with slender resource through mutual self-help and co-operation. I am greatly encouraged by the support which has already been offered to the programme and I look forward to a continuation of your continued enthusiastic participation vital for its success.

Mr. DESROSIERS (Canada) said this subject was particularly important to him. If someone believed in parliament they must believe in helping young parliaments whether in technical or in financial ways. The House of Commons of Canada had a policy of welcoming officials from young parliaments

for training courses. International aid for parliaments depended largely on the government in the country concerned. The information gathered in response to Mr. Duarte's questionnaire could be used to draw attention to this subject in the IPU Conference. The PRESIDENT commented that parliaments had **a** right to look at the activities of international aid agencies by questioning the responsible minister.

Mr. HADJIOANNOU (Cyprus) said that the budget of the parliament of Cyprus was prepared by its President and submitted for approval to the Ministry of Finance. The government was thus able to reduce the level of spending. Mr. KLEBES **(Council of Europe)** said that the Council of Europe had welcomed someone on a course organised through the Association of French-speaking Parliaments. During his six weeks' stay he had studied parliamentary procedure and the success of this visit had encouraged the Secretary General of the Council of Europe to propose an increase in the funds available for such courses.

Mr. LUSSIER **(Canada)** wondered whether the training problems referred to by Mr. Duarte, related solely to administrative staff or just to Members of Parliament. Mr. DUARTE confirmed that he was talking about parliamentary staff. Mr. LUSSIER said that there was in Quebec a national school of public administration which could perhaps train officials from Cape-Verde. At the federal level there was also a public service commission which could perhaps reach an agreement with Cape-Verde on some courses.

Mr. BOULTON **(United Kingdom)** said that he had had responsibility in the House of Commons for training programme for the visiting officials, mainly from Commonwealth countries. The Clerk of the Overseas Office in the House of Commons was responsible for providing information and advice to any parliament which requested it. The British Parliament had also taken part in training courses organised by the IPU. While other parliaments could help with the training.of staff, the question of allocation of funds was really a matter for the governments of the countries concerned. In this respect, it was a good thing to send the President or Speaker or party leaders on education courses to well-established parliaments because they would be in a good position, when they returned home, to press for better resources. It was important to get a greater willingness among governments in developing countries to spend more money on parliament. The Commonwealth Parliamentary Association organised an annual seminar in London for Members of Parliament. This involvement of Members of Parliament would be more likely to produce results than exchanges at official level about what could be done if funds were available.

Mr. HAYATOU **(Cameroon)** asked if the parliament of Cape-Verde took part in the Association of French-speaking Parliaments which organised training courses. Mr. DUARTE said that he was aware of this possibility and that the possibility of sending people on courses to France was being considered.

Mr. ZVOMA recalled that **Zimbabwe** had only become independent live years previously, but that a parliament had existed in the country since 1924. At the time independence came, however, there had been problems arising from the changeover of staff and new staff had had to learn procedure "on the job". Staff had been sent on attachments to the Houses of Commons in the United Kingdom and Canada. The parliamentary budget was part of the national budget. If during a particular year the funds turned out to be insufficient, the Speaker had the power to authorise supplementary expenditure. Training courses have proved equally useful for new Deputies as for new staff. A procedural problem had arisen during a debate on a Motion for the Adjournment and a Member had raised the absence of quorum in order to prevent a vote on the Motion. The Speaker had decided that on such an occasion a question of quorum was not relevant and so in the small way parliamentary procedure had been developed little by little over the years.

Mr. LUSSIER asked whether the number of Deputies, when increased to 80, would be strictly in proportion to the population or would reflect some representation of different provinces in Cape-Verde. Mr. DUARTE said that there were 300,000 inhabitants and the number of Deputies had been recommended by the bureau following a census. Mr. LUSSIER asked now many days a year the National Assembly of Cape-Verde was in session. Mr. DUARTE said that the National Assembly sat for 15 days in the spring and 15 days at the end of the year to approve the budget.

Mr. NDIAYE (Senegal) commented that bilateral cooperation between parliaments was particularly fruitful; thus the parliament of Senegal had contacts with the parliaments of France and Canada. In his country the budget of parliament was independent from that of the State. Mr. MASYA (Kenya) said that the Kenyan Parliament had borrowed much from other English-speaking parliaments such as those of the United Kingdom, Canada, the United States and even Australia. The most delicate question in the early years of parliament had been to ensure the independence of parliamentary staff in relation to the executive. Training for Members of Parliament had also been initiated at the beginning of parliamentary rule. He agreed with the President that attendance at IPU Conferences was valuable training for Members of Parliament.

Mr. DAWE said that the **IPU** had considered the idea of training courses for young Members of Parliament but this had not yet been arranged. In some cases the travel expenses would be greater than the cost of training itself.

Mr. JOHANSSON (Sweden) said that in the course of the IPU's technical cooperation programme, two young officials from Djibouti had spent 3 weeks working in the Swedish Parliament the previous spring. Their travel and subsistence expenses had been paid by the Swedish Parliament and their study had concentrated on the organisation of archives from the Library. By arrangement with the IPU the officials had spent a few days in Switzerland and then one had spent a month, and the other 2 months, in Italy where they were taken care of by the Italian Parliament in a most helpful and generous way. Later on, with the assistance of the IPU, one of the two had received a 2 year scholarship enabling him to study in Dacca. These 2 young men would be very well equipped to work in the new parliamentary library being established in Djibouti.

Mr. DUARTE thanked those who had taken part in the discussion for their remarks which having encouraged him to continue with his enquiry.

The PRESIDENT thanked Mr. Duarte for introducing the topical discussion and raising these important issues.

Public funding of election expenditure

A. Introductory Note by Mr. Philippe Deneulin, Secretary-General of the Chamber of Representatives of Belgium

When I prepared my note for this topical discussion on public funding of election, I began to wonder whether it is within the rules of this Association for us to deal with a subject which seems to me to be of a political nature, and which apparently has little to do with the aims of our association, which are:

Rules 1. "... (to) study the law, practice and procedure of Parliaments and to propose measures for improving the working methods of different Parliaments".

Rule 2. "... (to) furnish information about the law, practice, procedure, working methods and organisation of... Parliament and the administration of the Secretariat.

Perhaps by giving these rules a very broad interpretation we can find some justification for our rashness. These preliminary remarks are to a certain extent in contradiction to the real thoughts I am going to put forward in this political area. You will understand from this introduction that I intend to press ahead, despite the counsels of caution which have occurred to me since I first prepared my remarks.

In his book "Commentary on the Belgian Constitution", Mr. Senelle, professor of constitutional law at the University of Gand advanced this opinion on parliamentary salaries:

"If one does not want the exercise of political power to fall into the hands of the rich, a reasonable salary must be given to those who devote themselves to public affairs, especially because at the moment a parliamentary career is one of the most demanding that there are..."

Coming to the support of those who argued in favour of extending the ban on multiple office holding and creating new classes of incompatibility for

parliamentarians. Mr. Senelle adds: "The growing complexity of parliamentary work demands the exclusive attention of Members. Thus raising the salary, just as much as the extension of democracy, will bring into Parliament people without private wealth".

In 1831 the Belgian constitution provided for salaries to be paid only to deputies (art. 52); art. 57 stipulated that "Senators receive neither salary nor expenses", which was understandable at the time because senators were wealthy people. This is now a matter of history because new senators receive the same salary as deputies.

In fact the payment of salaries to the representatives of the people is a fundamental characteristic of representative democracy.

"An elected representative must be free from need and temptation. His financial independence must be guaranteed. His independence must be total".

This independence is put to its greatest test at election time when deputies and candidates are obliged to incur heavy expenditure on election advertising. Even if he doubts the benefits of this advertising, it is a fact that the atmosphere surrounding elections necessarily involves all candidates to follow the trend and not to save on expense.

If he does not have a personal fortune, the candidate may perhaps be forced to make use of loans. If he then fails to be elected, the former future candidate and his family may thus be put in serious difficulties. So, looking at such circumstances, we can draw the conclusion that perhaps only candidates with their own fortune, or who have financial support, either from unions or some pressure group, can offer themselves for elections, and not independent candidates.

Then there is the question whether, in a search for "pure" democracy, the state should not take financial measures to enable any citizen to present himself for election.

It is difficult to be sure about how much is spent by candidates, but those in the larger cities must face substantial costs. But all candidates run the risk of damaging their personal finances, with results that may be imagined. In any case, the "investment"with the risk of non-election, undoubtedly acts as a disincentive to those who want to devote themselves to public life.

I have gathered information about the financing of political parties, and in particular the financing of elections. This material has been provided by the

Speakers of various Parliaments of Western Europe, and shows that electoral campaigns are financed in France, Italy, Spain and the Federal Republic of Germany.

In Belgium, support from the state in elections is of a very limited kind. There is no direct or indirect subsidy, but a certain number of facilities are provided:

a) a waiver of taxation stamps on electoral posters;
b) the local administrations provide hoardings on which posters can be displayed;
c) letters containing exclusively electoral publicity marked "electoral communication" enjoy reduced postal rates during the election campaign period, and are treated as urgent material by the post office;
d) Belgian radio and television (RTBF and BRT) provide the political parties with access to television and radio channels in various ways, such as election platforms. The level of access corresponds to the scale of political activity in the community;
d) a free copy of electoral lists.

In conclusion, we can again ask the question as to whether, in a wish for pure democracy, the public authorities should provide, either to political parties or to individual candidates, a subsidy to cover the election campaign, allocated under certain conditions and on the basis of precise criteria. But perhaps there are other ways to create a certain balance between political parties and/or candidates in respect of standing for election, i.e.

— monitoring of electoral expenditure
— its limitation
— the establishment of uniform rules for election advertising.

In Belgium, this problem of financing electoral expenditure has already been dealt with in various bills in Parliament, which so far have made little progress.

As I emphasised in my introduction, the problem is essentially a political one; or rather one of political choice. In my opinion, it is outside our responsibility, but perhaps there is no harm in having a general exchange of views. I realise that I have only touched on a delicate and complex problem which could be dealt with at much greater length, particularly as the continual rise in election expenses worries political leaders... and also candidates.

Before ending, I should add that I have drafted a questionnaire on public funding given to political parties. It includes a question on the total costs of electoral advertising and publicity:

a) of a political party at the national level?
b) of a parliamentary group in the national Parliament or in a regional assembly?
c) of a party group in a local council?

B. Topical discussion (October 1984 — extracts from the minutes of the Association)

The PRESIDENT (Dr. Walter Koops) said that the question of public funding of election expenses had been the subject of much discussion in Belgium. The Association had touched upon it during its consideration of Miss Courtot's report on the financial position of members. He invited Mr. Deneulin to introduce this debate on an extremely sensitive subject.

Mr. DENEULIN said that when Miss Courtot's report had been discussed at the spring meeting, he had asked whether it took account of the countries in which Members were refunded for some of their election expenses. At that time the President had considered that this was beyond the scope of Miss Courtot's report and had suggested that he introduce a topical discussion on public funding of election expenses. He said that he had taken this task on willingly and that members who had read his introductory note would be aware of his interest and also of his hesitation about dealing with certain aspects of this subject. His only interest was to find out in which countries either political parties or individual candidates received a subsidy to finance their election campaigns.

In the introductory note he had tried to find the justification for the granting of such subsidies because in Belgium the cost of election publicity had now reached very considerable proportions. This could well be the case in other countries. It was for this reason that several proposals had been tabled in both Chambers of the Belgian Parliament with the aim of regulating and checking election expenses. He had referred in his note to the financial investment which parties and candidates had to make in an election and its consequences. There was much which could be said about this problem but it was essentially one of political choice which was beyond the responsibilities of Secretaries General. His inquiry was confined to learning:

1. the countries of Parliaments in which a subsidy for election expenses was granted:

   a. by governments
   b. by the assemblies
   c. by local authorities;

2. what was the size of the allowance?
3. what conditions and criteria governed the granting of such subsidies?
4. what control there was on election expenses and if it was desirable to establish such control?

Miss COURTOT said that in the **United States** candidates for the Senate, the House of Representatives and the Presidency were governed by the Federal Election Campaign Act. Under this law all candidates were subject to the same rules for their election campaigns. It limited the financial contributions which could be made to campaigns and required candidates to make a report on their election spending. A Federal Commission had been established to ensure that the legal requirements were met by candidates. Each candidate had to submit a report on his campaign to this Commission. Candidates for the Senate and the House of Representatives did not receive public funds for the election and were not limited in the amount they could spend. In the 1982 election, Senate candidates had spent some 138,428,142 dollars and candidates for the House of Representatives had spent 203,980,840 dollars.

Mr. AMIOT said that in France political parties did not receive public funding but individual candidates did and some of their expenses were carried by the State. Thus for example the cost of paper, advertising, postage and printing of manifestos were all reimbursed if the candidate obtained at least 5% of the votes and could produce evidence of expenditure incurred. Television and radio facilities were also made available to political parties. The rules differed according to the size of the party's representation in parliament. Thus the political groups which had at least 30 members in the National Assembly were allowed three hours broadcasting time on television for elections and half was reserved for the majority and half for the opposition. The division of time within these groups was decided by party leaders. In cases of disagreement it was the bureau of the National Assembly which decided. Groups which were not represented in Parliament were allowed seven minutes broadcasting time.

At the last parliamentary elections in 1981, 2,238 candidates obtained at least 5% of the votes and 46 million francs was repaid to them at an average of 20,000 francs per candidate.

Another aspect of this problem was important to Parliament. It had been noticed at the National Assembly that the postal costs went up significantly during the election period because candidates who were already Members used the parliamentary postal facilities to distribute their election literature. For this reason a limit had had to be introduced to the effect that no Member could send more than 6,000 circular letters each year. There had been numerous disputes and some candidates had complained about the dishonest nature of campaigns by sitting Members. Many proposals had been made about the regulation and control of election expenses which had all been treated with caution by the political parties.

Mr. ROLL said that in the **Federal Republic of Germany a** law passed in 1967 and amended since then dealt with the election expenses for national elections to the Bundestag and the European Parliament. Individual provinces had their own rules for elections. The 1967 system was fairly complicated. Each party was given five marks for each vote it received. The total public subsidy was based on the assumption that all 44 million voters took part in the election. Thus a party which received 10% of the actual votes cast would be paid 4.4 million times five marks. The calculation of the sums involved as well as the payment of them was the responsibility of the Bundestag.

Another condition for such financial support was that the party received at least 0.5% of the votes cast. There was no checking on the actual expenses incurred. From time to time articles appeared in the newspapers saying that such and such a party had not spent as much as it was given. It was expected that this question would be dealt with in the near future in an amendment to the constitution.

Mr. DESROSIERS said that the situation in **Canada** was fairly similar to that in France. The threshold for repayment was 0.5% of the votes for each candidate. The subsidy was paid by the Government on the basis of the number of voters in each constituency. The elections which had just taken place had provoked a debate on the control of election expenses. The previous parliament had in effect passed unanimously a law which limited election expenditure to recognised parties and to actual candidates in the election. This prevented independent people from contributing to election expenses. This law was challenged by some people and ruled unconstitutional by a judge at first instance several weeks before the election. The Government did not want to appeal against this decision and so the law was not applied during the recent elections. Access to television and radio were also regulated in Canada.

Mr. TARDAN said that an unusual thing had happened during the most recent elections in France for the European Parliament. Broadcasting time allocated to the parties represented substantial sums of money. It had been decided that the major lists represented in the European Parliament would have half an hour each and the other smaller ones only five minutes. One small list managed to obtain the support of a political group by splitting that group in the Senate and thus managed to obtain half an hour's broadcasting time. In his view the free publicity provided by the media had become more important than financial subsidies for elections.

Mr. AMIOT said it would be interesting to know how many votes this particular list had obtained in the election. Mr. TARDAN observed that this was an internal French matter.

Mr. BOULTON said that in the United Kingdom there was no direct public funding of elections but benefits in kind for candidates had been calculated to amount to about £10 million for a general election. The major parties thus received some £4 million each if one took into account the real cost of free use of schools for meetings, free postage of election addresses to each voter and free party political broadcasts on television and radio. Individual candidates were limited in the amount they could spend in their election campaign: the basic amount was £2,700 plus 3 p. per voter in country constituencies or 2 p. per voter in city constituencies, amounting to about £5,000-£6,000 in total. There was no limit on expenditure by the parties nationally but they were not allowed to pay people to put up posters or to buy broadcasting time. Individual candidates had to make a return of their election expenses within 35 days of the election and these were published. An elected Member who did not make such a return within 35 days was not allowed to sit and vote.

Candidates and parties were not obliged to disclose the source of their funds but companies had to make public any political donations above £200 and trades unions had to keep separate political funds out of which donations were made to political parties and individual candidates. Opposition parties also received funds for their parliamentary work of up to £325,000 depending on the number of votes and seats won at the previous election. Gifts to political parties were not subject to capital transfer tax.

The provision of public funds for political parties was much discussed in the United Kingdom. On the one hand if parties did not receive any public funding they might become the instruments of the interest groups which financed them. On the other hand, if they did receive public funds, there would be less need for people to join and support such parties and existing

parties' strengths would tend to be institutionalised. Once one began to consider these wider issues the Association was stepping beyond the experience of Secretaries General.

Mr. SHERBINI said that in **Egypt** the party list system was used in elections and the financing of an election was a matter for individual parties. There was a public subsidy of some 5,000 Egyptian pounds (about 5,000 US dollars) for each party to spend in each constituency. This system had been adopted only recently. The amount of state aid the different parties received was dependent on the number of constituencies in which each campaigned. Each party had equal access to radio and television and received three free copies of the electoral list.

Mr. GUTHRIE said that in the House of Representatives in the **United States** the Clerk was an ex-officio member of the Federal Election Commission which monitored all election spending.

Mr. MOROSETTI said that in **Italy** assistance was provided to the parties according to the size of their representation in parliament. Access to radio and television was allocated on the basis of the number of elected members in parliament. The State also gave assistance to the political press. The parties also benefitted from special postage and telephone rates and their activities were exempted from value added tax.

Under a law passed recently the State Treasury granted 20 million lire each year to a special fund organised by the Chamber of Deputies for the use of both Chambers. Money out of this fund was allocated to the parliamentary groups in proportion to the number of seats won at the last election. This sum was raised to 40 million lire for a national or European Parliament election. The principal check on election expenses was the publication of details by each Chamber, the political parties and individual Members on their financial activities.

The PRESIDENT said that in the **Netherlands,** where a system of proportional representation existed, election expenses were paid by the political parties. The average candidate did not receive a florin. There was a system of public funding for political parties. The Government provided four thousand florins for ten minute periods of television time. The political parties had to show that they had incurred this expenditure before they received reimbursement.

Mr. AHMED said that there was a single party system in the **Sudan** and so it was the Government that provided funding for election expenses. At the

same time each candidate could spend money on his own campaign on condition that he did not receive any money from other people.

Mr. KOMEZA said that there was also a single party system in **Rwanda.** The State subsidised the party for a sum which varied according to whether elections were national or local ones. Rwanda was divided into ten electoral constituencies in which elections were held on the same date. The party provided the means of transport to election meetings. The prefect introduced the candidates, giving their names and describing their political activities and abilities. Personal election expenditure was illegal but in some cases candidates did not respect this rule.

Mr. WAGENER said that there was no law governing the financing of political parties or election expenses in **Luxembourg.** Nonetheless, some rules did exist: political parties were not allowed to send out more than three items of election literature, and access to broadcasting was limited according to the national importance of the party. Thus at the most recent elections groups which were not already represented in Parliament were allowed only radio and not television broadcasting. Appeals were made to the Council of State which decided in favour of the appellants on the grounds of equality before the law. In the previous June the political parties had held a meeting to discuss the financing of election campaigns but they could only agree on small points like the date of campaigns and advertising.

Mr. DENEULIN thanked the members of the Association for having taken part in the discussion, and noted that the situation in different countries was extremely varied. It would be useful to him if he could be sent written details on the different countries in order to avoid any possible misunderstanding.

The PRESIDENT warmly thanked Mr. Deneulin for this topical discussion which had aroused the interest of all members of the Association.

The role of parliament in the validation or disqualification of members after election

Topical discussion (September 1984 — extracts from the minutes of the Association)

The PRESIDENT (Dr Walter Koops) thanked Mr. Serrano Alberca (Spain) for his work and invited him to introduce the discussion. Mr. Serrano Alberca spoke as follows:

"One can define the verification of credentials (confirmation of the lack of any irregularities in the election and the proclamation of an elected candidate) as the procedure for verifying the proper status of those elected, the absence of any incompatibilities and the regular operation of electoral procedure. The validation or cancellation *(ex nunc)* of the election depends on success or failure of this procedure. Its existence is based on the fact that an Assembly can only begin its deliberations after a check has been made that each of its Members has a mandate that is proper or unchallengeable.

The essential problem in such matters is which body has the power to give the final verdict on whether an election has been properly held and, specifically, what role is given to the Parliament. A distinction can be made between the systems in which Parliament alone (meeting in plenary or in committee) decides, those in which a court of law either at first instance or on appeal makes the decision, and those in which both Parliament and the courts are involved in the case.

Giving to parliamentary assemblies sole power over the verification of credentials has been criticised because the case can then be motivated by political rather than legal considerations, permitting abuses by a recently-elected parliamentary majority. But one can argue in its support that there is the principle of parliamentary sovereignty, which places parliamentary assemblies above other bodies in the state and forbids the involvement of other powers in the determination of which candidates have been elected. The

parliamentary verification of credentials may include prior examination in a committee before consideration in the plenary or by committee representatives nominated by the outgoing and incoming Parliament.

Nevertheless, some countries have adopted a system of control by the courts, using either normal courts or special election tribunals. Furthermore, in some countries the supreme body which decides constitutional questions also has the power to judge such cases.

The term "mixed system" might be used to describe a body composed of Members of Parliament and judges which attempts on the one hand to safeguard the independence of Parliament, and on the other hand to prevent political considerations outweighing legal ones.

Whatever system is adopted, there remains the question of what role the Chamber itself plays, in the validation of the election or its challenge by means of procedure which if successful will lead to the annulment of the election. However, it is usual to consider that the latter has an effect *ex nunc* only from the proclamation (in accordance with the principles used by *"de facto* officials" in their activities) to avoid any risk of invalidation of actions carried out by a Parliament including Members who would not have been validly declared elected.

The cases in which some formal activity, such as an oath, is used to finalise the parliamentary status of the elected candidate, also need to be taken into consideration because they will have an influence on the validation of credentials.

Finally, as regards continuity in the parliamentary credentials of those elected, there is the problem of incompatibilities, i.e. the legal prohibition on simultaneously holding certain posts while being a Member of Parliament. In effect, checking that various posts are compatible with membership is a task which normally falls to the Chamber, which if appropriate may force a choice between resignation of the office which is incompatible and membership of the Chamber.

In Spain no electoral law has yet been passed but the decree of 1977 which established the judicial system conferred on the constitutional court responsibility for the regularity of elections. This court has just annulled an election which was held two years ago in the south of Spain and the consequences of this annulment have not yet been worked out.

The Spanish constitution provides in article 70-2 that the actions and powers of Members of both Chambers are subject to judicial control under the conditions laid down in law..

The Standing Orders of each Chamber nonetheless reserve an important role for the Chambers in the validation of credentials. For instance, according to Rule No. 22 of the Congress of Deputies, a Member who has been declared elected is regarded as fully qualified to act as such if he fulfils all the following conditions:

1. presentation to the Secretary General of the official document issued by whichever body has organised the election;
2. making a declaration about possible incompatible interests, stating the dates between which he had practised a profession or held some official post;
3. swearing an oath at the first plenary sitting to uphold the constitution.

At the same time, under Standing Orders, the Committee on the Status of Members reports to the full assembly on the possible incompatible interests of each Member. A Member concerned then has eight days in which to choose between his seat and the incompatible interest. If he does not make such a choice he is deemed to have given up his seat.

The judicial nature of this procedure is contained in Rule No. 22 itself; the Member loses his status by a judicial decision, not subject to appeal, which annuls his election.

Disputed elections can hamper the work of the Senate. Under the Rules of the Senate, the Chamber cannot meet in full session unless more than 80% of the directly-elected Senators have had their elections confirmed. This applies even if more than 20% of the Senators' elections are disputed, though in this case a provisional session is held. At such a session the only business which can be conducted is the consideration of possible disqualifications, unless, following a message from the government or a proposal from a parliamentary group or at least 25 Senators (under Rule No. 4) it is considered essential to debate some other topic.

Those Senators who have been elected and those nominated by the autonomous regions have to satisfy the following conditions in order to qualify for their seats:

(a) presentation of credentials within 30 days of election by the provincial electoral college or autonomous region respectively. This period can be extended in cases of illness or disability.
(b) swearing of an oath or promising to respect the constitution, at the opening session (or, in cases of illness or disability, at a later session or in

writing within three months of the presentation of credentials. The Senate takes note of such a document).

Under Rule No. 16 the Committee on Incompatibilities inquires into, and gives its opinion on, the possible incompatible interests of each of the Senators who have gathered for the plenary sitting. Once an incompatible interest has been declared and notified, the Senator concerned had eight days in which to choose between his seat and that interest. If he does not opt for one of the two, he is considered to have resigned his seat.

After this general examination of the subject, the following topical questions arise:

1. What body has power over the verification of credentials after an election (judicial, parliamentary, mixed).
2. What role does Parliament play in the assessment of:
   (a) whether an election is valid;
   (b) whether a candidate is ineligible;
   (c) whether incompatibilities arise between membership of the Parliament and other posts held;
3. Is some formal activity, apart from election, required before a person becomes a Member of Parliament?
4. If an election is annulled, exactly when does such a cancellation take effect?

The PRESIDENT thanked Mr. Serrano Alberca for having introduced the discussion and went on briefly to describe the situation in the **Netherlands. In** the Second Chamber the Credentials Committee was responsible for making a report. Thus the system was entirely parliamentary: the newly-elected Chamber decided itself on the validity of elections. There was a movement to transfer this responsibility to the outgoing Chamber and this system would probably be adopted soon.

The Member had to sign a declaration concerning his age, nationality and any holding of public functions. He then swore an oath before the President of the Chamber, or made a promise that he had not given or promised any gift to anybody in order to obtain his seat, that he would not accept any gift from anybody in order to do or not to do something as a Member, that he would respect the Constitution and the statute regulating the Commonwealth of the Netherlands and the Netherlands Antilles and to stay loyal to the Crown. At that point he properly became a Member of Parliament.

A complex problem had arisen at the time of the recent elections to the European Parliament. In practice it was the same committee that had to check the validity of a Member's credentials and to make a report before a Member could take his seat at Strasbourg. The result of the European elections became known only just before the parliamentary recess. One newly-elected Member did not respond to requests from the Dutch Parliament for him to make the necessary declaration. A full report from the Committee could not be produced until two months after the election during which time the Member had already taken his seat and voted in the European Parliament in Strasbourg. The question of the date at which his salary should have been paid had not yet been resolved.

Mr. MO said that in Norway, parliamentary rules provided for newly-elected Members to have the temporary right to sit and vote. Under Article 64 of the Constitution it was the Storting which had responsibility for the validity of elections and incompatibilities. At the first session of a new Storting the Members had to present their credentials to the President. The credentials would be checked by a credentials committee of the outgoing Storting. A decision to annul an election took effect immediately though Members had the temporary right to sit in Parliament.

The PRESIDENT asked if such temporary Members had the right to a salary in Norway. Mr. MO replied to say that they had. Their pay started from the first day of the new Parliament and there was no system for repaying it.

Mr. JOHANSSON said that in **Sweden** there was a mixed system for the verification of credentials. The credentials were examined by an elections committee whose President could not be a member of the Riksdag and which comprised six other members who might or might not be members of parliament. They were chosen after each election. There was no appeal against the decisions of this committee which made a report at the first sitting of the new parliament. Their principal task was to decide appeals for annulment of elections. The Member of Parliament could take his seat notwithstanding such an appeal. If the results of an election were altered the newly-elected Member took his seat as soon as the change was announced.

Mr. DESROSIERS said that the **Canadian House of Commons** respected a judicial system for the checking of credentials. The Director-General of elections sent a report to the Speaker of the House. A newly-elected Member had to swear an oath. It was for the courts to decide disputed cases; the House had no role to play. The operative date was the day on which the court announced its decision.

Mr. BOULTON said a distinction should be drawn between the validity of elections and incompatibilities. Originally the UK House of Commons had judged the validity of elections but after some abuse this task had been transferred to the courts in 1868. The courts' decisions were certified by the Home Secretary and sent to the Speaker. A petition against an election had to be presented within twenty-one days of that election. The case was heard by senior judges and the decision was final and binding on the House. This procedure avoided having a long period of uncertainty.

As far as incompatibilities were concerned, the House of Commons had long exercised control over its own membership. Incompatibilities could arise not only at election time but also during someone's membership of the House. The House could expel a Member and there was no appeal against such a decision. Similarly the House had discretion to take note of a possible conflict of interest without taking any further action. Anyone could complain to the Judicial Committee of the Privy Council about a member's eligibility on grounds of age, nationality etc., and the Council's decision was final.

The formal activity which began someone's membership of the House of Commons was the taking of the oath or the making of an affirmation but Members were treated as full Membrs from the moment of election and their salary was back-dated to the day after the election. A Member who took his seat without swearing an oath was treated as dead and his seat was declared vacant. If his election was annulled, that decision took effect retrospectively but there was no recovery of salary paid to him or expunging of the record of his parliamentary activities. In general there were very few such cases: perhaps two or three after a general election. The court had the power to declare one of the other candidates elected and this was binding on the House.

Mr. AMIOT said that until 1958 the National Assembly and the French Senate had been the sole judges of the validity of elections. Election documents were divided between ten committees drawn by lot and parliament began to function when at least half of the seats had been checked. Numerous abuses occured, particularly in the Assembly where, in 1951 and 1956, elections were declared void more for political than for legal reasons. The 1958 Constitution gave to the Constitutional Council the right to intervene when there was a disputed election (but the Court did not check all the elections). It had to make a decision within ten days. An appeal to the Constitutional Council did not have the effect of suspending the Member from his duties. The Council could either annul the election (in which case new elections would be held) or could declare another elected, thus reversing the decision of electoral authorities. At the latest elections, in 1981, there were sixty-four

appeals concerning fifty-five seats in forty-nine constituencies and in four cases the elections were annulled. Thus France now operated a legal system for checking the validity of elections like that of the United Kingdom.

The only formality for someone becoming a Member was the taking of an oath. The question of incompatibilities was in principle examined by a sub-committee of the bureau of the National Assembly or, in cases of difficulty, by the Constitutional Council.

Mr. SHERBINI said that Article 93 of the **Egyptian Constitution** gave to the Assembly responsibility for the validity of elections. There was a mixed system of verification of credentials according to whether the elections were or were not contested. If there were no disputes the verification was simple and the Comittee on Constitutional and Legislative Affairs made a report within 90 days from the legal date for the end of the mandate of the outgoing Assembly. Any challenge to the credentials had to be presented to the President of the Chamber at the latest 15 days after the elections. They would be examined by the Committee on Constitutional and Parliamentary Affairs and transmitted to the Court of Cassation. The Court's inquiry could last no more than 90 days after which it presented a report to the Assembly which had to take a decision within a further 60 days. Any Member of Parliament had the right to defend himself and he could speak and make comments, but he had to leave the Chamber for the vote. Members had to take an oath at the first session of the Assembly.

Mr. SHERBINI in reply to a question from the President said that these challenges to credentials were very frequent.

Mr. OPITZ said that the situation in the **European Parliament** was very complex because despite having direct and simultaneous elections the electoral law was not the same in different countries of the European Community. Each country was responsible for notifying the successful candidates from that country. This notification could come from different sources: the Foreign Ministry, the Interior Ministry, the Statistical Office, or the Speaker of the National Parliament, as in the case of the Netherlands. One of the Parliament's committees was responsible for checking whether the relevant national body had examined the validity of the election.

Mr. MOROSETTI said that in **Italy** the Election Committee proposed the final validation of Members' credentials after the results had been declared by the appropriate legal authority. The Chamber of Deputies could judge whether a Member was eligible; the principle task was really to examine possible incompatibilities. In the Senate the Committee confined itself to a

simple check on accuracy. Both Chambers normally adopted the report presented by their respective committees.

Now there was no formality required for someone to become a Member; until 1948 the Member had to swear an oath. An annulment of an election took effect from the moment the Chamber voted it.

Mr. GUTHRIE said that in the **House of Representatives in the United States** it was the Clerk who drew up the list of those who had been elected. Any Member could object to the swearing in of another Member while the oaths were being taken. The matter was then decided on by the Election Sub-Committee. The Representative was entitled to vote and was paid from when he was sworn in and this took effect from the opening date of the new Congress (early in January every two years). The Clerk was responsible for applying the rules on minimum age and nationality for Members of the House. If an elected Member was under the minimum age of twenty-five his seat remained vacant until he attained that age. If in due course the House resolved against the election of a particular Member any salary he had received was not repayable and his parliamentary votes up to that time were still valid.

Mr. NDIAYE said that in **Senegal** there was no requirement to take an oath. Senegal and Gambia belonged to a federation, of British origins, in which it was the practice to take an oath. He wondered whether the taking of an oath had legal implications or was it purely a parliamentary formality. Were members of the government expected to take oaths as well?

Mr. SERRANO ALBERCA said that according to the **Spanish Constitution** the oath had some legal effects as well as parliamentary ones. Recently two Basque Members had refused to take the oath and were not allowed to take their seats in the Congress of Deputies. They had challenged this decision before the Constitutional Court on the grounds that the oath was not a legal requirement. Their case had been dismissed.

The PRESIDENT said the situation was the same in the Second Chamber in the **Netherlands.** A Member who had been involved in corruption and who nevertheless took the oath could in theory still be taken to court.

Mr. BOULTON said that in the **United Kingdom** the taking of the oath was a parliamentary formality which confirmed the political reality of election. Some candidates stood for election on the basis that they would not take the oath if elected but that did not invalidate the election; their seat merely remained unfilled.

Mr. HADJIOANNOU said that in Cyprus, Parliament did not decide on the validity of elections. This matter was dealt with by the Supreme Court. A

new electoral law which took effect or the elections in 1981 had introduced voting by proportional representation rather than by simple majority. One candidate had seen his election disputed by a candidate of the same party but from another constituency. He had taken his seat for six months but the Court had eventually invalidated the election and the other candidate took his place. The new Member received his salary from the time that he took the oath.

Mr. EYOK said that in **Cameroon,** Parliament had complete sovereignty in this matter. Election documents were transmitted to the Assembly where they were checked by a committee. It was the report of the committee and in the vote of the Assembly which conferred the status of parliamentarian on the elected Member. The verification of credentials was very quick. In principle a Member whose election had been disputed could take part in debates, but could not vote while his case was under consideration. The annulment of an election had immediate effect.

Mr. WAGENER said that in the unicameral Parliament in **Luxembourg** the newly-elected Chamber had sole responsibility for the verification of credentials and there was no appeal against its decisions. The 15 members of the Committee on Credentials were chosen by lot. In the last year there had been three disputed elections. The Committee made a report on which the Chamber took the final decision. The Constitution did not specify the details of the taking of the oath. This situation had given rise recently to several disputes and on one occasion the Secretary General had decided that a photograph was not sufficient proof of affirmation.

Miss COURTOT said that in the **United States** the Senate was the sole judge of the results of the elections. Each case was treated on its own merits, but there were some general rules. For instance, an inquiry could be established in cases of alleged corruption. A Senator had to swear an oath before taking his seat. The Assistant Secretary was responsible for coordinating this procedure. In cases of disputes the Senator was usually allowed to take his seat until a decision was reached.

Mr. HONDEQUIN said that the **Belgian Constitution** had provided since 1831 that responsibility for the verification of credentials of Members of Parliament was the responsibility of the two Chambers. In the five days after elections were held the election commissions sent their reports to the Secretaries General of the two Chambers who checked the figures and prepared a draft report for the Credentials Committees. In the Senate the oldest and the longest serving Members were members of this Committee. Senators had to satisfy various conditions of nationality, residence and age. Senators had to take an oath. Since 1954 the law provided that taking the oath put an end to

any possible incompatibilities and this had greatly simplified the problem of incompatibilities.

Mr. KOMEZA said that the National Development Council of Rwanda was responsible for verifying the credentials of its members and this verification took place at the first sitting of the Council. The Council also dealt with possible incompatibilities. A Member who had been elected had to present a letter resigning from, or disposing of, any previous obligations. In cases of dispute it was a judicial body, the Council of State, which decided the matter. An elected Member had to swear an oath to respect the Constitution and to be faithful to the Republic and to the Head of State. An annulment took effect from the moment of the decision by the Council of State.

Mr. SERRANO ALBERCA thanked everyone who had taken part in the debate which had shown how interesting the subject was. He had taken note of particular cases like that of the election to the European Parliament. The Spanish Senate found itself in the same situation with respect to the autonomous regions; he had to check the validity of elections with respect to the different laws involved.

The discussion had shown how different systems operated for the validation of elections and for dealing with incompatibilities. It appeared that in the majority of cases it was the parliament that was responsible for checking credentials.

The PRESIDENT thanked the rapporteur and all those who had taken part in the discussion.

ANNEX I

Situation in the Legislative Council off Zaire

(Note by Mr. Izizaw)

In Zaire after the results of elections have been announced by the Interior Minister the Legislative Council meets right away to verify the credentials of the members, who are called Commissioners of the People.

The Legislative Council has sole competence to verify the credentials of its members. Nonetheless disputes concerning the regularity of elections are decided, on appeal by individuals, by the Supreme Court of Justice. If this

results in the annulment of an election by the Court the Legislative Council pronounces the challenged member disqualified.

A Commissioner of the People who is disqualified in this way does not have to repay any allowances which he has received before his disqualification. There is no requirement to take an oath before a member takes his seat as a Commissionner of the People.

ANNEX II

Systems of verification of credentials in Sweden

(Note by Mr. Johannson)

In Sweden there is a mixed system of verification of credentials.

A prior examination is performed by the Election Review Committee, consisting of a chairman, who shall be or have been a permanent judge and who must not be a member of the Riksdag, and six other members, either MPs or judges. The members shall be elected after each ordinary election as soon as the results of the elections have become final and shall serve until new elections for the Committee have been held. There shall be no right to appeal against any decision of the Committee.

The Election Review Committee has to examine the warrants of election of Members, and the report on the examination shall be read at the first meeting of the Chamber during a session. Reports on the examination of warrants which have been received during a session shall be read as soon as possible.

The most important task of the Election Review Committee is to decide upon appeals against elections for the Riksdag. Any person who has been elected a Member of the Riksdag shall exercise his function notwithstanding any such appeal having been lodged. If the results of the elections are changed, any new member shall take his seat as soon as the change has been announced.

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