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CONSTITUTIONAL AND PARLIAMENTARY INFORMATION

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General debate:
The Management Role of the Secretary General (Santiago du Chili)

Report on Promoting the Work of Parliament, by Mr Ian Harris, Secretary General of the House of Representatives of Australia

No. 185 - 1st Half-year 2003/ASGP Review

INTER-PARLIAMENTARY UNION

Aims

The Inter-Parliamentary Union, whose international statute is outlined in a headquarters Agreements drawn up with the Swiss federal authorities, is the only worldwide organization of Parliaments.

The aim of the Inter-Parliamentary Union is to promote personal contacts between members of all parliaments and to unite them in common action to secure and maintain the full participation of their respective States in the firm establishment and development of representative institutions and in the Advancement of the work of international Peace and co-operation, particularly by supporting the objectives of the United Nations.

In pursuance of this objective, the Union makes known its -views on all international problems suitable for settlements by parliamentary action and puts forward suggestions for the development parliamentary assemblies so as to improve the working of those institutions and increase their prestige.

Membership of the Union (April 2003)

Please refer to IPU site: http://www.ipu.org

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Structure

The organs of Union are:

1. The *IPU Assembly* (formerly known as the Inter-Parliamentary Conference), which meets twice a year.

2. The *Inter-Parliamentary Council* composed of two members from each affiliated Group. President Mr. Sergio Páez Verdugo (Chile).

3. The *Executive Committee,* composed of twelve members elected by the Conference, as well as of the Council President acting as ex officio President.

4. *Secretariat ofthe Union,* which is the international secretariat of the Organisation, the headquarters being located at:
5. chemin du Pommier
Case postale 330
CH-1218 Le Grand Saconnex / Geneva
Switzerland

Secretary general: Mr. Anders Johnsson

Official publication

The Union's official organ is the Inter-Parliamentary Bulletin, which appears quarterly in both English and French. This publication is indispensable in keeping posted on the activities of the Organisation. Subscription can be placed with the Union's Secretariat in Geneva.

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Griffith & Ryle

1. Debate on the Management Role of the Secretary General

A. First Round Table: The Autonomy of Parliament in relation to Internal Management

Mr Ian HARRIS, Vice-President, invited Mr Xavier ROQUES, Secretary General of the Questure of the National Assembly of France, to make his presentation.

Mr Xavier ROQUES made his presentation as follows:

"The autonomy of parliamentary assemblies comes from the concept of the separation of powers which appeared in the 17th Century with Locke, which was developed in the following century by Montesquieu in his work on the spirit of the laws. This theory set down that each source power - executive, legislative, judicial - was confined to distinct organisations, the independence of which must be as great as possible in order to achieve a balance of power: "So that one may not abuse power, it must arise from the natural force of things that power stops power." The Declaration of the Rights of Man and the Citizen of 1789 laid down that no true constitution could exist without a separation of powers.

In the Constitution of 1958, the separation of powers figured among the principles which must govern the balance of public powers. The fundamental idea of the constituent parts was to restore a strong Executive because its position in the 3rd and 4th Republics had been a source of instability. This objective would bring about a rationalised parliamentarism and at the same time a reaffirmation of the autonomy of parliamentary assemblies.

It flows from the application of this principle of the separation of powers that a parliament requires considerable means, particularly financial, human and technical, to carry out to the full its duties and to function independently of the Executive.

Assemblies have long enjoyed a multi-faceted autonomy. It was very early on admitted that they should be able to organise themselves as they wished, that they should have control of their own budget and be served by staff under the Assembly's control. This situation did not rely upon any basic text and was accompanied by a broad jurisdictional immunity. In 1899, a decision of the Council of State confirmed that each of the two Chambers had absolute autonomy.

It might seem that the 5th Republic in setting up the rationalised parliamentarism might have limited the autonomy of the parliamentary assemblies. Moreover, it is a paradox that the law of 1958 which affirmed parliamentary autonomy should be an Executive Order even though it had legislative effect. But it seemed in fact that the Executive Order of 17 November 1958 merely codified what was a long tradition (police powers and to a great extent budgetary powers) or to anticipate an evolution which seemed to be unavoidable (the possibility of legal recourse).

I will deal in turn with the autonomy of assemblies in their internal organisation, financial autonomy, the autonomy relating to property and public contracts, the autonomy relating to staff, the autonomy relating to police and then end with the autonomy in respect of justice.

AUTONOMY IN INTERNAL ORGANISATION

In 1789, the Assemblies had adopted rules fixing the working practices of Parliament. They had complete freedom to prepare such rules without control, particularly by the Executive, except in the case of certain authoritarian political regimes. The internal rule was applicable only on the fact that it had been adopted by the Assembly concerned. Since 1958, rules of the Assembly were submitted to a constitutional check instigated by Article 61 of the Constitution. With that proviso, internal organisation is the exclusive responsibility of the Assemblies.

The Bureau of the National Assembly, which is an organisation composed of the President, 6 Vice-Presidents, 12 Secretaries and 3 Questeurs, has the dual role of organising the parliamentary work and the administrative organisation. It determines through internal rules the management and functioning of services, as well as the status, the regime for retirement and social security of staff, nominates Secretaries General and the different members of staff and decides on the retirement of officials. It also acts as a final resort in case of disagreement between the administration and staff of the Assembly. The President is responsible for overseeing the internal and external security of the Assembly.

The 3 Questeurs, of whom one traditionally belongs to the Opposition, are responsible for financial and budgetary management. No expenditure may be engaged without their prior agreement. The President and the Secretary General of the Assembly and of the Presidency direct the legislative services and the Questeurs and the Secretary General of the Questure direct the administrative services.

FINANCIAL AUTONOMY OF THE NATIONAL ASSEMBLY

The notion of financial autonomy is linked with the budgetary procedure, whether the preparation of the budget, its execution or its control. The 5th Republic reaffirmed this autonomy. The Executive Order of 17 November 1958 lays down in Article 7 that each parliamentary assembly enjoys financial autonomy.

The Order has also seemed to have placed it under restraint. The same Article lays down that the credits necessary for the functioning of the parliamentary assemblies are the result of proposals prepared by the Questeurs in each assembly and decided by a joint committee composed of Questeurs of the two assemblies. Although reaffirming the prior principles of autonomy, the budgetary procedure is thus limited and the joint commission is presided over by a person outside Parliament who is a magistrate of the Cour des Comptes (which is a financial jurisdiction responsible for checking the accounts of public organisations). However, such a committee was, under the 3rd and 4th Republics, composed exclusively of members of parliament. In addition, the two Assemblies now had to decide their budgetary credits in common, whereas before they were independent of one another. Nonetheless, if what is laid down may be interpreted as a limitation on the autonomy, the autonomy itself if confirmed.

The preparation of the budget is always carried out in each assembly by the Secretary General of the Questure under the authority of the Questeurs. The proposals relating to the amount of the financial requirement claimed by each Assembly in the general budget of the State, are presented to the joint committee composed of the Questeurs of the two Assemblies which have deliberative votes under the presidency of the President of the Chamber of the Cour des comptes, assisted by two magistrates of that Court, who report upon the requests but who do not have the right to vote. These 3 magistrates do not represent the Court, do not receive instructions and are not responsible to it for their mandate. In practical terms, the two Assemblies continue to decide their budgets quite freely, all the while taking into account the political background of the economic and financial imperatives of the State. A large increase in the budget of the Assembly would be badly viewed in a period of financial hardship.

Although the committee is joint between the two Assemblies, the traditional principle of autonomy of each Assembly as against the other has never in fact been in doubt. The Executive Order lays down that the credits decided by the joint committee should be written into the draft Finance Bill without any way in which the Minister of Finance could contest them and to this Bill is annexed an explanatory report written by the joint committee and published each year.

When the amount of the subvention requested from the State is included in the Finance Bill and that has been voted on, the credits are placed at the disposal of the Assembly concerned all at once from the start of the budgetary process. The Assembly uses these credits freely and as far as the centre of administration is concerned, payment is carried out by a responsible person in the Treasury on the signature of the Controller of Expenditure engaged as and when they are required. According to the Rules of the National Assembly, the direction under budget heads of the expenditure and the resources is decided by the Questeurs who authorise the expenditure and the rules applicable to those responsible are fixed by internal rules determined by the Bureau.

The Treasurer makes the payments on the account of the National Assembly. As an official he is responsible to the Questeurs for the funds which are entrusted to him and he allocates the funds freely as long as there is no reason to appeal against his decision and he prepares an account at the end of each budgetary period. The Assemblies in effect deal with their funds as they wish and remain free to conserve existing reserves which may have come about through under-use of funds at the end of the budgetary period without returning them to the Treasury This allows them to set up a reserve that enables them to finance expenses above and beyond the annual subvention.

The way in which the accounts are checked also guarantees the autonomy of the Assembly. The accounts are not sent to the Cour des Comptes but to a special commission which is responsible for checking the accounts according to the budget and the Rules of the Assembly; the Special Commission is composed of 15 deputies and is elected each year in proportion to the party groupings. If it refuses to sign off the account (which has never happened) it must report the matter to the Assembly.

In order to allow it to complete its task, the Questeurs send the committee each year a private report on the use of the funds. Furthermore, the committee sends the Questeurs a questionnaire and hears them account for their management. Finally, the members of the committee have a power of checking on individual expenses at any time. The committee publishes an annual report which in the last 4 years has included an annex on a particular subject which is different each year.

Its role is therefore very close to that of a commission of accounts since it audits the Questeurs and the Treasurer and similar to the Cours des Comptes because it publishes an annual report. The television channel known as the parliamentary channel created by a law of 1999, and entirely financed by an annual subvention by the National Assembly, is also overseen by that committee.

AUTONOMY IN RELATION TO PROPERTY AND PUBLIC CONTRACTS

Parliamentary assemblies have two types of real property.

Certain property which is the property of the State is given to them by an Executive Order of the 17 November 1958. This relates to the Palais Bourbon for the National Assembly, to the Palais du

Luxembourg for the Senate and of premises referred to as the Congress in the Chateau of Versailles. The Assemblies may not use this property for other purposes but otherwise have the freedom of use and upkeep.

Other property not within the previous group is freely managed by the Assemblies and arises from direct purchase, as with acquisitions as with private property by way of a notary, and this shelters them from the pressure from the property services part of the Economic and Finance Ministry.

As far as public contracts are concerned, the Council of State in a decision of 1999 declared itself able to investigate these contracts. Nonetheless the contracts which were the subject of dispute were not governed by the code relating to public contracts except in the absence of particular rules laid down by the competent authorities of the National Assembly. This encouraged the Assemblies to adopt their own rules relating to contracts which in fact they did in 2001. This was an example, the first for decades, of the law-making power of Assemblies and their autonomy in management separate from the traditional areas of action (budgets and staff).

This law-making power has certain limits, in particular arising from European Community law, but a decision of 1998 the European Court of Justice considered that a legislative organisation was included in the notion of State in the sense of Community directives relating to public works contracts. It had added that a Member State could not argue on the basis of its own juridical organisation that it was justified in not observing obligations set down by the Directive.

Furthermore, in the particular rules which it had adopted, the Bureau did not wish to attack the fundamental principles of law relating to public contracts and the provisions of that set of rules were finally limited to the strict necessity of preserving the independence of the Assemblies and taking into account of particular cases linked to their internal organisation. The first Article of the decision of the Bureau of the National Assembly laid down that contracts of the National Assembly are governed by the provisions applicable to public contracts of the State, with the reserve of what was laid down by the current provisions completed by the decisions of the Questeurs. Article 2 laid down important derogations in the code: the collegiate nature of the legal personality responsible for contracts - the Questeurs - and the absence of agreement or control of authorities external to the National Assembly. The committee for contract tenders had a limited role at the opening and at the end for establishing the content of candidacies and offers received by the National Assembly. The committee does not give an opinion for the attention of the person responsible for the contract except in the case where the code lays down the presence of particular qualified people. In this case the committee does give an opinion sent to the College of Questeurs on the candidates and on the tenders. The diminishment of the role of the committee is explained by the desire to avoid a risk of conflict between the Questeurs who are a political authority and the committee which is only made up of staff of the Assembly concerned. In addition, it is set down that in the case where candidates may be heard according to the code of public contracts, those may be heard either by the commission for public tenders or by the College of Questeurs.

The decision of the Council of State has put once again into question the jurisdictional immunity which was traditional for parliamentary assemblies for all their public contracts. As a result it is questionable whether this jurisdictional immunity, which was not limited in the law except for certain precise cases, has not been put into doubt in other areas.

As a result the status of acts carried out by the political and administrative authorities of the Assemblies is at

present unclear as far as jurisdictional control is concerned. For this reason, quite recently a Judge has decided that he had the jurisdiction over a dispute between the Senate and certain of its neighbours relating to changes carried out by that Assembly on its buildings, on the basis that the changes had taken place without planning permission.

AUTONOMY RELATING TO STAFF

Traditionally the Bureau of each Assembly decides on the status of the personnel of that Assembly. Until 1958, the status of the staff of the Assemblies was entirely outside the law.

The Executive Order of 17 November 1958 confirmed that the status and the regime relating to the retirement of officers of the Assembly were decided by the Bureau of the Assembly concerned and adds that administrative law applied in relation to all disputes of an individual nature which concerned them, which was a new departure in comparison with the previous situation which excluded any judicial intervention.

The Finance Law of 1963 also lays down that officers of the Assembly have the status of state officials which guarantees their right of tenure. The Law of 13 July 1983 relating to the rights and duties of state officials lays down that it relates to all civil officials "with the exception of officials of the Parliamentary Assemblies and magistrates". This same Law completes the Executive Order of 1958 by indicating that the general principles of law relating to the civil service - and it still remains unknown what these principles are - apply to them.

The result of these different laws is that Assemblies have their own power to fix the status of their officers within the framework of the principles of the constitutional nature of the civil service. These laws also lay down that the staff of the National Assembly are exclusively recruited by way of competition in all categories and according to conditions set down by the Assembly concerned.

This provision also forbids the permanent collaboration with any member of staff coming from a separate department outside the Assembly. State officials or magistrates may not be placed at the disposal of the Assembly. The existing posts of the Assembly may only be filled by a member of staff of that Assembly, recruited by competition and who was exclusively employed in that Assembly.

Nonetheless, parliamentary officials may be placed at the disposal of foreign parliaments, European institutions, international organisations, legal organisations (Constitutional Council, Council of State, Cours des Comptes, for example) and independent administrative authorities (Committee on the Operations of the Stock Exchange, High Council on Audiovisual Media, Committee on Information Technology and Freedom etc.). They may be seconded to those organisations and also to public companies or enterprises and to local organisations.

Decisions on the creation of posts are a matter for the Bureau of the Assembly and decisions on the competition and the number of posts available are a matter for decision by the Questeurs. In such a decision, the Questeurs will set out the conditions of the competition, the necessary qualifications for candidates, age conditions, indeed professional experience and so forth, as well as the membership of the interviewing panel. This always includes a majority of members who are outside the administration of the Assembly (university teachers, magistrates, high government civil servants, indeed people in civil society, professionals from various disciplines), but the Chairmanship is always taken either by one of the

Secretaries General or by a high official of the Assembly designated by him. One of the tasks of the personnel department is to set up such panels and to make proposals for this to the Questeurs; and so there are competitions to recruit administrators, secretaries, officials, drivers, photographers, electricians, cooks, etc.

As far as directing a member of staff to a particular post is concerned, this is done for legislative services by a decision of the President taken on the advice of the Secretary General of the Assembly, and for administrative services, by a decision of the Questeurs on the advice of the Secretary General of the Questure, and as far as the passage of a member of staff from one of these services to another, by a decision of the President and the Questeurs on the advice jointly of the two Secretaries General. What is important is that the advice is given by the Secretaries General. The political authority could not by itself take any decision relating to work to be done by a member of staff. It can only accept or refuse a proposition made by the relevant Secretary General.

Other rules contribute to reinforce the autonomy of Assemblies. The pay given to staff is fixed by Questeurs in accordance with decisions taken by the Bureau or by themselves and the President, and promotions depend on a decision by the Bureau or Questeurs or the President and Questeurs according to the category.

It is to be emphasised that this autonomy only concerns officials employed by the National Assembly and not members of staff employed by the deputies themselves as assistants. Such posts are governed by private law and are within limits decided by that area of law, a matter of free recruitment and dismissal by the employing member of parliament. As far as social protection is concerned, independence is also traditional.

The founding laws of the regimes for social protection of the National Assembly are very old. The first of them, relating to retirement, dates from 1807. From the start parliamentary assemblies have wished that their officers should have the benefit of a system of protection which was at that time not obligatory and which they decided to manage themselves.

The Council of State in a decision of 1957 recognised that the regime of social protection of the National Assembly was independent and managed in a specific manner, in the abence of all external control in its functioning.

The Executive Order of 1958 gave this a legislative basis in setting out the principle that each Assembly enjoys financial autonomy. The expenses of the social protection are a part of their credits, and also laid down that the regimes of retirement for officers of the services of the National Assembly were determined by the Bureau of the particular Assembly. Furthermore, a Law of 13 July 1983 lays down that parliamentary officials are affiliated to a special regime of social protection.

This regime is determined by the rules relating to the Department of Retirement and Social Security of the personnel department of the National Assembly and adopted by the Bureau. It is financed by subscription and by a subvention paid by the Assembly from revenues arising from excess payments in earlier years. It is submitted for verification only to the committee on checking accounts and has no exterior checks whatsoever. Although general law does affect this area, particularly under the influence of the establishment of the Sésam-vitale card which allows electronic payment of health expenses, the regime nonetheless preserves management independence.

AUTONOMY RELATING TO POLICE POWERS

In 1789, following an attempt to intimidate the Assembly, the Assembly demanded, and obtained, the right to police itself, an indispensable condition for allowing its deliberations to be free. Furthermore, a law of 22 July 1879 confers on the President of each Assembly the right to require the army to guard the Assembly over which he presides.

In theory this power is without limit, a fact which was deplored in the debate in 1879, the Executive underlining that the President of an Assembly could disorganise the army through exagerrated and unexpected demands, each one being able to ask "for a regiment, a brigade, an army".

The Executive Order of 17 November 1958 adds to this historical continuity. "The Presidents of the parliamentary assemblies are responsible for overseeing the internal an external security of the Assemblies over which they preside. They may to this end, require the assistance of the army and any other authorities whose help they judge necessary. This request may be addressed directly to all officers and officials who are obliged to obey immediately under punishment laid down by law for a refusal." This right of requisition over armed forces may be delegated to the Questeurs.

Even if this right has lost its sense of urgency it nonetheless is an important element as far as parliamentary assemblies are concerned; it limits the principle under which the armies are placed under the sole command of the President of the Republic.

According to the rules of the Assembly, the President decides on the amount of military force which is necessary for him and these forces are placed under his orders.

The general who is the military commander of the Palais Bourbon is nominated by a decision of the President of the National Assembly and acts under his authority and has command over members of the Republican Guard. He decides and puts into effect all security measures around the Palais Bourbon and its annexes and establishes a permanent contact with the services of the Prefecture of Police.

Finally, civil staff of the National Assembly are responsible for surveillance of the access to the Palais Bourbon and other buildings in its vicinity. In practical terms this means that no search by police and no enquiry can take place within the precincts of the Assembly and that no police force and no usher may enter without the agreement of the President.

THE INDEPENDENCE OF THE ASSEMBLY OF THE SYSTEM OF JUSTICE

For a long time, the jurisdictional immunity was based on the revolutionary principles of the separation of powers and the supremacy of the Legislative power. Acts of the parliamentary assemblies therefore escaped, in principle, all legal control.

Nonetheless, this immunity goes against the principle of equity and judges have occasionally extended their jurisdiction, in relation to public contracts for example. The principle remains nonetheless that parliamentary actions can not be the subject of court action. Until the 5th Republic, decisions taken by the Assemblies relating to their staff were unable to be examined by an administrative judge or even by a criminal judge.

The Executive Order of 1958 maintained the principle of jurisdictional immunity while making two exceptions. It provides firstly that the State is responsible for damage of any kind caused by the services of the parliamentary assemblies and the actions for which they are responsible may be examined by the competent courts" and secondly, the administrative courts may take cognisance of all disputes of an individual nature concerning their officials as a way of ending what was more and more considered a denial of justice. It was in fact difficult to accept that staff could not have legal recourse in relation to decisions which affected them.

The law of 13 July 1983 lays down that the administrative courts were competent in matters of dispute between individuals which concerned officers and staff of the Assembly in so far as general principles of right and fundamental guarantees were concerned which were recognised in relation to all civil and military officials by the Constitution.

The decision of the Council of State of 5 March 1999 contradicts the Executive Order and sets up a new question mark over the jurisdictional immunity of parliamentary assemblies. Extending all the matters relating to public contracts to the jurisdiction of the courts is perhaps justifiable since the current society regards any special treatment as an abuse, even though the involvement of the judiciary in the functioning of the Assemblies is not desirable

Therefore there is some uncertainty regarding the extent of this jurisdictional control. It is difficult to determine *a priori* those acts which would go within the field of control exercised by the judicial judge. It is interesting to note that the law of 12 April 2000 relating to the right of citizens and their relations with public administrative bodies lays down that recorded actions of the parliamentary assemblies are not considered as administrative documents in the sense that that particular law means.

In addition, the Council of State, in a decision of 1987, recognised that the Assembly had the right to act as its own court. This sets up the problem of whether the National Assembly has the right to represent itself. Several courts have decided in this direction. The general instruction of the Bureau includes the capacity of the Assembly to act when it lays down that the decision to engage in court action is taken by the President with the proviso that the Treasurer may himself, after authorisation by the Questeurs, take any court action necessary to recover debts of any kind. According to its own rules, the Bureau has jurisdiction over contracts between the administration of the Assembly and other persons outside the Assembly. The Questeurs are authorised to engage in judicial hearings in the name of the President of the Assembly.

In conclusion, the weight of tradition has been succeeded by the provisions of the Executive Order of 1958. Despite the changes which have taken place after that date, the autonomy of parliamentary assemblies has not disappeared. Quite the contrary, as one might have supposed a *priori.* Such autonomy has even been made more precise. In this respect there is quite a considerable continuity from the 3rd to the 5th Republic. The parliamentary assemblies are part of the State but the State is not monolithic. It is made up of three powers, executive, legislative and judicial and makes'up a trinity which is a complex formulation though classical in the Christian religion. In some ways this is reassuring since legal theory cannot be more complex than theology."

Mr Ian HARRIS, Vice-President, thanked Mr Xavier ROQUES, Secretary General of the Questure of the National Assembly of France,

Mr Kazi Rakibuddin AHMAD (Bangladesh) thanked Mr Xavier ROQUES for his presentation. He asked whether notwithstanding the fact that the budget of the National Assembly was made according to its own rules, the Cours des Comptes checked its means of execution.

Mr Xavier ROQUES said that this was not the case. Independence was complete even in terms of control of expenditure. The Assembly notified the Ministry of Finances how much was required in a budget. The Ministry had to write that into the budget of the State and to make over the required amount. The same was the case for the Senate. Each Chamber had an internal budgetary audit structure.

Shri Shatish KUMUR (Rajya Sabha, India) referring to the upper Chamber of the Indian Parliament, said that the Secretary General was a civil servant of high rank who had a lot of experience within the administration of parliament. He was the Speaker's deputy. The Speaker had to respect the rules. The Secretary General could make suggestions. He was keeper of acts of the Chamber and was able to give assistance to the Speaker of the Chamber where needed. In India, there was a multi-party political system. Often the President of the Chamber needed his Secretary General to decide thorny questions relating to the rules. There were three independent powers. The role of the Secretary General had been defined even before Independence. The Secretary General had to decide on the admissibility of bills or other texts and on objections to them. He had to discuss that with the President of the Chamber, particularly in relation to precedence and internal jurisprudence. This was carried out in the interests of the good working of Parliament and the Assembly. The Secretary General had a double role. He was Secretary of the Assembly and assured good internal management. He had to recruit personnel. He prepared the budget of the Chamber. This was not debated in plenary session. If the Minister of Finance objected there would be a discussion between the two authorities and differences settled. The Secretary General also had a role in assuring the proper functioning of parliamentary committees.

Mr Ian HARRIS, Vice-President, reminded participants that one of the differences with the debates as opposed to communications was that those intervening should not limit themselves to just asking questions of the principal speaker but should also present their own contributions. This had just been done by the speaker who had intervened and he thanked him.

Mr Arie HAHN (Israel) said that the Knesset ensured that its budget was granted by the Minister of Finance according to the separation of powers. The Secretary General and the Financial Controller prepared a draft budget, having attached the requirements of all the services. After approval by the Speaker of the Knesset, the draft budget was sent to the competent committee. It was at that stage that the final proposition was established and approved and then included in the general budget of the State which was then adopted by the Assembly. The Knesset was the only master of its acts. Financial control was carried out by the Comptroller General of the House who was an authority independent of government and who reported only to the Secretary General. Public contracts were also managed internally as were recruitment and deployment of officials. The President of the Chamber was responsible for parliamentary officials. Such officials were employed under the law relating to the civil service which was applied separately in their case.

Mr Everhard VOSS (Germany) referred to the rules relating to internal security within the National Assembly of France as had been mentioned by Mr Xavier ROQUES, and in particular the ability of the President of the Assembly to acquire armed force and other necessary force to maintain public order. He asked about past experience in applying this right.

Mr Xavier ROQUES said that this practice went back to the French Revolution. The crowds in those times

had got used to entering the precincts of the legislative building. They even brandished the heads which had been struck off of certain elected representatives; this had of course traumatised the members. After the Revolution under the 3rd Republic, it had also been necessary to face up to insurrection, for example in the commune of Paris and the riots of 1879, during which the public powers had not been able to control order. It was from that time that the system had been established. Happily, since then the situation had been more stable and there had been no need to have recourse to this power. The National Assembly nonetheless had a detachment, commanded by a general, who was chosen by the President of the Assembly and who was the military governor of the Palace. It included various troops who had general duties within the organisation. Nonetheless, when there was a risk of any demonstration, the general contacted the external authorities in order to ensure that the demonstrators were kept at a proper distance.

Mr Mamadou SANTARA (Mali) asked whether the financial autonomy of the National Assembly implied the power to organise the coherence of particular requirements within the budget. The Minister for Finance had the responsibility for the overall coherence of the budget. Was he also responsible for the technical coherence of this budget?

Mr Xavier ROQUES replied that the draft budget of the National Assembly was prepared by its own staff. The Assembly had the Committee of Finance whose officials assisted parliamentarians in the control of the State budget and who were required to use their knowledge in respect of the Assembly budget.

The Assembly budget was not so complex that they were not able to prepare it and to carry it out themselves. It was important that the presentation of the budget should cohere with the rest of the administerial budgets and it was also important that the development of the Assembly's budget should be compatible with the rest of the State. But this technical requirement had nothing to do with satisfying political considerations. Furthermore, the low importance of the budget of the Assembly in comparison with the rest of the national budget meant that this question was not really an important one.

Mr Marc BOSC (Canada) wished to ask two questions. The first one dealt with the career progression of officials. Was there a programme for transferring them between jobs? What professional education did officials have? The second referred to the degree of unionisation of the staff. He asked what unions there were within the National Assembly.

Mr Xavier ROQUES said that the parliamentary officials had the right to join a union. French people liked variety and for that reason there were various trade unions. There was a system of co-operation and of negotiation. As far as education was concerned, the position was not particularly good. There was no external system of education in every case. There was a service of professional training which provided, in particular, training related to foreign languages and information technology. The French system remained within the spirit of des Lumieres, of "the honest man who was capable in many areas".

Mr Anicet HABARUREMA (Rwanda) emphasised that parliaments in poor countries did not receive financial support to allow them to carry on throughout the year. As it was only possible to spend what one was given, this necessarily restricted independence. He asked what measures should be taken to establish properly the independence of the parliament.

Mr Xavier ROQUES replied that just as Rome was not built in a day, he was not certain that the independence which Parliament had in France today had existed a century and a half previously. He understood the financial limitations in countries with limited resources. It was necessary to adapt the

resources given to parliament to the means which were available to society. In other words it was necessary for the parliamentary budget to be realistic. The essential point was being in command of one's own administration. It was necessary to have competent officials who were well paid enough to remain as permanent. Not many were needed, but they had to be independent of the political power of the Executive. Without that there was no parliamentary administration. It might be thought that experience would be the opposite and that political people would wish to have their own appointees, but nonetheless people in politics were happy to find that there were officials of quality that they knew and could trust. People in political life were happy that there was a fixed element in a rapidly changing political world. For example, the same parliamentary officials who dealt with the laws of nationalisation in France in 1981 dealt with the laws of privatisation in 1986.

Mr Mohamed Salifou TOURÉ (Guinea) asked for further details on conditions of recruitment, promotion, salary, social regime and retirement for parliamentary officials in France. He said that in Guinea the Assembly had only been in existence for 9 years and such problems were still new to them.

Mr Xavier ROQUES referred to the image of a painter which he had used during his original speech. Just as a lawyer did not have to be convinced of the innocence of his client in order to defend him, so a parliamentary official did not have to share the position of parliamentary members in order to be able to give them loyal and efficient advice.

As far as recruitment was concerned, parliamentary officials were all recruited by competition in France. The boards were composed of members external to the Assembly as a majority and excluded members of parliament. The salary rates within the National Assembly or the Senate were based on those which applied to the civil service or the Executive. Social protection had been a very early preoccupation of the parliamentary service. It had been in place well before that relating to most workers. It was contributed to by subscription from officials and also an equal subvention from Parliament and this covered health costs as well as retirement. It was probably better than the general regime. The annual budget of the National Assembly was around 500 million Euros.

At the end of this reply, Mr Prosper VOKOUMA, a member of the Executive Committee, wished to speak.

Mr Prosper VOKOUMA (Burkina Faso) said that he had been informed by the Joint Secretaries that at the time limit for proposal of candidates for the post of President of the Association, only one proposal had been received by the Secretariat, that relating to Mr Ian HARRIS, Clerk of the House of Representatives of Australia.

According to the Rules, since there was only one candidate there was no need to proceed to a vote. He therefore had the pleasure to announce that Mr Ian HARRIS, the Vice-President, was henceforth elected to the post of President of the Association of Secretaries General. His term of office, which would start under the Rules at the end of the current conference, would continue until the end of the session of spring 2006.

Mr Ian HARRIS, President Elect, thanked members of the Association for the confidence which they had shown him and invited Mr Giuseppe TROCCOLI of Italy to speak.

Mr Giuseppe TROCCOLI (Italy) said that the independence of the parliamentary assemblies was explicitly mentioned in the Italian Constitution. Article 64 of the Constitution laid down that each Chamber would adopt its own rules on the basis of an absolute majority of its members.

This constitutional provision related expressly to only one of the essential attributes of independence, the power to decide independently the rules relating to its own conduct. In addition, the jurisprudence of the Constitutional Court had fundamentally contributed to a definition of the basis and limits of independence of the Chambers. According to the Court, the independence of the Chambers arose directly from the independence and sovereignty of parliament.

The position of absolute independence of other organs of the State which the two Chambers enjoyed, as well as the central characteristic of parliament, meant that the two Chambers had a guaranteed independence of all other power.

The independence of the two Chambers was not limited to rule making in the sense that the constitutional organisations had the power to make legal provision relating to the structure and functioning of its services. And this independence included the application of various rules and the choices relating to which concrete measures were taken to ensure that its rules were respected. Constitutional law sets out various prerogatives which made up the independence of the Chambers: independence of organisation and administration, financial and budgetary autonomy and independence of management relating to staff. Autonomy of organisation and administration consisted of the power of making rules over all matters which define substantially the content of that independence. This rule making power was exercised by the Bureau. The matters included important areas of independence, as for example internal accountability and the legal and economic status of its employees, and in particular the power of discipline and management of those offices which were concerned with the carrying out of parliamentary functions. This underlined the position of the administrative arrangements in connection with all the constitutional duties of parliament.

A typical expression of the autonomy of both Houses was represented by the rules relating to staff. The status of employees of the House and of the Senate was covered by a specific set of rules which was independent of those relating to the civil service. The rules of the Bureau covered the legal situation and economic treatment of the staff of the Chamber and Senate. The rules relating to recruitment and procedures for competition were also made the subject of specific rules.

Activities which did not concern directly their carrying out of functions relating to parliament might be delegated to external organisations according to rules established by both Bureaux. This meant that contractual activity of both Chambers through which each Chamber acquired property or bought services from external bodies was regulated by independent rules established by the competent organisations under political management. This was covered by rules relating to administration and accountability which were enforced in the Chamber of Deputies and the Senate. Within the law established nationally and by the European Community, these rules governed sectors relating to public contracts, works and supplies, with the necessary changes relating to special circumstances in parliament.

Another expression of independence which both Chambers enjoyed was the independence of accountability. Recognition of a regulatory power over accountability was closely linked to another historical principle which guaranteed the independence of each House, and that was the principle of financial independence. This independence meant that each of the Chambers had its own budget which was prepared according to its own internal rules fixed by the Bureau.

In full session, the Chambers discussed and approved their own budgets and internal balances in a way completely separate and independent of the rules relating to the balance for the State which were discussed

and approved by both Houses during the budget session. Therefore, the financial management and accountability are the object of internal rules adopted by the Bureau.

In order to guarantee full and effective independence of both Houses it was not necessary only that the budget documents of both Chambers should be independent and distinct from those of the State and should be prepared according to internal rules, but also that no control might be carried out on the management of the budget of either Chamber by organisations outside parliament, with a view to ensuring the conformity with acts relating to expense or accountancy rules.

Independence of accountability was therefore extended to its widest so that it guaranteed that the regime of separation and financial independence related not just to the budgets of the Houses in relation to the budget of the state but also over accountability. The Constitutional Court had clearly pronounced on this question by Judgement No. 129 of 1981 which excluded the jurisdiction of the Cour des comptes over both Houses, affirming that it was a matter for both Houses to make rules relating to proper management of their financial resources.

Turning to the independence relating to staff, he said that both Houses also had power over deciding matters relating to their employees. This excluded the jurisdiction of other organisations of the State and referred such matters to internal organisations whose members were members of parliament. Internal jurisdiction and judgement was carried out under Article 12 of the rules of the Chamber relating to complaints over administrative acts of the House in respect of third parties, for example, differences relating to procedures followed in public tenders.

Mrs Marie Valerie AGOSTINI (Italy) emphasised the independence of accountability of parliament in France and in Italy. Each Chamber wrote up its own budget in the general budget of the State assuring its own execution and control. In Italy, parliamentary personnel could not have recourse to ordinary courts. There were particular structures to deal with contentious matters. This raised the question of the balance between the principle of independence of parliament and those of the rights of citizens.

Mr Xavier ROQUES thought that this problem was well taken. Until 1958 there had been no possibility of appeal to the courts relating to a dispute over internal management conditions. A change which had come about between 1958 and 1982 was not to create an extended independent jurisdiction but instead allowed litigants to go before ordinary judges who had increased area of manoeuvre in taking over jurisdictions related to parliament and to applying general principles of the law.

Mr Paul HAYTER (United Kingdom) suggested that the question of the general role of the Secretary General could be dealt with in the rest of the day. He thought that independence of parliament was far from being absolute in the UK. Even within Parliament, one Chamber was influenced by the other. The question was to know how to manage common services. If it was not possible to be independent of the Executive completely, perhaps it was better to have Houses of Parliament who functioned in an associated or joint way. In that way the government was politically forced to acknowledge the demands of parliament. Nonetheless, he recognised that it was difficult to manage joint services with two Chambers.

Mr Xavier ROQUES said that in France there were no joint services between the National Assembly and the Senate. Each Chamber had its own identity. The budgets of each were prepared independently. There was no link between the administrations of the Assembly and the Senate. Nonetheless, there was a common committee at which three Questeurs of each Chamber met along with a magistrate of the Cour des

comptes who took the Chair. It was this body that received the requests of each Chamber which wrote to the Minister of Finance. The only common elements to both Houses of Parliament was the French delegation to the Inter-parliamentary Union.

Mme Hélène PONCEAU (France) confirmed that in the bicameral system of France, the principle of autonomy of parliament meant effectively the independence of each of the Chambers of each other. Nonetheless, in fact there was a permanent co-operation between both of them. The members of both Houses themselves wanted harmonisation. As far as the staff of the Assemblies were concerned, the status of which was based on continuity and neutrality, the Bureaux of both Houses had found way round this in respect of specialist advisers in that each member of each House could employ specialist advisers who were part of their personal team and who of course shared their political opinions.

Mr Ian HARRIS, President Elect, referred to the situation of the Australian Senate where, perhaps because for a long time there had been no government majority, the budget was twice as large as that of the House of Representatives.

Mr Petr TKACHENKO (Russia) spoke as follows:

"Dear ladies and gentlemen, For the Russian Federation the year 2003 is the year of the tenth anniversary of the adoption of the Constitution of our country and formation of the bicameral Russian parliament - the Federal Assembly of the Russian Federation on its basis. Today one can say with confidence that in Russia its own model parliamentarism has taken shape, which determines the role of the Federal Assembly within the system of state authority bodies, in its interrelations with the President, the Government, the legislative and executive authority bodies of the constituent subjects of the Russian Federation and its judicial authority bodies. The Russia's model of parliamentarism has absorbed both its own traditions of democratic representation of the people and the multifaceted experiences of the world parliaments' activities. Using this opportunity, I wish to express words of gratitude and appreciation to everybody who during that time hosted our delegations and shared knowledge and invaluable experiences concerning the organisation of parliamentary activities.

The Russian parliament is a constantly developing socio-political organism. That fully refers to the Council of Federation as a chamber of the Federal Assembly of the Russian Federation. Within the framework of governance improvement reforms carried by the President of the Russian Federation, the procedure for formation of the Council of Federation was changed. Since January of 2001 the chamber has been working on a permanent professional basis. A search is underway for an optimum model of work, allowing for the fullest possible implementation of the constitutional powers of the Council of Federation.

Article 101 of the Constitution of the Russian Federation lays down the legal bases of the independent status of the Council of Federation. According to it, each chamber of the Federal Assembly adopts its own rules of procedure and solves the issues of internal order of its activities. In the Council of Federation those matters are within the competence of the Chairman of the chamber and his deputies.

Financial support to the chamber's activities is one of the main functions carried out by the Administrative Staff of the Council of Federation. For that purpose within the Administrative Staff there is the relevant unit - the Financial and Economic Directorate working in close interaction with the Committee of the Council of Federation on Budget and the Commission of the Council of Federation on Control over Support to the Activities of the Council of Federation.

The financial support to the activities of the Council of Federation is rendered in strict conformity to the budget legislation of the Russian Federation and is based on the principle of financial autonomy of the chambers of the parliament.

The federal law on federal budget for each financial year provides in a separate chapter the budgetary allocations for support to the activities of the Council of Federation.

That is preceded by the elaboration of draft estimate of expenditure on support to the activities of the Council of Federation and by the co-ordination of it with the Ministry of Finance of the Russian Federation, after which the agreed amount of budgetary allocations is included in the draft federal law on federal budget to be approved by the chambers of the parliament according to the procedure established by the Budget Code of the Russian Federation.

The basis for formation of the expenditure estimate and its subsequent execution is served by the normative basis elaborated by the Administrative Staff of the Council of Federation and the Commission of the Council of Federation on Control over Support to the Activities of the Council of Federation. That commission also carries out the on-going control over the execution of the expenditure estimate.

The financial-economic activities of the Administrative Staff of the Council of Federation are also subject to complex check-ups by the Accounts Chamber of the Russian Federation.

The head of the Administrative Staff of the Council of Federation bears responsibility for the quality of elaboration and execution of the expenditure estimate and for an effective use of the budgetary funds.

In ten years of work a system of administrative staff support to the chamber's activities took shape in the Council of Federation. The Administrative Staff of the Council of Federation plays a stabilising role in the chamber's activities: each time the membership of the Council of Federation changes it is possible to ensure continuity and to avoid serious failures in its work. One can say that the Administrative Staff of the Council of Federation is a necessary element of preservation of "institutional memory" of the chamber. Therefore we attach a special importance to the issues of development of the Administrative Staff and to the improvement of its work.

Certainly, the personnel human potential of the Administrative Staff of the Council of Federation is the major factor ensuring that it meets the new demands.

In order to be able to occupy a position of responsibility in the Administrative Staff of the Council of Federation, civil servants must meet a whole number of rather rigid requirements: obligatory higher education, high level of professionalism, spotless reputation etc-. Proceeding from that, the qualitative structure of the employees of the Administrative Staff of the chamber is being constantly improved. As of the beginning of this year, the number of staff members of the Administrative Staff of the Council of Federation was 945.

At present the potential of the employees of the Administrative Staff of the Council of Federation is sufficiently high. Today about 150 persons with scholarly degrees and ranks work in the Administrative Staff of the Council of Federation and additionally more than 30 persons there aspire to get those.

The problem of formation and effective use of personnel potential of civil servants is a most significant one in the activities of the Council of Federation. Important directions of a practical pursuit of personnel policy in the Administrative Staff of the Council of Federation include perfection of the process of enrolment to the civil service by means of introduction of competitive selection of candidates and permanent improvement of professional skills of the civil servants working in the Council of Federation.

The employees of the Administrative Staff of the Council of Federation enjoy the legislatively established status of federal civil servants. It should be said that in Russia, as different from the majority of the world's parliaments, the parliamentary civil service is a component part of the single civil service.

At the same time I'd like to note that in comparison with the work in the executive bodies the parliamentary service has a number of substantial specifics as regards the nature and contents of the civil servants' activities. Here to a greater degree the elements of creativity are important, more knowledge in adjacent spheres and a higher level of legal culture is required.

Dear ladies and gentlemen, I believe that our exchange of opinions, our discussions of the activities of parliamentary services, our search for new reserves to increase the efficiency of organisation of work of administrative staff of parliaments is a useful and important activity.

In conclusion let me wish fruitful joint work to the present members of the Association of Secretaries General of Parliaments and others participating in our session."

Mrs Doris Katai Katebe MWINGA (Zambia) said that although her Parliament had substantial administrative independence, nonetheless it was confronted with problems related to financial independence. This was similar to the situation referred to earlier by the colleague from Rwanda, taking into account the limited budgetary means of the country. She understood the answer given by the Secretary General of the National Assembly of France. She asked him, in terms of the internal financial controller, whether this was a committee or an office under the Secretary General.

Mr Xavier ROQUES replied that it was a special committee composed of the proportional groups represented in the National Assembly. The three Questeurs who traditionally were made up of two members of the majority party and one of the opposition managed the accounts and authorised expenditure. Having settled the final amount of the annual budget of the Assembly, the President of the Assembly had no powers in the matter. Therefore it was these Questeurs who were under the control of this special committee. The Secretary of that committee was an official who was himself placed under the authority of the Secretary General of the Questure.

Mr Surya Kiron GURUNG (Nepal) said he was happy to hear that there was genuine independence of parliament in France. In Nepal there were two Houses but they had a common secretariat. A law gave administrative and financial independence to the secretariat of parliament but this law had not been published in the official journal by the Minister of Justice though it had been agreed to over 8 months previously because the pay of parliamentary officials was different from that of government officials. The government, in fact, was concerned that there would be further requests for balancing increases in pay. He asked whether France had problems of this sort.

Mr Xavier ROQUES said that in that area the French Parliament had always been prudent. The pay points of parliamentary officials were larger than those of other government bodies. These pay points were internal to each of the two Houses and were not published in the official journal. It was necessary to be discreet.

Mr Ibrahim SALIM (Nigeria) asked who in France could fix a limit over which proposals could not be approved. He said that this power in Nigeria lay with the President of the Republic who exercised the right of proposing amounts. Parliament could reduce its budget to less than what was on offer but could not

increase it. Was this the same in France? As far as parliamentary services were concerned, the bicameral system in Nigeria had joint services. Nonetheless, each House had its own Clerk and its own administration, but the two Clerks of the Houses were under the global control of the Clerk General.

Mr Xavier ROQUES said that a budgetary provision similar to that existing in Nigeria applied to draft budgets of ministries but it did not apply to those of the Assembly. In France, the maximum was based on common sense and was controlled by public opinion. If the State increased the credits of the government by 1.5 per cent it would be difficult for Parliament to increase its claims by 5 per cent. Even if there was no legal or institutional obstruction to this such a proposal would set off a campaign of articles in the press. The more determined Parliament showed itself in exercising rigour in budgetary management relating to ministries, the more it had to be rigorous with itself. So in the most literal sense there was a political control over this.

In concluding, he said that the discussion had shown that although there was a diversity in methods linked to different histories, nonetheless everybody had the same aspiration towards financial independence. This was essential if parliaments were not to be under the control of the Executive and if parliaments wished properly to control the Executive. Nonetheless, coming from different origins requirements of building led to the same form of architecture. Even if separation of powers was different from the separation of organisations, there were common points. In order to carry out functions, a parliament had to avoid depending on another authority for its financing, for its management and its administrative machine. In addition, the existence of a permanent public service which was efficient and of good quality meant that it had to be politically neutral.

Mr Ian HARRIS, President Elect, thanked the principal orator and all those took part in the debate for their contributions and questions, as well as for the answers which they had been given.

Mr Ian HARRIS, Vice-President, said that he would start with the Russian contribution followed by interventions and then have the main presentation by Mr HOFFMAN CONTRERAS after lunch.

Mr Alexander LOTOREV, Secretary General of the State Duma, Russian Federation:

Intervention on the powers of the Secretary General of Parliament in respect of Chairman of Parliament

"1. Joining of Russia in the World Parliamentary System

Russian parliamentarism has its own history, national roots and traditions. Already in the XI-XII centures in Kievskaya Rus and later in Novgorod and Pskov republics, the Vetche was the people assembly, the state power and self-government body in Rus.

Nearly 500 years ago, when the tsar Ivan the Terrible governed Russia, the Boyarskaya Duma was established as a forerunner of the present State Duma. Then it was reformed into the Zemskaya Duma (the assembly of the elected by lands). They had played great role in the Russian State development.

But the first stage of parliamentarism in the European meaning of the word is associated with the Senate - the supreme legal consultative power body of the Russian Empire of the early XVIII century, formed by the tsar Peter the 1st and reformed later into the State Council.

But the practical period of Russian parliamentarism started in 1906, when the first State Duma was elected and the State Council was reformed into the Upper Chamber of the Parliament. The State Duma of such appearance had been existing for 3 callings and was finally dissolved in 1917 as a result of revolutionary events.

The State Duma was replaced with the Soviets, been formed everywhere as new revolutionary power bodies. Later the Soviets of Workers, Peasants and Soldiers Deputies united and in January 1918 the All-Russian Congress of the Soviets was declared the superior state power body everywhere in the territory of post-revolutionary Russia. These bodies of power were reformed later: in 1936 - into the Soviets of Workers' Deputies and in 1977 - into the Soviets of People's Deputies. The Soviets were representative power bodies and one could consider them to be a parliament by the form. However, by their principles and content they performed decorative functions.

Actual realization of ideas of up-to-date parliamentarism had taken place only due to election of the Congress of People's Deputies of the USSR and subsequently the Congress of People's Deputies of the RSFSR in 1990, the legal successor of which is recently the Russian Federation.

In addition, the Parliament was considered to be not the parliamentary form of administration, but the system of functioning of independent democratic legislative power.

Up-to-date period of Russian parliamentarism started in December 1993. It followed the events on dissolution of the legislative power body and carrying out the referendum on the new constitution of the Russian Federation. At the same time, on the 12th December 1993 the State Duma elections had taken place.

From January 1994 the Federal Assembly (Parliament) of the Russian Federation started its work in accordance with the new Constitution.

II. Characteristic of the Federal Assembly of the Russian Federation: the Federation Council and the State Duma

In accordance with the Constitution of the Russian Federation the Federal Assembly - the Parliament of the Russian Federation:

- is a representative and a legislative power body of the Russian Federation;
- consists of 2 chambers - the Federation Council and the State Duma;
- the Federation Council is composed of 2 representatives from each of 89 subjects of the Russian Federation: by one from a representative and an executive body;
- the State Duma is elected for a period of 4 years and composed of 450 deputies, a half of which are elected by majority districts and another part - by party lists.

One and the same person cannot be simultaneously a member of the Federation Council and the State Duma. In his own turn, a member of the State Duma cannot be a deputy of other representative state bodies and local authorities.

The deputies of the State Duma work on a permanent professional basis. It is prohibited for them to be employed in government service or engaged in other paid activities, excluding teaching, science and other creative works.

The Federation Council members and the State Duma deputies possess the immunity during the period of their authority.

The Federal Assembly is a permanently functioning body. The sittings of the Federation Council and the State Duma are held separately and openly, as usual.

For the joint sitting the Federation Council and the State Duma are brought together exclusively to listen to addresses of the Russian President and addresses of leaders of foreign states.

Each of the Chambers works out its own regulations, settles the matters of its internal order of activity.

In order to effect control over federal budget implementation, the Federal Council and the State Duma form the Clearing House, whose structure and procedure are determined by the federal law.

For provision of the work of the Federal Assembly Chambers, in each of them an independent administrative body is set up. Its work is regulated by internal acts of each of the Chambers, proceeding from the constitutional authority of the Federation Council and the State Duma.

In accordance with the Constitution of the Russian Federation, the State Duma is given without limitation the following rights:

a) giving consent to the President of the Russian Federation to appoint the Chairman of the Government of the Russian Federation;
b) settlement of the matters on credit in respect of the Government of the Russian Federation;

c) appointment and dismissal-of the President of the Central Bank of the Russian Federation;
d) appointment and dismissal of the Chairman of the Clearing House and a half of the staff of its auditors;
e) appointment and dismissal of the Commissioner on Human Rights, who works in accordance with federal constitutional law;
f) announcement of amnesty;
g) bringing of accusation against the President of the Russian Federation with the aim of dismissing him.

III. Characteristic features of the activity of the State Duma of the Federal Assembly of the Russian Federation

In December 2003 there will be 10 years after the Federal Assembly of the Russian Federation had been founded. Ten years ago, in December 12, the first post-Soviet elections to the upper legislative state body - State Duma - had taken place.

The deputies of the State Duma are elected for a period of 4 years, but in accordance with intermediate statutes of the Constitution of the Russian Federation, both the Federation Council of the 1st calling and the State Duma of the 1st calling were elected for a period of 2 years.

Thus, the 3rd calling of the State Duma is accomplishing its work this year.

Its membership by political biases looks like the following, proceeding from callings:

Membership of Deputy Coalitions in the State Duma of Callings I - III

N2	Deputy Coalition	I Calling 1993-1995	II Calling 1996-1999	I Calling 2000-2003
1	Faction "Choice by Russia"	66	—	—
2	Faction "Union of Right-Wingers"	—	—	32
3	Faction "YABLOCKO"	27	46	19
4	Faction of the Russian Democratic Party	14	—	—
5	Faction of the Party of Russian Unity and Consent	19	—	—
6	Faction "Women of Russia"	23	—	—
7	Faction of the Liberal-Democratic Party of Russia	64	51	16
8	Deputy group "New Regional Policy"	66	—	—
9	Faction "Unity"	—	—	84
10	Deputy group "People's Deputy"	—	—	62
11	Faction "Motherland - the Whole of Russia"	—	—	44
12	Deputy group "Regions of Russia"	—	—	44
13	Deputy group "Russian Regions"	—	43	—
14	Faction "Our Home - Russia"	—	66	—
15	Faction of the Communist Party of the Russian Federation	48	146	86
16	Faction of the Agrarian Party of Russia	33	—	—
17	Agrarian Party Group	—	36	—
18	Agro-Industrial Deputy Group	—	—	42
19	Deputy Group "Power of People"	—	38	—
20	Off-coalitions deputies	84	22	15
	Total number of deputies	444	448	444

Additionally, one should remember that the State Duma factions represent those parties and social movements, which overcame the 5% barrier at elections by means of candidates' lists. And deputy groups are formed of the deputies elected in electoral majority districts.

The definition by the Constitution of the Russian Federation of **the Federation Council as the Parliament of Russia** means recognition of the ideas of parliamentarism in its up-to-date meaning.

The State Duma is a representative and a legislative body of the country.

The definition of the State Duma as a representative body of power means that it represents interests of all Russian citizens and is authorized to express people's will in the form of law.

The State Duma is vested with the sole right to adopt federal laws, which shall be then either approved by the Federation Council and signed by the President of the Russian Federation or rejected. To overcome

differences arisen between the Federation Council and the State Duma, conciliation commissions are established.

The specific character of the work of the State Duma and its administrative staff is that unlike the most of parliamentary countries, not only the Government of Russia but also the President of the Russian Federation, the Federation Council, the members of the Federation Council (178), deputies of the State Duma (450) and legislative (representative) bodies of subjects of the Russian Federation are authorized to take legislative initiatives. The right of legislative initiative also belongs to the Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation and the Superior Arbitration Court on the matters of their jurisdiction.

Thus, one can speak about 722 subjects of legislative initiative.

A specific feature of the Russian parliamentary system is that the Federation Council in the whole and the State Duma particularly shall not be the higher authority for legislative (representative) bodies of the Federation subjects as it had been with the former Supreme Council.

They both have their own systems of authorities, including legislative (representative) ones. Russia is a multinational and poly-confessional state. Over 100 nationalities with their original cultures live in it, the 4 leading world religions are represented. And this original and centuries-old history is shown in the names and specific features of parliaments of each subject of the Federation. Parliaments of some republics consist of two Chambers, formed in accordance with national and territorial principles.

According to the federal constitutional rules on the matters of common administration of the Federation and its subjects, the federal laws are adopted and on the base of them the subjects of the Federation adopt their own laws and other statutory acts. This enables to take into consideration in the process of creation of laws ethno-confessional, geographical, climatic, socio-economic and other peculiarities of different territories and the whole Russian Federation.

Both on the regional and federal levels the principle of division of authorities is observed. According to the Constitution, local authorities are not the part of the state power system. It is stipulated that local authorities may be given government powers, including powers of legislative bodies. The relations between representative local authorities and federal and regional legislative authorities are built up on the base of their competence. But their actual power comes to 3 basic functions:

- enactment of codes of municipal bodies, other legal acts, introduction of alterations and amendments;
- approval of local budget and control over its performance;
- fixing of local taxes and charges.

Unlike the parliaments of many foreign states, the State Duma is not given control functions in respect of the Government.

It only controls the federal budget performance and not even directly but through the Clearing House. All this affects the state of law application practice.

Within 10 years the State Duma had considered over 5 thousand laws, almost 3 thousand had been signed by the President of the Russian Federation and put into effect. It is not difficult to calculate to see that one federal law falls on each day of those 10 years. It is too much. But the State Duma had to be working in extreme conditions during all those years, as the new Russian state and the new political system demanded a principally new legislation, cardinally different from the Soviet one.

To our mind, the period of the so-called extensive development of legislation and consequently of the State Duma is coming to its end and gives the way to the period of intense development, assuming deep and daily analysis of how the laws work, how the time realities are considered in laws and how they meet the requirements of development of political, economic and social systems of society.

Evidently, together with changes in the work content of the State Duma and strengthening of its cooperation with legislative (representative) authorities of the Federation subjects on the other then today's principles, the form of the State Duma will be changing too. At any rate, strengthening of independence of the State Duma and the Federal Assembly as a whole is expected to be. Today both the State Duma and the Federation Council have no premises of their own. A lot of matters on logistical support and social security of the State Duma and its deputies are directly dependent on the Clerical Office of the President of the Russian Federation.

Specific character and features of the work of the State Duma influence the Administrative Office, where this work is provided, and the relations between the Secretary General and administration of the State Duma.

Before we investigate the problem of authority of the Secretary General in respect of the Chairman of the State Duma, let us consider their status.

IV. Status of the Chairman of the State Duma of the Federal Assembly of the Russian Federation

It is stated in the Constitution of the Russian Federation that "The State Duma elects from its staff the Chairman of the State Duma and his deputies" who "conduct sittings and manage the internal order of the Chamber."

The internal order of work of the State Duma is stated in the approved by Duma Resolution **on the** Regulations of the State Duma of the Federal Assembly of the Russian Federation.

Proceeding from the basic principles of work of the State Duma, political variety and multi-party membership, the unions of deputies and the deputies of the State Duma are entitled to propose candidates to the post of the Chairman of the State Duma. A deputy shall be regarded as the Chairman, if he has been elected by more than a half of the total number of deputies of the State Duma vote. The decision on discharge from the post of the Chairman of the State Duma is approved by the same vote ratio.

The Chairman of the State Duma:

a) conducts the Chamber sittings;
b) manages the matters on internal order of the Chamber in accordance with the Constitution of the Russian Federation - powers, given to him according to the Regulations;
c) organizes work of the Council of the State Duma;

d) carries out general management of work of the Administrative Office of the State Duma;
e) appoints to the post and discharges from it the Secretary General of the State Duma on approval of the Council of the State Duma and on proposal by the State Duma Regulations and Work Organization Committee, appoints to the post and discharges from it the 1st Deputy Secretary General - the Executive officer of the State Duma - on approval of the Council of the State Duma and on proposal by the Secretary General of the State Duma;
f) represents the Chamber in relations with the President of the Russian Federation, the Federation Council, the Government, subjects of the Russian Federation, courts of Russia and high ranking officials of the Russian Federation authorities, public associations, other organizations and officials, as well as with parliaments of foreign states, high ranking officials of foreign states and international organizations;
g) takes part in conciliation procedures on settlement of differences between the Russian state authorities and subjects of the Federation, as well as between the authorities of the Federation subjects themselves;
h) forwards laws and materials, received by the State Duma, to the unions of deputies for their information and to the State Duma Committee in accordance with matters of their competence;
i) signs the State Duma resolutions;
j) forwards to the Federation Council for consideration the approved by the State Duma laws of the Russian Federation about amendments to the Constitution of the Russian Federation, federal constitutional laws and the approved federal laws;
k) forwards to the President of the Russian Federation the federal laws, approved by the State Duma in compliance with Article 105 (Part 5) of the Constitution of the Russian Federation;
l) issues orders and gives assignments on the matters of his competence;
m) nominates for appointment for the post and dismissal from the post of the State Duma permanent representative in the Constitutional Court of the Russian Federation.

Besides, the Chairman of the State Duma is authorized at his own discretion to include into a draft procedure of the State Duma the following questions:

a) about elections for a vacant post of Deputy Chairman of the State Duma;
b) about filling of vacant posts in the State Duma Committees and Commissions.

The Chairman of the State Duma or one of his Deputies on assignment submits to the State Duma the reports on activity of the Chamber for the past session and on the draft programme of legislative activity of the State Duma for the next session.

As a rule, the Chairman of the State Duma represents parliamentary majority. However, in the State Duma of the 3rd calling he is not the same but an example of political compromise. That entails lowering of status of Chairman of the State Duma relating to management of both the State Duma and the State Duma Administrative Office activity.

The Regulations constitute that the State Duma is entitled to annul any order or assignment of the Chairman of the State Duma.

Despite of the fact that the Chairman organizes the work of the Council of the State Duma, he is not vested with the right of casting vote in it, although that is the exact body where the decisions on all key problems and labour questions presented for the Chamber proceedings are taken, including the questions on organization of work of the State Duma.

The Chairman of the State Duma cannot take for consideration any question related to the Regulations and Organization of work of the State Duma without sanction and submission by the State Duma on Regulations and Work Organization Committee.

V. Status of the Secretary General of the State Duma of the Federal Assembly of the Russian Federation

It is stated in the State Duma Regulations that " Legal security, organizational backing, documentary, analytical, information, logistical support and social security of members of the State Duma, unions of deputies, the Council of the State Duma, Committees and Commissions of the State Duma, the Chairman of the State Duma, the 1st Deputy Chairman, Deputy Chairman of the State Duma shall be provided by the Administrative Office of the State Duma which shall be formed in accordance with the federal law "About the Principles of Government Service of the Russian Federation" and has a status of legal entity."

The work of the Administrative Office of the State Duma, its officers' rights, duties and responsibility are stated in the current legislation of the Russian Federation and in the Provision on the Administrative Office of the State Duma drafted by the Administrative Office of the State Duma and approved by the Chairman of the State Duma on submission by the State Duma Committee on Regulations and Arrangement of work of the State Duma, as well as on agreement with the Council of the State Duma.

In accordance with the Provision "the Administrative Office is headed by the Secretary General which shall be appointed to the post and discharged from it by the order of the Chairman of the State Duma with the consent of the Council of the State Duma and on nomination by the State Duma Regulations and Work Organization Committee."

Secretary General:

- represents the Administrative Office in relations with the Administration of the President of the Russian Federation, administrative offices of the Federation Council, Government of the Russian Federation and other federal executive authorities, judicial authorities of the Russian Federation, legislative (representative) and executive authorities of the Federation subjects, administrative offices of parliaments of foreign states and inter-parliament organizations;
- allocates duties among his deputies;
- organizes the work of the Administrative Office and bears responsibility for performance of the functions assigned to the Administrative Office of the State Duma;
- establishes the order of work of structural subdivisions of the Administrative Office, including definition of the matters of their competence, coordinates and controls their work, approves Provisions on them;
- settles the problems on performance of federal government service in the Administrative Office;
- delegates some authority of the Secretary General to the submitted officials by his order;
- uses other powers in accordance with laws of the Russian Federation

The Secretary General issues orders and enacts other local normative acts on the matters of work of the Administrative Office, proceeding from his competence.

The Secretary General is a government official, holding upper government state post and having the skill category of the 1-st class real state adviser of the Russian Federation.

VI. Authority of the Secretary General of the State Duma in respect of the Chairman of the State Duma of the Federal Assembly of the Russian Federation

It would not be correct to correlate the authority of the Chairman of the State Duma, even on condition that he does not represent parliamentary majority but is a compromise figure, because the functions of the Secretary General will always be subordinated in respect of the Chairman of the State Duma.

The specific character of these relations in the upper legislative body of Russia is that the Secretary General, having wide powers (it will be covered later), is forced in the situation of subjectively disparaged status to be actually in positioning in the equilateral triangle. The State Duma Regulations and Work Organization Committee performs daily control over the work of the Administrative Office in accordance with the Regulations of the State Duma and Provision on the Administrative Office.

On the other hand, the Regulations which constitute that structure, staff, rate of wages and conditions of logistical support of the officials of the Administrative Office of the State Duma, as well as administrative expenses, are approved by the Chairman of the State Duma on submission by the Secretary General and agreement with the State Duma Regulations and Work Organization Committee within the limits of administrative budget expenses, which, in its turn, is approved by the Chamber on submission by the State Duma Council.

This 3rd side (but the 1st in reality, as the State Duma Council is the highest political authority) has its own forms and possibilities to influence and control the work of the Administrative Office of the State Duma and hence the Secretary General, first of all.

The existing in the State Duma system of with standings and counterbalances with the obvious for the Administrative Office defects, such as long and multilateral procedure of agreement, has one weighty advantage - it regulates strictly the Administrative Office, forces it to work without looking backward and mistakes after getting of agreement. In this situation it is better to be guided by Cicero's words:" We should be slaves of laws, if we want to be free."

In the whole, the powers of the Chairman of the Chamber are so wide, that one has to speak about the autonomy (even theoretical) of the activity of the Secretary General as a conditional category. It is normal when there is no such autonomy, but if there is, then it only shows credibility where it results from. Such sort of credibility is a very delicate matter - any imprudent treatment of delegated powers immediately results in the negative reaction of deputies with the idea that the Administrative Office manages the Parliament like in the Russian proverb "a tail wags a dog".

Proceeding from the general comments to details, I would like to consider the powers of the Secretary General in respect to the Chairman of the Government through 3 types of their relations:

1 - administrative-personnel
2 - organization-methodical
3 - financial and social security and logistical supplies

1. Powers of the Secretary General in respect of the Chairman of the State Duma on administrative-personnel matters

The Secretary General is absolutely independent in his administrative activities on management of the subdivisions of the Administrative Office if it complies with the Regulations and Provision on the Administrative Office. However, the influence by the Secretary General on the definition of the content of some subdivisions' activities is limited. The secretariats of the Chairman of the State Duma and the deputy Chairman are cases in question. The Provisions on these subdivisions shall be approved by the Chairman, the 1st Deputy Chairman and Deputies Chairman consequently.

Administrative offices of deputies unions are independent in their activities.

All order documents on the State Duma are signed by the Chairman of the State Duma or any of his deputies by his assignment. However, the subdivisions of the Administrative Office draft the documents proceeding from jurisdiction of the matters.

As a rule, the Chairman of the State Duma does not spread his orders over the subdivisions of the Administrative Office, excluding his secretariat, the secretariat of the State Duma Council, the Clerical Office and the Inter-Parliament Relations Board of the State Duma.

The Secretary General is independent in his turn, giving orders within the Administrative Office, excluding the abovementioned cases.

On personnel development: the Chairman of the State Duma appoints, except the Secretary General of the Administrative Office of the State Duma and the 1st Deputy Chairman, the Executive Officer of the State Duma, the Head of the Secretariat of the Chairman of the State Duma, deputies Chairman, his advisers as well as the secretariats of the 1st Deputy Chairman and deputies Chairman on nomination by Deputies Chairman of the State Duma consequently.

As for the rest of the officials, the Secretary Genèral takes the decision on their appointment on the base of appropriate nominations.

The heads of Boards and subdivisions of the same level of the Administrative Office are appointed by the Secretary General with appreciation of the opinion of the Chairman of the State Duma.

There are 1800 officers in the Administrative Office of the State Duma. Besides, 900 assistants deputies on the work in the State Duma are also government officials of the Administrative Office.

They all belong to 2 categories of government officials, B and C, and all are the subordinates of the Secretary General.

Category B - the so-called replaceable staff is limited with duration of government service of the persons, elected or appointed for the posts of category A - deputies, the Chairman of the State Duma, the 1st Deputy Chairman, Deputies Chairman of the State Duma, administrative offices of unions of deputies - 150 officers, administrative offices of Commissions - 50 officers, secretariats - 100 officers, assistants of deputies - 900 officers. Total number is 1200 officers.

Category C - unreplaceable staff, consisting of 900 officers of boards, departments of the Administrative Office of the State Duma and 500 officers of the administrative offices of the State Duma Committees. The total number is 1400.

However, there is an unsolved problem in respect of the administrative officers of 28 State Duma Committees. Legally they fall under the category of replaceable staff, but in accordance with the Provision on the Administrative Office, activities of the administrative offices of Committees is managed by the chairmen of corresponding committees. In fact that results in substitution, because a newly appointed Chairman of the Committee usually replaces the head of the administrative office which causes chain reaction in respect of most of the officers.

At present a new concept of personnel development in the Administrative Office of the State Duma has been worked out, stipulating solution of many existing problems. The Programme "Assistant Deputy" is on the stage of development and will be submitted for approval to the new calling of the State Duma.

This programme would settle existing conflicts in status of the assistants deputy in the State Duma. Each of 450 deputies is entitled to have 5 regular assistants and not more than 40 assistants as a social service. Of those 5 regular assistants 2 are on the work in the State Duma and 3 - in electoral district. Their direct employer is a deputy. He signs the contract, determines the assistant's functions, fixes his money reward, the size of which may vary from the fixed minimal pay of 450 roubles to 26 700 roubles - a general fund is at each deputy's disposal to maintain assistants. All these things affect the professional background of assistants. A lot of them do not have the education and skills required to get and process information, prepare documentation and practise electronic technologies. Roughly, 72%.of deputies' assistants in the State Duma are replaceable.

But in this category officers are government officials with all the demands ensuing therefrom. The responsibility for their work as government officials is directly laid on the General Secretary.

2. Powers of the General Secretary in respect of the Chairman of the State Duma on organization-methodical matters

The volume of the organization-methodical work of the Chairman of the State Duma is determined by the fact that he considers and forwards the received in the Duma laws and law materials to deputies unions and the State Duma Committees in accordance with the matters of his competence. Their number makes 15 thousand laws a year. He signs the Resolutions of the State Duma, the number of which has amounted to 3700 from the beginning of the calling, i.e. from 1999. He forwards the enacted bills to the Federation Council and to the President of the Russian Federation.

Besides, the Chairman of the State Duma does a huge scope of work on organization of activities of the State Duma Council established for preliminary working-out and consideration of organizational matters on the work of the Chamber. For example, in 2002 at 51 sittings 3600 matters had been considered.

All matters on legislative activity are discussed and the decisions on them are taken. They are not only submitted for discussion but "filtered" by the State Duma Council then.

On all matters organization-methodical work is carried out by the subdivisions of the Administrative Office with whom the leaders of the State Duma work directly.

So, the Secretariat of the State Duma Council is responsible for organization-technical supply of Council's activity, the Organizing Board and the Documentation Provision Office - for arrangement of sittings of the Chamber. The Legislation Board carries out legal expertise of the laws brought for consideration by the State Duma Committees, and so forth.

On each of those documents or acts the Chairman of the State Duma or other Chamber leaders do not charge anybody. But they bear personal responsibility for perfect and efficient work of all services and systems.

Among his duties is to control that all draft documents would be prepared and come down to customers and users in time. At the mean, 1,5 million items of incoming and outgoing correspondence a year goes through the Administrative Office of the State Duma. Up to 3 million copies of documents and materials are distributed before the Parliament sittings. Documentation to 3 thousand earlier enacted laws and amendments are developed for the State Duma's consideration.

All documents to be signed by the Chairman of the State Duma should have the Secretary's General visa.

3. Powers of the Secretary General in respect of the Chairman of the State Duma on the matters of logistical supply and financial and social security of the State Duma

This aspect of work is regulated by some documents.

First, the Clerical Office on behalf of the Administrative Office of the State Duma works out the State Duma budget for a forthcoming year, which is considered and approved together with the Federal budget at the State Duma sitting at the end of a year. At the beginning of each year the Secretary General submits the last year account, which shall be approved by the State Duma Resolution.

As it was mentioned above, the State Duma Regulations constitute that "the structure and the personnel of the Administrative Office, the rate of salary and the terms of logistical supplies of the officers, as well as administrative expenses of the Office are determined by the Chairman of the State Duma on submission by the Secretary General, agreed upon with the State Duma Regulations and Work Organization Committee, within the State Duma budget administrative expenses."

The Provision on the Administrative Office of the State Duma lays down that the Administrative Office is a legal entity and has its own balance, budget expenses, accounts (including settlement and foreign currency accounts) in banks and other credit institutions, as well as a personal account in the corresponding territorial body of the federal treasury of the Russian Federation.

A certain aggravating circumstance on the matters of financial and social security and logistical supply of the State Duma shall be unsettlement of some questions in the relations with the Clerical Office of the President of the Russian Federation and other boards charged with function of special supply of the State Duma. The Administrative Office, as a receiver of investment budget resources, cannot be a customer on the matters of repair and reconstruction of buildings of the State Duma.

Unlike many Parliaments of foreign states, where the deputies themselves use the allocated funds for logistical supply and social security of their individual activity outside parliament, in the State Duma the Administrative Office is engaged with it. This often aggravates the relations between the deputies and the Administrative Office, the State Duma Council, the Regulations and Work Organization Committee and other Committees, as well as in the unions of deputies.

However, a number of reasons for that goes down, as every year there are less matters unregulated by any normative acts left.

VII. Conclusion

The relations between the Secretary General and the Chairman of the Parliament would never be equal because of their nature - the 1st is always subordinate to the 2nd. Subjective features more often leave marks upon them. The problems are usually eliminated, if they are the people of one team. However, our desire to have a stable administrative office in the Parliament often meets the Parliament's political unprediction and inconstancy.

All this dictates the necessity to draw up a special code of conduct of Secretaries General and common treatments of their administrative role. Such a code should express understanding of the fact, that our Secretaries' General stability is a balance of circumstances. And one should be wise not to let unforeseen circumstances overturn the balance."

Mr Ian HARRIS, President Elect, thanked Mr LOTOREV for his contribution and invited colleagues to speak.

Mr George CUBIE (United Kingdom) congratulated the President on his election. He noted that Xavier ROQUES had referred to the historical basis of many parliaments and said that that was true of the UK Parliament. The Clerk in the United Kingdom was very independent. He could not be removed except by a parliamentary address agreed to by both Houses. The Clerk was Chief Executive of the House and managed a budget of hundreds of millions of pounds. The Chief Executive title was a recent one for the Clerk but it reflected the fact that 30% of his time was procedural and 70% was management. It was probably true that a similar split in working time affected the Clerk of the Scottish Parliament.

In the procedural context the Clerk had no power over the Speaker but he was influential. This was also true for administrative matters. The Clerk was the adviser to the House of Commons Commission. Only two members of the Commission were government members. On a day to day basis, small crises occurred, and the Clerk as senior officer would advise the Speaker. The Clerk was reinforced by the Board of Management. There was a complicated situation where the Clerk saw the Speaker daily, even hourly, about procedure and administrative matters.

The Clerk was Corporate Officer of the House. He signed cheques and was the person who was sued whenever any dispute arose. A recent case had occurred where the Clerk had been sued over the allocation of a contract and as a result the Clerk had had to appear before the Public Accounts Committee.

Mr Carlos HOFFMANN CONTRERAS (Chile) noted that their Russian colleague had asked how a Secretary General who was elected could not be politically biased. The same problem occurred in Chile one hundred years ago. The solution was to elect the Secretary General by two-thirds of all senators, as no

group had more than half the senate's system of electing the Secretary General by a strong majority in a secret vote allowed the election of a person who was agreeable to both government and opposition parties. His own election had been unanimous. He had served for forty-three years, even under military rule. Usually, but not always, a senior member of the Senate service was elected as Secretary General.

Mr Ian HARRIS, President Elect, said that he had been appointed by the Governor General. He was the last one to have been so appointed. But an Act of Parliament now said that the Secretary General was appointed by the Speaker after consultation with political parties. It was possible, but unlikely, that the Speaker could ignore the advice of the political parties. The Clerk could be removed for incapacity, bankruptcy or misdeeds. The same Act abolished the maximum retirement age but the Clerk was limited to a ten year term which was on a non-renewable basis. He had good relations with the Speaker, but he had had the nightmare experience of the Speaker saying that he knew he was right because the Clerk had told him so. He referred to Mr LOTOREV's proposal of a code of practice being drawn up and thought that was an interesting idea.

Mr Carlos HOFFMANN CONTRERAS (Chile) said that he was appointed for life and could only be removed by a two-thirds vote in a secret ballot, although clearly if the House lost confidence in the Secretary General he would have to resign.

Referring to the point raised by Mr HAYTER earlier on co-operation between the Senate and the Chamber of Deputies, he said that there was almost no point of contact between the two Houses. In the old building there had been practically no communication between the Houses and in the new building there was actually no physical contact between the two parts of Congress. Both Houses were completely independent of each other in obtaining services. The only times the two Houses met was over a disagreement over a bill or in plenary Congress to change the Constitution, or on 1st May when the President gave an account of his Government in the past year.

Mr Arteveld PIERRE JEROME (Haiti) congratulated the President on his election. He realised that the situation of Haiti was not really different from that of other countries. He felt that they faced the same difficulties in Haiti as in Russia, but he was concerned over some things which had been said. The status of the Secretary General was an important matter. The Secretary General's status in Haiti had to be seen in the context of the particular difficulties in that country. There was no Secretary General for the Senate and none had been appointed for many years now. The Chamber was governed by internal rules with only two paragraphs referring to a Secretary General. The first paragraph described the role of Questure who supervised the Secretary General and liaised between the Secretary General and administrative staff. The second paragraph provided for a Secretary General, Questure and Bureau to appoint members of staff. His predecessor had complained about a specific problem when he was caught between two conflicting presiding officers. There was no answer to this solution and he just had to carry out his duties straightforwardly. All of this showed that the Secretary General's status in Haiti was unclear. He worked closely with the Questure but more closely with the presiding officer. Just as in the United Kingdom, the split in his time was between 30% relating to procedure and 70% administrative work. He thought that this session was an opportunity for him to learn how parliaments with greater experience operated. It was good to be able to listen to the experience of others and draw lessons from them and be able to take them home to use.

Mr Carlos HOFFMANN CONTRERAS (Chile) said that he always fought for the interests of the independence of the office. He noted that there were many new laws relating to the Constitution. These

required a four-seventh majority if they were to be amended. Laws of this type set out that the Secretary General was the head of the service of the Senate. Another law set out the rules relating to work and protection of staff in parliament, so there was very close legal regulation of the service.

Dr Fetuao Toia ALAMA (Samoa) said that there had been recent changes to the system of appointment of the Clerk. The Clerk was now appointed by the House itself. The staff was neutral politically but often was blamed by political parties. There would always be members of parliament who would claim that the staff were partisan.

Mrs Mary CHAPMAN (Fiji) agreed with her Samoan colleague that the staff were frequently blamed for bias by members. The Clerk was appointed by the Constitutional Appointments Commission in consultation with the Speaker. However, she touched on the question of how her job was done by her as a woman. She thought that it was probably all right so far. Most MPs accepted her position. Parliament was 95% male but that in some ways made her job relatively easy.

Mr Prosper VOKOUMA (Burkina Faso) thanked colleagues for their various contributions. He said that Burkina Faso's organisation was similar to the French one. The Secretary General was appointed by the Speaker who proposed the name to the Bureau and the term of office was not fixed. As far as relations between the Secretary General and the Speaker were concerned, the Secretary General was the first ranking officer of the Assembly's services. Any decision he made had to be by delegation from the Speaker. He did not take the floor at the Bureau except at the Speaker's express invitation. The Secretary General liaised with the Questeurs, as in France, but the Questure did not exist as in France. Questeurs were elected MPs. The Assembly was financially autonomous but each year the Head of State fixed an annual budget rate increase. If the Assembly increased its budget by more than that amount it was badly regarded. The Secretary General prepared a budget for the Bureau which sent it to the Finance Committee and then to the Government who accepted it.

Mr Ian HARRIS, President Elect, thanked contributors and adjourned the meeting until 3.00 pm

Mr Ian HARRIS, President Elect, said that the plenary would continue with the second Round Table B: The authority of the Secretary General in relation to the Presidency. The Moderator was Mr Carlos HOFFMANN CONTRERAS, Secretary General of the Senate of Chile. It would then follow with the Role of the Secretary General in controlling compliance with the Constitution and Rules of Procedure, which had as related topics, the powers of the Secretary General, the role of the Secretary General in proposing reforms. The Moderator for that was Mr Anders FORSBERG, Secretary General of the Riksdag of Sweden, and that would continue until about 5.00 pm.

B. The Authority of the Secretary General in relation to the Presidency/President

Mr Ian HARRIS, President Elect, invited Mr HOFFMAN CONTRERAS to speak in order to open the debate on the second Round Table.

Mr Carlos HOFFMANN CONTRERAS (Chile) spoke as follows:

"According to Article No. 2 of Law No. 18.918 with the organic constitution of the National Congress, the position of Secretary of the Senate was the main administrative authority of the Senate. He was the head of the service of the Senate and he was in charge of the administration of personnel and the different organs of the Senate. This charge was the exclusive trust of the Chamber. He was elected and could be removed by a vote of two-thirds of Senate members in a secret ballot.

The Secretary General was "Ministro de Fe" or like a notary public for the Senate. The different attributions and duties of the Secretary were stated in diverse provisions of the above rules. An example of these were:

1. this person was in charge of the respective sworn declarations each senator made when he took up his duties (article 6 of the regulations).
2. he was in charge of a special book listing all the respective constitutional permits that should be solicited by each senator to leave the country for more than 30 days as well as to solicit a permit to return to the country.

In Chilean law there was an institution known as 'parliamentary comités' which were intermediaries between the table of the Senate and organised a transaction of common business. The parliamentary comités were made up of senators of each political party. At the same time, the parliamentary comités had to designate a maximum of two representatives which would take action for them jointly or individually. Generally the meetings of the comités took place on Tuesdays of every week before the ordinary session in the afternoon. The President of the Senate presided over the meetings and he acted as secretary of the institutions (article 11 of the regulations).

In certain cases the Secretary General could also initially preside over a session, only to open a session preceding the election of the Senate (article 24 of the regulations). In exceptional cases, the Secretary General could announce on behalf of one of the Senators that a session could not proceed owing to a lack of a quorum (article 86 of the regulations).

The Secretary of the Senate, or his representative, must be present at each of the sessions, sitting in the 'testera' at the right hand of the President of the Senate. Discussion of any topic appointed had to be started with the annunciation of the correspondent matters and the way in which it was processed within the Senate. Preparation of that was the duty of the Secretary of the Senate. Thus at the beginning of each discussion the Secretary had to inform those senators present about dispositions or proposals that required a special quorum for its approval as well as the agreement of the parliamentary comités had adopted about different matters. He could also be asked to speak in a session whenever needed with the approval of the President. That was very common. It was his duty to record the names of those present who had requested to speak during the session. When voting for any topic or draft law the Secretary would receive the votes and scrutinise the results under the authority of the President and report the results of the ballot.

When the Chamber of Deputies moved a constitutional motion of impeachment under article 48, No. 2, the political Constitution, the Secretary informed the Senate about the matters that were being proposed.

Finally, it was important to mention that the Secretary had the duty to publish the acts of the sessions and make sure that every member of the Senate would be informed of the time of the next meetings as well as authorising documents and communications that the President had to sign.

Many other attributions due to the Secretary could be mentioned but his main and most important function was that of being the trusted agent or Ministro de Fe of the Senate in every instance where the Senate acted as constitutional institution."

Mr Ian HARRIS, President Elect, thanked Mr HOFFMANN CONTRERAS for his presentation and invited Mr FORSBERG to open the debate on the next topic and to remain on the platform to respond to the debate at the end.

C. Third Round Table: The Role of the Secretary General in controlling compliance with the Constitution and Rules of Procedure

Mr Anders FORSBERG, Secretary General of the Riksdag of Sweden, spoke as follows:

"This paper is written with the purpose of introducing a round-table discussion on the topic of the title of this paper. It is organised around a number of questions that could serve as a focus for the discussion. Each question is explained in general terms and is then illustrated with some Swedish experiences. The paper focuses on the role of the Secretary General (SG) in ensuring compliance with parliamentary rules of procedure.

A paper by Mr Ugo Zampetti, General Secretary of the Chamber of Deputies, Italy The Role of the Secretary General in the Administration of Parliament (Djakarta, October 2000) has been very helpful in writing this paper.

1. What is understood by this role?

This role primarily means ensuring that procedural rules are followed in the parliamentary process. Whether or not it is also the responsibility of the Secretary General (SG) to ensure that the contents of parliamentary decisions are compatible with the Constitution is to some extent dependent on the organisation of the legislative process. In most parliaments the SG is attached to the plenary and the Speaker But in some countries his/her responsibilities extend to the committees or other parliamentary bodies. In other countries the compliance of draft legislation is ensured in other ways.

In Sweden all Government bills (with some notable exceptions) are scrutinised by the Council on Legislation before being presented to Parliament. The Council on Legislation consists of three judges from the Supreme Court or the Supreme Administrative Court. One of its tasks is to review the constitutionality of draft legislation. The Council's role is strictly speaking advisory, but the Government usually heeds its recommendations. In Parliament all bills are referred to one of 16 committees. The committees, assisted by their permanent staff of lawyers, political scientists and economists, review the bills primarily from a political perspective. However, if moot constitutional points of discussion appear during this review, the committee can call for an advisory statement by the Committee on the Constitution (one of the 16 committees) or from

the Council on Legislation. Even a minority of 5 of 17 committee members can request such a statement. The Council on Legislation is mostly consulted when a bill has not already been before the Council or is going to be substantially amended in Parliament. It is also consulted when a specific legislative proposal originated in Parliament as a result of a committee initiative or a private member's motion.

It can be concluded that, in Sweden, the preparatory system is well equipped with institutions that can detect and rectify constitutional problems in draft legislation before it reaches the final stage in the legislative assembly. Therefore the role of the SG is to focus on the procedures of the plenary.

2. How is the role performed?

The role involves advising the Speaker or the full house on procedural matters, not making final decisions. However, this advisory role can be more or less formal. The SG may be required or recommended to provide his/her advice in writing. When the advice is informal it is given privately and orally. In cases where decision-makers contemplate "bending the rules" against the advice of the SG, a formal system makes it possible for the SG to prove his/her opposition. Most procedural cases are, however, technical and written advice on every matter would be too bureaucratic.

The Swedish SG and his staff have scheduled meetings with the Speaker at least once a week. In between these meetings they see the Speaker almost daily. Procedural matters of a problematic nature are brought up by the Speaker or the SG. Most of the time, the discussion at these meetings solves the problem but sometimes the SG or somebody on his staff is required to examine the matter by writing a paper.

3. How is the role/function organised?

This function must not necessarily be performed by the SG personally. The SG may very well delegate routine matters to persons on his/her staff with the necessary expertise. The limits of this delegation must, however, be as clear as possible so that non-routine or controversial matters are brought to the attention of the SG. The final responsibility for providing advice to the Speaker rests with the SG.

In Sweden, the Secretariat of the Chamber, headed by the Deputy Secretary General, performs this function in routine cases. In other cases the Deputy Secretary General discusses the matter with the SG.

4. How is the role affected by the institutional position of the SG?

It is important that the SG's advisory role can be performed with independence and integrity. Some institutional aspects relating to the office of the SG may contribute to the degree of independence that he/she enjoys. From this point of view it is important how and for how long the SG is appointed, and under what circumstances he/she can be dismissed. A reasonable hypothesis is that if the SG is appointed (elected) by the full house for an indefinite period of time and if he/she can only be dismissed by means of a court procedure, he/she enjoys a highly independent position.

In Sweden the SG is elected by the house for the entire electoral period. The SG can only be removed from office only if he/she is prosecuted by the Committee on the Constitution and found guilty by a court for an offence committed in the exercise of his office.

5. How is the role affected by the personal background and experiences of the SG?

The background and experience of the SG clearly contribute to his/her authority in performing this role. It is an advantage if the SG has law degree and has practised law. Long experience of working in parliament, particularly in positions where constitutional matters are handled, is also important. Many SGs stay in office for a long time and acquire significant authority based on experience. Often the SG stays on while Speakers come and go.

Since 1971 when Sweden introduced a unicameral system, the Swedish parliament has had just three SGs, while the number of Speakers has been six. All of the SGs have been recruited from other positions in Parliament, two from the position of Administrative Director. Two of them have been lawyers.

6. How is the role affected by the legal form of the rules of procedure?

The norms of parliamentary procedure can be expressed in various ways. The most common form is a law on parliamentary procedure, often known as Standing Orders. Such a law is supplemented by practice. But practice and rulings by the Speaker can also be an independent source of parliamentary norms. A third kind of norms is based on agreements between the parliamentary parties or between the parliamentary parties and the government. A fourth kind is the completely informal rules of parliamentary behaviour.

The SG's task of monitoring compliance with the rules is easier when these rules are expressed in a detailed law of procedure. In such cases, the rules leave little room for interpretation. The SG's task is more difficult in parliaments governed by practice and rulings, where considerable expertise is required to interpret the rules. But such a system grants the SG an important position. Only members with legal training and long parliamentary experience can possess the same expertise. The last two types of norms (party agreements and informal rules) seem to be even more difficult to handle for a SG. The members themselves are often better acquainted with the intentions behind agreements, although they may sometimes disagree on their interpretation. Informal rules play an important role in the life of most parliaments. It takes some time both for members and SGs to become acquainted with them. It probably takes longer for SGs since they do not take part in the "inner life" of the parties.

In Sweden, the law on parliamentary procedure consists of two kinds of provisions, basic and supplementary provisions. The supplementary provisions have the character of rules of order (regulations). The basic provisions are amended in the same manner as the Constitution, that is, by means of two decisions with an election intervening or by a single decision taken by three quarters of those voting constituting more than half of the membership of parliament. The latter procedure is more common. Supplementary provisions are amended in same manner as ordinary laws, by a majority of those voting. In spite of the extent and wealth of detail of the law on procedure it has been necessary to supplement the law with agreements between the parties and the government. These agreements mostly concern debate and debating rules in the plenary. The purpose of these agreements has been to try out new forms of debate but also to restrict the length of debates and to make some debates more lively and interesting.

It is the general view in the Swedish parliament that the detailed rules and regulations have served us well. Conflicts on procedural matters are few and rarely serious. But it is important that the rules of procedure are easy to read and understand and cover all main aspects of parliamentary work. Therefore a complete revision of the law on parliamentary procedure was recently carried out. The revision focused on technical, editorial and linguistic aspects of the legislation. Previously unregulated procedures were put into legal form if stable practices had been established.

7. How does the SG influence the system of procedural rules?

Since both the form and content of the procedural rules affect the role of the SG, it is important that he/she participates in changing these rules. Formally or informally the SG has usually the right to take up procedural problems with the Speaker or parliamentary collegiate bodies. If such problems are raised by other people, the SG is consulted. When initiatives lead to some form of investigation/review the SG plays a role in this process.

During the last decade or, so the Swedish parliament has been reformed in many ways under reform-minded Speakers. The process for adopting the State budget has been revised. New types of debates and question periods have been introduced. Institutions and processes aimed at influencing Swedish policy in the European Union have been established in Parliament. The two Secretaries General during this period have played an active role and have been important participants in these processes. They have headed the secretariats of the ad-hoc committees that have been set up for the necessary investigations."

Mr Ian HARRIS, President Elect, thanked the speakers and invited other participants to take part.

Mr Mohammad AL-MASALHA (Jordan) asked whether the duties of the Secretary General were defined in Sweden and asked what the requisite qualifications were for someone exercising that task.

Mr Anders FORSBERG said that there was no definition of the powers and qualifications required. After opening the Parliament, the heads of the political groups met in order to elect a Speaker and a Secretary General. If they had someone in mind, there was no question of qualifications. The Secretary General was invited with his deputies to longer and longer meetings by the Speaker on the decision process, European questions, international questions and administrative matters, and this worked very well.

Mr Carlos HOFFMANN CONTRERAS (Chile) said that all parliamentary officials who had any responsibility had to be lawyers. The Secretary General had to have at least 15 years of professional experience.

Mr Hans BRATTESTA (Norway) said that his country had had three Secretaries General only since 1947, even though each one had to be re-elected every six years. As far as the right of initiating matters belonging to the Secretary General was concerned, he said that when he had taken up his duties, ad hoc committees were set up. This was no longer the case. It was for the Secretary General to propose committees on modification of the rules and for the Speaker to submit that proposition to the plenary. As far as the duty of being legal counsel was concerned, there was a limit to his duties in that respect. In terms of committees, matters were rather difficult. In Norway, there was a very limited number of parliamentary officials serving committees, and their role was accordingly reduced. As a result the Secretary General did not know much about what happened in committees and only knew the content of reports after their publication. Returning to the presentation of Mr Anders FORSBERG he was concerned that the role of the committee was political rather than legal within the Swedish Parliament; he asked whether the speaker thought that as a result of this the staff could carry out their functions of enforcing the rules of procedure under such conditions?

Mr Anders FORSBERG said that each committee included experienced lawyers. When a committee thought that a draft bill should have many amendments the committee would send the entire bill back to the ministry to ask it to change the text so that it could be returned to it.

Mr Arie HAHN (Israel) said that the State of Israel had no Constitution. Instead there were fundamental laws which played a similar role. Whenever there was a question of constitutionality, the Legal Bureau of the Knesset dealt with it. Final judgement was with the Supreme Court which had a very important power. A citizen could apply directly to the Supreme Court. The Secretary General was the official counsel of the President, particularly on questions related to procedural matters in the plenary. The Secretary General had wide powers in connection with proposing changes to the rules. He had a very active role in this area. Along with the Speaker, the Secretary General had a large role in, for example, one minute questions. Incidentally, it was from Australia that that idea had come. He was astonished to hear that in Chile everybody had to be a lawyer in order to work on committees. In Israel, every committee had its own lawyer but it was not necessary for all the staff of the committee to be one.

" **Mr Ian HARRIS, President Elect,** said that in Australia there was a main committee where members could express themselves freely for three minutes. This time was limited to one minute 30 seconds in public session.

Mr Xavier ROQUES (France) asked what was meant by the election of the Secretary General by the House. Was there a competition between various candidates, between parties, or was there a natural candidate who appeared, or was it a simple ratification of the decision taken previously elsewhere? In France, the Secretary General nominated the officials who were posted to committees. Was that role also the same in Chile and in Sweden.

Mr Carlos HOFFMANN CONTRERAS (Chile) said that it was so in respect of the last question but he said also that the secretaries of committees had to specialise rapidly in different subject matters. For this reason, when officials were replaced by the administration, members of the committees sometimes complained.

Mr Anders FORSBERG (Sweden) said that in Sweden there were never several candidates for the post of Secretary General. The Chamber, if it wished, could organise a secret ballot but in fact the different parties had always supported one candidate. In certain parliaments there was a movement of staff between committees. Sweden was tending towards this more flexible system thinking that officials should not really stay too long with one committee. Certain secretaries of committees had been in the same post for 15 or even 20 years. Change would prevent staleness.

Mr Moses NDJARAKANA (Namibia) asked whether the Bureau of the Secretary General could give legal advice to each member of parliament. If so, could this advice be used in arguing against a decision of the Speaker?

Mr Carlos HOFFMANN CONTRERAS (Chile) said that it could. Of course, the principal task was to advice the Speaker, but any senator could consult the Secretary General particularly on the rules and this legal advice could be referred to in talking with others.

Mr Anders FORSBERG (Sweden) said that it was the same situation in Sweden, but this type of practice was more used at the level of secretaries of committees. Generally, in Sweden, a decision of the Speaker was not tested in the plenary except in very rare circumstances.

Mme Hélène PONCEAU (France) said that she had been struck in the presentation of Mr Anders

FORSBERG when he had said that if those taking a decision wished to act differently from the advice of the Secretary General in terms of application of the rules, the Secretary General could have his objection noted formally. She asked how this was done. She asked whether, if this notice was not followed up in any way, the position of the Secretary General was weakened.

Mr Anders FORSBERG (Sweden) said that neither he nor any of his predecessors had needed to use this provision. Speakers and heads of political groups thought that the opinion of the Secretary General was based on the Constitution and the rules and they did not oppose his opinion. But, in principle, it remained possible. Nonetheless, it was of course for elected politicians to take the final decision.

Mr Robert MYTTENAERE (Belgium), referring to remarks of his Chilean colleague on his responsibilities for acting as registrar of inherited wealth of parliamentarians, asked what legal provisions covered this and who was the guardian of such declarations. He asked which authorities had rights to access such declarations.

Addressing then Mr Anders FORSBERG he said that since the Secretary General was the guardian of the rules of procedure, was there any sanction in the case of non-respect of the rules. Could failure to observe the rules relating to the procedure of adoption of the law serve as the basis for a citizen to take proceedings to annul a law.

Mr Carlos HOFFMANN CONTRERAS (Chile) said that in Chile the President of the Chamber was the interpreter of the rules. Of course, the Secretary General could advise him, but only advise him, because the decision was with the President. When a senator was elected he had to make a declaration of his property. This was carried out in front of a notary. These declarations were then given to the Secretary General but anyone could ask to see them. In case of any substantial change the declaration was altered.

Mr Anders FORSBERG (Sweden) said that all the constitutional questions were submitted to the relevant committee.

Mr Ian HARRIS, President Elect, said that in Australia the procedure for registration of members' interests was the same as that existing in Chile.

Mr Everhard VOSS (Germany) said that in Germany the Secretary General was nominated, unlike in Sweden. This was a political choice and he was under the authority of the Speaker of the Bundestag and nominated by him. Normally, Secretaries of State were similarly appointed. In the Bundestag, there was now the 6th Secretary General. Four had retired, one had been called to other duties and the last was still in post. It was a political nomination. Nonetheless, the Secretary General was not easily got rid of. He asked what happened in other countries at the end of a parliament or in case of premature interruption.

Mr Anders FORSBERG (Sweden) said that the Speaker did not intervene. The Speaker and the Secretary General were elected at the same time even in an informal way. If the Secretary General was not re-elected there were financial consequences.

Mrs Stavroula VASSILOUNI (Greece) said that Germany was not the only European state where the nomination of the Secretary General was a political act. In Greece, the Secretary General was also nominated by the Speaker of Parliament. He was not an official. The Speaker could nominate anybody in whom he had confidence. The mandate of the Secretary General was that of the Speaker. The Speaker

personally gave powers to the Secretary General. The Secretary General was only rarely a lawyer. She asked about the role of the Deputy Secretaries General. How they were nominated? What were their duties and to whom were they responsible.

Mr Carlos HOFFMANN CONTRERAS (Chile) said that in Chile there were Vice-Secretaries General. In the Senate, the Vice-Secretary General also had the duties of Treasurer. In general, it was the Vice-Secretary General who became the next Secretary General. In the same way as the Secretary General, he was elected by two-thirds of senators.

Mr Anders FORSBERG (Sweden) said that the Deputy Secretary General was nominated by the Council of the Chamber on his proposal.

Mr Bas NIEUWENHUIZEN (Netherlands) referred to the fact that in Chile all bills agreed to by the Senate had to be signed by the Secretary General. He asked whether this was ever made the object of political pressure.

Mr Carlos HOFFMANN CONTRERAS (Chile) said that this procedure was not limited to draft bills. All documents which left the Senate, without exception, had to be signed by the Secretary General who acted as its notary.

Mr Ian HARRIS, President Elect, observed that in New Zealand a case had been brought before the highest court where a provincial official had refused to sign off a law and the government brought the case.

Mr George CUBIE (United Kingdom) reminded members that the United Kingdom had no written Constitution. The Secretary General was based on custom. He advised the Speaker on the admissibility of amendments and motions, on questions of law and procedure. He referred to the procedure relating to parliamentary question time. This had been in the news in Great Britain. A new change meant that the Prime Minister appeared three times a year before a committee made up of Chairmen of Committees and this procedure which lasted for two and a half hours was televised. In the United Kingdom the Secretary General could be involved in the work of committees. He asked whether this was the same in Sweden.

Mr Anders FORSBERG (Sweden) said that there was a consultation group which included the Speaker, Secretary General and Deputy Secretary General. This was a source of ideas. This group prepared documents in consultation with former Speakers. It was about reforming the process of consultation about debates in the Chamber. When the Prime Minister was present all questions were addressed to him. Nonetheless, in Sweden procedure relating to questions was less drawn out than in the United Kingdom.

Mr Mahmood Salim MAHMOOD (Pakistan) said that after the installation of martial law in his country, the members of parliament had been dismissed. The Secretary General had to be of the same political part as the party in power. Nonetheless he had to show neutrality in the exercise of his duties.

Mr Kenneth E.K. TACHIE (Ghana) said that in his country the Secretary General had to sign all the bills agreed to before sending them for promulgation. In Ghana as well, only the Secretary General could declare a seat vacant.

Mr Ibrahim SALIM (Nigeria) referred to following up the activities of committees. He said that Mr BRATTESTA of Norway had indicated that he had no information on the work of committees before they

published their reports. Did the secretaries of committees not have to report to the Secretary General? As far as the signature of bills agreed to was concerned, their transmission was only possible after the Secretary General signed them, and this was true of all documents coming from the National Assembly. Political pressure had been seen particularly in relation to the promulgation of the law relating to electoral affairs. There had been a disagreement between the Assembly and the Senate. After the agreement of the report of the committee, the Speaker had tabled amendments to the bill, not in front of the Chamber but in front of the committee itself. This had accepted the Speaker's amendments, contrary to the bill adopted by the two Houses. The President of the Senate came to the Secretary General and asked him to sign, arguing that the President of the Republic was waiting for his signature. The Secretary General refused, since this procedure was contrary to the rules. The Speaker of the Senate insisted and threatened. After looking at the positions taken by the two Chambers, the Secretary General finally gave in. The Opposition reacted. The press carried out an inquiry which revealed that he had been put under pressure. The President of the Republic and the Speaker of the Senate blamed each other. The Chamber called the Secretary General before it and he was absolved of all suspicion. In Nigeria as well, the Secretary General had the duty of declaring a seat vacant.

Mr Anders FORSBERG (Sweden) said that he had the duty of ensuring the legal competence of persons employed by committees.

Dr Fetuao Toia ALAMA (Samoa) said that the Secretary General of Parliament was a constitutional public servant, named by the Head of State at the proposal of the Speaker of the Assembly and after consultation with the head of the opposition. The relations between the Secretary General and the Speaker were the same as between a director general of a ministry and the minister. One of his responsibilities was to give professional advice to all members of parliament. The Secretary General also had to supervise the translation of documents and texts into the two official languages employed in the Chamber. There was a great deal of political pressure since the Secretary General was also responsible for organising elections. In 2001, the Secretary General had refused to declare a winner in one constituency. The Prime Minister had put him under personal pressure, but to no avail.

Shri Satish KUMUR (India) congratulated Mr HARRIS on his election as President of the Association.

Mr Samuel Waweru NDINDIRI (Kenya) referred to the duty of signing documents in order to satisfy that they had been agreed. When a bill was adopted the Secretary General of Kenya had to sign it to certify that it had been agreed and send it to the Ministry of Justice. Ten or twelve years ago, it had happened that a text had been agreed to but altered by the Executive. It had dealt with fixing of a time limit of two weeks and the word 'more' had been substituted for 'less than'. This had caused a general outcry. The courts had judged this change illegal. It was necessary to think about this risk.

Mr Anders FORSBERG (Sweden) said that that day many subjects had been raised relating to the duties of the Secretary General. The Secretary General nowadays had a role which was much wider than the simple organisation of the work of the Chamber where he carried out his duties. He had to be a model employer, a specialist in various areas, follow the work of parliament and carry out a wide range of functions. From this it was necessary to find think about the theory behind the work as well as ensuring that one remained courteous and responded to the needs of each member of parliament.

Mr Ian HARRIS, President Elect, thanked the speakers and all those members who had taken part that day.