



PARLAMENT TA' MALTA

IT-TNAX-IL LEGIŻLATURA

P.L. 6453

Dokument imqiegħed fuq il-Mejda tal-Kamra tad-Deputati fis-Seduta Numru 350 tas-27 ta' Jannar 2016 mill-iSpeaker, l-Onor Anġlu Farrugia.

Raymond Scicluna
Skrivan tal-Kamra

**23rd Conference of Speakers and Presiding
Officers of the Commonwealth**

**9 - 14 January 2016
Kota Kinabalu, Malaysia**

Hon Ćensu Galea, MP

**RAPPORT LILL-ISPEAKER DWAR PARTEĊIPAZZJONI
F'KONFERENZA/LAQGHA/ŻJARA TA' NATURA PARLAMENTARI
BARRA MINN MALTA**

1. TITLU TAL-KONFERENZA/LAQGHA: 23RD CONFERENCE OF SPEAKERS AND
PRESIDING OFFICERS OF THE
COMMONWEALTH

2. DATA: 9-14 TA' JANNAR 2016

3. ISEM IL-MEMBRU/I LI PPARTEĊIPAW: Onor. Ċensu Galea

4. SUĠĠETT/I FUQ L-AĠENDA:

KOPJA TAL-PROGRAMM ANNESS MA' DAN IR-RAPPORT (ANNES A)

5. KONKLUŻJONIJIET TAL-LAQGHA, JEKK IKUN IL-KAŻ:

Fil-bidu tal-konferenza, uħud mill-parteċipanti li huma membri fil-kumitat permanenti iltaqgħu għall-laqgħa annwali tagħhom. Malta hi parti minn dan il-kumitat bhala rapprezentanti tal-gzejjer Brittanici u r-Reġjun tal-Mediterran. F'din il-laqgħa giet diskussa l-aġenda proposta għall-konferenza, u ġew diskussi l-possibilitajiet ta' fejn jistgħu jiġu organizzati l-laqgħat u l-konferenzi li jmiss.

Il-konferenza kienet forma ta' diskussjonijiet imqassma f'sezzjonijiet u workshops, fejn ġew magħżula l-kelliema, li kienu Speakers minn pajjiżi varji tal-Commonwealth biex jagħmlu l-Indirizz Ewlieni. Speakers ohra ġew magħżula sabiex jagħmlu indirizzi iqsar fil-workshops li segwew. Is-sezzjonijiet kienu mqassma kif ġej:

1. The Challenges Facing the Independence of Speakers
2. The Role of Speakers in the Security of Parliaments and their Precincts
3. Parliamentary Privilege – Protecting the Effective Functioning Democracies
4. Orientation and Development for Parliamentarians

L-aħħar sezzjoni kienet dwar kif il-Parlamenti tal-Commonwealth jistgħu jibnu l-fiducja fil-legiżlazzjoni tal-pajjiżi.

- N.B. (i) Fil-każ ta' delegazzjoni ta' aktar minn delegat wieħed, jista' jsir rapport wieħed li jingabar mill-kap tad-delegazzjoni li fih jitniżżlu l-interventi kollha u r-rapport jiġi ffirmat minn kull delegat.
- (ii) Inti gentilment mitlub/a li twassal dan ir-rapport għand l-iSpeaker sa mhux aktar tard minn għaxart ijiem minn meta tkun intemmet il-konferenza/laqgħa.

Waqt din il-Konferenza li ssir darba kull sentejn, jingħalaq iż-żmien tal-kumitat permanenti u jiġu eletti membri godda għas-sentejn li jmiss. Dan jiġi diskuss bejn l-Ispeakers tal-pajjiżi ta' kull reġjun f'laqgħa separata. Dawn jiddiskutu dwar min għandu jiġi nnominat. Għal dawn l-aħħar xhur, l-Ispeaker tal-Parlament ta' Malta Anġlu Farrugia kien ir-rappreżentant tal-Reġjun tal-gżejjer Brittanici u l-Mediterran, u waqt din il-laqgħa giet diskussa l-possibilità li l-Inghilterra jressqu mozzjoni fil-laqgħa tal-kumitat permanenti li ġejja (2017) sabiex din ikollha sigġu permanenti f'din il-konferenza minhabba l-fatt li r-reġjun tal-gżejjer Brittanici u l-Mediterran iżomm fih numru kbir wisq biex ikun irrapreżentat minn pajjiż wiehed biss. Din il-possibilità giet imsemmija fil-laqgħa li nżammet f'Jersey fl-2015.

Waqt il-plenarja tal-gheluq, ġew decizi d-destinazzjonijiet tal-laqgħat li jmiss. Fil-plenarja tal-bidu, l-Ispeaker tas-Seychelles, il-pajjiż li kellu jospita l-laqgħa permanenti tal-2017, ippropona li minflok din tal-aħħar, jospita konferenza minhabba l-fatt li hija okkażjoni ikbar. B'hekk, fl-aħħar plenarja gie deciz li l-Inghilterra jospitaw il-laqgħa tal-kumitat permanenti fl-2017, u s-Seychelles jospitaw il-konferenza tal-2018. Kopja tal-proċess tal-votazzjoni tinsab annessa hawn. (anness B)

6. INTERVENT/I MAGĦMUL/A MILL-MEMBRU/I:

Fil-workshop dwar l-irwol tal-Ispeaker fis-Sigurtà tal-Parlamenti u l-precinti tiegħu, l-Onor Ċensu Galea kien prezentatur ewlieni, fejn ta rendikont tas-sitwazzjoni fil-Parlament ta' Malta kemm ilu li mexxa gol-binja l-ġdida. Fid-diskors tiegħu tenna kemm iżjedet l-importanza tal-Ispeaker fis-sigurtà tal-binja u tan-nies li jaħdmu u jidhlu fiha. Hu tenna li l-parlament hu post pubbliku fejn in-nies huma liberi li jidhlu u jkunu partecipi anke jekk tinżamm is-sigurtà. Għalhekk, il-poplu għandu jhossu liberu li jesprimi l-opinjoni tiegħu ta' ċittadin ta' pajjiż demokratiku. Id-diskors tal-Onor. Galea hu anness ma' dan ir-rapport. (Anness C)

Intervent ieħor li għamel l-Onor. Galea kien waqt it-tielet workshop li ddiskuta l-Privileġġi tal-Parlament. L-Onor. Galea tenna li tkellem fuq dan is-sugġett fiktur minn okkażjoni waħda, fejn qal li l-privileġġ tal-parlament għandu jiġi abolit, minhabba l-fatt li dan jista' jkun perikoluż fir-rigwars ta' sa liema punt huwa mifhum il-privileġġ, sew min-naha tal-membri parlamentari, kif ukoll mill-pubbliku. Huwa tkellem mill-esperjenza tiegħu, fejn id-dritt tal-privileġġ gie abbużat mill-membri għal skopijiet ta' vantaġġi personali, u fejn il-membri abbużaw id-dritt tal-privileġġ sabiex jikkellmu b'mod superficjali mingħajr okkażjoni għal konfrontazzjoni

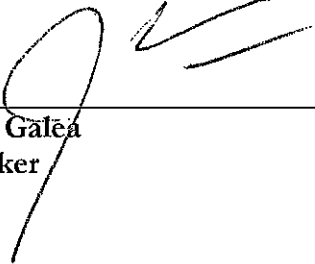
7. DOKUMENTI IMPORTANTI TAL-KONFERENZA/LAQGĦA LI T'HOSS LI GHANDHOM IKUNU MEHMUŻA JEKK IKUN IL-KAŻ.

- ANNESS A – PROGRAMM
- ANNESS B – REGOLI TAL-KUMITAT PERMANENTI
- ANNESS C – DISKORS TAL-ONOR. ĊENSU GALEA
- ANNESS D – RAPPORT DETTALJAT TAL-KONFERENZA (EN)
- ANNESS E – LISTA TA' SUGĠETTI, U DOKUMENTAZZJONI TA' PREŻENTAZZJONIJIET TAS-SESSJONIJIET U WORKSHOPS:
 - The Challenges Facing the Independence of Speakers
 - The Role of Speakers in the Security of Parliaments and their Precincts
 - Parliamentary Privilege – Protecting the Effective Functioning Democracies

- Orientation and Development for Parliamentarians
- The Low Citizen Confidence in Parliamentary Institutions – How can Commonwealth Parliaments Build Trust in Legislatures

8. JEKK TIXTIEQ LI TITQASSAM STQARRIJA GHALL-ISTAMPA MILL-PARLAMENT ANNETTI ABBOZZ TAL-ISTQARRIJA GHALL-ISTAMPA U X-XANDIR.

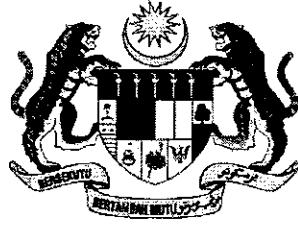
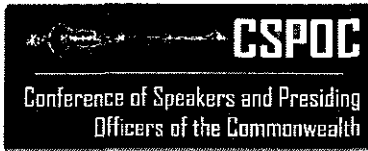
Abbozz Anness, F.



Onor. Ċensu Galea
Deputy Speaker



Data



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9 – 14 JANUARY 2016
KOTA KINABALU, SABAH MALAYSIA

PARLIAMENT OF MALAYSIA

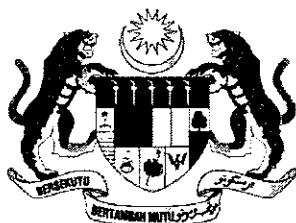
PROGRAMME

**23rd CONFERENCE OF SPEAKERS AND PRESIDING OFFICERS
OF THE COMMONWEALTH (CSPOC)**

**SABAH STATE LEGISLATIVE ASSEMBLY,
KOTA KINABALU, SABAH, MALAYSIA
9 – 14 JANUARY 2016**

(as of 10 January 2016)

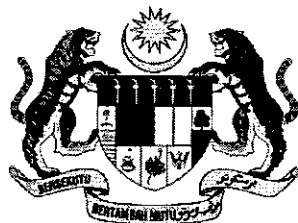
9 January 2016 (Saturday)	
All Day	All day arrivals and registration
	Venue : Hotel Lobby , Magellan Sutera Harbour Resort
10 January 2016 (Sunday)	
6.30 – 8.30 am	Breakfast at hotel
	Venue : Five Sails, Level 1, Magellan Sutera Harbour Resort
9.00 – 10.30 am	Standing Committee Meeting (Standing Committee Members Only)
	Venue : Meeting Room 3, Level 1, Magellan Sutera Harbour Resort
10.30 – 10.45 am	Coffee Break
	Venue : Foyer Area Meeting Room 3, Level 1 Magellan Sutera Harbour Resort



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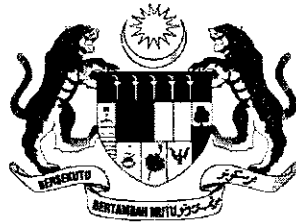
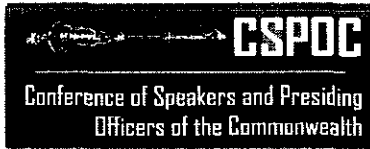
11.00 am	Depart hotel for pre- conference tour	
11.30 am	Arrival at Mari - Mari Cultural Village	
	Venue :	Mari – Mari Cultural Village Inanam, Kota Kinabalu
3.30 pm	Depart Mari – Mari Cultural Village to hotel	
4.00 pm	Arrival at Magellan Sutera Harbour	
7.00 pm	Depart Magellan Sutera Harbour to The Pacific Sutera Hotel	
7.30 pm	Welcoming Reception by Hon. Datuk Syed Abas Syed Ali, Speaker of the Sabah State Legislative Assembly (for all delegates)	
	Venue :	The Garden Area , Lobby Level The Pacific Sutera Hotel Sutera Harbour Resort, Kota Kinabalu (11 minutes walking distance)
9.00 pm	End of Dinner	
11 January 2016 (Monday)		
6.00 – 7.00 am	Breakfast at Hotel	
	Venue :	Five Sails, Level 1, Magellan Sutera Harbour Resort
7.30 am	Depart hotel to Sabah State Legislative Assembly by bus (All Speakers & Presiding Officers to wear ceremonial robes before departing from hotel)	
7.50 am	Arrival at Sabah State Legislative Assembly	
8.00 am	All Speakers & Presiding Officers to proceed on the “Usunan”	



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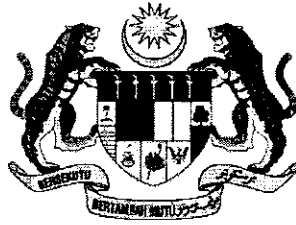
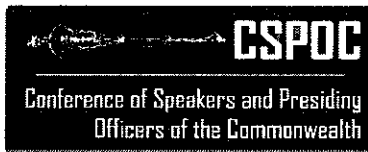
	for the Usunan Parade	
8.30 am	Arrival at the Main Entrance of the Sabah State Legislative Assembly (All Speakers & Presiding Officers to gather at the Main Entrance for the arrival of The Honourable Deputy Prime Minister of Malaysia)	
9.00 am	Arrival of The Honourable Deputy Prime Minister of Malaysia by the “Usunan” at the Main Entrance	
9.15 am	Group Photograph	
	Procession of Speakers & Presiding Officers	
9.45 am	Opening Ceremony of the 23 rd Conference of Speakers and Presiding Officers of the Commonwealth (CSPOC) by The Honourable Deputy Prime Minister of Malaysia	
	Venue :	Banquet Hall, Level 2 Sabah State Legislative Assembly
9.55 am	Welcoming Address by H.E. Tan Sri Datuk Seri Panglima Pandikar Amin Mulia, MP, Speaker of the House of Representatives of Malaysia	
10.00 am	Keynote Address by The Honourable Deputy Prime Minister of Malaysia	
	Venue :	Banquet Hall, Level 2 Sabah State Legislative Assembly
10.30 – 11.00 am	Coffee Break	
	Venue :	Foyer Area , Level 2 Sabah State Legislative Assembly



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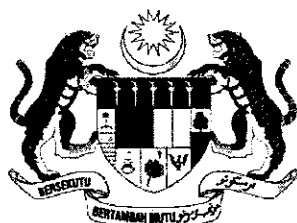
11.00 – 11.30 am	<p>Opening Plenary</p> <ul style="list-style-type: none"> • Presentation of the draft Agenda for the 23rd Conference • Election of two Vice Chair • Nomination procedure for the 2016 – 2018 Standing Committee • Venues for 2017 Standing Committee Meeting and future conference / meetings • Items stemming from Standing Committee Meeting <p>Venue : Assembly Hall, Level 4 Sabah State Legislative Assembly</p>	
11.30 – 12.00 pm	Keynote Address One :	
	Presenter :	H.E. Tan Sri Datuk Seri Panglima Pandikar Amin Mulla, MP ; Speaker of the House of Representatives of Malaysia
	<p>Topic:</p> <p>Venue :</p>	<p>The Challenges Facing the Independence of Speakers</p> <p>Assembly Hall, Level 4 Sabah State Legislative Assembly</p>
12.00 – 12.30 pm	Keynote Address Two :	
	Presenter :	Hon. Geoff Regan, Speaker of the House of Commons of Canada
	<p>Topic :</p> <p>Venue :</p>	<p>The Role of Speakers in the Security of Parliaments and their Precincts</p> <p>Assembly Hall, Level 4 Sabah State Legislative Assembly</p>



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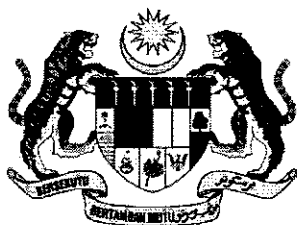
12.30 – 2.00 pm	Lunch	
	Venue :	Sipadan Hall, Level 2, Sabah State Legislative Assembly
2.00 – 3.30 pm	Workshop One : Discuss on Keynote Address One	
	1st Presenter:	Speaker Herminie (Seychelles)
	2 nd Presenter:	Speaker Hanoomanjee (Mauritius)
	Chair:	Speaker Yacob (Singapore)
	Venue :	Kota Belud Room, Level 3 Sabah State Legislative Assembly
	Workshop Two: Discuss on Keynote Address Two	
	1st Presenter:	Deputy Speaker Censu Galea (Malta)
	2 nd Presenter:	Speaker Smith (Australia)
	Chair:	Deputy Speaker Laming (United Kingdom)
	Venue :	Kota Marudu Room, Level 3 Sabah State Legislative Assembly
	** Workshops one & two will run concurrently, therefore delegates are requested to choose either workshop	
3.30 – 3.45 pm	Coffee Break	
	Venue :	Foyer Area, Level 3, Sabah State Legislative Assembly
3.45 – 4.15 pm	Regional Meetings :	
	Australia & New Zealand	Venue : Tambunan Room, Level 4 Sabah State Legislative Assembly



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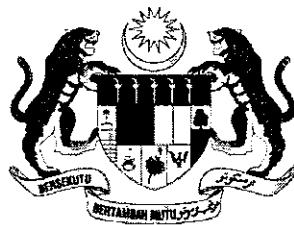
	British Isles & Mediterranean	Venue : Kudat Room, Level 4 Sabah State Legislative Assembly
	Africa	Venue : Kota Belud Room, Level 3 Sabah State Legislative Assembly
	Asia	Venue : Keningau Room, Level 4 Sabah State Legislative Assembly
	Caribbean, Americas & Atlantic	Venue : Kota Marudu Room, Level 3 Sabah State Legislative Assembly
	Pacific	Venue : Sipitang Room, Level 4 Sabah State Legislative Assembly
	South East Asia	Venue: Papar Room, Level 4 Sabah State Legislative Assembly
4.30 pm	Depart from Sabah State Legislative Assembly to hotel	
6.45 pm	Depart hotel to Sabah State Legislative Assembly for Official Dinner	
7.15 pm	Arrival at the Sabah State Legislative Assembly for Official Dinner	
7.30 pm	Official Dinner hosted by H.E Head of State of Sabah	
	Venue :	Banquet Hall, Level 2 Sabah State Legislative Assembly
10.00 pm	Depart from Sabah State Legislative Assembly to hotel	



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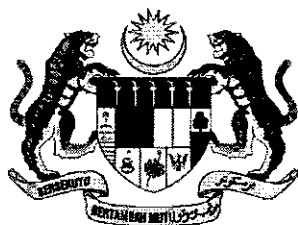
12 January 2016 (Tuesday)	
6.30 – 8.00 am	Breakfast at hotel
	Venue : Five Sails, Level 1, Magellan Sutera Harbour Resort
8.30 am	Depart hotel to Sabah State Legislative Assembly
8.50 am	Arrival at Sabah State Legislative Assembly
9.00 – 9.30 am	Keynote Address Three
	Presenter : Hon. Dr. Patrick Matibini, Speaker of National Assembly of Zambia
	Topic : Parliamentary Privilege – Protecting the Effective Functioning Democracies
	Venue: Assembly Hall, Level 4 Sabah State Legislative Assembly
9.30 – 10.00 am	Keynote Address Four
	Presenter : Rt. Hon. David Carter, Speaker of the House of Representatives, New Zealand
	Topic : Orientation and Development for Parliamentarians
	Venue: Assembly Hall, Level 4, Sabah State Legislative Assembly
10.00 – 10.15 am	Coffee Break
	Venue : Foyer Area, Level 4 Sabah State Legislative Assembly



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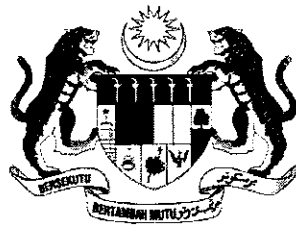
10.15 – 11.45 am	Workshop Three : Discuss on Keynote Address Three	
	1st Presenter:	Speaker Mukabalisa (Rwanda)
	2 nd Presenter:	None
	Chair:	Speaker Smith (Australia)
	Venue :	Kota Belud Room, Level 3 Sabah State Legislative Assembly
	Workshop Four : Discuss on Keynote Address Four	
	1st Presenter:	Speaker Mahajan (India)
	2 nd Presenter:	None
	Chair:	Speaker Tu'ivaskano (Tonga)
	Venue :	Kota Marudu Room, Level 3 Sabah State Legislative Assembly
	<i>** workshops three and four will run concurrently, therefore delegates are requested to choose either workshop</i>	
12.00 – 2.00 pm	Lunch	
	Venue :	Sipadan Hall, Level 2 Sabah State Legislative Assembly
2.00 – 3.30 pm	Reporting from Workshops and Discussion	
	Venue :	Assembly Hall, Level 4, Sabah State Legislative Assembly
3.30- 3.45 pm	Coffee Break	
	Venue :	Foyer Area, Level 4 Sabah State Legislative Assembly
3.45 – 4.45 pm	Reporting from Workshops and Discussion (continuation)	
5.00 pm	Depart Sabah State Legislative Assembly to Hotel	



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7.30 pm	Gala Dinner hosted by H.E. President of The Senate & Speaker of the House of Representatives of Malaysia	
	Venue :	Grand Ballroom, Level 1, Magellan Sutera Harbour Resort
10.00 pm	End of Dinner	
13 January 2016 (Wednesday)		
6.30 – 8.00 am	Breakfast at hotel	
	Venue :	Five Sails Restaurant, Level 1 Magellan Sutera Harbour Resort
08.30 am	Depart hotel to Sabah State Legislative Assembly	
8.50 am	Arrival at Sabah State Legislative Assembly	
9.00 – 10.15 am	Special Plenary	
	Topic : The Low Citizen Confidence in Parliamentary Institutions – How Can Commonwealth Parliaments Build Trust in Legislatures	
	Presenter :	Emeritus Prof. Datuk Dr. Shad Saleem Faruqi
	Venue :	Assembly Hall, Level 4 Sabah State Legislative Assembly
10.15 – 10.30 am	Coffee Break	
	Venue:	Foyer Area, Level 4 Sabah State Legislative Assembly



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10.30 – 11.00 am	Closing Plenary	
	<ul style="list-style-type: none"> • Venue for the 2018 Conference • Venue for 2019 Standing Committee Meeting • Venue for 2020 Conference • Venues for 2021 Standing Committee Meeting & future conferences / meetings • Items stemming from the Standing Committee Meeting • Election of the 2016 – 2018 Standing Committee. • Closing remarks 	
11.15 – 11.30 am	Press Conference (Standing Committee Members Only)	
	Venue :	Sipitang Room, Level 4 Sabah State Legislative Assembly
11.30 – 1.00 pm	Lunch	
	Venue :	Sipadan Hall, Level 2 Sabah State Legislative Assembly
1.00 pm	Depart Sabah State Legislative Assembly to hotel	
14 January 2016 (Thursday)		
All Day	Departures	

CONFERENCE OF COMMONWEALTH SPEAKERS AND PRESIDING OFFICERS

STANDING RULES

PREAMBLE

Commonwealth Speakers and Presiding Officers, irrespective of race, colour, religion or culture, are united by community of interest, respect for the rule of law and pursuit of the ideals of parliamentary democracy, and have formally established the Conference of Commonwealth Speakers and Presiding Officers.

AIMS

The aims of the Conference are the maintenance, fostering and encouragement of the impartiality and fairness of Speakers and Presiding Officers of Parliaments, the promotion of knowledge and understanding of parliamentary democracy in its various forms and the development of parliamentary institutions.

TITLE

1. Conferences shall be called Conferences of Commonwealth Speakers and Presiding Officers, shall be numbered successively and, as far as practicable, shall be convened biennially.

MEMBERSHIP

2.
 - a) Membership shall be open to Speakers and Presiding Officers of National Parliaments of all independent sovereign states of the Commonwealth of Nations.
 - b) Where a Legislature is dissolved for the purposes of a general election, its Members at the time of dissolution remain members of the Conference and, if applicable, of the Standing Committee until successors are elected or chosen.
3. A Deputy Speaker or Presiding Officer may, by prior notification to the host Parliament, attend a Conference as a substitute for his or her Speaker or Presiding Officer. Any such substitute shall enjoy the same status as a member of the Conference but shall not be eligible for membership on the Standing Committee or any other position in the Conference.

CONFERENCE OF COMMONWEALTH SPEAKERS AND PRESIDING OFFICERS

STANDING RULES

4. a) There shall be a Standing Committee consisting of a Chairperson and Members generally representative of each of the regions of the Commonwealth, defined as follows:- Africa, Asia, Australia/New Zealand; the British Isles and the Mediterranean; Canada, the Caribbean, the Atlantic and the Americas, India, the Pacific and South East Asia.
4. b) The representation from each region shall be as follows:-

Africa	-	Three
Asia	-	One
Australia / New Zealand		One
The British Isles and the Mediterranean	-	One
Canada	-	One
The Caribbean, the Atlantic & the Americas	-	Two
India	-	One
The Pacific	-	Two
South East Asia	-	One
5. a) The Secretary of the Standing Committee shall invite all Speakers and Presiding Officers who are members of the Conference to nominate candidates for election to the Standing Committee. These nominations shall be submitted in writing to the Secretary no later than the conclusion of proceedings on the first day of a Conference.
- b) Each Speaker or Presiding Officer may submit only one nomination, provided that no Speaker or Presiding Officer from a bicameral Parliament may nominate his or her colleague from the same Parliament; Provided further that the Presiding Officer of a bicameral Parliament may nominate his or her colleague from the same Parliament if such country is a region by itself.
6. The Standing Committee shall, in addition, have three *ex-officio* members representing the last host, the current host and the next hosting member, drawn from the membership of the Conference and enjoying the full rights and privileges of regional representatives on the Committee.
7. Members of the Standing Committee shall hold office from the end of one Conference to the end of the next Conference.
8. The quorum of the Standing Committee shall be five members.
9. a) At the conclusion of each Conference, when the venue of the next Conference has been agreed upon, the Speaker or Presiding Officer hosting that Conference shall assume the Chair of the Standing Committee.

CONFERENCE OF COMMONWEALTH SPEAKERS AND PRESIDING OFFICERS

STANDING RULES

- b) In a bicameral Parliament, the Chairperson shall be the Speaker or Presiding Officer who presides over the House that is directly elected and designated as either: the House of Assembly; the Legislative Assembly; the National Assembly; the House of Commons; the House of Representatives or the Lok Sabha.
10. The Speaker or Presiding Officer who hosts a meeting of the Standing Committee and who is not the Chairperson or an elected member of the Standing Committee shall be an additional member of the Committee for that meeting.
11. The functions of the Standing Committee shall be:
- a) to decide dates, venues and procedures of the next Conference;
 - b) to propose subjects for discussion at the next Conference and to prepare a Draft Agenda;
 - c) to review the Standing Rules and to propose, as it deems necessary, draft amendments to the Rules for the consideration of the Conference, and
 - d) to consider all matters concerning the organisation and conduct of the Conference, including financial arrangements.

STANDING RULES OF THE CONFERENCE

12. A motion for the amendment of the Standing Rules or the adoption of new rules shall require two months' notice to be given in writing to the Secretary of the Standing Committee before the commencement of the Conference at which it is to be considered. Such a motion shall be proposed and seconded from the floor of the Conference and shall be decided by a majority vote of the Conference. Any amendment or new rule so adopted shall be effective immediately, unless the Conference otherwise determines.

OFFICERS OF THE CONFERENCE

13. Officers of the Conference shall be the Chairperson; two Vice-Chairpersons; and the Secretary-General.
14. The Chairperson shall be the Speaker or Presiding Officer of the host Parliament, as defined in Rule 9.
15. The Vice-Chairpersons shall be elected by the Conference. Nominations for the office of Vice-Chairperson shall be proposed and seconded from the floor of the Conference. If more than two candidates are nominated, the Vice-Chairpersons shall be elected by secret ballot.
16. A single ballot paper shall be used for the purpose of the election and all members including the Chairperson shall be entitled to vote. The votes shall be counted by two tellers nominated by the Chairperson who shall declare elected the candidates

CONFERENCE OF COMMONWEALTH SPEAKERS AND PRESIDING OFFICERS

STANDING RULES

receiving the largest and second largest number of votes respectively. In the event of an equality of votes, the Chairperson shall also exercise a casting vote, if necessary.

17. The Secretary-General of the Conference shall be the Clerk, Secretary-General or Secretary, as the case may be, of the House over which the Chairperson presides.

POWERS AND FUNCTIONS OF OFFICERS

18. The Chairperson shall:
 - a) preside at each session of the Conference;
 - b) open, suspend, and close sittings; and
 - c) fix the date, time and items for discussion at each sitting.
19. In the absence of the Chairperson or by invitation, either Vice-Chairperson may preside at a session of the Conference, exercising the powers and functions of the Chairperson as set out in Rule 18.
20. The Secretary-General shall co-ordinate the secretarial, administrative and other arrangements of the Conference, appointing such officers and staff as may be required.

OBSERVERS

21. The host Chairperson may invite any person to the Conference as an Observer.
22. At the request of a Speaker or Presiding Officer and by leave of the Conference, Observers may take part in the discussions of the Conference but shall not have the right to vote.

SITTINGS

23. The sittings of the Conference shall be open, unless the Conference decides otherwise.

THE CONDUCT OF BUSINESS

AGENDA

24. The Agenda shall be adopted by the Conference at its first session. Motions for the addition of items to, the amendment of items on, or the deletion of items from, the Draft Agenda or Agenda may be proposed and seconded from the floor of the Conference, and shall be decided by a majority vote of the Conference.
25. The items on the Agenda shall be considered in such order as the Conference may decide.

CONFERENCE OF COMMONWEALTH SPEAKERS AND PRESIDING OFFICERS

STANDING RULES

SPEECHES

26. Members wishing to speak shall seek to be recognised by the Chairperson. When two or more members seek the floor, the member called by the Chairperson shall be entitled to speak.
27. A member leading the discussion on any item on the Agenda may prepare for circulation in advance a paper dealing with that item. A member should make every effort not to read verbatim from a previously prepared and circulated paper but may summarise and refer to it.
28. Members may not speak more than once on any item of the Agenda unless by leave of the Conference.
29. Speeches shall be limited as follows:
 - a) opening speeches on any item on the Agenda, not more than fifteen minutes;
 - b) intervening speeches and speeches in reply, not more than ten minutes; and
 - c) second speeches under Rule 28: not more than five minutes.
30. When the time for a speech has expired and the speaker has not completed the intervention, the Chairperson may extend the time-limit by three minutes for opening speeches and by one minute for all other speeches.
31. A speaker shall not be interrupted except on a point of order but may give way to enable elucidation of a particular point, the time-limit being adjusted accordingly.

AD HOC COMMITTEES

32. The Conference may refer any matter arising out of an item on the Agenda to a Committee for consideration and the Conference shall determine the membership of each Committee.
33. Unless the Conference otherwise decides, each Committee shall elect its own Chairperson and appoint a rapporteur for each subject referred to it. The rapporteur shall prepare the report of the Committee for presentation to the Conference and for inclusion in its final report.
34. The Conference may fix the time by which each Committee shall report to the Conference and may discuss each Committee report.

CONFERENCE OF COMMONWEALTH SPEAKERS AND PRESIDING OFFICERS

STANDING RULES

REPORT OF THE CONFERENCE

35. The Secretary-General shall arrange for verbatim reports of all plenary discussions of the Conference. These reports shall, if possible, be made available to each speaker for editorial amendment before the next session of the Conference.
36. The Secretary-General shall prepare and distribute as soon as possible after a Conference a report of its proceedings, which shall include the verbatim record of plenary discussions and any reports presented to the Conference by Committees. Copies of this report shall be distributed to Speakers and Presiding Officers of Commonwealth Parliaments, to their Clerks, Secretaries-General and Secretaries and to Conference Observers.

**The Role of Speakers in the Security of Parliaments
and their precincts**

Presentation by Deputy Speaker Ćensu Galea,
House of Representatives, Malta

23rd Conference of Speakers and Presiding Officers of the
Commonwealth (CSPOC)

Sabah State Legislative Assembly
Kota Kinabalu, Sabah, Malaysia

9-14 January 2016

Speakers,
Presiding Officers,
Secretaries to Delegations,
Colleagues,
Ladies and Gentlemen,

Unfortunately, our parliaments back home are not immune from being the aim of attacks. In their own nature, parliaments may be viewed by contempt by some people; this makes them an easy target. The most recent attack we have heard about with great sadness is the Ottawa attack on Parliament Hill where a Canadian soldier lost his life when on sentry duty. 2001 also saw the attack on the Indian Parliament where a number of people lost their lives, including terrorists, security personnel, and police officers. Certainly there have been other attacks which did not make the news; others have been narrowly avoided due to the security measures which have been put in place.

I would like to share with you the recent experience concerning security issues at the Maltese Parliament. In Malta, the House of Representatives was, since its beginnings in the 1920s, situated in what is now the President's Palace, where the security of the entire Palace was exclusively entrusted to the Armed Forces of Malta. Parliament, and the Speaker as its official head, had little or no control over security measures in and around the building. The Speaker only had powers over security in the plenary hall, the committee rooms and the corridors in their immediate vicinity.

The move from the President's Palace to a new building, completely reserved to the Parliament and its activities, in May last year, has meant that the responsibilities of the Speaker have increased considerably. The new building was conceived as an open space, not reserved for the Members of Parliament meeting in it, but a space which, as far as possible, occupies an important, even if a small footprint in the capital. The architect opted for an extensive use of glass panels to symbolise openness and transparency. Whilst the new Renzo Piano-designed ultra-modern building is unique in its kind, is nothing short of remarkable, with the notions of openness and transparency laudable in themselves, the external glass walls and the lack of a clear demarcation of the parliamentary precincts are proving to be a major security headache.

Not only did Parliament move to a new building built in a manner which requires 360 degree surveillance 24/7, but Parliament had to furthermore deal with the fact that for the first time in its history it was responsible for its own security, i.e. the Speaker became fully responsible for the security throughout the parliamentary precincts. In order to fulfil this duty the Speaker obtained the go-ahead to have a number of police officers detailed to the service of the House of Representatives. The complement of police officers on duty was supplemented by the installation of a number of security cameras.

Malta has always been viewed as a credible international interlocutor. As a consequence, some may argue that the issue of security is at times being blown out of proportion, but I do not subscribe to this point of view. One needs to be prepared for all eventualities and never fall into the trap of taking things for granted. Bollards have been installed all around the borders and are being controlled by the police force. All persons entering the building, with the exception of the Members of Parliament themselves, go through security screening.

The recent Paris attacks, along with many other threats that the world has had to contend with, makes the issue of security one which cannot and should not be taken lightly, as attacks – especially those linked with terrorism – have become a part of our everyday lives. In addition to the devastation and grief that attacks bring in their immediacy, they instil a sense of long-term fear in the citizens a fear which cannot be easily placated.

An issue of major concern is that due to its nature, and the public disillusionment with politicians, parliaments are naturally high-risk buildings and could easily be targeted. For many countries, one also needs to consider the situation in their immediate neighbourhood, such as countries which are at war or subject to political instability. Although Malta is an island with no land borders it is located at the cross-roads of one of the routes taken by immigrants trying to leave North Africa to reach the European continent. The instability in Libya, Egypt and the Middle East creates huge migratory pressures on both countries of transit and of destination. In addition to the humanitarian issues that arise from migration and human trafficking, there are the added concerns that terrorists could infiltrate amongst the migrants. Based on our experience at home, so far, I can say that in spite of the challenges posed by an open and transparent building such as the new Maltese parliament

building, where a physical leap towards transparency was made, we have opted for a good model of how security is organised.

However, a secured fort does not mean that access is restricted in such a way that the well-meaning citizen is not given access to what happens in Parliament and to their elected representatives. In addition to hosting plenary and committee meetings, one must keep in mind that after all a parliament is the workplace of our employees, and that it hosts countless visitors throughout the year, both VIPs and from the general public. We firmly believe that Parliament belongs to the people and should not be limited to the elected representatives. The fact that the full responsibility of the precincts now falls under the Speaker, Parliament has already hosted a number of activities which I, or the Speaker, have chaired. These include the annual events of the Parliament for people with disabilities and the National Youth Parliament. Last November, the House of Representatives hosted a dialogue between Commonwealth Secretary-General candidates and civil society organisations as part of the Commonwealth People's Forum 2015. Parliament hosted an exchange of views on the future of the arts and creativity in Malta and Parliament organised, on its premises, various exhibitions for the public to view. The role of the Speaker in these occasions is to open and chair the debates. The point that I want to drive home, is that although recognising the issue of securing our parliaments should not be taken lightly, any measures taken should not lead to the creation of a closed institution.

This brings me back to the role of the Speaker in the context of a secure parliament. His or her role is undoubtedly to strike a healthy balance between protecting parliamentarians and the functions of parliament, and respecting the right of citizens to have access to the precincts and their legislators. The development and implementation of a long-term plan is an important opportunity to address requirements for efficient and effective security, in particular a Parliamentary precinct with clear physical boundaries. The plan must allow for a layered system of access control and a solid infrastructure for security systems.

I hope this short contribution based on our recent experience has given you food for thought for the session to come. I look forward to debating this theme further with you in the workshop itself.

Thank you.

Parliament of Malta

**REPORT FOLLOWING 23rd CONFERENCE OF
SPEAKERS AND PRESIDING OFFICERS OF
THE COMMONWEALTH**

Report of Conference and Breakdown of Sessions and other
Meetings

Kota Kinabalu, Malaysia 9-14 January 2016



HOUSE OF REPRESENTATIVES
PARLIAMENT OF MALTA

1. Introduction

Deputy Speaker Hon Ċensu Galea attended the 23rd Conference of Speakers and Presiding Officers of the Commonwealth, between 9 and 14 January 2016 in Kota Kinabalu, Malaysia. The Conference, which is held on a bi-ennial basis, serves as an opportunity to *“maintain, foster, and encourage impartiality and fairness on the part of Speakers and Presiding Officers of Parliaments, promote knowledge and understanding of parliamentary democracy in its various forms, and develop parliamentary institutions”*¹.

2. Background of Conference

The Conference brings together the Speakers and Presiding Officers of the national parliaments of the independent sovereign states of the Commonwealth. It was created in 1969 as an initiative of, then Speaker of the House of Commons in Canada, the Honourable Lucien Lamoureux. Thus, Canada also holds the permanent Secretariat of CSPOC to support its activities.

The Conference was spread over three days, where a number of meetings were held. These included the sessions of the Conference itself, as well as executive meetings pertaining to the Standing Committee, of which Malta holds the British Isles and Mediterranean representation up until the start of the Conference.

The Standing Committee oversees CSPOC activities. It is composed of 15 members. The Committee is chaired by the Speaker of the lower House of the jurisdiction hosting the next conference. In accordance with the Standing Rules, the Committee membership is composed of regional representatives and three *ex-officio* members (the last host, the current host and the next hosting member). The election of the Standing Committee members usually occurs during the closing plenary of each conference.

On this occasion, the Standing Committee met prior to the opening ceremony, whereby the agenda presented for the Conference was confirmed; next hosting venues, dates and procedures were discussed; subjects for discussion at the next conference were brought up and a draft agenda prepared.

3. Proposal of Venues for Future meetings and Conferences

Following the Official Opening, the opening Plenary Session presented the Agenda for the 23rd Conference and the nomination procedure for the 2016 – 2018 Standing Committee was communicated. The Venues for future Standing Committee meeting venue and Conferences were brought forward. It was discussed that Canada would host the 2020 Conference since this would mark the 25th Anniversary of the Conference, then it would make sense that the hosts were the founders of the CSPOC, meaning Canada. In this instance, it was communicated by the Seychelles that the latter were not on the list of hosts for a number of years and were interested in hosting the 2020 Conference. This matter was to be discussed as the Conference proceeded. The United Kingdom, who were to host the 2018 Conference put forward the idea of renouncing their position of hosts for 2018 and put forward the suggestion to host the 2017 Standing Committee Meeting;

¹ Conference aims, <http://www.cspoc.org/>

thus giving Seychelles the opportunity to host the 2018 Conference, while Canada still to host the 2020 Conference as was communicated. It was also communicated that Malta would host the 2019 Standing Committee meeting, which was to be confirmed at the Closing Plenary session of the same conference.

4. Breakdown of Sessions and Workshops

The Conference then proceeded with the start of the sessions. The theme of the first session was that of the Challenges Facing the Independence of Speakers. The keynote address of the first session was presented by HE Tan Sri Datuk Seri Panglima Pandikar Amin Mulia, MP; Speaker of the House of Representatives of Malaysia. His address focused on the issue of neutrality, independence and impartiality. He also gave a brief historical account of the concept of independence was brought about, whereby in the 17th Century, where Speakers showed neutrality, it could have cost their lives. This concept evolved over the years, and today, it is manifested in the character and constitution of each country. Speaker Pandikar Amin Mulia gave an overview of the situation in Malaysia, where they have followed the steps of the House of Commons. As a Speaker, he aims to champion the interests of the backbenchers and the minorities of the House, and by this, he does not subscribe to the impartial aspect of the role. Impartiality or neutrality, according to the Speaker of Malaysia is impossible to attain without the support of the current political system and culture, parliamentary conventions, constitutional provisions, Standing Orders and Precedents.

The Second Keynote Address held the topic of the Role of Speakers in the Security of Parliaments and their Precincts. The address was made by Hon Geoff Regan, Speaker of the House of Commons of Canada. Hon Regan gave an account of the 2014 attack in Ottawa and how the role of Speakers was put into perspective with regard to Parliamentary Security. Hon Regan also highlighted how the evolution of technology has also posed a number of threats on public places, especially Parliament Precincts. Following the happenings in Ottawa, the security models adopted had to be revisited in order to ensure the physical security of Members of Parliament, staff and the public. Hon Regan stressed the fact that although security is paramount in Parliaments, one must not lose sight of the fact the openness that makes us vulnerable is the freedom that keeps us strong.

The plenary then dissolved into the working groups which participants thought was most appealing to them. Deputy Speaker Ċensu Galea held the role of Lead Presenter in the second Workshop which examined the role of Speakers in the Security of parliaments and their precincts was discussed. In his remarks, Galea made reference to the migration to the new Parliament building in Malta and the challenges it brought about, as well as the modern security threats parliaments are facing, following a number of attacks suffered by Parliaments over the years. These incidents, together with other considerations, have led to a greater responsibility of the Speaker in relation to the security of the building and its precincts.

A regional meeting of the all regions was held, and Hon Galea attended the one concerning the British Isles and Mediterranean Region (BIMR). During this meeting, the nomination of the regional representative was discussed. It was considered, that should the UK still hold the Conference in 2018, it would mean that they hold an *ex-officio* seat in the Standing Committee, thus Malta could still potentially hold the BIMR seat, even though there is the uncertainty of the Seychelles hosting the 2018 conference. The possibility of writing to the Secretariat regarding the British Isles holding a

permanent seat similar to the Canadian case was also discussed. It was decided that since this proposal was already discussed in the 2015 Standing Committee meeting in Jersey, and no official letter was presented two months prior to the Conference, it was then decided that an official request was to be presented by the United Kingdom in the next Standing Committee meeting of 2017.

The third day of the Conference comprised two other sessions: Parliamentary Privilege – Protecting the Effective Functioning of Democracies, and Orientation and Development for Parliamentarians. The first session was addressed by Hon Dr Patrick Matibini, Speaker of the National Assembly of Zambia. Hon Matibini spoke about freedom of speech and spoke about the case of Zambia where this freedom is protected by the National Assembly Act. He also supported his argument with case studies. He also spoke about the power to regulate internal proceedings; the doctrine of separation of powers; the power to punish for contempt and freedom for arrest. Hon Ċensu Galea participated in the workshop corresponding to the latter subject matter. Hon Galea stated that he has spoken on this subject on many occasions opining that parliamentary privilege should be abolished, on the grounds that this can be dangerous with regard to what extent is privilege understood, both by the members of parliament and the public. He spoke in such a way because in his experience, privilege has been abused by the Member of Parliament to his/her own advantage and that members used their privilege to speak superficially without any occasion for confrontation. The discussion continued in favour and against this concept.

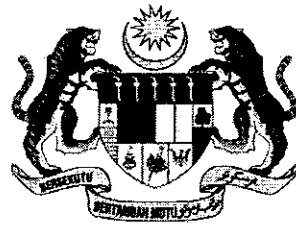
The final keynote address was delivered by Rt. Hon. David Carter, Speaker of the House of Representatives in New Zealand. He focused on the Orientation and Development for Parliamentarians. He spoke about the importance of parliamentarians working closely with each other and providing constant development for new members through implementing worthwhile induction and development programmes. In New Zealand, a training and support system is offered to members when they first arrive at Parliament. This makes the process effective as it is participatory, with new members engaged in mock debates and question time in the House and select committee role plays.

Finally, a special plenary concerning Citizen Confidence in Parliamentary Institutions by Prof Dr Haidar Dziyauddin was presented. The presentation tackled the topic of how Commonwealth parliaments build trust in legislatures.

5. Conclusion

In the closing plenary, the venues for the next standing committees and conferences were announced. It was confirmed and decided that the United Kingdom was to host the 2017 Standing Committee meeting, the Seychelles will host the 2018 Conference, Malta to host the 2019 Standing Committee, Canada will host the 2020 Conference, Guernsey were to host the 2021 Standing Committee Meeting, Australia were to host the 2022 Conference and Trinidad and Tobago were to host the 2023 Standing Committee meeting. Finally the results of the Standing Committee were announced, with the Seychelles, the UK and Canada to hold the *ex-officio* seats in the Committee.

Malta was re-elected to hold the British Isles and Mediterranean Region Representation for the period 2016 – 2018.



23rd CSPOC
9 – 14 JANUARY 2016
KOTA KINABALU, SABAH MALAYSIA

PARLIAMENT OF MALAYSIA

List of topics, presenters and workshop chairs as of January 10, 2016

Theme 1: The Challenge facing the Independence of Speakers

- The principle of the Independence of the Parliament from the Executive Influence
- Influence of Political Parties
- Administrative Autonomy

Keynote Speaker: Speaker Pandikar (Malaysia)
 First Workshop Presenter: Speaker Herminie (Seychelles)
 Second Workshop Presenter: Speaker Hanoomanjee (Mauritius)
 Chair of Workshop: Speaker Yacob (Singapore)

Theme 2: The Role of Speakers in the Security of Parliaments and their Precincts

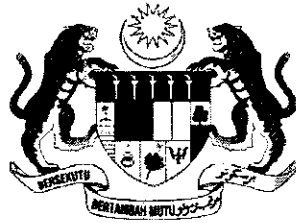
- Ensuring the access and security of Members
- Balancing the ease of public access and security –safety versus openness
- Tackling the challenges of terrorism

Keynote Speaker: Speaker Regan (Canada)
 First Workshop Presenter: Deputy Speaker Censu Galea (Malta)
 Second Workshop Presenter: Speaker Smith (Australia)
 Chair of Workshop: Deputy Speaker Laming (United Kingdom)

Theme 3: Parliamentary Privilege – protecting the effective functioning of democracies

- The Challenges faced by Presiding Officers in Commonwealth Parliaments by Judicial Activism and / or intervention in matters of parliamentary privilege
- Recent developments in Commonwealth jurisdictions
- Influence of human rights legislation

Keynote Speaker: Speaker Matibini (Zambia)
 First Workshop Presenter: Speaker Mukabalisa (Rwanda)
 Second Workshop Presenter: None
 Chair of Workshop: Speaker Smith (Australia)



23rd CSPOC
9 – 14 JANUARY 2016
KOTA KINABALU, SABAH MALAYSIA

PARLIAMENT OF MALAYSIA

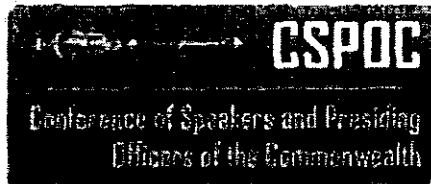
Theme 4: Orientation and Development for Parliamentarians

- Induction for new Parliamentarians
- Continuous professional development
- Recent innovations

Keynote Speaker: Speaker Carter (New Zealand)
First Workshop Presenter: Speaker Mahajan (India)
Second Workshop Presenter: None
Chair of Workshop: Speaker Tu'ivaskano (Tonga)

Special Plenary: The low citizen confidence in Parliamentary Institutions - How can Commonwealth Parliaments build trust in Legislatures

Keynote Speaker: Prof. Shad Faruqi (Malaysia)



REPORT OF THE 23rd CONFERENCE OF SPEAKERS AND PRESIDING OFFICERS OF THE COMMONWEALTH

Workshop ONE (Title): THE CHALLENGES FACING THE INDEPENDENCE OF SPEAKERS

Chairperson : Hon. Speaker Halimah Yacob (Singapore)

Date of Workshop : Monday, 11 January 2016

Time : 2.00 – 3.30 pm

Presenter 1 : Hon. Dr Patrick Herminie, Speaker (Seychelles)

Presenter 2 : Hon. Santi Hanoomanjee, Speaker (Mauritius)

1.0 Presentation

1.1 Pertinent Points of the First Presenter:

- The first presenter in Workshop One, (Hon. Speaker Dr Patrick Herminie raises several apparent challenges to the independence of Speakership. Firstly is the question of whether partisanship is incompatible with the independence of the office of the Speaker - given the pivotal role and multifarious powers, rights and duties of the Speaker and that he or she should be independent of all kinds of party

politics and the pressure of the members of the party he/she belongs to.

- The second challenge facing the independence of the Speaker is whether a Speaker can be truly independent if the institution he leads is financially and administratively dependent on the government of the day?
- In the first challenge, Speaker Herminie is of the view that independence means that the Speaker's office must have the ability to operate and decide free from outside control and not be subject to anybody's authority, be it from his own party or elsewhere.
- In the second challenge, Speaker Herminie states that he is a strong protagonist of the administrative and financial independence of the legislature. In other words, a Speaker, he opines, cannot be independent if the institution he leads cannot freely decide on its spending and day to day running.
- Speaker Herminie also raises the question of whether a Speaker can be independent without security of tenure – which relates to the mechanism by which a Speaker is appointed or elected. This, he says, has considerable bearing on the independence of the Speaker's office.
- He is of the view that a Speaker should be elected by Parliament and once elected can only be removed as Speaker by Parliament for inability to perform the functions of the office, whether arising from infirmity of body or mind or for misbehaviour.

- But the biggest challenge to the independence of the Speaker's office, in Speaker Herminie's view is the subservient mentality which is part of a deep institutional malaise. Because more often than not, the Speakership is a political gift, and that there is a tendency to feel obliged to please the powers that be.

1.2 Pertinent Points of the Second Presenter:

- The issue on independence of Speaker remains a question of perception and something which is very difficult to tackle.
- Parliament is pivotal to the government system. The failure of the Government reflects the failure of democracy.
- The House is a place where the nations' freedom and liberties are closely guarded. It is therefore vital that Parliament keeps up its reference as a place where this liberties which are the common goods of the citizens be cherished beyond reasonable suspicions and under the able guardianship of the Speaker.
- All Presiding Officers must have high respect and dignity to the House.
- The House is the right forum to mediate debates for all parties and that the Speaker is responsible to conduct business of the day consequentially factual.
- The Standing Orders scrutinises the dealings in the House and that the Speakers are warranted to act without fear or favour.

- Speakers are also given the powers which can be used at their discretion without the resolutions of the House, for example, the powers to adjourn the House when there's not enough quorum, the power to decide the admissibility of questions, deciding on the matter of public importance and etc.
 - Speakers elected by Parliament are generally appointed from the ruling party and it is believed that the Prime Minister has the sole power to appoint and dismiss the Speaker. But the reality is the removal of the Speaker is done by the House itself.
 - The importance of balancing the two fundamental principles of Parliamentary democracy, i.e. the right of the majority to conduct its business in an orderly manner and the right of the minority to be heard ensures that the rights of the citizen is essentially not violated.
-
- It is only when the Speaker jealously protects the rights of the minority that the machinery of democracy would remain effective. And as long as the Speaker can make distinction of his or her allegiance to a group of parties and his or her duties for the House, the issue of partisanship would not be a barrier for the Speaker to conduct the business of the House.
 - In conclusion, the people's or the Parliamentarians' perception of the Speaker remains that the Speaker is still seen as favouring the majority.

2.0 General discussions and views by members:

2.1 Statements and views

Sri Lanka

It is a good sharing thoughts when it comes to the challenges facing the independence of Speakers because political situations can be unusual.

The President of Sri Lanka has enormous power. This is where the amendment are somehow needed. The people's mandate are needed for progress. The government must also accept the contributions from Members of the Opposition. Progress are also dependent on contributions from the civil society, the public, human rights' groups and mandate to adopt commissions.

This will ensure a certain amount of balance of power. This would be one of the ways or the ability for democracy to be fully restored. The Speakers or the President would be able to strengthen development and examine the progress ensuring democracy from pitfalls.

Jamaica

Jamaica compares notes with other Commonwealth countries, in reference to Order in the House and also reference to Member of Parliament befitting to be in the House. The furore or the frustration from the public due to MPs behaviour would result towards the decline of voters' participation. The question is, how do we restore the order in the House? Do we need to amend the Standing Orders? Or, do we need something like a cooling-off period?

The Presiding Officers are in difficult situations because of the people's choice and their rights to choose.

Kenya

Kenya believes that a permanent feature for the Parliament should be impartiality, neutrality and integrity. In embracing democracy, there should be a clear separation of powers and that there is judicial independence and legislative independence.

Maldives

Maldives' issue is in moving representation for independence of Speakers. The question is how to make the Ministers or the Executives accountable to Parliament, after all Parliament is made up of MPs who are regarded as political body. And if democracy is to thrive, it has to be based on consensus.

The powers of the Speaker is akin to controlling the agenda in the House. And we must take note that Parliament is not like judiciary.

When the Speaker is in control of the agenda in the House, there could be abuse of power. How do we stop the abuse? This is where the Standing Orders needs to be reviewed to prevent further abuse.

Isle of Man

This small jurisdiction centres on issues of financial oversight because they are dependent on the Central Government for support. But the advantage would be that the Speaker of a small jurisdiction is much independent in his/her own governance of financial provisions and not being influence by political parties.

For Isle of Man, the beauty of the system is the election of Speaker is made even before the end of the current session and the new presiding officer is dignified enough to look after the House.

Tanzania

Tanzania questions the position of a Speaker who is promoted akin to sponsorship by the Government; thereby losing the integrity.

Zambia

Zambia shares the same connotation on sponsorship issue by the Government whereby the question of integrity of Speaker surfaces. How do we maintain impartiality? To remove a Speaker from the House, 2/3 majority is needed.

Jamaica

Jamaica returns to the floor by questioning on issues questions from MPs submitted to the House. It is the prerogative of the Senate President to look into those questions and adjust accordingly so that the questions reflect the requirement within the Standing Orders.

Mauritius

Mauritius also returns to the floor by questioning in reference to questions which are embarrassing on the Government. How do Speakers mediate the

questions and issues for both parties to come to term without depriving the independence of all parties concerned?

Bermuda

Bermuda is of the opinion that the independence of the Speaker is based on the foundation of integrity and that the reference to the Standing Orders is considered principal in its application towards impartiality.

Papua New Guinea

Papua New Guinea deliberates on his experiences as a Speaker dealing with motions, vote of no confidence and passing the budget. No matter how difficult the situations are the Speaker will have to be impartial. For example, when the Opposition going into motion of vote of no confidence against the Prime Minister; as a Speaker; the Speaker has to rely on the Standing Orders to steer away from problem in the House by staying truly impartial.

2.2 Conclusions by Chairperson

The Chair in conclusion thanks all the members present in this workshop titled, "The Challenges Facing the Independence of Speakers" and the Chair reiterated that the Speakers are not completely helpless in the Parliament. Many member Speakers talks on impartiality. And also the Chair caution that the Speakers should be careful from committing abuses during the process.

Date : Monday, 11 January 2016

Prepared by : Rapporteur Team A

1. Mazidah Mohamed
2. Asri Adnan
3. Wan Noorzaleha Wan Hassan
4. Badrah Yussof

KEYNOTE ADDRESS 1

"THE CHALLENGES FACING THE INDEPENDENCE OF SPEAKER"



**H.E. TAN SRI DATUK SERI PANGLIMA PANDIKAR AMIN
MULIA
SPEAKER OF THE HOUSE OF REPRESENTATIVES
PARLIAMENT OF MALAYSIA**

INTRODUCTION

- ❖ **The issue of neutrality, independence and impartiality are among important issues when we discuss in the context of Speakership.**
- ❖ **Everyone of us aspires to be a fair umpire. Or we think we are fair.**
- ❖ **However, there are always people who will say that we are unfair and not neutral.**

SPEAKER INDEPENDENCE & HIS IMPARTIALITY

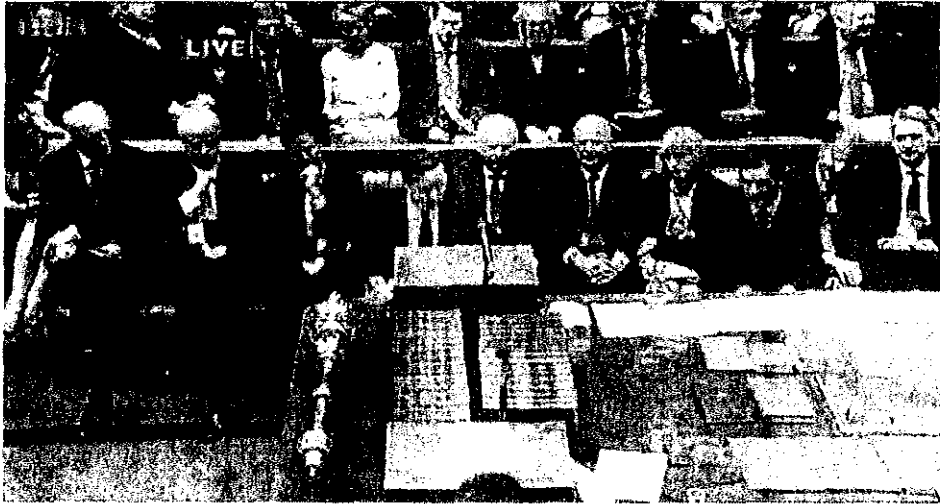
"May it please Your Majesty, I have neither eyes to see, nor tongue to speak in this place, but as the House is pleased to direct me, whose servant I am here, and I humbly beg Your Majesty's pardon that I cannot give any other answer than this to what Your Majesty is pleased to demand of me."

Speaker Lenthall (1641) during the Reign of Charles 1

SPEAKER INDEPENDENCE & HIS IMPARTIALITY

- ❖ The concept of independence has been guarded, to the extent that it cost the lives of a number of Speakers.**
- ❖ However, this concept has evolved and in modern times it has manifested in the character of all of us, with varying degree.**
- ❖ The benchmark of Speakership quality is set by the House of Commons. The 'doing' of the Speaker of the House of Commons will be a reference for the Speaker of Parliament of the Commonwealth countries.**

INDEPENDENT, NEUTRAL & NON-PARTISAN SPEAKER



Speaker John Bercow telling Prime Minister David Cameron to stop talking as his time is over

SPEAKER INDEPENDENCE & HIS IMPARTIALITY



Speaker John Bercow telling a minister that either he is discourteous or incompetent

SPEAKER INDEPENDENCE & HIS IMPARTIALITY

- ❖ **The video clips are examples of an independent, neutral, and non-partisan Speaker.**
- ❖ **He must protect the interest of the minorities, he must be the Champion of the Backbenchers.**
- ❖ **He must be brave to hold the government or Executive accountable in every opportunity within the parameter of the Standing Orders.**

- ❖ **John Bercow has surpassed the performances of his predecessors and colleagues in the Commonwealth Countries.**
- ❖ **He does not hesitate to utilize the tools available to him in holding the executive accountable.**
- ❖ **He interprets the relevant Standing Orders liberally whereas his predecessors and Colleagues in other Commonwealth Countries, by traditions and precedents use the Standing Orders 21 and 24 sparingly, he utilizes SO 24 (Urgent Questions) and SO 24 (Emergency Debates) to the maximum.**

COMPARISAN URGENT QUESTION

**Speaker Michael Martin
(2000-2004)**

42

**Speaker John Bercow
2004 until 2009**

159

EMERGENCY DEBATES

- ❖ **Emergency Debates is a House procedure whereby its pre-arranged business may be set aside so it can debate 'a matter of urgent public importance'.**
- ❖ **It is a discretionary power of the Speaker to grant the motion moved by its members.**
- ❖ **The motion is hedged around conditions designed to ensure that it is not lightly conceded.**

EMERGENCY DEBATES

❖ **These conditions are**

- i. That the matter relate to a particular case of recent occurrence;**
- ii. That the case must involve the administrative or ministerial responsibility of the government;**
- iii. And it must require the immediate attention of government.**

STANDING ORDER RULE NO. 389(1) HOUSE OF REPRESENTATIVES, NEW ZEALAND

A member who wishes the House to debate a matter of urgent public importance must give the Speaker a written statement of the matter proposed to be debated. The written statement must be provided at least one hour before the time fixed for the house to sit or such lesser time as may be allowed by the Speaker.

**STANDING ORDER RULE NO. 389(2) HOUSE OF
REPRESENTATIVES, NEW ZEALAND**

**The Speaker may allow the debate to be held if, in
the Speakers opinion, the matter –**

- a) Is a particular case of recent occurrence, and**
- b) Involves the administrative or ministerial
responsibility of the Government, and**
- c) Requires the immediate attention of the
House and the Government**

**STANDING ORDER RULE NO. 18 (1), HOUSE OF
REPRESENTATIVES, MALAYSIA**

**Any member other than a Ministry may at the time
appointed under Standing Order 14 rise in his place
and ask leave to move the adjournment of the House
for the purpose of discussing a definite matter of
urgent public importance by reading the text of the
motion approved by Tuan Yang di-Pertua.**

**STANDING ORDER RULE NO. 18 (2), HOUSE OF
REPRESENTATIVES, MALAYSIA**

A member who wishes so to ask leave to move the adjournment of the House shall at least twenty four hours not including holidays/public holidays before the commencement of the sitting, hand to Tuan Yang di-Pertua a written notification of three hundred words of the matter which he wishes to discuss and shall at the same time submit to Tuan Yang di-Pertua the motion which he proposes to move together with a written explanation to the effect that the matter is definite, urgent and of public importance; Tuan Yang di-Pertua shall refuse to allow the claim unless he is satisfied that the matter is definite, urgent and of public importance.

**STANDING ORDER RULE NO. 18 (3), HOUSE OF
REPRESENTATIVES, MALAYSIA**

If Tuan Yang di-Pertua is so satisfied and either: (a) leave of the House is given, no member objecting, or (b) if it is not so given, a least fifteen members rise in their places to support the request, the motion shall stand over until 4.30 p.m. on the same day; and at that hour any proceeding on which the House is engaged shall be postponed until 5.30pm. or until the motion for the adjournment is disposed of, whichever is the earlier. At the moment of interruption, the motion for the adjournment, if not previously disposed of, shall lapse and the proceedings which have been postponed shall be resumed and dealt with in accordance with paragraph (4)

MOTION ON STANDING ORDER RULE NO. 18(1) FROM 2008-2015

NO.	YEAR	DEBATE IN THE HOUSE	REJECTED
1	2008	1	3
2	2009	1	35
3	2010	1	40
4	2011	0	12
5	2012	2	22
6	2014	2	18
7	2015	5	27
TOTAL		12	157

**SPEAKER: YB Tan Sri Datuk Seri Panglima Pandikar
Amin Haji Mulia
28.04.2008 until now**

MOTION ON STANDING ORDER RULE NO. 18(1) FROM 2008-2015

NO.	YEAR	DEBATE IN THE HOUSE	REJECTED
1	2004	0	2
2	2005	3	8
3	2006	1	7
4	2007	0	16
TOTAL		4	33

**SPEAKER: YB Tan Sri Dato' Seri DiRaja Ramli
bin Ngah Talib
22.11.2004 until 27.04.2008**

MOTION ON STANDING ORDER RULE NO. 18(1) FROM 2008-2015

	1	1994	2	9
	2	1995	0	3
SPEAKER: TUN DATO'	3	1996	0	5
SERI DR. MOHAMED	4	1997	0	2
ZAHIR BIN HJ. ISMAIL	5	1998	1	5
14.06.1982-14.10.2004	6	1999	0	0
	7	2000	0	3
	8	2001	5	0
	9	2002	2	0
	10	2003	1	0
	11	2004	1	0
	TOTAL		12	27

**STANDING ORDER RULE NO. 24 (1), HOUSE OF COMMONS,
UNITED KINGDOM**

On Monday, Tuesday, Wednesday and Thursday a Member raising in his place at the commencement of public business may propose, in an application lasting not more than three minutes, that the House should debate a specific and important matter that should have urgent consideration. If the Speaker is satisfied that the matter is proper to be so debated, the Member shall either obtain the leave of the house, or, if such leave be refused, the assent of not fewer than forty Members who shall thereupon rise in their places, the House shall, on a division, upon question put forthwith, determine whether such motion shall be made.

**STANDING ORDER RULE NO. 24, HOUSE OF COMMONS,
UNITED KINGDOM**

24 (3)

In determining whether a matter is proper to be discussed the Speaker shall have regard to the extent to which it concerns the administrative responsibilities of Ministers of the Crown or could come within the scope of ministerial action. In determining whether a matter is urgent the Speaker shall have regard to the probability of the matter being brought before the House in time by other means.

24(4)

The Speaker shall state whether or not he is satisfied that the matter is proper to be discussed without giving the reasons for his decision to the House.

**JOHN BERCOW ALLOWING EMERGENCY MOTION UNDER
STANDING ORDER 24**



APPLICATION FOR EMERGENCY DEBATES IN THE HOUSE OF COMMONS SINCE MAY 2012

Tax Credits	27.10.15	Declined
The Operation of the Wilson Decree	15.10.15	Agreed
The Refugee Crisis in Europe	07.09.15	Agreed
Wellingborough Prison	17.06.12	Declined
West Coast Main Line	03.09.12	Declined
The closure of the Ford assembly plant at Swaythling	29.10.12	Declined
Mid-Staffordshire NHS Foundation Trust special administrator	05.03.13	Declined
Royal Charter on Press Conduct	18.03.13	Agreed
UK Coal's proposed closure of Kellingley and Thoresby collieries	08.04.14	Declined
Ban by China on the Foreign Affairs Committee visit to Hong Kong	01.12.14	Agreed
Means of delivery of English notes on English laws	06.07.15	Agreed

Hon. John Bercow allows Urgent Question as follows:-

Urgent Question allow

45

35

38

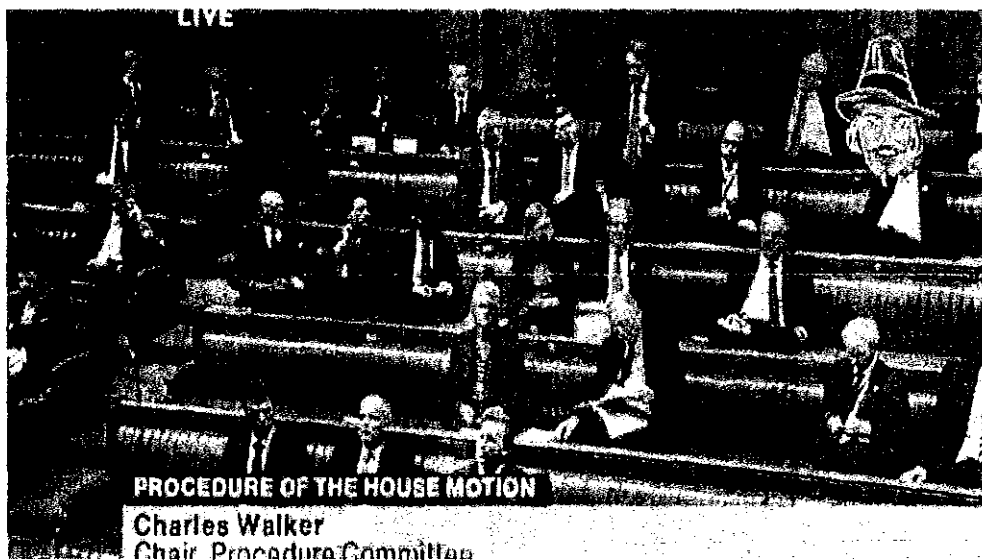
74

73

Why is the Speaker of House of Commons so independent?

- ❖ *He is standing on a supportive political culture.*
- ❖ **The Speaker is seeking for re-election not on a party ticket. This is a well established political tradition in England.**
- ❖ **The Speaker of the House of Commons support is non-partisan. This is what happened in the election of John Bercow as Speaker in May 2015.**

MP HON. CHARLES WALKER'S SPEECH



SPEECH OF HON. JACOBS



SPEECH OF PRIME MINISTER DAVID CAMERON



THE CHALLENGES BEING A SPEAKER OF THE DEWAN RAKYAT OF THE MALAYSIAN PARLIAMENT

Election of Speaker is determined by Party Line

- ❖ **Article 57 of the Malaysian Constitution: The Speaker need not be an elected MP, but an elected MP can also be proposed and elected as Speaker. However, it has never been a political culture in Malaysia that a candidate put by the ruling party is left unchallenged.**
- ❖ **In 2013 the opposition proposed a former High Court Judge to challenge me for the post of the Speaker.**
- ❖ **I was proposed by the ruling party. Out of the 222 Members, 133 of them voted for me. All those who voted for me were MPs from the ruling party (National Front).**

Party Line is above all else

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1:09 PM

47%

m.thesundaily.my

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theSundaily

10 Jan 2016

Local | World | Business | Sports

Sothnathan suspended for 3 mths

By The Star Staff

KUALA LUMPUR: Datuk S. Sothnathan has been suspended for three months as Natural Resources and Environment Deputy Minister with immediate effect, Prime Minister Datuk Seri Abdullah Ahmad Badawi announced on Wednesday.

He cited Sothnathan's outburst in the Dewan Rakyat on Tuesday over the derecognition of the Crimea State Medical University (CSMU) medical degree as the reason for the suspension.

Party Line is above all else

- ❖ **Tanjung Bungah assemblyman Teh Yee Cheu has submitted his resignation as Penang DAP organizing secretary.**
- ❖ **In his resignation letter, he informed the party that he had decided to resign over his support of the UMNO land reclamation motion at the state legislative assembly on Nov 20, 2014.**

m.thesundaily.my

Penang DAP leader quits post after voting for BN motion



Standing Order Rule No. 15, House of Representatives, Malaysia

15. (1)

On every sitting day Government business shall have precedence over Private Members business.

PERSONAL POINT OF VIEWS

- ❖ **The stand of some Speakers is that to be independent, neutral and non-partisan, one must be a Champion of the minorities and Backbenchers is contrary to the meaning of "Speaker is the Servant of the House".**
- ❖ **By Championing the interests of the Backbenchers and the minorities in the House is surely an act of "taking sides" and being biased against the Government (Majority).**

PRINCIPLE OF PARLIAMENTARY PROCEDURES

The Principle underlying parliamentary procedures is that the minority should have its say and the majority should have its way

Philip Laundy, Parliament in the Modern World, p. 95

CHAMPIONING THE BACKBENCHERS

- ❖ **It is giving due weight to the mandate given to the government to govern in a way that it thinks fit and mindful of the fact that the government should also be made accountable to its action.**

- ❖ **The voices of the opposition during debate is the process of accountability. Championing the Backbenchers and the minorities is tantamount to stating that "the minority is having its say and way".**

SPEAKER MUST BE A LAW UNTO HIMSELF

" It will not be an embarrassment to my successors, because each Speaker must be a law unto himself within the bounds laid down by the Standing Orders and the customs of the House. Each Speaker must set his own style".

Selwyn Lloyd, Mr. Speaker Sir, pg. 14

STICKING TO TRADITIONS

- ❖ I believe in sticking to traditions and well established Parliamentary Conventions, opinions on Parliamentary Procedures by the experts and opinion of well known Speakers of the House of Commons and other Speakers in Commonwealth countries.**

- ❖ I do not give liberal interpretations to the Dewan Rakyat Standing Orders. E.g motions under S.O 18 I do not grant easily. I temper "emergency motions" with the Provisions of S.O 15.**

STANDING ORDER RULE NO 18

On the interpretation of SO 18 (Emergency Motion), I rely on *Parliamentary Procedures in New Zealand, David McGee, Third Edition on pg 580.*

"The right to move such a motion is hedged around with conditions designed to ensure that it is not lightly conceded".

IMPARTIALITY

❖ Good Speakers and Presiding Officers, must not only be impartial but must be perceived to be impartial.

Speaker Bernard Witherall in his farewell speech in House of Commons said

"A good Speaker is a Speaker who calls you to speak today, A bad Speaker is a Speaker who did not call you to speak yesterday. A very bad Speaker is a Speaker who did not call you to speak the day before yesterday."

Speaker Bernard Whitherill



POLITICAL AFFILIATION

***"While impartiality in the Chair is essential, complete renunciation of all political affiliation is unrealistic in Canada".
(Canadian Parliamentary Review)***

He said, "when we hear this I think we need to pose a very obvious and simple question: Why? What are the arguments to support that conclusion?"

"Speakers in this country (Canada) are politicians and they forget that at their peril"

Impartial But Not-Non Partisan: Re-Examining The Mythology of the Speakership, Dave Lovick, 20th Seminar of the Canadian Region of the Commonwealth Parliamentary Association, the former Speaker of the British Columbia Legislative Assembly



Hon. Noah Omar
(1959 -1964)

The attire of the Speaker
is fully traditional



Hon. Zahir Ismail (1982-2004)

The second image abandoned
the wig and replaced it with a
songkok, a traditional Malay
head gear.



**H.E. TAN SRI DATUK SERI PANGLIMA
PANDIKAR AMIN MULIA**

- ❖ **Totally traditional except for the head gear.**
- ❖ **Modernity tempered with tradition**

QUOTE

"I wear the full-bottomed wig both to emphasize the historic nature of the office of the Speaker and to draw attention that it is the office and not the identity of the individual which is important. Individuals come and go, but the office continues. Formality like this still has, or should have a place in the modern world...when I became Speaker and restored the tradition of wearing it at regular sittings as my personal preference, this seemed to be popular with the public, who like me are proud of our long parliamentary tradition".

Speaker Stephen Rodan

CONCLUSION

Impartiality or neutrality is impossible to attain WITHOUT the support of the current political system and culture, parliamentary conventions, constitutional provisions, Standing Orders and Precedents.

Impartiality and neutrality as practiced in the House of Commons, in England, is an elusive dream for the Speaker of Malaysia or some other Parliaments in the Commonwealth Countries.

CHALLENGES OF THE SPEAKER



Thank You

Challenges facing the independence of the Speaker

Honourable Speakers

Ladies and Gentlemen

All protocol observed

It is indeed with great honor that I today address you on this very important topic before this 23rd Conference of the Speakers and Presiding Officers of the Commonwealth being held here in this beautiful Resort in Kota Kinabalu and that is, the challenges facing the independence of the Speakers.

Ever since the office of the Speakership was conceived, there have been attempts by the powers that be to keep it under political control. For indeed, the office is the head of an institution

that truly represents the people and that is Parliament. It is not surprising, therefore, that great expectations are placed on the Speaker to protect the government of the day. Throughout history, Speakers who had refused to abide by the wishes of the executive, have had to face consequences, very often cruel and severe. We are here reminded of the beheading of Peter De Montfort by Henry 111's "Mad Parliament" in Oxford in 1258 and many more thereafter.

This brings us to the first apparent challenge to the independence of the Speakership. Party politics. Is partisanship incompatible with the independence of the office of the Speaker? Given the pivotal role and multifarious powers, rights and duties of The Speaker, should he or she be independent of all kinds of party politics and the pressure of the members of the party he/she belongs to. We know for a fact that in most jurisdictions, the Speaker is a party politician and more often than not assumes a high profile position in his or her respective party. The political role of the Speaker varies from

country to country. In the United States, he is a prominent politician often mired in political controversies and debates whereas in the House of Commons he is forced by recent conventions to sever all ties with his party. The British maintain that this is the only way to ensure that the Speaker is a neutral umpire. He contests general election not on a party platform but as "the Speaker seeking re-election" and he is usually unopposed. Proponents of the British system argue that the Speaker cannot exercise his many constitutional powers if he is not seen to be above political frays. Does that mean that in systems similar to the United States, Speakers are not impartial adjudicators and their independence is therefore compromised? What then is exactly the independence of the Speaker? Is it tantamount to impartiality? Why cannot a Speaker have a political opinion and at the same time be an impartial adjudicator? Is not the firm and fair application of the Standing Order sufficient to render the Speaker impartial? After all, he/she

only has a casting vote. In my humble opinion, independence means the office's ability to operate and decide free from outside control and not be subject to anybody's authority. A Speaker's decision or opinion will always offend somebody but he/she should be free to take that decision or express his/her opinion. He/she is, after all, the official Spokesperson of the House and the embodiment of the House vis-à-vis the outside world. He/she is the Head of an institution defined as a branch of Government by Montesquieu; a branch of government that is separate but equal to the other two branches of government. In the words of Jawaharlal Nehru, he should be a man of outstanding ability and impartiality. A man of integrity. If not, severing ties with the party would be pure tokenism.

This brings me to the second challenge facing the independence of the Speaker. Can there be true independence if the institution he leads is financially and administratively dependent on the government of the day? I am a strong protagonist

of the administrative and financial independence of the legislature. A Speaker cannot be independent if the institution he leads cannot freely decide on its spending and day to day running. We are reminded at this point of the old adage, "He who pays the piper calls the tune." The executive still dominates the legislative process and purposefully deprives parliament of much-needed resources to fulfill its constitutional role. I hold the view that continued interference by the government in the financial administration of parliament only helps to perpetrate executive dominance and seriously undermine the independence of the institution and its Head. And who is to be blamed for this state affair? We, the parliamentarians, for failing to take a stance when it comes to the approval of the national budget.

Earlier I mentioned that in the United Kingdom, the Speaker seeks re-election uncontested. I like this idea not because it raises the Office above partisan politics but because it guarantees to a certain extent a security of tenure for a Speaker.

Most Speakers wish to complete their term as Speakers and aspire to be re-elected at least once to the Office. The British system that I have just enunciated, however, can only be applied in a first-past-the-post system. It is definitely not plausible in a system where parliamentarians are proportionately elected.

It is quite obvious that the mechanism by which the Speaker is appointed/elected has considerable bearing on the independence of the office. In most countries, Speakers are elected by parliament and he or she has to be a Member of Parliament.

However, he/she is answerable to a party and is very often expected to toe the party line or else. It is little wonder that the office of the Speaker in the U.K has evolved the way it had in its attempt to enforce the independence of the Speaker. The question that begs itself is can the Speaker be independent without security of tenure?

That question may have been the root cause of the different mechanisms by which the appointment

of Speakers had evolved over the years in many jurisdictions. So much so that in some countries, Speakers need not be elected members of parliament and is appointed by the Head of State. Matters become quite complicated when the Head of State is also the Head of Government given that the one who appoints may end up pulling the strings.

I am of the view that a Speaker should be elected by parliament and once elected can only be removed as Speaker by parliament for inability to perform the functions of the office, whether arising from infirmity of body or mind or for misbehavior, and that by a 2/3 majority. Speakers must have security of tenure to appropriately discharge their many important functions. Furthermore, to allay fear of not being re-nominated and/or re-elected, Speakers should also be guaranteed a life-time pension commensurate with their public status. Once a Speaker, always a Speaker.

But the biggest challenge to the independence of our Office is, in my opinion, our own mindset, a subservient mentality which is part of a deep institutional malaise. Because more often than not the post is a political gift, we feel obliged to please the powers that be. We accept to be treated as inferior, at times even to ministers, although we are the heads of a branch of government. We accept that parliamentary affairs be overseen by a government minister. We subsequently fail to live up to the expectations of the electorate who see us as their only voice. We treat each other badly. We fail to provide adequate respect and protocol when we visit each other's countries. Then we wonder that few have respect for our independence which is very often guaranteed under our constitution.

Ladies and gentlemen, in thanking you for your attention, I sincerely hope I have not been overly controversial. I must admit though that I really

**wanted to be provocative and hope that I have
aroused your desire for aggressive debates. I wish
you fruitful deliberations and a belated happy New
Year.**

**23rd Conference of Speakers and Presiding Officers of the
Commonwealth (CSPOC), Kota Kinabalu, Sabah, Malaysia
9th to 14th January 2016**

“THE CHALLENGES FACING THE INDEPENDENCE OF THE SPEAKER”

By Honourable Mrs Santi Bai Hanoomanjee, GCSK

Speaker of the National Assembly of Mauritius

11 January 2016

Dear Colleagues

This morning we had the opportunity of listening to His Excellency Tan Sri Datuk Seri Panglima Pandikar Amin Mulia, Speaker of the House of Representatives of Malaysia and now it is my turn to add my voice to this challenging topic and bring my contribution to the presentation made by the Honourable Speaker from the Seychelles.

A. EXECUTIVE INFLUENCE/AN INDEPENDENT SPEAKER

The characteristics of a Speaker are authority and impartiality. He resigns from his party. Although the Speaker is elected by the House, in some countries, even if he has to run at general election, he does so as Speaker seeking election and not as a party candidate. Traditionally, the major parties do not field a candidate against the Speaker. Yet, in other jurisdictions, after his term of office, the Speaker runs at the general election with a party affiliation like any other candidate. However, after his election as Speaker by the House, he cuts off the umbilical cord from his party. The Speaker becomes the mouthpiece of Parliament, not of Government, and still less of his party.

Parliamentary Democracy And The Role Of The Speaker

As members of the Commonwealth, our countries have a system of parliamentary democracy. Parliament is pivotal to democracy and to our system of Government. For the system to function, it is dependent on a Parliament which holds the government to account. Without a truly independent Speaker, presiding over the proceedings of the House, parliamentary democracy loses all its sense and can bring along the possibility of the failure of our government system.

The Speaker represents the House. The House, an emanation of the people's choice is the place where the nation's freedom and liberties are closely guarded. It is therefore vital that Parliament keeps up its reference as the place where these liberties which are the common good of the citizens be cherished beyond reasonable suspicion under the able guardianship of the Speaker.

When I assumed office as Speaker, I stated right from the outset that I would give a fair chance to all parliamentarians to have the floor but expected them to respect and uphold the dignity of the House.

In fact, Parliament is the appropriate forum for Government and Opposition to air their differences over issues of national interest through well-reasoned and sound debates. It is important for Government and Opposition to listen to each and it is the role of the Speaker to create the conditions for the orderly and fruitful conduct of business. In that context, the complexity of the responsibilities of the Speaker constitute a real challenge.

The Speaker In Action

The Speaker is vested with wide powers under the Standing Orders and others arising from usage. A scrutiny of these powers will show that they are just and, if applied reasonably, fair.

Powers ranging from “... ***calling members to order for use of unparliamentarily language; for irrelevancy; to order a Member to leave the Chamber, or “to name” a Member***”, are stringent powers. In practice and for the good functioning of parliamentary democracy, the Speaker has to be circumspect in the exercise thereof.

Indeed, when exercising these powers, the Speaker should take all the necessary care so as not to create the impression of favouring one side of the House (usually from the side from which the Speaker comes) to the detriment of the minority.

Speakers also have other powers which can be used at their discretion, in other words without a resolution of the House . Examples worth mentioning are –

- the power to adjourn the House in case of a lack of quorum
- the power to decide on the admissibility of questions
- the power to ask a Member of Parliament to discontinue his speech
- the power to decide who to give the floor in the course of debate.
- deciding on a matter of urgent public importance

Parliament being the place where the liberties of the nation are to be safeguarded, it is essential that the Speaker as guardian of the freedom and liberties of the nation be extremely cautious when resorting to these powers because the danger of side slipping lies in their use. It is therefore imperative that the Speaker acts with scrupulous impartiality.

In some countries where the Speaker is elected by Parliament, the Speaker generally comes from the majority party, although there is nothing which prevents the Speaker from being chosen from the opposition.

The fact that the Speaker comes from the majority party inevitably creates the belief that it is the Prime Minister who has the sole power to appoint and dismiss the Speaker. This is simply not true. The Speaker is only proposed by the Prime Minister who is the Leader of the House. But the **Speaker is elected by the House. And he can only be removed by the House.**

Now, there is also the possibility of Leaders of different parties in the House agreeing on the choice of an MP who is most likely to be accepted by both sides of the House. In other words, there is consensus over the choice of the Speaker in a spirit of parliamentary democracy to further enhance the independence of the Speaker.

In Mauritius, where the election of the Speaker is contested, provision is made for his election to be held by secret ballot. The secret ballot is intended to be a further step towards strengthening the independence of the Speaker and to secure the presence of an impartial person whose main responsibilities are to apply the rules of procedure of the House fairly and indiscriminately.

Since 1996, the Constitution of Mauritius provides for the possibility of electing a person other than a Member of the Assembly but not excluding the possibility of an elected Member to be elected by the House as Speaker. This has been done in a spirit to preserve the independence of the Speaker.

Things may appear to be more difficult for the Speaker who has to fight for his re-election. Opinions have been expressed that the absence of a guaranteed election makes it difficult for a Speaker to distance himself from his party. At a more practical level he must remain politically active if he is to hope for re-election. He is bound to nurse his/her constituency and participate in party activities. His independence in the eyes of the opponents is not above board. Any ruling, however, well-motivated, gives rise to misgivings as to his sincerity of purpose. A shade of party leaning hangs over him in the conduct of the debates.

Parliament And The Need For A Speaker

The great political writer, Walter Bagehot identified one of parliament's most important legislative functions as ***"watching and checking the Ministers of the Crown"***.

A truly independent Speaker allows for the Parliament, as an institution separate from the government and independent of the Executive, to keep Ministers accountable.

In a democracy, when exercising their right to vote, the citizens elect a government whose main responsibilities is to govern. At the same time they elect an opposition. Their role is to keep a watchful eye on the Government's actions and to offer constructive criticisms when necessary. It is the responsibility of the Speaker to balance the two fundamental principles of parliamentary democracy, that is, on the one hand, the majority to conduct its business in an orderly manner and on the other the right of the minority to be heard.

In order to avoid the tendency on the part of the citizens of a country to manifest a complete disregard for the democratic values, it is essential that they get the feeling that parliament is a Temple of Democracy where their rights are not violated. Moreover, the view has been expressed that ***"national parliaments embody the primary source of democratic accountability."*** High in importance is the duty of the Speaker to ensure that national parliaments survive as truly democratic institutions. To achieve this, the Speaker must be endowed with the strength and

integrity to run the house in total independence and impartiality and not to succumb to the pressures from the Executive. It is only when the Speaker jealously protects the rights of the minorities that the democratic machinery will remain effective.

B. INFLUENCE OF POLITICAL PARTIES

However, as long as the Speaker can make a distinction between his/her allegiance to a group or party and his duty for the House, this partisanship should not be a bar for him to conduct the business of the House.

The only occasion in Mauritius when we had a Speaker free from any obligation to any political party was from 1960 to 1979. The then Speaker was appointed for life by the then Governor General before Mauritius achieved independence and his security of tenure was strengthened by his freedom from any obligation from any party.

The question which arises is how the House values the independence of the Speaker and, if so, what does independence of the Speaker mean.

The further question – is whether the fact of resigning from his party on assuming Speakership necessarily relinquishes all party ideals which he may have cherished for so many years in the party? Is not that a semblance of independence? Is not independence in politics a myth?

These are questions which keep running through the mind of the Speaker and to which only he knows the answer. Whatever be the standards of independence set, one must bear in mind that the strict application thereof will always be viewed (rightly or wrongly, but more often wrongly) with a dose of subjectiveness.

So how does the Speaker take the challenge of being independent and to dissipate any perception of party bias?

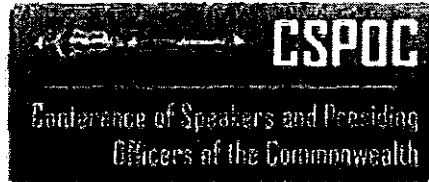
He should apply, as mentioned earlier, the Rules with scrupulous impartiality and not be submissive to the majority.

How to achieve this noble mission?

In Mauritius, for more than 3 decades now, all Speakers have belonged to political parties, and elected from the party in power. Yet we can safely say there is no record of any previous Speaker having made a farce of the proceedings of the House.

The Speaker has to ensure that all MPs are given a fair chance to express their views, to ensure that the minority party's right to be heard be diligently maintained, to respect all shades of opinion – but above all, to effectively protect the rights of the minorities. ***(In short, the “best Speaker is said to be the one who is the most hated by the Members of the party to which he or she belongs.”***

I thank you.



E2

REPORT OF THE 23rd CONFERENCE OF SPEAKERS AND PRESIDING OFFICERS OF THE COMMONWEALTH

Workshop Two:

The Role of Speakers in the Security of Parliaments and their Precincts

- Chairperson : **The Rt. Hon. the Lord Laming**
(Deputy Speaker of the House of Lords,
United Kingdom)
-
- Date of Workshop : 11 January 2016 (Monday)
- Time : 2.00 – 3.30 pm
- Presenter 1 : **Hon. Censu Galea**
(Deputy Speaker of the House of the
Representatives, Malta)
- Presenter 2 : **Hon. Tony Smith**
(Speaker of the House of Representatives,
Australia)

Presentation 1

I Summary of Presentation 1:

Presenter 1 shared experience concerning security at the Maltese Parliament.

1. The presenter mentioned that after the Ottawa attack on Parliament Hill and the attack on the Indian Parliament, where a number of **people** lost their lives – **the security measures in the parliament were put in place.**

2. In the 1920s, the House of Representatives of Malta was situated within the President's Palace, therefore **the security of the parliament exclusively was entrusted to the Armed Forces of Malta which the speaker had little control.** Speaker has control only in the plenary hall, the committee rooms and their immediate vicinity.

3. The Maltese Parliament moved to its own new building in May 2015, and for the first time in its history was responsible for its own security and the speaker became fully responsible for the security throughout the parliamentary precincts.

4. The new design of Maltese Parliament building reflects the transparency and openness and this bring a new security challenges to the parliament security.

5. The speaker has taken a few security measures as follow:

- Increased the number of police officer in the Parliament which is supplemented by the installation of security cameras;

- Improved the security screening procedures for all persons entering the parliament.
6. After the Paris attacks recently, the issue of security should not be taken lightly because it has become part of our everyday lives and has instilled of long-term fear to the citizens are concerned.
 7. An issue of major concern is that due its nature and the public disillusionment with politicians, parliament are naturally high-risk buildings and could easily be targeted, For many countries, one also needs to consider the situation in the immediate neighbourhood as well, such as countries which are at war or subject to political instability.
 8. Malta is one of the routes taken by immigrants trying to leave North Africa for European continent and the instability in their countries (Libya, Tunisia, Egypt and Middle East) – its creates huge migratory pressures and humanitarian issues, and added concerns that terrorist could infiltrate amongst the migrants.
-

II Conclusions by Presenter 1:

1. Although the issues of securing our parliament should not be taken lightly, any measures taken should not lead to the creation of a closed institution.
2. The speaker must strike a healthy balance between protecting parliamentarians and the functions of parliament, and the right of citizens to have access to the precincts and their legislators.
3. It is important to address requirements for efficient and effective security in the Parliament long-term development plan, particularly a clear

physical boundaries, a layered system of access control and a solid infrastructure for security systems.

Presentation 2

I Summary of Presentation 2:

Presenter 2 was covering on the framework for security at the Australian Parliament and the role of Presiding Officer, historical background, current challenges and how they were responding to them.

1. The framework for security at the Australian Parliament and role of Presiding Officer

i. The responsibility of the security in the parliament rests with the Presiding Officers. This authority was given explicitly statutory recognition in the Parliamentary Precincts Act 1988, and the Presiding Officers can take whatever action necessary to exercise their authority.

ii. There is a written memorandum of understanding between the Presiding Officers and Minister representing the executive government.

2. Historical background

i. Prior to 1978, the security at the parliament was minimal. However, security incidences at Parliament House and other significant places has led to the increase of its security with additional security resources and measures.

ii. The terrorist attacks in United States and Bali in 2001 and 2002 respectively has saw the security upgraded and a parliament review was undertaken by Parliamentary Service Commissioner.

iii. The emergence of 'new' terrorism has led to the strengthening of physical security and engagement of additional security staff, and a Statutory Security Management Board was established to advise the Presiding Officers on parliamentary security as provided under the Parliamentary Services Act 1999.

3. Current challenges and how we are responding to them

i. The current challenges including the rise of extremist ideologies, the spread of localised conflicts, the radicalisation of young people and the recruitment of foreign fighters.

ii. In response to these, the Australian Parliament has reworked their ~~security defences including further enhancement to the physical~~ security of the building, an increased and enhanced armed presence at the entry points and within the building, and tighten general security procedures and processes.

iii. Finding a balance between appropriate security measures while maintaining the openness and accessibility of the parliament is indeed a challenging task for the Presiding Officers

iv. However the balance was achieved through the latest security measures based on the three key approaches; long term measures, careful consideration and appropriate communication within confidentiality constrain.

II Conclusions by Presenter 2:

1. In facing challenges of the future, the response to the increasingly complex and difficult security environment will be critical to the institutions and the democratic system.
 2. Presiding Officers as the custodian of the institution need always be aware of the core values and philosophies, the nature of the building, the occupants and visitors. Overreaction or overreach can caused damage to the institution. Therefore, it is important to get the balance right.
-

General discussions/Q&A by members:

1. UK

UK Parliament is concerned the security threat experienced by Canada – learn from that – the power the MPs represent is the no. 1 target – protection from outside is the protection MPs need – recognised the threat is the mobile attack – the solidarity predator who may not be extreme.

2. Barbados

To what extent the responsibilities of the Speaker to other members.

Respond from Malta:

Speaker responsible for the action of the Parliamentarians.

MPs are examples to those they represent – MPs should not set bad example for the people they represent – parliamentarians lacking in credibility may not be good to represent the population.

3. Chairperson

Parliamentarians are not parliamentarian when parliament is on – Parliamentarians remain wherever they are.

4. Australia

Cannot eliminate the threats but can reduce the threats. Security conscious-approach.

5. Canada (responded to Australia on the strengthen security of MPs) upgrade security at constituency offices, contact local police and apply the same to their residences because outside the precinct of Parliament, speaker has no jurisdiction.

6. Kenya

Significant to have bodyguards to ensure safety of the MPs

7. Uganda

Layer of command and security, sergeant-at-arms, police.

8. Botswana

Sargent-at-arms, ensure safety of members and offices, parliament should be secured and more open.

9. Canada

Better communication between the internal and external security.

10. Australia

Security situation just before the Attack – Australian Parliament re-design for more security after the attack, e.g. giving authority to police officers, good communication and coordination in Australian Parliament.

11. Malta

Public perception that the expenses provided for security is a waste. Whereas, it is an investment to defend the institution of Parliament and the country.

12. Chairperson

Work around the circumstances – the situations always change. The threats change as well. How good we are in assessing the threats – the machinery must be one step ahead.

13. Malta

Nobody speak about not allowing people to attend parliamentary sittings. They encourage people to have **activities in parliament but they must screen them before entering the parliament.**

14. Chairperson

Promotes security in a positive way – e.g. parliament is safe for the youngs. Offers to children a safe place to learn in the parliament.

In UK parliament, contractors must be thoroughly checked and monitored in the precinct.

E2

23rd CONFERENCE OF SPEAKERS AND PRESIDING OFFICERS
OF THE COMMONWEALTH (CSPOC)

SABAH STATE LEGISLATIVE ASSEMBLY,
KOTA KINABALU, SABAH, MALAYSIA

9 – 14 JANUARY 2016

The Role of Speakers in the Security of Parliaments

and their precincts

CSPOC, January 2016

Hon. Geoff Regan,
Speaker of House of Commons,
Canada

Check Against Delivery

Introduction

What an honour it is to be here today for the first time since my election as Speaker of the House of Commons of Canada. I am very new to this role and this is a wonderful opportunity for me to learn from so many experienced colleagues.

As you know, in October 2014, some unfortunate events took place in Ottawa, Canada's capital, on and around Parliament Hill. Since then, as you can imagine, a great deal of thought has gone into the security of Parliament and the Precinct.

Today, I would like to address the history and the role of Speakers with regard to Parliamentary Security and share some of our recent experiences.

History to Current State

Parliamentary security has been an important consideration since the earliest days of the British Parliament. In Great Britain at that time, the Sergeant-at-Arms, armed with a mace, was responsible for protecting the Speaker and accompanying him to all sessions of the House of Commons. This protection was necessary because until 1642, the Speaker was as much an agent of royal interests as a servant of the House, and therefore often in conflict with Members of Parliament. As the role of Parliament and the Speaker evolved, it became rather more necessary to protect the Speaker and the members from the monarch, who often was not pleased with the decisions and actions of the legislature. His displeasure even resulted in the violent death of several Speakers.

Thankfully, today in Canada, the position of Speaker is somewhat less hazardous, and the mace now serves as a symbol of his or her authority, as well as that of the House; and while the position of Sergeant-at-Arms still exists, that role too has changed over time.

In addition to the evolution of these roles, new technologies and threats have emerged. In parallel, the way a Parliament manages its security has also evolved.

In Canada, parliamentary security has been managed by each respective House, in accordance with the collective privilege that each House has the right to regulate and administer its own affairs *within its precinct and beyond the debating chamber*, without external interference—that is, without intervention from the courts, subject to certain exceptions, or external police forces.

These privileges date back to the time of Confederation and British practice. They are embodied in the *Constitution Act, 1867*, and were articulated in a statute now known as the *Parliament of Canada Act*.

The events that unfolded in Ottawa fifteen months ago, on and around Parliament Hill, prompted us to take a good hard look at this model and reflect on the best way to ensure the physical security of Members of Parliament, staff and the public. This in turn has led to numerous changes to the way security is provided in the Parliamentary Precinct, which includes all premises that the House of Commons and Senate occupy from time to time for their corporate purposes.

The size of the Parliamentary Precinct has grown dramatically over the years. At the time of Confederation in 1867, all of Parliament was contained within three main buildings. Today, 22 buildings are considered part of the precinct.

The events of October 22, 2014

Before I delve into what has changed, I would like to briefly describe what took place on October 22, 2014

On that day, a gunman, armed with a hunting rifle, shot and killed a sentry, Corporal Nathan Cirillo, at the Tomb of the Unknown Soldier, in front of the National War Memorial located near Parliament Hill.

He then raced to a car that he had parked nearby, drove towards Parliament Hill and left the vehicle just outside the Parliament Hill perimeter. Just inside that perimeter, he hijacked a Minister's vehicle and drove to the main entrance to Centre Block, the building that houses the House of Commons and Senate Chambers. He then abandoned the car and entered the building.

An unarmed member of the House of Commons Protective Service, Constable Samearn Son was wounded as he attempted to block the gunman's entrance. Although security forces were in pursuit, the gunman continued down the Hall of Honour where he was shot and killed in front of the entrance to the Library of Parliament.

Parliament Hill and downtown Ottawa remained in lockdown for the day and into the evening. The House, which was scheduled to sit at 2:00 p.m. that day, did not meet.

Numerous false reports of additional assailants emerged throughout the day via traditional and social media. The House of Commons and Senate security personnel, the Royal Canadian Mounted Police (RCMP), and the Ottawa Police worked together to ensure the security of those within the precinct and within the downtown core. For many, it was a very long and challenging day.

And yet, Parliament reconvened the following day. It was important for Parliament that the day proceed like any other, and so it began, as usual, with the Speaker's parade, led by the Sergeant-

at-Arms. Exceptionally, on that day, the public galleries were opened and the broadcasting of proceedings began before the prayer was read. Members also observed a minute of silence in honour of Corporal Nathan Cirillo, and party leaders and independent members stood and spoke about the events of the preceding day. They remarked on the courage of the security personnel and the police, and the determination of the House as a whole not to be intimidated by external threats.

Since security within the precinct fell under the purview of the House Administration, Speaker Andrew Scheer announced that a comprehensive review of matters relating to security would be undertaken. Speaker Scheer also indicated that while Parliament Hill remained closed that day, it was imperative that it be reopened to the public as soon as possible, to demonstrate that Parliament Hill would remain both open and secure.

Just two days later, on Friday, October 24 at 8:00 p.m., Parliament Hill was once again open to the public. Tours resumed and on Monday, October 27, the galleries were reopened.

What changed?

Prior to November 2014, four separate security forces were responsible for ensuring the safety of those in the Parliamentary Precinct. The House of Commons Protective Service, headed by the Sergeant-at-Arms, was responsible for the safety of Members and staff inside the buildings under House of Commons jurisdiction. The Senate Protective Service was responsible for buildings under Senate jurisdiction. The RCMP was responsible for the grounds of Parliament Hill, and the Ottawa Police Service was responsible for property outside the perimeter of the Parliament Hill grounds.

Within the main Centre Block building, both the Senate Protective Service and the House of Commons Protective Service were responsible for security. This system had been in place for almost 100 years, without any major issues.

Nevertheless, in recent years, the need for communication and joint exercises was recognized. The four forces had developed a joint Master Security Plan, shared information daily, and had very close and positive working relationships.

However, in line with Speaker Scheer's statement on October 23, a review of security protocols and procedures was immediately undertaken.

The *Joint Advisory Working Group on Security* was established, composed of Senators and Members, and co-chaired by the Speaker of the House of Commons.

In late November 2014, the working group announced the unification of the Protective Services of the two Houses. The plan was that a senior executive would lead this unified service, reporting directly to the Speakers of the two Houses through their respective Clerks.

In February 2015, the government moved a motion recognizing the necessity of fully integrated security throughout the entire Parliamentary Precinct.

Given that security falls under the purview of the Speaker of the House of Commons, as custodian of its rights and privileges, the motion instructed the Speaker, in coordination with the Speaker of the Senate, to invite the RCMP to lead operational security throughout the Parliamentary Precinct, both inside and outside the Parliament buildings, as well as on the grounds of Parliament Hill.

The government motion specified that it was not seeking to limit in any way the privileges, immunities or rights of either House.

During debate on this motion, a number of concerns were raised, notably with regard to the separation of powers between the legislative and executive branches. Some Members expressed concerns that the RCMP did not report to the Speaker, and that this proposal could run counter to the privileges and immunities of the House and its Members. Despite these concerns, the motion was adopted on February 16, 2015.

In April 2015, the government tabled Budget 2015 in the House of Commons. The issue of security figured prominently in the federal budget, which allocated \$60.4 million over three years to support parliamentary security. The budget referred directly to the events of October 22, 2014, and stressed the need for integrated security on Parliament Hill while maintaining access to the Parliament buildings for all Canadians.

The subsequent budget implementation bill, Bill C-59, which received Royal Assent on June 23, 2015, amended the *Parliament of Canada Act* by adding provisions related to Parliamentary security. The definition of Parliamentary Precinct was clarified, notably, by grouping the precincts of the two Houses into a single precinct. The bill also created the Parliamentary Protective Service (PPS), a new statutory office that fully integrates the Protective Services of the Senate and the House of Commons with the services the RCMP provide in the Parliamentary Precinct.

The Service reports to a Director from the RCMP. He in turn reports to the Speakers of both Houses of Parliament who, as the custodians of the powers, privileges, rights and immunities of the Senate and the House of Commons are responsible for the PPS.

Following this change, the House of Commons established the Corporate Security Office (CSO). The CSO acts as the central point of coordination for corporate security risk management, as

liaison with the PPS and as special advisor to the House Administration on corporate security issues. The Corporate Security Officer and Deputy Sergeant-at-Arms currently leads the Office, and its responsibilities include project management of security infrastructure, event coordination, accreditation and security clearances, administrative investigations, parking allocation and enforcement, and ceremonial Chamber duties.

These changes complemented many other improvements to the physical security of Parliament. These included arming all uniformed personnel, improving communications in critical situations by deploying an emergency notification system, and implementing numerous physical enhancements to security systems and buildings, such as improved lighting for buildings in the precinct and additional training for security personnel.

Security and Access: Members and the Public

What does all this mean for Members of Parliament and for the public?

The events of October 22nd accelerated the need to adapt the Protective Service to meet modern threats while ensuring that Parliament remains an institution that is both open and secure.

Access to the Hill grounds has hardly ever been limited, even in times of national crisis, and we continue to work with our partners to maintain an open Parliament.

The importance of maintaining access to Parliament in the new security environment was further highlighted in April and May 2015, when two Members raised questions of privilege in the House on the subject. Both Members declared that they had been temporarily stopped by RCMP officers outside Centre Block while making their way to the House of Commons. They expressed concern

that the new security measures were impeding their access to the Chamber, a concern that goes to the heart of the individual and collective privileges of all Members.

In his ruling, my predecessor stated that the transition from the old security service to the new would undoubtedly present some challenges, but he stressed that the implementation of security measures cannot override the right of Members to access the Parliamentary Precinct, free from obstruction or interference. He assured Members that protecting the rights and privileges of the House and of its members was a priority. It was his belief, as it is mine, that the way to ensure a balance between a safe environment and respect for rights and privileges was for the protective personnel to know the people they serve, and to remain sensitive and responsive to their unique situation and their expectations. He indicated that the Commissioner of the RCMP shared this view.

Because these issues were of vital importance to all Members, Speaker Scheer concluded that the questions of privilege were *prima facie* and warranted immediate debate. A debate followed on the motion to refer these questions to a Standing Committee, but the House eventually defeated the motion.

Nevertheless, the Speaker's ruling clearly emphasized the role of the Speaker as custodian of the privileges and immunities of the Members of the House of Commons, as well as the importance of an open and accessible Parliament.

Despite changes to security and the new procedures following October 22, Parliament has remained open to the public. Guided tours and visits to the Peace Tower, the Memorial Chamber, the public galleries of the House, and to committee meetings, continue.

On the grounds of Parliament Hill, Canadians meet for weekly yoga classes, public gatherings, or simply to sit on the lawn to eat lunch and admire the neo-gothic architecture of the buildings. We also continue to host a variety of State visits, celebrations, ceremonies and demonstrations.

Plans to develop a new visitor welcome centre are well underway as part of a long-term plan to rehabilitate the Parliament Buildings, further demonstrating our commitment to openness and accessibility.

In a democracy, it is our duty as Members to ensure that it is truly the people's Parliament, and that it remains that way.

While security is paramount, we cannot lose sight of the fact that the openness that makes us vulnerable is the freedom that keeps us strong. I thank you for your attention and look forward to discussing this issue with you in the workshop forum.

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**THE ROLE OF THE SPEAKER IN THE SECURITY OF PARLIAMENT AND THEIR
PRECINCTS**

THE EXAMPLE OF THE AUSTRALIAN PARLIAMENT

**CONFERENCE OF SPEAKERS AND PRESIDING OFFICERS OF THE
COMMONWEALTH (CSPOC)**

MALAYSIA 2016

WORKSHOP 2

HON TONY SMITH MP

SPEAKER OF THE HOUSE OF REPRESENTATIVES, Australia.

In this paper I will provide information about the framework for security at the Australian Parliament, the role of the Presiding Officers, some historical background and current challenges and how we are responding to them.

Responsibility for security at Australian Parliament

The ultimate responsibility for security in the Australian Parliament rests with the Presiding Officers – the President of the Senate and the Speaker of the House of Representatives acting jointly. This responsibility is exercised on the basis of custom and practice and the inherent powers vested in the Presiding Officers to maintain proper arrangements for the functioning of Parliament. More recently however, this authority was given explicit statutory recognition in the *Parliamentary Precincts Act 1988* (Precincts Act). The Precinct Act delineates the physical limits of the parliamentary precincts (section 4 of the Act). It also expressly provides:

6 Control and management of precincts

- (1) The precincts are under the control and management of the Presiding Officers.
- (2) The Presiding Officers may, subject to any order of either House, take any action they consider necessary for the control and management of the precincts.
- (3) In respect of the Ministerial Wing in Parliament House, the powers and functions given to the Presiding Officers by subsections (1) and (2) are subject to any limitations and conditions agreed between the Presiding Officers and the Minister.¹

Thus the precincts are under the control and management of the Presiding Officers who can take whatever action they feel is necessary to exercise their authority. In the Ministerial Wing

¹ *Parliamentary Precincts Act 1988* (Cth) s. 6 (Austl.).

of Parliament House, the Presiding Officers' authority is exercised in association with a designated Minister representing the executive government. There is a written memorandum of understanding between the Presiding Officers and the relevant Ministers in Executive Government about the administration of the Ministerial wing.

Other important provisions of the Precincts Act include the power of the Australian Federal Police to arrest or hold in custody a person pursuant to an order of one of the Houses (section 8). It also provides for the Australian Protective Service (now part of the Australian Federal Police) to exercise security functions at Parliament House under an agreement with the relevant Minister (section 9). The Presiding Officers have memoranda of understanding with relevant Ministers in relation to both of these matters. Finally, the Precincts Act provides that the *Public Order (Protection of Persons and Property) Act 1971* applies to the precincts as though they were Commonwealth premises for the purpose of the Act (section 11). It is the Public Order Act that is used most often if there are prosecutions for offences associated with protest action committed in the precincts.

Background to current security situation

Opened on 9 May 1988, Parliament House's design was selected through an international competition conducted by the Parliament House Construction Authority. The brief for the design of the building called for openness and accessibility:

The philosophy which the building expresses, and its popular success, will depend in part on the extent to which public access and involvement is encouraged by the design. Parliament House should not appear remote and inaccessible. Access to both the site and the building should be facilitated. Within the building, connotations of a 'people's Parliament' and 'open government' will be established if people can penetrate the building and observe its operation...²

The general public have access to about one-fifth of Parliament House. By contrast, it has been estimated that 10 per cent of the Houses of Parliament in London is accessible to visitors, and 14 per cent of the Scottish Parliament. With Parliament House designed to facilitate greater access to parliamentary proceedings for members of the public, this has ramifications for maintaining the security of all building occupants, including visitors, employees, Members and Senators.

It is finding this balance between the "people's parliament and open government" and ensuring the safety of those who visit and work in Parliament House in what is now a heightened security environment, that creates one of the greatest dilemmas for the Presiding Officers.

It would be fair to say that, prior to 1978, security at the Australian Parliament House (then Old Parliament House) was minimal. A number of security incidents at Parliament House and

² Parliament of Australia, Canberra, viewed 21 December 2015, http://www.aph.gov.au/Visit_Parliament/About_the_Building/Architecture_and_the_Architect

wider security incidents, most particularly the bombing of the Hilton Hotel during Australia's hosting of the Commonwealth Heads of Government Regional Meeting in Sydney on 13 February 1978, led to the first significant tightening of security at Parliament House. The occupation of New Parliament House in 1988, the building we now occupy, was accompanied by additional security resources and measures and saw the enactment of the Precincts Act referred to earlier to provide a legislative framework around the protective security arrangements for the new building.

However, it was only following the terrorist attacks in the United States of 11 September 2001 and the Bali bombings on 12 October 2002 that security at Parliament House was upgraded significantly. A review of aspects of parliamentary administration, including security, undertaken by the Parliamentary Service Commissioner (known as the Podger Review after the then Parliamentary Service Commissioner, Mr Andrew Podger) noted:

The current base line security arrangements for Parliament House were initially established in 1988, when the new premises commenced operations. Since that time, despite some significant changes to threat levels, only minor changes have been made to the security protection plan.

The September 2001 incident has dramatically changed the security landscape and has established the need to ensure that preventative structures are in place, at all times, to counter the potential threats.³

The advent of what became known as the 'new' terrorism caused a radical rethink of parliamentary security. A range of measures to strengthen the physical security of Parliament House were implemented and additional security staff, particularly those stationed externally were engaged. There was also a significant reworking of security management and administration. Responsibility for security was centralised as a joint, coordinated, service in the Department of Parliamentary Services which has responsibility to provide a wide range of joint services to the two Houses, and their members, of the Australian Parliament. This was one of the key recommendations of the Podger Review. A statutory Security Management Board also was established as a high level advisory and oversight body to advise the Presiding Officers on parliamentary security. The role of the Board as provided under the *Parliamentary Services Act 1999* is as follows:

65A Security Management Board

- (5) The function of the Board is to provide advice as required to the Presiding Officers on security policy, and the management or operation of security measures, for Parliament House.⁴

³ Podger, Andrew (2002). Review by the Parliamentary Service Commissioner of Aspects of the Administration of the Parliament, Final Report, p 7.

⁴ *Parliamentary Services Act 1999* (Cth) s. 65A (Austl.).

The Board comprises the Secretary of the Department of Parliamentary Services, the Usher of the Black Rod and the Serjeant-at-Arms. Most recently, the Australian Federal Police has been added as a member of the Board. Representatives of relevant Departments are invited to attend meetings as required and requested.

The current challenges in our common security environment, with the rise of extremist ideologies, the spread of localised conflicts across borders, the radicalisation of young people and the recruitment of foreign fighters, have seen the need for a further tightening of security at the Australian Parliament. The nature of the threat has shifted with a greater emphasis on the potential for isolated, random attacks that create particular challenges. The attack on the Canadian parliament in 2014 is a good example of how this sort of threat can manifest itself. The attacks in Paris in November 2015 demonstrated an ability to launch coordinated attacks adding to our security concerns.

In a major statement to the House of Representatives on national security following the attacks in Paris, the Australian Prime Minister, the Hon Malcolm Turnbull MP stated:

The Paris attacks demonstrate ISIL has an ability to launch concerted attacks in Western cities. It was also a reminder that, while coordinated, there is not much sophisticated planning required for armed fanatics to slaughter unarmed civilians with military assault rifles and suicide vests. As Prime Minister, and speaking on behalf of the heads of ASIO and the AFP, as well as the Chief of the Defence Force, I want Australians to be aware that a terrorist incident on our soil remains likely but also that Australians should be reassured that our security agencies are working diligently and expertly to prevent that happening.⁵

The response of the Australian Parliament to the changing nature of the threat has seen a further reworking of our security defences. These have included further enhancement to the physical security of the building, an increased and enhanced armed presence at the entrances to the building and within the building, and other measures to tighten general security procedures and processes. In a significant development, the Presiding Officers have vested the overall coordination of security at Parliament House in the Australian Federal Police (AFP). The AFP work closely with parliamentary authorities and staff to provide a single security response which nevertheless is sensitive to the particular circumstances of delivering security within a parliamentary context. In particular, the AFP works closely with the Serjeant-at-Arms and the Usher of the Black Rod on a daily basis in relation to security policy and operations.

Managing the security responsibility

As can be seen from this discussion of the framework and the history of security at the Australian Parliament, the Presiding Officers have the pivotal role in parliamentary security. Ultimately they are responsible for the security of the building and its occupants. In the

⁵ Parliamentary Debates. House of Representatives. 24 November 2015, p 6.

current context with the threats that are present, this is a very heavy responsibility which we as Presiding Officers take very seriously. The Presiding Officers must ensure the safety and security of occupants, visitors and the building, and this responsibility must be at the centre of all considerations. However, this overriding responsibility must be balanced by the recognition that the Parliament is a working institution and those who work within the institution and those who visit it must have as free and ready access as is necessary to appropriately support the business of the Parliament. There is also a clear recognition that the powers, privileges and immunities conferred on the Houses, their committees and their Members, should not be impeded in inappropriate ways.

Achieving this balance is not easy and the tipping point constantly changes as the security environment changes. Measures which might be seen as completely unacceptable within one security context, become reasonable when the security environment changes and perceptions of risk are increased. Security at Parliament House also is taking place in public view and so is subject to more scrutiny than would apply to any other institution. In the case of the Australian Parliament, there is an added complexity in that the Parliamentary Press Gallery, which scrutinises the activities of Parliament, is also housed within the parliamentary building and so is subject to the same security restrictions as other building occupants meaning any security measures are very visible to them. Of course such scrutiny however should not deter consideration of important security enhancements.

Ensuring the parliamentary institution remains open and accessible is critical. Our democratic system is founded on perceptions that the general public can have ready access to their elected representatives and can participate in the democratic process. When security is seen to impinge unduly on reasonable accessibility, concerns will be raised that security measures have gone too far and there is a need to pull back.

I believe we are achieving an appropriate balance in the Australian Parliament with the implementation of the most recent security measures. We currently face a serious security situation and it would be negligent not to be significantly upgrading our security measures in accordance with advice from our security agencies. Security at Parliament House is under constant review with advice provided to the Presiding Officers on a regular basis.

There are three key approaches we have taken which I believe have assisted in getting the right balance.

First, the task has been approached on the basis that it is a long term response. There is every indication that the security environment we face now will continue well into the future. We need to build an awareness that it is a long term task and implement measures that are aimed at the longer term.

Second, and flowing from the first point, the security measures implemented must be considered carefully. It is not helpful to maintaining confidence in the security framework if measures are seen to be hurried, ill-considered, inconsistent or incomplete. As Presiding

Officers we have adopted a holistic approach to the tasks of identifying and implementing appropriate security measures. We have carefully evaluated the proposals that have been made to us by security authorities and have sought to ensure that they meet the test of reasonableness and are a proportionate response to the threat we face.

Third, communication is vital. This involves communicating both generally about the security situation we face and about the rationale for security measures that are being taken. Because of the understandable confidentiality that can surround the security environment and the measures in response, it is not always possible to be fully transparent about why particular approaches are being taken. Within these constraints, it is important to be as open and comprehensive as possible about the measures being implemented. Appropriate communication means that building occupants are not taken by surprise and the security measures taken can be seen in context.

Conclusion

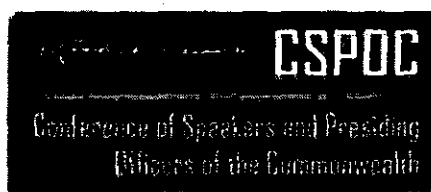
As our parliamentary institutions face the challenges of the future, our response to an increasingly complex and difficult security environment will be critical not only to our institutions but to the democratic systems that underpin them. Presiding Officers, because of their particular responsibilities, are at the centre of this challenge. We can only respond properly by being acutely aware of, the core values and philosophies that our institutions bear, the nature of the buildings that they occupy, and the occupants of, and visitors to, those buildings.

We are also the custodians of our institutions and must have centrally in our minds the damage that can be done to them by overreaction or overreach. In the end it is all about getting the balance right.

To conclude, I would like to quote the Australian Prime Minister, the Hon Malcolm Turnbull MP in a speech he gave recently to the House on national security:

When innocent people are dying at the hands of violent extremists, no matter where in the world this is happening, hard questions are asked of societies like our own—hard questions for which there are no easy answers. For all freedom-loving nations, the message could not be clearer: if we want to preserve the values that underpin our open, democratic societies, we will have to work resolutely with each other to defend and protect the freedoms we hold dear.⁶

⁶ Parliamentary Debates. House of Representatives. 24 November 2015, p 5.



E3

REPORT OF THE 23rd CONFERENCE OF SPEAKERS AND PRESIDING OFFICERS OF THE COMMONWEALTH

Workshop THREE (Title): PARLIAMENTARY PRIVILEGE – PROTECTING THE EFFECTIVE FUNCTIONING DEMOCRACIES

Chairperson : Hon. Speaker Tony Smith (Australia)

Date of Workshop : Tuesday, 12 January 2016

Time : 10.15 – 11.45 am

Presenter 1 : *Hon. Donatile Mukalabisa, Speaker (Rwanda)*

Presenter 2 : N/A

1.0 Presentation

1.1 Pertinent Points of the First Presenter:

- The first presenter, Hon. Speaker Donatile Mukalabisa, began her presentation by pointing out that that Parliamentary privilege is an essential part of parliamentary democracy. It ensures that the Members of Parliament are able to speak freely in debates during their sessions, and protects Parliament's internal affairs from any interference.

- Speaker Mukalabisa noted that parliamentary privilege is sometimes a misunderstood concept as it is associated with special treatment for individuals.
 - She pointed out that Parliamentary privilege is a protection for the proceedings of Parliament debates, committee hearings, votes etc., and indirectly for the individuals who participate in them. It is to safeguard and ensure that parliamentarians, are able to carry out their duties to the best of their ability and be carried out to the highest possible standards.
 - However, it would be inappropriate to attempt to use privilege as a shield to protect parliamentarians from the public or individuals. Parliamentarians should be able to accept criticism as they must remember that even though Parliament holds the executive to account, parliamentarians must also understand that they are accountable to the public.
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2.50

- Speaker Mukalabisa pointed out that parliamentarians enjoy 3 main privileges namely (i) Freedom of Speech, (ii) Freedom from arrest and (iii) Power to regulate its own Proceedings, i.e. internal autonomy.
- On freedom of speech, she said that it is essential to “immunize” parliamentarians from any fear, to enable members to express themselves freely in the House – and a provision of the Rwandan Constitution provides for this immunity.

- On freedom from arrest, the same article in Rwandan Constitution provides restrictions on the circumstances in which members can be arrested.
- Speaker Mukalabisa also brought up the importance of parliamentary sovereignty by determining and enforcing their own procedures; and that this necessarily includes the regulation of conduct in those proceedings in the House. She pointed out that it is very necessary for the proper working of the Parliament that it is able to discharge its functions without any outside interference and maintain its independence from external pressures.

2.0 General discussions and views by members:

Comments from the floor touched on several important points:-

- ~~One such point is about the possibility of **Judicial Activism** – the~~ Speaker and parliamentarians should be able to act without fear or favour. Judicial processes should be separate and not seek to interfere with legislators or the legislative processes. Matters before Parliament have their own procedures/ provisions within the constitution even to the issues of respect of minority interests.
- **Parliamentary privilege and immunities as regards to arrest** – the Parliament should manage its own internal affairs to protect its own integrity for its members. For example, full respect for the separation of powers means that the Executive should not interfere. Nevertheless, members of parliament are not above the operations of the ordinary law and should not have any special protection.

- **Powers to regulate its own proceedings** - Parliament has powers to manage and control of its internal affairs and proceedings to protect its integrity and dignity. It is parliament's inherent powers to protect its members via parliamentary privilege.
 - **Training on Parliamentary privilege and immunity** – parliament calls for adequate and consistent training on how to use parliamentary privilege and immunities for its members to enable them to function effectively in the House. Parliamentarians have to understand parliamentary privilege, immunities and rules of debate.
 - **Social Media and Technology** - Parliamentary privilege does not extend to the realm of social media including use in the chamber or committees and members should be cautious in its use.
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- **Use of parliamentary privilege with restraint** – When using or enforcing parliamentary privilege and immunity, members are called not to exercise over-reach or over-expand the privilege because parliamentary privilege and immunities should serve as caveat from the danger and abuse over those privileges.

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**“PARLIAMENTARY PRIVILEGE - PROTECTING:
THE EFFECTIVE FUNCTIONING OF DEMOCRACIES”**

**BY JUSTICE DR PATRICK MATIBINI, SC, MCI Arb, MP.
SPEAKER OF THE NATIONAL ASSEMBLY OF ZAMBIA.**

**A PAPER PRESENTED TO THE 23RD CONFERENCE OF
SPEAKERS AND PRESIDING OFFICERS OF THE
COMMONWEALTH, (CSPOC), KOTA KINABALU, SABAH,
MALAYSIA, 9TH TO 14TH JANUARY, 2016.**

1.0 The primary purpose of this presentation is to consider how parliamentary privilege can be employed to protect and promote the effective functioning of democracies. The question that falls to be addressed from the outset is this: What is parliamentary privilege? The word itself in the context of parliamentary affairs, is an unfortunate term as it implies a special advantage rather than a special protection. Yet the privilege of parliamentarians allows the Houses and their Members to perform their duties without outside threat or interference. These rights are absolutely essential for the execution of parliament's powers and functioning of democracies in general. There are two fundamental elements that comprise parliamentary privilege. These are freedom of speech and freedom of the House to regulate its own affairs. Additionally, parliamentary privilege is also said to include, the power to cite offenders for contempt, as well as freedom from arrest. These elements will be considered below.

1.1 FREEDOM OF SPEECH

Freedom of speech entails that a Member may state whatever he or she thinks fit in debate, without fear of being sued or prosecuted in the course of the proceedings of the House or indeed in any of the Committees. Thus the freedom allows a Member of Parliament to speak freely on behalf of his or her constituents without fear of facing any legal action or retribution of any kind. In the Zambian context, this freedom is protected or guaranteed by the National Assembly (Powers and Privileges) Act Chapter 12 of the Laws of Zambia, where it is provided in section 3 as follows: *"There shall be freedom of speech and debate in the Assembly. Such freedom of speech and debate shall not be liable to be questioned in any court or place outside the Assembly."*

The preceding section, in effect, mirrors Article 9 of the Bill of Rights of 1989 when it provides:

"That the freedom of speech and debate or proceedings in parliament ought not to be impeached in any court or place out of Parliament."

Article 9 was originally the first and much the most important of the parliamentary privilege claimed. But, I must hasten to add that this freedom of speech is limited to the proceedings in the House. Therefore, the freedom extends to anything said in debates on the floor or in Standing or Select Committees. It also includes anything put in writing that forms part of the proceedings such as the text of any question or Minister's written answer, amendment or any document published by the order of the House. This element of privilege does not however extend to press conferences, letters to constituents or to Ministers on words said at ordinary public meetings.

To illustrate the application of this aspect of parliamentary privilege, we shall refer to a decision decided by the Supreme Court of Zambia, in the case of *Attorney General v The Speaker of the National Assembly of Zambia and Sondashi*, (2003) Z.R. 42. The brief facts giving rise to this appeal were that Dr Sondashi, a Member of Parliament then, was reported to have given an interview to a local tabloid where he was reported to have stated that "*Coups Can be Positive*". As a result of this interview, a point of order was raised on the floor of the House as to whether or not Dr Sondashi had breached the Oath of Allegiance to protect the Constitution. In a ruling made by the Deputy Speaker, the matter was referred to the Standing Orders Committee. The Standing Orders Committee subsequently made a decision to suspend Dr Sondashi from sitting in the National Assembly, and from enjoying all the privileges attached to the office of a Member of Parliament of the National Assembly. Dr Sondashi aggrieved by the decision taken, applied for leave to apply for judicial

review. Eventually, the trial court entered judgment in his favour. Hence the appeal by the Attorney General; acting on behalf of the National Assembly of Zambia.

On appeal, the Supreme Court held that it was not prepared to accept that the Oath of Allegiance taken or subscribed to by a Member of Parliament entailed a derogation of their freedom of speech outside Parliament. That is, the taking of an Oath cannot constrain Members of Parliament from exercising their constitutional right of expression. Above all, the Supreme Court further held that the publication complained of had nothing to do with any proceedings in the National Assembly. The appeal by the Attorney General (on behalf of the National Assembly) was, therefore, dismissed.

1.2 POWER TO REGULATE INTERNAL PROCEEDINGS

The second major element in modern parliamentary privilege is the freedom of the Houses to regulate their own affairs. In the Zambian context, the freedom of Parliament to regulate its own affairs has its genesis or origin in the Constitution. Article 86(1) of the Constitution of Zambia provides as follows:

“Subject to the provisions of the Constitution, the National Assembly may determine its own procedure.”

Additionally, Article 87(2) goes on to provide that the National Assembly and its Members shall have such privileges, powers and immunities as prescribed by an Act of Parliament. But the law and custom of Parliament of England may in default of the Act apply to the Zambian National Assembly with such modifications as may be prescribed by or under an Act of Parliament.

This freedom for Houses to regulate their own affairs is known as “*exclusive cognizance*”. Thus the learned authors of Erskine May,

Treatise on the Law, Privileges, Proceedings and Usage of Parliament, Twenty Fourth Edition (London, Lexis Nexis, 2011), state (at page 227), that by "exclusive cognizance" is meant the right of Houses to be the sole judges of lawfulness of their own procedures and to settle or depart from their own codes of procedure. This is mostly the case where the Houses in question are dealing with a matter which is finally decided by its sole authority, such as an order, resolution or a bill. This principle holds true even where the procedure of a House or the rights of its Members or officers to take part in its proceedings depends even on matters prescribed by statute.

To illustrate, in the English case of *Bradlaugh v Gosset* [1884] 12 Q.B.D. 271, a question arose whether Bradlaugh who had been returned a member had qualified himself to sit by making an affirmation instead of taking the oath. Later, he was prevented from taking the oath by an order of the House. In the course of the judgment to have the order declared void, Stephen J, declared that even if the House of Commons forbade a Member to do what statute required him to do and in order to enforce the prohibition, (excluded him from the House), the Court had no power to interfere. He went on to observe as follows:

"The House of Commons is not subject to the control of ... [the] courts in its administration of that part of the statute law which has relation to its own internal proceedings... Even if that interpretation should be erroneous [the] court has no power to interfere with it, directly or indirectly."

In the Zambian context, the doctrine of exclusive cognizance was first applied in the case of *Re Nalumino Mundia* (1971) Z.R. 70. This was an application for leave to apply for an order of *certiorari* directed to the chairperson of the Standing Orders Committee of the National Assembly of Zambia requiring him to remove into the court for the purpose of having

it quashed, an order suspending the applicant, Nalumino Mundia, from the National Assembly of Zambia for a period of three months.

In delivering the judgment, Hughes, J, observed that the application raised an important constitutional issue regarding the extent of the High Court's jurisdiction in relation to the affairs of Parliament. In the course of the judgment, Hughes, J, observed that the question had led to considerable conflict in England in reconciling the law of privilege of the House of Parliament with the general law. Thus in resolving the matter, Hughes, J, relied on Erskine May Parliamentary Practice, 17th Edition, where it is observed at page 152 as follows:

"The solution gradually marked out by the courts is to insist on their right in principle to decide all questions of privilege arising in litigation before them with certain large exceptions in favour of parliamentary jurisdiction. Two of these which are supported by a great weight of authority are the exclusive jurisdiction of such House over its own internal proceedings and the right of either House to commit and punish for contempt."

In a word, Hughes, J, concluded that the High Court has no power to interfere with the exclusive jurisdiction of the National Assembly in the conduct of its own internal proceedings.

In any event, in the Zambian context, the principle or notion of "exclusive cognizance" is encapsulated by section 34 of the National Assembly (Powers and Privileges) Act, which is expressed in the following terms:

"Neither the Assembly, the Speaker nor any officer shall be subject to the jurisdiction of any court in respect of the exercise of any power conferred on or vested in the Assembly, the Speaker or such

officer by or under the Constitution, the Standing Orders and this Act."

Thus the National Assembly, the Speaker or an officer of the Assembly have exclusive cognizance or jurisdiction in the exercise of any power conferred on or vested in the Assembly, the Speaker or officer, by the Constitution, the National Assembly (Powers and Privileges) Act, and the Standing Orders of the National Assembly.

Therefore, while the National Assembly may, for instance, be amenable to judicial review in respect of the exercise of administrative discretion generally, section 34 ousts the jurisdiction of the courts in relation to the exercise of powers given to the National Assembly by the Constitution, National Assembly (Powers and Privileges Act), and Standing Orders – in relation to its internal proceedings or business.

The application of the doctrine of exclusive cognizance is also discernible in other Commonwealth jurisdictions (other than England of course), which practice constitutional democracy. A case in point is India. To illustrate, we shall refer to a few decided Indian cases. The first is the case of *Hem Chandra Sengupta Gupta and Others v The Speaker of the Legislative Assembly of West Bengal*, AIR 1956 CAL 378. The facts of the case were that, the Chief Minister of West Bengal had issued a notice to move a motion for the West Bengal Legislative Assembly, to approve a proposal for the union of the States of West Bengal and Bihar. Opposed to the merger, the petitioners sought to restrain the Chief Minister from pursuing the motion. The petitioners also sought to restrain the Union of India from bringing any Bill or legislation in Parliament aimed at uniting the two States. Thus the petitioners sought for a combination of prerogative writs of *mandamus* and *certiorari*, not only to restrain the Chief Minister from functioning or drawing his salary, but also to restrain the Speaker from

presiding over the Legislature. In resolving the issue whether court process could be used to stall an internal process of the Assembly, the High Court of Calcutta relied on the construction of Article 212 of the Indian Constitution, whose provisions coincidentally are similar to the provisions of section 34 of the *Zambian National Assembly (Powers and Privileges) Act*, albeit is more elaborate. Article 212 of the Indian Constitution provides as follows:

"212(1) The validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure."

Article 212(2) goes on to provide as follows:

"212(2) No officer or Member of the Legislature of a State in whom the powers are vested by or under this Constitution for regulating procedure or the conduct of business for maintaining order in the Legislature shall be subject to the jurisdiction of any court in respect the exercise by him of those powers."

In construing the preceding provisions, the High Court made the following observation in paragraph 22 of the judgment:

"Under the rules of procedure framed by the Assembly under Article 208, a Member was at liberty to bring forward any resolution provided the rules were observed. It was for the Speaker of the House to allow or disallow such a resolution to be raised or discussed in the House. The courts could not at that stage seek to regulate the procedure of the House and arrogate to itself the powers of the Speaker. If however a law was passed or a resolution adopted or a motion carried, which was not in

accordance with the Constitution, such a law or resolution of motion could be declared invalid by the court."

The High Court went on to observe at paragraph 23 of the judgment as follows:

"The Constitution lays down the respective jurisdictions of the Legislatures and the courts to make laws and the courts to administer them. The powers, privileges and immunities of the State legislature, and their Members have been laid down in the Constitution. Within the Legislature, Members have absolute freedom of speech and discussion (Article 194). Subject to the provisions of the Constitution, they can regulate their own procedure (Articles 208, 212) in such matters and within the allotted spheres, they are supreme and cannot be called in to account by the courts of the land. The courts are therefore not interested in the formative stages of any law. Even where a law has been promulgated, it is not the duty of the courts to act in a supervisory character and rectify the defects "suo motu"

It is noteworthy that in the *Gupta* case (referred to above), the High Court referred to and relied on the English case of *Queen v Lord Commissioners of the Treasury [1872] Q.B.D. 387*, where it was held that the Legislature had the exclusive cognizance to decide its own affairs. In this regard, the High Court in the *Gupta* case adopted the statement of Blackburn, J, as follows:

"I must observe in saying this that there is not the slightest intention on my part to question the exclusive prerogative of the House of Commons in voting the money. As long as the thing remain "in fieri," a resolution in the House, it could not, I believe, be brought

properly before this court. But when the money has been voted, and the money has been granted, and an Appropriation Act has been passed, then it has become an Act of the Legislature, and we must construe it when it comes before us as we should do any other Act."

The import of the *dicta* of Blackburn, J, cited above, is that no action can be commenced to challenge a decision of a Legislature before the decision is actually made. Any challenge must be mounted after a decision has been made.

To summarise, Harry Evans in his book entitled, Odgers Australian Senate Practice, Twelfth Edition (Canberra, Canprint Communications Pty Limited, 2008) (at page 3), observes that immunity of parliamentary proceedings from impeachment and question in the courts is the only immunity of substance protected by the Houses and their Member's Committees. He goes on to observe that there are two aspects of the immunity. First, there is immunity from civil or criminal action and examination in legal proceedings of Members of the House and of witnesses and others taking part in proceedings in Parliament. As pointed out earlier on, this immunity is known as freedom of speech.

Second, there is the immunity of parliamentary proceedings as such from impeachment or question in the courts. The immunity from impeachment or question in the courts, the learned author of Odgers Australian Senate Practice observes (at page 3) is in essence a safeguard of the separation of powers: it prevents the other two branches of government, the Executive and the Judiciary from calling into question or inquiring into the proceedings of the Legislature. We will consider this doctrine below.

1.3. DOCTRINE OF SEPARATION OF POWERS

The immunity of parliamentary proceedings from impeachment and question comes down to respect and promotion of the doctrine of separation of powers between the Executive and the Judiciary. The operation of the doctrine of separation of powers was in the Indian case of *State of Kerala v R Sudarsan Courts Bahu and Others AIR 1984 Ker 1*, explained by the Supreme Court of India in the following terms:

"... The Indian Constitution conceives the Judiciary and the Legislature as different organs of the State having independent specified functions. Just as it is within the power of the Legislature to exercise all functions conferred on it, there are functions conferred on the Judiciary by the Constitution which it is expected to perform in accordance with the Constitution. Immunity from action would be desirable if proper functioning is to be secured and such immunity has been conferred in the Legislature by Article 194 read with Article 212 of the Constitution, while immunity from discussion by the Legislature has been conferred by Article 211. True democratic spirit call for mutual respect by these institutions, and avoidance of trespass."

Similarly, in the English case of *Hamilton v Al Fayed [1999] 3 ALL E.R 317*, Lord Wolf M.R., explained the doctrine of separation of powers in the following terms at page 333 of the judgment:

"...There is a long line of authority which supports a wider principle of which Article 9 is merely a manifestation, viz, that the courts and Parliament are both astute to recognize their respective constitutional roles. So far as the courts are concerned, they will not allow any challenge to be made what is said or done within the walls of Parliament in the performance of its legislative functions

and protection of its established privileges. As Blackstone said (1BI Com. 17th Edition) 163: The whole of the law and custom of Parliament has its origin from this one maxim, that whatever matter arises concerning either House of Parliament ought to be examined, discussed and adjudged in that House to which it relates, and not elsewhere”.

Similar observations are echoed by the learned authors of M.N. Kaul and S.L. Shakdher, Practice and Procedure of Parliament, Sixth Edition (New Delhi, Metropolitan Book Company P.V.T. Limited, 2009) at page 239 as follows:

“Parliament is sovereign within the limits assigned to it by the Constitution. There is inherent right in the House to conduct its affairs without any interference from an outside body ... In the matter of judging the validity of its proceedings, the House has also collective privilege to declare what it will discuss and in what order, without any interference from a court of law ... The House is not responsible to any external authority for following the procedure it lays down itself, and it may depart from that procedure at its own discretion. The validity of any proceedings in Parliament cannot be questioned in any court on the ground of any alleged irregularity of procedure. No officer or Member of Parliament, in whom powers are vested for regulating the procedure on the conduct of business or for maintaining order in Parliament, is subject to the jurisdiction of any court in respect of the exercise of those powers.”

1.4. POWER TO PUNISH FOR CONTEMPT

The power to punish for contempt is generally considered to be a necessary incident of the austerity and functions of the Houses of Legislatures. And is also an essential aspect or dimension of

parliamentary privilege. Thus the Houses of Legislatures do not rely on courts to maintain the authority and dignity of the Houses, as well as the various privileges and immunities of the Houses. Apart from maintaining the authority and dignity of the House, the power of House to punish for contempt is also used to secure compliance with their orders such as for the attendance of witnesses or prohibition of interference with witnesses. The main powers employed in the exercise of penal jurisdiction of Houses historically, have been to imprison, fine, suspend, expel, or reprimand. The severest and historically most important is that of imprisonment. It is also known as commitment. And was once described as the keystone of parliamentary privilege. It is no longer so. A house can commit to prison in appropriate cases, those who challenge its authority, infringe its privileges or otherwise offend against it.

As the Houses have the power to punish those who offend against them – a power which the courts do not at any rate challenge – so it is competent for the Houses to define and decide on those actions which it may punish. In the Zambian context, a person may in terms of section 19 of the National Assembly (Powers and Privileges) Act, be held guilty for contempt in the following circumstances:

- (a) Having been called upon to give evidence before the Assembly or an authorized Committee, refuses to be sworn or make an affirmation; or
- (b) Being a witness misconducts himself; or
- (c) Causes an obstruction or disturbance within the precincts of the Assembly Chamber during a sitting of the Assembly or a Committee; or
- (d) Shows disrespect in speech or manner towards the Speaker; or
- (e) Commits any other act of intentional disrespect to or with reference to the proceedings of the Assembly or to any person presiding at such proceedings.

According to Robert Blackburn and Andrew Kennon, with Sir Michael Wheeler-Booth, the learned authors of Griffith and Ryle on Parliament Functions, Practice and Procedures, 2nd Edition (London, Thomson Reuters (Legal) Limited, 2010) (at page 137), the law of contempt is also grounded on the basic privilege of freedom of speech because contempt consist of any act or omission which obstructs or impedes the House in the performance of its functions or which obstructs any member or officer of such House in the discharge of his duty. Such obstruction or impedance essentially amount to restricting the freedom of speech in the House.

1.5 FREEDOM FROM ARREST

We pointed out earlier on that parliamentary privilege also includes the freedom from arrest. The principle upon which the privilege of freedom of arrest is based is the priority of attendance by Members. However, we must hasten to add that the freedom of arrest has never been allowed to interfere with the administration of criminal justice. Therefore, for all intents and purposes, this aspect of parliamentary privilege is of limited application. In the Zambian context, section 5 of the National Assembly (Powers and Privileges) Act, simply provides that for the duration of a meeting, members shall enjoy freedom from arrest for any civil debt except the contraction of which constitutes a criminal offence.

However, in all cases in which Members of Parliament are arrested on criminal charges, the convention which is usually applied is that the House must be informed of the cause for which Members of Parliament are detained from their service in Parliament. Such communications are also made whenever Members are in or have been committed to prison for any criminal offence by a court of law.

1.6 CONCLUSION

It is clear from the preceding discussion that all actions of Members of Parliament in the course of parliamentary proceedings are protected by parliamentary privilege. Parliamentary privilege underpins the status and authority of all Members. Without this protection, individual Members would be severely handicapped in performing their functions or duties.

Beyond facilitating the effective functioning of Members of Parliament, parliamentary privilege through the exercise of freedom of speech, also enables democracies to function effectively. Governance is through parliamentary privilege made more transparent, and accountable. Further, representative democracy is also enhanced by parliamentary privilege, because it is through Members of Parliament, that citizens are able to participate effectively in the affairs of the country. In a word, parliamentary privilege is an effective and essential tool that allows Members of Parliament to discharge their duties without let and hindrance.

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PRESENTATION ON PARLIAMENTARY PRIVILEGE – PROTECTING THE
EFFECTIVE FUNCTIONING OF DEMOCRACIES
BY RIGHT HONOURABLE MUKABALISA DONATILLE,
SPEAKER OF THE CHAMBER OF DEPUTIES/ RWANDA PARLIAMENT
23RD CONFERENCE OF SPEAKERS AND PRESIDING OFFICERS OF THE
COMMONWEALTH
THE MAGELLAN SUTERA RESORT, KOTA KINABALU, SABAN, MALAYSIA,
12th JANUARY 2016

**Right Honorable Speakers and Presiding Officers,
Honorable Members of Parliaments,
Distinguished Ladies and Gentlemen,**

First and foremost, allow me to take this opportunity to wish all of you a Happy and Prosperous New Year 2016 and I also take this occasion to sincerely thank the Republic of Malaysia in general and Parliament of Malaysia in particular for an excellent organization of the conference and for the warm hospitality and a good environment provided to us for this important Conference.

During this 23rd Conference of Speakers and Presiding officers of the Commonwealth, I have the honor to talk about “*Parliamentary privilege in protecting the effective functioning of democracies*”.

What we can all agree upon is that Parliamentary privilege is an essential part of parliamentary democracy. It ensures that the Members of Parliament are able to speak freely in debates during their sessions, and protects Parliament's internal affairs from any interference.

We also agree that the three institutions of a State such as Legislature, Executive and Judiciary have their own specific role in sustaining and strengthening the democratic system. They owe equal responsibility towards achieving the objectives of the Constitution for the benefit of the entire society.

The differences among them can be observed only in the political environment in which they operate. All organs of the State need to work with respect for each other and in closer and greater cooperation to create a conducive environment for the implementation of the full desire and proposals of the people they represent and work for in these organs.

The intention of this paper is to facilitate a wide-ranging and open debate on parliamentary privilege.

1. Understanding parliamentary privilege

Parliamentary privilege is a protection for the proceedings of Parliament debates, committee hearings, votes etc.... and indirectly for the individuals who participate in them. It is a safeguard to ensure that parliamentarians, are able to carry out their duties to the best of their ability, and that all of

Parliament's vital constitutional functions can be carried out to the highest possible standards.

Parliamentary privilege is sometimes a misunderstood concept as it is associated with special treatment for individuals. The term "parliamentary privilege" might superficially imply, to those not familiar with it, that there are special rights or protections for parliamentarians, perhaps even to the extent that MPs are "above the law".

Fundamentally, Parliamentarians try to engage actively with the public, and want people to know what they are doing and get their input. In this environment, it would be inappropriate to attempt to use privilege as a shield to protect parliamentarians from the public or individuals. Criticism must be accepted, even if it is sometimes unjustified, and parliamentarians must hold themselves to the highest standards that would be expected from any member of the society.

Parliament holds the executive to account, but parliamentarians must also understand that they are accountable to the public. Privilege only comes into play when it is required to support the basic core responsibilities of a Parliament, and then only to support that work.

2. Enjoying Parliamentary privilege

Parliamentarians are enjoying three (3) main privileges which are actually a mandate for representatives of the population:

(a) Freedom of speech

Anything said in Parliamentary meeting cannot have any negative impact on a Parliamentarian. The essence of Parliamentary democracy is a free, frank and fearless discussion in Parliament. For a House of Parliament, freedom of speech within the House is of utmost significance. To enable members to express themselves freely in the House, it is essential to immunize them from any fear, that they can be penalized for anything said by them within the House.

Extensive debate is a tool of parliamentarians, whereby interlocutors set out their own positions, test and probe those of other participants, and try to convince everyone present that the path being advocated is the best option. It is important to bear in mind that there is a common goal, namely the public good, although there are certainly differences of opinion as to how best to reach that goal.

Parliamentarians are not representatives of only part of the population, they represent a nation as a whole and not only those who elected or nominated him/her, or the political organization which seconded his/her candidacy during elections. So MPs exercise their mandates freely and are not bound by any undertakings given before their election or instructions received from voters during their mandate.

In Rwanda, the Rwandan Constitution guarantees in its article 68 on Immunity for members of Parliament and procedures of their prosecution that

“No member of Parliament may be prosecuted, pursued, arrested, detained or judged as a result of his or her opinion expressed or vote during the exercise of his or her duties”.

This freedom of speech exists in parliamentary proceedings, which includes among other things debates, committee hearings and published reports as well as outside the house as MPs as any other person have the right to voice their opinions without fear or any punishment. It is actually a mandatory duty of the members of Legislature to attend and deliberate on the matters of public importance.

(b) Freedom From Arrest

In Rwanda, the same article 68 of the Rwandan Constitution stipulates that “No member of Parliament suspected of a felony or misdemeanour may be prosecuted or arrested without the authorization of the Chamber to which he or she belongs by a two thirds (2/3) majority vote of members present, except where a member of Parliament is caught red-handed committing a felony or misdemeanor”.

Any member of Parliament definitively convicted of a felony or misdemeanour shall automatically be relieved of his or her parliamentary duties.

Each Chamber of Parliament through the Organic Law determining its functioning provide for gross misconduct which may lead to the removal from office of a member of that Chamber upon approval of its members. In such a

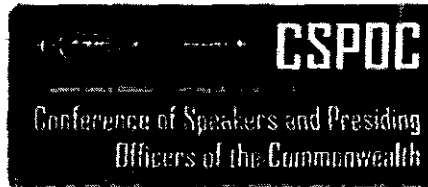
case, the decision for removal shall be taken by a three-fifths (3/5) majority vote of members of the concerned Chamber.

(c) Power to regulate its own Proceedings (Internal Autonomy)

It is very necessary for the proper working of the Parliament that it is able to discharge its functions without any outside interference. As with freedom of speech, the Government believes that it continues to be an important manifestation of parliamentary sovereignty that the House is free to determine and enforce their own procedures; and that this necessarily includes the regulation of conduct in those proceedings. It follows that we continue to recognize the importance of the House's right to control its own internal affairs.

**Right Honorable Speakers and Presiding Officers,
Honorable Members of Parliaments,
Distinguished Ladies and Gentlemen:**

In conclusion we can say that Parliamentary privilege is not a widely understood concept and this presentation was intended just to facilitate a wider debate on this important matter.



E4

REPORT OF THE 23rd CONFERENCE OF SPEAKERS AND PRESIDING OFFICERS OF THE COMMONWEALTH

Workshop Four:

Orientation and Development for Parliamentarians

Chairperson	:	Hon. Lord Siale'Atanongo Tu'ivakano (Speaker of the Legislative Assembly of Tonga)
Date of Workshop	:	12 January 2016 (Tuesday)
Time	:	10.15 – 11.45 am
Presenter	:	Hon. Sumitra Mahajan (Speaker of Lok Sabha, India)

I **Summary of Presentation:**

Presenter covers the importance of **orientation and development for Parliamentarians** to build capacity in the Indian Parliament.

1. Presenter stated that the Speakers are expected to be **independent and neutral**, but they have the responsibilities and obligations towards Parliament and parliamentarians.
 2. Privileges and responsibilities must go hand in hand.
 3. As the Speaker or Presiding Officer, they should ensure **orderly and effective functional legislatures** – and the House can only be effective if the members who constitute it.
 4. New members will find their new duties and responsibilities **exhilarating and exciting**.
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5. Parliamentarians have many roles and responsibilities – **multifarious roles** (diverse), e.g. a voice for its constituency, responsible to its party or responsible to the parliamentary committees.
 4. A member needs to **harmonise these multiple and diverse roles** by adapting different approaches and insights.
 5. **Orientation and intellectual development** of members are critical importance to ensure parliamentarians are “effective”.

6. This can be achieved if members are **knowledgeable and aware of rules**, have adequate understanding of the constitutional provisions as well as parliamentary customs, conventions and traditions.

7. Parliamentarians discuss national issues and not local issues. Hence, they have to be **familiar and exposed to the operational dynamics of the parliamentary system**, particularly constitutional, legislative and budgetary processes.

8. Members discuss national and international issues in the House and in the Committees – complex, scientific and technical – members must be well-informed on the **global thinking and national perspective** – which can be achieved by tapping the experience and expertise of domain experts, specialist and senior parliamentarians.

9. Informational requirements and procedural challenges are multidimensional – hence, members to get a definitive orientation on the diversity of parliamentary functions to be an effective representatives.

10. Members need appropriate **capacity development and orientation – institutional mechanisms within parliament** – which Speakers and Presiding Officers can play a construction role.

Programmes/orientation in capacity building undertaken by the Indian Parliament:

a) **Orientation Programme** (organised by the Bureau of Parliamentary Studies and Training) – for new MPs - promotes understanding and appreciation of the constitutional role and position of the Parliament, e.g. themes parliamentary customs, conventions and etiquette. Bureau, too, organised customised programmes for parliamentarians from around the world;

Capacity development should be **on-going** exercise as MPs need to get familiarise with practices and procedures, including topical themes.

b) **Research, Reference and Library Services**

Aimed to support the MPs by providing updates on current national and international issues through publications, background notes, information and legislative bulletins, etc.

c) **Members' Reference Service**

Aimed to disseminate information to the MPs within a stipulated time – information online, e.g. data, statistics.

d) **Speaker's Research Initiatives (SRI)**

Aimed to address the demand of MPs for **high-quality research inputs** on important topics - **specialist Core Group** to arrange specialized lectures and workshops for **balanced inputs** for members - facilitate **two-way interaction process** for MPs to create awareness and understanding of the issues. E.g. SDGs, GST and the unorganised sector.

II **Conclusions by Presenter 1:**

In Parliamentary democracy, every issue can be discussed and there cannot be a better forum than the **House to Discuss, Debate and Disagree**.

Presenter 1 stated "**D**" **Discipline and Decorum** to avoid Disruptions and Decide issues should be included too.

1. Important to empower MPs through capacity building.

2. Guidance, orientation and assistance help to strengthen the role of parliamentarians.

Proper **orientation and assistance** will make a difference and contribute towards strengthening and **deepening democracy**.

Comment from the floor:

Chair

Hope that the workshop can be a fruitful knowledge sharing session.

Botswana

The capacity building for new members should be done immediately after the election.

The training should be an ongoing process, where MPs are educated ~~about the standing order, how bill is drafted, manner in debate, design~~ question, MPs' privileges etc. And also on how MPs should taking parliament to the people; what the people should expect from MPs, because the public expect the MPs to do their domestic event namely burial etc.

Sri Lanka

Inquiry what if the MPs did not attend the training.

India

Talk to the MPs and party leader why their MPs not coming.

United Kingdom

Sharing UK's experience; roles of MPs, how to debate etc.
Training to be effective MPs, based on demand of the future.
Continuous training for new as well as existing members.

India feedback:

Received a very positive feedback from the MPs on the training.
MPs are welcomes to join any of the 29 committees to contribute and benefit from them.
If need assistance go to our system.
In-house orientation from time to time.

Nigeria

Society should assist the Parliament as well to enable the institution to contribute to the society. How to let people understand what the MPs are doing because the people always criticise the MPs while MPs are doing their work all the time.

New Zealand

NZ experience – get media to highlight the MPs roles, improve training for MPs to develop responsibility at large.

India

MPs must have clear picture of their roles. At the same time MPs need to go to the village and educate the people regarding MPs duty, which is to make policy for whole nation.

Have direct telecast, people can observe from their house what happen in Parliament.

Group of media person should come to Delhi – can interact with MPs

Isle of Man

MP not employee – need persuasion to attend the training

Some are independent MPs, with no party

Make MP aware that they can do better job if can understand better.

Major weaknesses:– have no clear understanding on the use of standing order, lack of discipline and decorum. – women did not feel encouraged to participate in the election.

Don't have media training – how MP should bring themselves to the media.

New Zealand

Media training – intro to media; how to speak to media.

India

Media is independent, cannot be trained

But we call media to Parliament to observe how parliament work, so that media can tell the people.

~~Women MP – they do women programme/ conference and ask the~~
contribution from women MP to the nation.

Isle of Man

Informing media of what we are doing

Chair

Knowledge sharing and training are important.

Date : 12 January 2016
Prepared by :
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RT HON DAVID CARTER
SPEAKER OF THE NEW ZEALAND HOUSE OF
REPRESENTATIVES

2016 CSPOC CONFERENCE

“ORIENTATION AND DEVELOPMENT FOR
PARLIAMENTARIANS”

Introductions.

A few weeks ago I read an article by a former member of our Parliament in a publication called the National Business Review. The author makes the provocative suggestion that MPs should only be allowed to serve a maximum of four terms of Parliament and then be required to do something else with their lives. He said, and I quote, “In a nation of just four million, we have made

politics a career much like butchery, accountancy or law. People choose politics at a young age and then work at it their entire lives. They are professional politicians, a breed apart".¹

I disagree with the sentiments in this article for a number of reasons, not least because it displays a lazy cynicism, unfortunately shared by many in New Zealand, about our elected representatives.

In over 20 years as a member of the New Zealand Parliament, and as Speaker for the last three, I have been fortunate to encounter many politicians who have looked upon their work as an MP as far more than a career. They have understood that the privileged position they find

¹ Rodney Hide, "Time limits will serve public not politicians", *National Business Review*; www.nbr.co.nz (16 October 2015).

themselves in allows them to do good and important things.

Rather than professional politicians, I consider them to be professional parliamentarians. Rather than being a breed apart, driven by self-interest and detached from the people who elected them, they represent constituencies, interest groups, and individuals with vigour and fearlessness.

But they cannot do so in isolation and without support. And this is the subject of my address today – what role should Parliaments play in inducting and then providing ongoing development for members? And in particular, what should we, as Speakers and Presiding Officers, be

doing to equip our members to be effective
parliamentarians?

Implementing worthwhile induction and development
programmes for members would be more straightforward
if we could say definitively what we are seeking to equip
them for.

But the role of an MP can be a nebulous one and the
accountabilities unclear. As statutory office-holders, they
are not in a simple employer – employee relationship.
They are not contractually obliged to perform specific
tasks to particular standards, nor are they required to
meet minimum skills and qualifications criteria.²

² David McGee, *Parliamentary Practice in New Zealand*, 3rd edition, 1995, at 34.

And yet the public's expectations of what they could and should be doing are sky-high and any failure to meet these expectations means considerable disappointment or criticism. Or, as one academic paper puts it, "Those elected to public office are expected to possess indefinable qualities to accomplish an indescribable job."³

In New Zealand we do now have a firm idea of the type of training and support members need when they first arrive at Parliament. We are fortunate in having two well-functioning agencies that can introduce new members to the operational logistics of being an MP and what they need to know to begin participating in parliamentary business.

³ Ken Coghill, Peter Holland, Ross Donohue, Kevin Rozzoli, and Genevieve Grant, "Professional Development Programmes for Members of Parliament", *Parliamentary Affairs*, Vol. 61, No. 1 (2008), at 74.

Our Parliamentary Service inducts them on technology, staffing arrangements, travel and finance services and everything else they need to get up and running; while the Office of the Clerk leads training on speaking in the House, what happens in select committees, the role of the Speaker, the constitutional role of members of Parliament, and other matters to allow them to start discharging their representative functions.

This aspect of induction is effective because it is participatory, with new members engaged in mock debates and question time in the House, and select committee role plays. Proof of its benefit was the high level of member satisfaction with the last induction programme in 2014 and the situation has certainly

improved considerably from when I first entered Parliament through a mid-term by-election in 1994.

So while the “sink or swim” mentality for new members is not as prevalent as it once was, gaps remain in what we offer new members. The first few days and weeks of being new MP’s may feel extremely disorientating, even alienating, as they seek to get to grips with a considerable workload, new relationships to manage, and the realisation that their performance is being intensely scrutinised.

It is not surprising that some of these members struggle to absorb all of the information and advice received in induction, complain about the lack of follow-up, and come to rely heavily on party whips and senior members of their

caucus. While close allegiances with party colleagues are inevitable, the risk is that new members focus on these relationships to the exclusion of others and that this may promote an increasingly partisan politics.

As Speaker, I'm always keen to see cross-party engagement and cooperation and I believe induction and ongoing development can assist in this. We heard of an initiative of the Scottish Parliament, which has set up an induction programme to establish a cohort of new members from across the political spectrum and build a shared identity from the time they enter Parliament.⁴

⁴ Scottish Parliamentary Corporate Body, *Election Planning Board: Orientation for Newly Elected Members*, Paper 71, 23 September 2015.

I think this idea could work well in New Zealand, with the new intake of members meeting on a regular basis throughout the term of the Parliament. The impression I have is that we mostly succeed in imparting knowledge to our members but are less effective at enhancing the essential skills they need to conduct parliamentary business well. Members know how to lodge oral and written questions, but they may need training in what constitutes effective questioning and how to ask those searching questions, for example.

We want a true House of Representatives, with a diversity that is reflected in the backgrounds of our members. We shouldn't then be surprised if some of them arrive having had minimal exposure to reading and analysing legislation, public policy development and analysis, budget scrutiny,

effective committee membership or the myriad other activities that a member is required to perform on a day-to-day basis.

The value of ongoing professional development for parliamentarians is, I believe, very hard to argue against.

But there are barriers to successful implementation and uptake that Parliaments need to address. A key one is the engagement and motivation of members themselves.

Parliaments may be empowered to develop stimulating, varied and useful programmes for members but these will mean nothing if members do not avail themselves of opportunities.

Members are time-poor, and regularly work long hours.

They may say they want more training but fitting sessions

into a working day can be very challenging, and training will be the first thing they forgo when the inevitable, unexpected issue arises to derail their day.

So, there will be members who want development but find it hard to accommodate. And there will be those who simply do not think they need it. A response to these issues and that of the skill gap faced by many MPs is for Parliaments to advocate for implementing compulsory professional development for members.

The argument for mandatory training has been advanced by various people, including the Australian academics Colleen Lewis and Ken Coghill.⁵

⁵ See *Parliamentarians' Professional Development: The Need for Reform*, edited by Colleen Lewis and Ken Coghill (2015).

Opponents of the idea may say that it is inappropriate to prescribe what MPs should be doing and focussing on, that this is contrary to the democratic notion that we elect representatives to represent us and that there are many different ways of doing this well. Related to this is the view that members are answerable to the electorate for their performance and that performance is judged ultimately and regularly at each subsequent election.

What better motivation to do a good job than to expose yourself to the risk of very publicly losing it every three, four or five years?

However, there are many factors in play at election time other than the performance of an individual member in the preceding term of Parliament. Politics isn't always fair and I'm sure we can all think of examples from our own jurisdictions of capable MPs losing their seat at an election and of underperforming MPs being re-elected.

Moreover, relying on a general election as a verdict on performance is the very antithesis of what we now understand to be good people management and motivation practices. We would be rightly concerned if our doctors, nurses or teachers had to wait three plus years for a conversation about their performance or received hardly any training opportunities over that period, so why should it be any different for our members of Parliament?

While I do not think we should compulsorily require all members to undertake a programme of development, I firmly believe that parliaments have a strong duty to provide proper professional development to members.

This is a duty owed not only to the electorate but also to the members themselves. We want members to contribute positively to society, both as representatives and when they depart Parliament, even if it is only after one term.

So, I encourage you all as Speakers and Presiding Officers to consider carefully a number of questions: What do my MPs need to perform the role? What skills are they lacking in? Who is best placed to develop them in a way that promotes the interests of Parliament? Do they need specialist support?

And find out members' own perceptions – do they think they are adequately equipped to discharge their representative functions?

And after those conversations and discussions, should come the decision to invest in our people. Investing in members of Parliament is not an easy sell to the public and media, who have become accustomed to hearing and writing stories of MPs displaying poor judgement or taking advantage of public funds. The solution to this is, I believe, to be strategic in the construction of professional development programmes and to be prepared to advocate strongly for their worth.

This is what we have done with our inter-parliamentary relations programme and its new strategy.⁶ Overseas travel by MPs has previously attracted criticism, with questions being asked about the value to the taxpayer of spending public funds. This negative commentary and media scrutiny can make members reluctant to take advantage of opportunities for international engagement.

The strategy is structured around five drivers, including the provision of professional development for members, the intention of which is to build parliamentary capability through increasing members' knowledge of parliamentary business, the workings of representative parliamentary democracy, and of global issues.

⁶ See the New Zealand Parliament's Inter-Parliamentary Relations Strategy 2015-19, *Global Connections, a Better Parliament*.

I fully expect public scrutiny of delegations and visits to remain but I hope that the scrutiny can hopefully occur in a more balanced and informed context, with us being able to articulate a coherent programme and resulting set of benefits and motivations for members which shows that public money is being spent appropriately.

I see no reason why a similar model should not apply to our domestic development of members, with the implementation of a coordinated programme of training opportunities in such topics as representing constituents, understanding and making policy, constitutional law, analysing public accounts, and developing in-depth understanding of key policy areas.

A recent report on the funding of the New Zealand Parliament identified the folly of not spending on professional development for members, stating that, "The tax payer has spent millions completing the process of electing Parliament every three years. The tax payer will then spend millions more supporting them and the cost of Parliament for the three-year term but spend an infinitesimal amount on knowledge and skills development."⁷ So I end with a simple message: we must do more. Failure to do so would be to do the electorate an injustice.

Thank you

⁷ Sixth Triennial Appropriations Review Committee, *Parliamentary Appropriations* (2015), at 58.

E4

**23rd Conference of Speakers and Presiding Officers of the Commonwealth
Kota Kinabalu, Sabah, Malaysia
January 2016**

**Paper by Smt. Sumitra Mahajan
Hon'ble Speaker, Lok Sabha**

On

'Orientation and Development for Parliamentarians'

Democracy, both as an ideal and as a set of political institutions and practice, has emerged as the most preferred system of governance across the world. Parliament, which is the central institution of democracy, embodies the will of the people and seeks to fulfil their hopes and expectations. The members of Parliament represent and serve their constituents as well as their country as a whole. The successful working of a Parliament depends on the competence, capability, efficiency and awareness of its members. From the moment they take their oath as members, they undertake manifold duties and responsibilities. The first-time members of Parliament find the new charge very exhilarating and exciting but a little daunting too. Being a parliamentarian requires them to play multifarious roles - as a law maker; as people's representative giving voice to their grievances in the Parliament; as an informed and concerned parliamentarian taking part in the discussions in Parliament on various issues; as a member of a political party; as a member of parliamentary committees; as the country's representative at international parliamentary conferences; etc. The resultant paucity of time to manage so many roles often tend to hinder the parliamentarians from studying issues on their own. In the current era of knowledge explosion, where information overload is a bigger problem than the lack of it, it is imperative that the parliamentarians are equipped with impartial, objective and accurate information on contemporary issues like climate change, Sustainable Development Goals,

poverty alleviation, peace building, women's empowerment, terrorism, etc. As such, capacity building is an ongoing exercise and parliamentarians need to be exposed to the views of the domain experts also in various areas so that they can effectively take part in discussions in the House and in the Committees on important issues and provide valuable inputs. It has now been widely accepted that to enable parliamentarians to discharge their varied duties and responsibilities more efficiently, they need to be acquainted and familiarized with the operational dynamics of the parliamentary system and given a deep insight into the constitutional, legislative and budgetary processes. In this context, a number of programmes are undertaken in the Indian Parliament as part of the capacity building exercise of parliamentarians.

Orientation Programmes

With a view to familiarizing the newly elected members with the working of the Parliament and to meet the long felt need for institutionalized opportunities for systematic training, orientation and problem and practice oriented studies in parliamentary institutions, processes and procedures, the Bureau of Parliamentary Studies and Training was set up in 1976 as a distinct Division of the Lok Sabha Secretariat in India. It organizes Orientation Programmes of about a week's duration soon after the constitution of a new Lok Sabha after the General Elections. In fact, the Bureau has been organising these Orientation Programmes

since its inception for the benefit of the elected representatives of the Union as well as State Legislatures. These Programmes promote a deeper understanding and appreciation of the constitutional role and position of the Parliament/Legislatures as the supreme representative institution, familiarize the members more closely with the operational mechanisms, parliamentary traditions, conventions and etiquette.

During the Orientation Programmes, eminent parliamentarians, senior parliamentary officials and experts are invited to interact with the newly elected members on various aspects of the working of the parliamentary institutions. The panelists introduce the subject and then respond to queries and questions from the participants. As the discussion sessions are interactive in nature, members are encouraged to freely exchange views with the resource persons who share their experiences and ideas. Background notes on topics under discussion are prepared and distributed among the participants in advance.

Further, realizing that at times members are unable to devote enough time for studying relevant contemporary issues in detail, Lectures by domain experts are organized in the Indian Parliament from time to time. With a view to promoting better appreciation of parliamentary subjects, specialized Workshops have also been organized for parliamentarians as well as parliamentary officials. Seminars on topics of current importance in areas of political, economic and social

development, which will help the legislators in acquiring a deeper and broader understanding of complex national and global issues, are also organized periodically.

Computer Awareness Programme for Parliamentarians

In the current era, the rapid advancement of Information and Communication Technologies has come to impact the role and functions of the Parliament and its members. With more and more services and operations in the Parliament being computerized, it has become essential for every parliamentarian to be comfortable with operating them. Computers and internet have ushered in an era of knowledge revolution and have been acknowledged as another means to move towards sustainable development. The Indian Parliament is steadily moving towards the goal of creating a paperless Parliament by making all its services computerized. Under the 'Financial Entitlement of Members for Computer Equipment Scheme', members have specific financial entitlement for purchase of computer equipment which is being utilized fully by the parliamentarians. Going further, in order to assist the parliamentarians in discharging effectively their duties such as constituency management functions, office automation activities, personal information management, communication with State Legislatures and other organizations, access to Internet and e-mail, etc., Computer Awareness

Programmes are organized to enable the members of Parliament to make optimum use of computer facilities.

Training Programmes for Parliamentary Officials

In order to carry out their multifarious duties in an effective manner, parliamentarians also require efficient support staff. It is thus necessary that the staff assisting the parliamentarians are fully equipped and trained to meet their demands and expectations. With a view to facilitating capacity building of these functionaries, training programmes are organized for different levels of officers and staff working in the Secretariats of Parliament and provides a thorough grounding to the participants in different disciplines of parliamentary work to improve their functional skills, widen their horizons and sharpen their perspectives through discussions and exchange of ideas and experiences. They are also sent abroad to various Parliaments to study the best practices followed in those countries.

Information Needs of Members of Parliament

To keep members informed on a continuing basis about the current national and international issues in various fields, the Research and Information Service of our Parliament brings out Books, Brochures, Background Notes, Information Bulletins, Legislative Bulletins, Fact Sheets, Monographs, Current Information

Digests, etc. Information so provided acts as a background to members to develop a balanced opinion on issues of vital importance. Indian Parliamentary Delegations going to other countries on goodwill visits or participating in various international Parliamentary Conferences held under the auspices of the Inter-Parliamentary Union, the Commonwealth Parliamentary Association, the Association of SAARC Speakers and Parliamentarians and other fora from time to time are also assisted by the Research Service by preparing relevant Briefs, Research Notes, Resolutions, Explanatory Memoranda, etc. Background Papers on subjects of parliamentary interest are also prepared for the use of members participating in Seminars and Symposia organized at regular intervals. There is also a separate Members' Reference Service which organizes the dissemination of factual, objective and latest information to the members of Parliament within the time stipulated by them.

Speaker's Research Initiative (SRI)

In addition to the Research and Reference Services of the Lok Sabha Secretariat, a new initiative has been taken to further address the demand of the parliamentarians for high-quality research inputs on important matters of diverse nature to create greater awareness and deeper understanding of the issues. This initiative is known as Speaker's Research Initiative (SRI) which was inaugurated on 23 July 2015. This consists of a specialist Core Group which arranges for

specialized lectures and workshops, and provides balanced inputs for the members. It facilitates interaction between parliamentarians and domain experts who provide support to them as per request and current work agenda of SRI. It is planned as a two-way interactive process wherein the parliamentarians give their feedback as well as their valuable suggestions to maximize the benefit of this initiative.

Still in the nascent stage, the SRI has started with work on those issues which usually are seen as very complicated and technical in nature by some of the parliamentarians, who may not be well versed in the subject. These include financial and fiscal issues, international trade, investment and technology related issues and among the social sectors - issues related to health and nutritional security. Till now, three workshops/lectures have been organised under this initiative, one each on Sustainable Development Goals, Goods and Services Tax, and the Unorganized Sector where subject experts were called from outside for detailed presentation on the subject.

The SRI is conceptualized to have three facets, viz. (a) expert-led presentation of factual details on specific issues as may be requested by the members, (b) Speaker's Internship Programme; and (c) Speaker's Fellowship Programme. SRI plans to revamp the existing scheme of internship and start fellowships to make them in sync with the ever expanding ambit of research requirement of parliamentarians.

Inter-parliamentary Exchanges

Establishment and development of relations among Parliaments constitutes part of the regular activities of national Parliaments. It is imperative that parliamentarians join hands to safeguard democracy and work in synergy to confront the common global challenges and convert them into opportunities to facilitate peace and prosperity in their countries and globally too. Parliamentarians from different parts of the world meet at various forums to discuss and find out solutions to their common problems and where also some sort of cross-fertilization of ideas can take place not only between the older and the younger Parliaments, but also between parliamentarians working under different parliamentary systems. In the new globalised era, there are various problems which are common to many Parliaments today. A number of meeting grounds are provided through the exchange of delegations, goodwill missions, Friendship Groups, correspondence, documents, etc. with foreign Parliaments. Apart from these, assemblies of the Inter-Parliamentary Union (IPU), conferences and Seminars of the Commonwealth Parliamentary Association (CPA), meetings of the SAARC Parliamentarians, Commonwealth Women Parliamentarians, ASEAN Parliamentarians, Asian Parliamentary Assembly, etc. provide opportunities to the parliamentarians to meet and discuss global issues that are of concern to all. Such participation gives immense exposure to the parliamentarians

and help them understand the complexity and challenges of issues from a global perspective.

Conclusion

It is important for the Presiding Officers to ensure that the members are empowered through capacity building programmes to become effective parliamentarians. In order to help them maximize their participation in the Parliament, they need to be given proper guidance, orientation and assistance so that they can make a marked difference to the lives of their constituents and make their useful contribution to strengthen and deepen the roots of democracy. Every Parliament would benefit by making institutionalized arrangements within its fold to regularly organize and facilitate capacity building of their members.

E5

BUILDING TRUST IN LEGISLATURES: A CASE STUDY OF MALAYSIA

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23rd Conference of Speakers and Presiding Officers of
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INTRODUCTION

In the constitutional theory of parliamentary democracy, an elected and representative Parliament is supposed to perform the following main functions:

- Control of national legislation
- Control of national finance
- Control of the national executive
- Constituency functions

- How our premier representative institution can be reformed to perform its constitutional role more effectively, to serve the community better and to help improve accountability in government is one of the foremost challenges of constitutional law.
- A number of suggestions, some provocative, have galloped around the outskirts of the legal system for some time and deserve consideration

LEGISLATIVE FUNCTION

Executive dominance

- Though legislation is the primary function of Parliament, in actual practice the executive has captured the legislative process. Almost all Bills are drafted by the executive and piloted through Parliament by Ministers through the use of their brute majority.
- Bills are "embargoed" till they are laid for the first reading.
- Debates are cursory. Issues are not well researched.

- Parliament's input into Government Bills is minimal.
- Studies indicate that in the Malaysian Parliament 80% of Bills pass the two Houses without any change whatsoever; 15% are withdrawn due to critical scrutiny within or outside Parliament; only 5% undergo changes on the floor of the House.

- Obviously, Parliament legitimates.
- In reality, it does not legislate.
- For all intents and purposes, the centre of gravity of the legislative process lies in Putrajaya and not in Parliament.

- Private Members' Bills are rarely introduced. In 58 years none has ever passed! Private MPs receive no official assistance, monetary or otherwise, for this job.
- Law reform proposals are entirely in executive hands. An independent Law Reform Commission does not exist.
- Parliament does not have its own parliamentary draftsman.

- The Senate debates House of Representative Bills but in 58 years has never defeated a House of Representatives (Dewan Rakyat) Bill.
- The Senate needs to be strengthened in accordance with Article 45(4).
- Parliament's control over Emergency Ordinances by the Yang di-Pertuan Agong (King) under Article 150 is almost illusory. For example the Emergency Proclamations promulgated in 1964 and 1969 were annulled by Parliament only in 2012.
- Emergency and subversion laws have no "sunset clauses".

- Subsidiary legislation outnumbers parliamentary legislation by a ratio of 1:16.
- Yet, Parliament plays no supervisory or scrutiny role.
- No Scrutiny Committee on subsidiary legislation exists in either house of Parliament.

Improving scrutiny of Bills

- To lighten the legislative load of the Dewan Rakyat and to enable greater scrutiny of legislative proposals, some politically non-controversial, non-money Bills should originate in the Dewan Negara (Senate). This will require both Houses to sit concurrently.

- If members of Parliament are expected to scrutinize, criticize and revise legislative proposals, they must be supplied with draft copies of Bills at least two weeks before the beginning of the session.
- If citizens are expected to give their input, the existing culture of secrecy surrounding Bills should be replaced with more openness.

Select Committees

- To permit greater scrutiny, important Bills should be committed to Select Committees of the Houses as is the practice in many Commonwealth legislatures.
- Members of the public can be heard during the committee stage.
- A search of Malaysian parliamentary records indicates that in 58 years, less than ten legislative proposals were committed to Select Committees. Among them were the Dangerous Drugs (Special Preventive Measures) Bill 1984 and the Criminal Procedure (Amendment) Bill 2007.

- More opportunities for citizen participation in Select Committees (for scrutinising Bills) and Special Select Committees (for investigating other matters) would be a desirable practice.

Private Bills

- There should be greater recourse to the procedures for Private Bills and Private Member's Bills to enable citizens' groups and private MPs to initiate legislation

CONTROL OF FINANCE

- The executive indulges in extensive consultation with affected interests and specialised groups in drafting its annual budgetary proposals.
- But the two Houses play no role in such consultation.
- No Select Committee(s) exist to advise the government on raising and spending of money and on broad policy relating to these.

- There is a Public Accounts Committee (PAC) of the House of Representatives to examine the annual admonitions and findings of the Auditor General.
- However the Auditor General does not examine the budget of institutions exempted by the King. Petronas is one such institution.

- The PAC's control over money matters suffers from several limitations:
 - (i) It covers only those institutions subject to the Auditor General's scrutiny
 - (ii) It has no power to surcharge or prosecute
 - (iii) Its scrutiny is not about government policy but about money spent.

- The jurisdiction of the Public Accounts Committee of the Dewan Rakyat should be expanded to cover all "Non-Financial Public Enterprises" like Petronas, all statutory bodies and their subsidiaries.
- The findings of the PAC should be given some teeth. Surcharge should be imposed on all Government servants censured by the Auditor General or the PAC

CONTROLLING THE EXECUTIVE

Doctrine of ministerial responsibility

- This doctrine requires that the Government must be answerable, accountable and responsible to Parliament. If voted out on a vote of no confidence, the Government must resign. In 58 years no such vote of no confidence has ever passed at the federal level

Question-time

- The one-and-a-half hour question time for our 222 MPs compares favourably with the daily question hour for 652 or so MPs in the British House of Commons

- However, some clear-cut criteria ought to be established for the placement of parliamentary questions on the Daily Order Paper. It is generally the case that out of about 30 questions tabled for reply, only about 10 to 12 can be "reached" before question time runs out. Questions placed at the lower end of the agenda have no chance of being answered orally.

- To maximise the impact of question time, there should be live coverage of it in the media.
- At least once a week, a half-hour should be reserved for questions to the Prime Minister.

Inquisitorial Committees

- A system of well-integrated and well serviced investigatory committees as in the USA and the Philippines holds the only key to enabling Parliament to become an effective countervailing force to the ever-increasing powers of the executive.

- An increase in the number of sessional select committees from the present five to one Departmental Committee for each government department as in the UK will enable backbenchers to play a meaningful role in Parliament.

- In addition to Departmental Committees, Parliament should set up a Joint Committee on Human Rights to scrutinize the Human Rights Commission's Reports. Joint Committees on Public Complaints and on Corruption should also be considered

CONSTITUENCY WORK

- One of the most significant aspects of an MP's parliamentary life is that he acts as a one-person grievance-remedial instrument for his constituents.
- His constituents expect miracle, that he "be a paragon combining the qualities of polymath and prophet".
- Malaysian MPs perform admirably in this area
- In view of the importance of constituency work, some aid and assistance ought to be given to MPs to facilitate this function. Each MP should be given at least two fully paid legislative assistants.

- Many MPs use their parliamentary allowance to establish 'Service Centres' in their constituencies. No official grant is available for this purpose.
- The present practice is to allocate a RM400,000 "development grant" to each Barisan Nasional (government) MP for use in his/her electoral district. Opposition MPs are denied this sum.

- It is respectfully submitted that the selective allocation of this grant on the basis of political affiliation poses problems for Article 8's promise of equality before the law to the MPs and to the voters not favoured with the grant.

OTHER REFORMS

Making Parliament more Representative

- Under the "first past the post" system, there is no proportionality between votes obtained and seats won. Some variation of the proportional representation system is needed to make the legislature more representative.

Parliamentary sittings

- There is a strong case for a drastic increase in the number of parliamentary sittings in one year. In 1981 the Dewan Rakyat sat for 78 days. In 1993 it sat for 66 days. The Dewan Negara sat for a mere 26 days in 1993. This can be contrasted with the United Kingdom where during the years 1959 to 1984, Parliament convened for 172 days per year on the average Houses.

Attendance:

- This is notoriously low. Sanctions or incentives should be designed to improve attendance by Ministers and MPS in the proceedings of the Houses.

Support structures

- To assist MPs in their legislative and oversight functions, each MP should be assigned research staff and legislative assistants.
- The Houses of Parliament should have their own legal counsel.
- In the manner of institutions to assist the executive (INTAN) and the judiciary (ILKAP), a Parliamentary Institute should be established to train MPs in the law and procedure of Parliament and to hone their abilities to research and analyse legislative proposals

- With these reforms, Parliament's institutional capacity to oversee the making of laws and to perform the role of the "grand inquest of the nation" will be enhanced.
- This will also improve public perceptions of the role and relevance of Parliament in our democracy.

ANNEX F



DIPARTIMENT TAL-INFOORMAZZJONI
DEPARTMENT OF INFORMATION
MALTA

Press Release

PR 160043

12.01.2016

PRESS RELEASE ISSUED BY THE HOUSE OF REPRESENTATIVES

The Deputy Speaker participates in the Conference of Speakers and Presiding Officers of the Commonwealth

The Deputy Speaker, Ċensu Galea is currently attending the 23rd Conference of Speakers and Presiding Officers of the Commonwealth which is being held in Kota Kinabalu, Malaysia, between 10 and 13 January 2016.

This Conference is held on a bi-annual basis, and serves as an opportunity to “maintain, foster, and encourage impartiality and fairness on the part of Speakers and Presiding Officers of Parliaments, promote knowledge and understanding of parliamentary democracy in its various forms, and develop parliamentary institutions”.

The Conference is spread over three days, where various themes directly concerning the work of Speakers and Presiding Officers are discussed. The items on this year’s Conference include: The Challenges Facing the Independence of Speakers, the Role of Speakers in the Security of Parliaments and their Precincts, Parliamentary Privilege – Protecting the Effective Functioning of Democracies, and Orientation and Development for Parliamentarians.

Ċensu Galea participated in the second workshop, in which he was also a lead presenter. During this workshop the role of Speakers in the security of parliaments was discussed. In his remarks, Galea made reference to the migration to the new Parliament building in Malta and the challenges it brought about, as well as the modern security threats parliaments are facing, following a number of attacks suffered by Parliaments over the years. These incidents, together with other considerations, have led to a greater responsibility of the Speaker in relation to the security of the building and its precincts. (Speech in attachment)

During the Conference, Deputy Speaker Ċensu Galea also attended the Standing Committee Meeting, in which Malta holds the British Isles and Mediterranean Region seat, where the agenda for the Conference was discussed and a number of future meetings were confirmed. During this meeting a decision was taken that the Standing Committee Meeting scheduled for 2019 be hosted by Malta.

The Conference will come to an end with the election of the 2016 – 2018 Standing Committee members.

Attachments: photo

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