NOTES ON PARLIAMENTARY PROCEDURE

These notes, intended primarily for African legislators, were prepared by:

C. R. NIVEN, C.M.G., M.C.
President of the Northern House of Assembly

and

ERNEST EGBUNA
Speaker of the Eastern Nigerian House of Assembly

with the concurrence of

R. A. DOHERTY
Speaker of the Western Nigerian House of Assembly

and the advice of

SIR FREDERIC METCALFE, K.C.B.
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In these pages, we should like to give you some idea of the workings of your House. You may be an old and experienced hand—in which case you may still learn a point or two—or you may be comparatively new in which case you may welcome a short cut to some of the confusing points of being a member. First of all a word about the name. Assembly is a very old word in English and is a phrase of dignity. In the seventeenth century it was much used. The word Parliament has always meant the whole legislature, that is, the House (or Houses, when there are two, as in the Northern and Western Regions of Nigeria, and in the U.K.), together with the Monarch or his representative, whose assent is necessary to the making of a law.

In both Northern and Western Nigeria there are two Houses and these have equal powers. Bills can be brought in either of them but they cannot become law until both Houses have approved them. There are arrangements when differences of opinion arise between the two Houses. In the United Kingdom and Northern Ireland by tradition bills and motions regarding money are always brought in first in the "lower" House (the House of Commons in each case). In Nigeria so far there is no such tradition but a bill certified by the Governor to be a money bill cannot be started in the House of Chiefs.

Any body of human beings has duties within that body, each member to each other member, and in the case of bodies whose decisions affect the public at large, there are also external duties, i.e., those to the public. There are of course also duties between the two Houses, where there are two Houses in a Legislature. Let us look at these duties for a moment. It will be easier to take first of all the duties of the officers of the House and then the duties of the members in their various capacities.
The Officers of the House

The Principal Officers are the Speaker or President, the Clerk and the Clerk Assistant, the Sergeant-at-Arms and the Editors, Interpreters and Reporters.

The Speaker or President

Whichever he is called the effect is exactly the same. He is responsible to the members of the House—that is most important—he is responsible to the members of the House and to no one else—not to the Governor nor to the Government nor to the public outside but to the members alone—for all that goes on in and round the House at all times. To secure this in most things he works through the Clerk who is his Chief Official.

The President is elected or appointed: he may be a member of the House or he may be appointed from outside its members. In either case he represents the will of the House. It is not possible to carry out public business successfully and promptly unless there is a recognized chairman of the meeting—whatever that meeting may be, however great or small, however important or insignificant it may be. Having put him there or having accepted him, the meeting must of course obey him: his instructions must be carried out faithfully and his decisions must be accepted, for he is the voice of the meeting itself.

If you are in doubt you can always go round and discuss matters privately with him and if you are convinced that he is wrong you can raise the matter in the House formally, but in this case it is wise to make sure that you have got good support from other members or you may make a fool of yourself. You can of course ask for guidance from the Clerk if you are in doubt as to whether or not you will be in order before the matter arises.

The essential quality of the President is absolute impartiality; he will help and protect every member but favour no one. When he rises you must sit down at once if you are on your feet addressing the House.

The President carries great responsibility and it is only right that members should not make things difficult for him. He should not be placed in an embarrassing position, for do not forget that he carries the dignity of the whole House with him. In the House, that is while the sitting is going on, it is his duty to see that the business before the House is carried through as promptly and as efficiently as possible, always bearing in mind that every opportunity must be given for the expression of all shades of opinion: this does not mean that every member should talk—far from it. It is too much to ask members not to talk, for your constituents will expect you to be on your feet quite a bit, but try and add to the debate and, if you can’t, then be brief.

It is the President’s duty to see that the Standing Orders are obeyed in a sensible way and it is the duty and privilege of the House to help him to carry this out by calling attention to apparent breaches of the orders. He is not a “policeman” to be forever chasing offenders. That would put him in quite a wrong position. But he must see that public business is carried out efficiently and with dignity.

He is not responsible for the contents of the “Order Paper” which is the programme of the business to be laid before the House during that day. It is for the Government to plan this and to hand the programme to the Clerk. The business must follow the order of subjects laid down in Standing Orders but within each subject it is for the Government to say what items they wish to take first.

Private members’ motions are usually taken in the order in which the Clerk receives them, but sometimes they are grouped together.

As a rule all the Government business to be put to the House is first discussed and approved by the Executive Council as a whole; thereafter it is the responsibility of the “Minister in charge” to steer it through the House. All financial proposals must be first approved by the Governor-in-Council and the mover must say formally that he is commanded to introduce the matter to the House.

Once the end of the subjects on the order paper is reached
the House must adjourn until the next day; if the last is not concluded before the “moment of interruption” is reached—that is fifteen minutes before the time laid down for the rising of the House—business remaining (except as below) is carried forward to some future day to be suggested by the mover and agreed by the President.

In that last fifteen minutes it is possible for anything that remains on the order paper to be put and carried provided that it is not controversial. Such bills and motions can be moved and seconded and, if there is no voice against, they can be discussed briefly and passed. But if even one member objects a subject cannot be proceeded with and must be put off to another time. Subjects which are obviously controversial cannot be started at that time, but matters of importance, which do not require a decision, can be discussed on the motion for adjournment. In this case notice must be given in the morning, so that the Minister concerned, or his Parliamentary Secretary can be present to listen and reply, if he so wishes.

If the President and the deputy President or Speaker are both out of the chair, the House is no longer legally sitting.

The Deputy President or Speaker is a member who is appointed to help the President in the House, by taking over the Chair from time to time. When he is in the Chair he has exactly the same same authority as the President himself and must be obeyed in the same way, but when he is not presiding he has no special authority, unless the President is sick and not able to carry out his duties. The Deputy President is of course also deputy chairman of committees.

The President is naturally responsible only for what goes on in and around his own House.

If there are two Houses and they both use the same chamber he must always work in unison with the President of the other House on matters which affect both Houses and even if they have separate Chambers but they work with the same staff, there must be much which they deal with in common.

The Clerk is responsible to the President for all that goes on in the House and for the staff of all grades. He has to carry out the duties given him in Standing Orders and also all the financial duties that come automatically to him. He is the accounting authority for the money voted for the service of the Legislature: he pays members their allowances and so on and is responsible for paying the staff and making all payments due to be made.

If there are two Houses, he is the head of a staff common to both of them, and is therefore responsible to both presidents. He has to help members as much as possible and it is to him and his staff that members first apply for guidance or for anything they can legitimately ask for. The President is the final appeal: if a member is dissatisfied with the Clerk’s answer or actions, he can appeal to the President, or in the final resort he can of course put down a motion, should he feel sufficiently aggrieved, for the consideration of the House. The Clerk is important too because he is permanent and the President is not. The Clerk therefore has more experience of the House’s affairs and of the precedents than has the President, and often the President must turn to him for advice. The President, of course, once he has that advice, must make up his own mind as to how he acts; the Clerk is not responsible for that. But do not be misled by the title “Clerk”: believe me, he is no ordinary clerk.

The Clerk Assistant is the Clerk’s understudy and representative and acts for him if he is away. He has other clerks subordinate to him who are often called Clerks of the Table. Between them they are responsible for the records of the House.

The Editor of Hansard and his assistants are responsible to the Clerk for the recording and publication of the full record of the debates of the House. Each member should have a copy of the first part of the previous day’s debates on his table on the following morning. As these are produced very quickly, there are bound to be mistakes and members should therefore point them out at once to the Editor’s office. It is a great help if members, who have copies of their speeches written out in advance, will hand them to the Editors after they have finished their speeches: also if the Editors send a member a copy of the report of his speeches, he should correct it at once and send
it back: a number of small delays may make much extra work for the staff and the printer.

The Sergeant-at-Arms is responsible for the discipline of the House. In the United Kingdom this is a post of great dignity and is held by retired officers of high rank; he is appointed by the Sovereign and is her servant. He deals with the staff of the House and the accommodation and the galleries. In Nigeria and the East African territories he is appointed by the Speaker or President and is subordinate to the Clerk. Strictly speaking, he should be in charge of the police of the House, but so far, policemen of the local force usually serve in the House during meetings. He carries the mace in front of the President when he enters the House and puts it under the table during committee and replaces it afterwards and removes it at the end of the sitting.

The Sergeant-at-Arms is in control of the subordinate staff of the Legislature and sees that everything is clean and tidy. In this he is responsible to the Clerk. It is he who has to remove a member who is unfortunate enough to be "named" by the President and to ensure that he does not again take his seat in the House until his return is approved.

The general conduct of the House in session is governed by the Standing Orders. In the first instance, where a new legislature is created, the practice is for these orders to be drawn up by experts and to be approved by the Governor. They are based on Westminster practice, simplified to meet local conditions and as such have a degree of arbitrariness. But don't forget that, as soon as the new House has settled down to its work, it can, if it wants to do so, look over the Standing Orders and make proposals for changes. In practice this is seldom done as the Orders are sensible and for the most part are easy to apply. In fact the old Orders still continue in use in self-governing territories after they have reached independence. This means of course that the House has had a chance of altering the Rules but has not done so and therefore it can be said that the House tacitly accepted the Orders as though they were of its own creation.

The passage of time and the alteration of constitutions make changes—usually minor ones—necessary. A member then puts down a motion proposing the words of such changes as may be desirable and this is at once referred to the Standing Orders Committee—a Committee of the House. They consider the proposals in all their aspects and implications and send back their recommendations to the House in the form of a Report. This can be debated in the ordinary way and voted upon. If the motion is carried the Orders are then altered. You will appreciate that the Committee is by no means bound to agree that a proposed change is useful or reasonable and may recommend, if it wishes, that the matter be dropped.

You should study Standing Orders—and watch how they are applied in practice. If you are in doubt about the application of an order, which may be important to you, you can go along and consult the Clerk or his staff as to its meaning. Quite a lot of orders are so seldom used that you really need not worry about them and the President is almost certain to explain the matter should a little known rule be applied. The House is of course supreme over its own Orders, as it is over everything else within its walls, and can therefore temporarily suspend any of them, if there is good cause: but if they are not suspended they must be enforced.

Besides the Orders the President is bound in general to follow the "practice of Westminster". There is a massive book called "Erskine May" which goes into minute detail on the House of Commons procedure, as hallowed by centuries of hard practice in that place. There is a great deal that goes on in Westminster that is never likely to arise in your Legislature so there is no need to bother too much about this. But there is also quite a lot of useful detail which you will learn as time goes on.

The House is itself responsible for the proper carrying out of the Standing Orders. The President is the instrument of the House, and, as I have said above, it is the duty of the House and its members to see that members do not break its Orders. While the President cannot shut his eyes to flagrant breaches
of the Orders, it is for the members to interrupt by rising in their seats, with a cry of "Point of Order, Mr. President". The member speaking must give way and sit down while the interrupter explains his point. If the President agrees the member interrupted cannot go on with the breach pointed out but must mend his ways. If the President does not accept the Point of Order, then the member interrupted goes on as though he had not been interrupted.

A member may interrupt a member speaking to ask a question or clear up a misunderstanding, but he cannot do this unless the member speaking "gives way" to him and sits down. This is not compulsory and he can continue if he wishes. In this case the interruption fails. The interruption cannot in any case become itself a speech.

I have mentioned Committees. The first thing that a Legislature does is to choose a Committee of Selection at the beginning of each session. You will see that most of the members of this committee are laid down in Standing Orders but the balance are elected by the House, on each occasion. As soon as it is chosen, the Committee of Selection, on its first meeting in each session, selects the members of the Standing Committees as shown in the Standing Orders; the most important are the Standing Committee on Finance and its sister the Public Accounts Committee. These are, where there are two Houses, "joint" committees with equal members from each House.

The first considers the spending of public money and gives authority, if it wishes to do so, for extraordinary expenditure. The other considers and examines the expenditure of public money after it has been spent and makes sure that it was correctly spent.

All committees act by laying their reports before the House where they may be debated and voted on. You should however remember that these committees are set up to save public time and the time of the House and that too much criticism of their recommendations or actions, is, in a way, a censure and that it may be necessary to replace the part of the Committee that comes from your House if the censure is too severe. Also in the case of the Joint Committee the members who come from the other House are not subject to your comments at all, unless a formal motion is put down to that effect, and even then you should be very careful.

The House Committee is the one responsible for the physical comforts of the members and the one to which complaints should be addressed. Again where two Houses share the same buildings you have to be careful that some improvement which one House wishes to make, is not inconvenient to the members of the other one. These things can usually be overcome by commonsense.

The House often goes into a "Committee of the whole House" specially after the second reading of a bill. The Mace is put below the table and the Chairman (who is probably the President) takes a seat below the President's chair. The point of going into Committee is that procedure is less formal and that members may speak more than once on a motion or a clause. This implies that long set speeches are out of place and that members should make their remarks very brief. Detail is being considered and this normally should not justify a lot of laboured argument.

When you make a speech, remember the simple rule that everyone wants to get on with the business before the House without wasting too much time. So do not repeat the remarks of others if you can help it. There is no reason for members to get up merely to say that they agree with the motion, without adding anything new to the debate. Speak so that everyone can hear what you have got to say. There is a rule against reading speeches but this is not often applied very severely, as its complete application might result in some members hardly speaking at all; but do not abuse this tolerance, for any member can get up and invoke the rule against you. In practice the House usually permits Ministers, for very obvious reasons, to read their speeches, but they too should be ready to speak impromptu where it is necessary to do so.

With many members the hardest rule is to stick to the point and the majority of Points of Order are devoted to bringing
members back to the straight and narrow path. You know yourself that if you leave the subject of the motion, by even a thin margin, the next man may go further and so unless checked much time may be wasted over a matter which is not on the agenda at all.

Another nuisance is the casual remark that is not only off the point, but also likely to annoy other members. This is very difficult for the President to deal with, since he seldom has time to prevent the remark being made, and the next speaker, when he tries to reply to it in the course of his speech, finds himself ruled out of order and unable to deal with what he considers to be an unfair statement which has been unchecked by the President. This is very difficult to control and the only way is in the hands of members who should avoid giving rise to it.

Good temper and moderation are the characteristics of parliamentary language, and parliamentary language is never more desirable than when a member is trying to influence the opinions and conduct of his opponents in debate. Abusive or insulting language, imputation of falsehood, accusation of dishonest conduct or corrupt practices must therefore be scrupulously avoided. It is out of order to attack the character or conduct of a Minister or a member of the House in a debate except on a Substantive Motion before the House in which the conduct of the Minister or the member is the question of debate. Nor may the conduct of Her Majesty, members of the Royal Family, the Governor-General, the Governor of a Region, judges and magistrates, or the performance of judicial functions by any person, be raised or referred to in a debate unless on a Substantive Motion. For example, it is an offence under this rule to allege in a debate that a Minister had been influenced unlawfully to perform certain duties, or that a recent judgment of a native court judge was induced by favour towards a party in the case.

Some members seem to think that the President should restrain noise so that they can be heard. It is the duty of the member to get himself heard, either by his personality, his reputation or his sentiments. The President's duty is to preserve the dignity of the House and the decent conduct of the business and this involves at times the suppression of tumult, but does not imply that he must compel the House to listen to a member, if it does not wish to do so.

Though you are elected as a member of a party, once you have been elected you become the representative of your constituency and all your constituents should have equal access to you and should be treated with equal consideration. You should help them equally regardless of their own party affiliation. You should always have the interests of your constituency at heart and fight for them as much as you can, regardless of party affiliation. And please remember that in a true democracy the minority has some rights. It has, for example, some right to consideration and it also has the right of trying to get the Government out of its seat at the next election. A good deal of give and take is therefore very necessary in political life.

It has been said that the duty of an Opposition is to oppose. It is quite useless if it sits dumb and does nothing: on the other hand it doesn’t do much good, if it merely opposes for the sake of being a nuisance. Its opposition should be based on logical attacks on the Government policy and speeches. This means that the Government bench and its supporters have got to use their wits in replying or they may well and justifiably ignore the whole business as a waste of time.

This brings me to the need for members to read and understand the papers laid before them. There are some papers which every member must read right through and try and understand. On the other hand during the course of a meeting a very large weight of paper is laid before members and it is quite impossible for everyone to read all of it. It therefore becomes necessary for some members to specialize in certain lines so that they understand all about them and are ready and prepared at all times to defend or attack on those subjects as the need may be. In some places this is settled by the "whips" who find out what members' interests are and give them every help to learn more and use them when the need arises.
The "Whips" are the party managers. It is their business to see that the right people are ready to speak on subjects within their knowledge and sometimes to discourage others from speaking. They are also responsible for seeing that members are near at hand, if there are likely to be important divisions; for even if the Government has a solid majority not only does it like to keep that majority up in the published division figures, but it cannot risk a snap division, which may catch it with many of its members out of range, whereas the opposition has got everyone present and ready to vote.

Any member can put down a motion on any subject which is not prohibited by the Constitution or Standing Orders, but naturally no one will put down a motion which will annoy or embarrass his own party or one which will leave them wide open to attack. Private members' motions are taken on private members' day once a week. If a member is not there when he is called to propose his motion, it fails and cannot be discussed then or later unless it is put down again: motions which have not been reached at the close of the day's business, can only be carried forward to another day if the House agrees, and in any case cannot be carried forward to another Session.

You should note that after a motion—and almost all the work of the House is based on motions—has been moved and seconded the question (i.e., the motion) is "proposed" by the President reading the words of the motion. There can then be a debate. When there are no more speakers the "question is put"—i.e., the votes are taken either by the volume of sound of the "Aye" voices and "No" voices or by an actual division. A motion, once it is moved, can be withdrawn if the House agrees, but, if there is dissent on this, the debate must go on. If a motion is not seconded it automatically fails. You will see the rules about notice of motions, that is the length of time which must elapse between the putting down of a motion with the Clerk and the time when it can be brought before the House.

If you want to debate a point in committee of the whole House on a Bill or in the Committee of Supply on the Estimates you must put down a motion giving the alteration you desire to make. In Supply it is only the Government that can increase a vote; so to make a point you can move to reduce a vote and beg leave later to withdraw the motion (if you wish) before the question is put. If there is any opposition to this request, the motion cannot be withdrawn and the question must be put. It is the usual custom that members can ask questions on points that are not clear to them during the committee stages as Clauses or items are called, but they cannot be debated unless there is a motion.

Under the Constitution of Nigeria and the territories of the Central African federation certain subjects are federal and others are regional. It is completely out of order for anyone to put in a question or a motion, or to mention in the course of a debate federal matters (or of course for federal members to raise regional matters). These must be taken up in the appropriate House by the appropriate member. The simplest test of the matter is whether there is a Minister in the Government who is "in a position to reply to the question."

This letter is a guide for your help. But as it is a short simplification and written in colloquial English it must not be taken as overriding Standing Orders.

As a member of this House you are automatically a member of the Commonwealth Parliamentary Association. This is an Association of all the Parliaments of the Commonwealth, and there are branches in all its territories. The United Kingdom Branch is just a branch like the others. This body exchanges information about the Parliaments and Legislatures and helps members of the Houses when they are in the United Kingdom in several useful ways.

Another organization you should know of is the Hansard Society for Parliamentary Government, a non-profit making educational body for promoting parliamentary government in all parts of the world. One of its activities is the publication of books about parliamentary government and a quarterly journal Parliamentary Affairs. For further particulars of the Society you should write to the Secretary, 39 Millbank, London, S.W.1.
A NOTE ABOUT THE HANSARD SOCIETY FOR PARLIAMENTARY GOVERNMENT

The Society, founded in 1944 by Sir Stephen King-Hall is a non-governmental, non-profit making educational body dedicated to promote the cause of parliamentary government in its various democratic forms, such as the British Parliament and the Parliaments of the Commonwealth; Congress and democratic national Parliaments such as the Bundestag in Germany, the French and Italian Assemblies, etc.

Although it owed its origin to a British member of Parliament and has its headquarters in London it is not a British Society. The Council, which is the governing body elected by the members, includes such distinguished persons as Eugen Gerstenmaier, Vincent Auriol, Mohammed Ikramullah and Ananthasayanam Ayyangar.

The Society carries out its world-wide educational task by a variety of methods, which includes the publication of books about various Parliaments and the problems and workings of the institution of Parliamentary Government. It organizes lectures; it operates an American and an African section, an information service and has a small library. It publishes Parliamentary Affairs, a quarterly journal of 136 pages, the contents of which cover the whole field of the institution of parliamentary government.

The Society carries out research into parliamentary problems. In short, within the immediate restrictions enforced upon its activities by the modest size of its budget it seeks in every way to inform and to stimulate all over the world interest in and support for the institution of parliamentary government which in one form or another the Council of the Society believes is an indispensable part of the free way of life and the maintenance of the liberty of the individual.

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