WHAT THEY NEVER TOLD YOU ABOUT PARLIAMENT AND HOW IT SHOULD BE PUT RIGHT

Edited by Michael Meacher MP

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Foreword

Reforming Parliamentary procedure probably ranks with most people as one of the most boring subjects imaginable. But it isn't. It's the opposite of the truth. Let me explain why.

Suppose you wanted a big change in some aspect of the rules and regulations that determine how Britain is run at the present time and you signed up with 100,000 other persons to get the rules changed. The Coalition Agreement promised this and the No.10 e-petitions website went live in August 2011. You might have thought: all done and dusted. But it isn't. It is a different body - the House's Backbench Business Committee - which decides which petitions will be debated, and it is a third body - the Procedure Committee - which is now looking into whether we need a Petitions Committee. That is where we still are over 3 years later.

But suppose you got the debate you wanted: what happens then? Assuming a vote is called at the end of the debate, it is likely that the motion will be defeated because the Government commands a majority in the House and their MPs will be quietly 'whipped' to oppose it. But suppose you get past that hurdle too and win the vote, the Government has adopted for itself the principle that it is under no obligation to accept any vote in the House which is not about its own business agenda! We are told that any other vote where the Government is defeated is 'purely advisory'. Perhaps now you begin to see why reform is necessary since the present hidebound procedures are constantly used to block the electorate having any significant influence over how this country is run.

So what happens if you want to change things in a Government Bill being brought forward where the Government does have to accept the result of a Commons vote? You contact your local MP or the relevant pressure group, and they try to get the Bill changed at Committee stage. Since the Government has a majority on the Committee, that can only happen if at least one or two Government MPs can be persuaded to rebel - not unheard of, but rare. The Bill, usually unaltered in any but trivial ways, then returns to the full House for Report stage. Here any MP, in addition to the Opposition, can put down amendments or new clauses which are then grouped together by the Speaker's office into suitable blocks that are debated and then voted on one by one. Unless the programme motion requires debate on these sets of amendments to be time-limited, the Government Whips can then get their Members to filibuster on the earlier sets of amendments in order to block later ones they strongly disapprove of - quite likely the ones you've been trying to promote.

Worse still, when it does come to the vote, of the MPs who've not been directly involved in the Bill at Committee stage (that's more than 97%), the great majority don't actually take the trouble to find out exactly what is the issue they're voting on - they simply follow their Whips into the 'correct' lobby. To prevent this, some of us proposed in a debate in the House that all amendments and new clauses tabled should be accompanied by brief explanatory statements spelling out clearly what exactly what the purpose of the amendments was. When it came to the vote, the proposal was roundly defeated by some 300 to 50 votes, with most Members blandly following their Whips which ironically the proposal had been designed to avoid. It is sad as well as tragic that MPs can so easily be dragooned into voting against their own interests!

The Bill, thus largely unamended in the Commons, passes to the Lords. Their Lordships, who comprise within their larger chamber a greater degree of knowledge and experience as well as a more thoughtful and less combative mode of operation than the Commons, regularly send back their own Lords' Amendments on the big issues of the Bill, which may well include some variation of your own original proposal. The Commons,

heavily whipped, then briefly debates the Lords' offerings which are invariably voted down, Ministers regularly using the precept that they involve money which has not been accounted for in the Estimates. These negatived Amendments are then sent back to the Lords, often late at night, and their Lordships are then faced with either being cowed into defeat or else give reasons to renew their plea on the Amendments they feel most strongly about. Where they choose the latter (a process irreverently called ping-pong), they almost always lose again. I have tried to block this somewhat futile way of proceeding by proposing that after two rounds the issue should be referred to a Joint Commons-Lords Committee mandated to try to find a compromise position to be reported back to both Houses within 3 months. So far this idea has gained no traction.

This may help to explain why the current party establishments are so successful at keeping voters from getting any real handle on how their own country is run. Where votes are on non-Government business, the Government chooses to ignore them. Where the Government has to abide by the vote on its own business, it retains an iron lock on its own predominance at every stage. That is one big reason why Parliament as currently run is not fit for purpose.

Another one is way that Private Members' Bills (PMBs), won in an annual ballot, are treated with little short of disdain unless they almost comprehensively are drafted, or altered, to coincide with or complement, the Government's own policies. They are taken on a Friday when most MPs have departed for their constituencies or wherever, yet at least 100 supportive MPs have to be present to get a Bill though Second Reading. Even if it succeeds in overcoming this stiff hurdle and is not talked out by the awkward squad of contrarians on the Back-Benches, a PMB is highly vulnerable to being blocked by Government at Committee stage unless it conforms to all Government requirements. PMBs are currently treated not, as they often are, as expressions of electors' strongly felt demand for change, but rather as inconvenient impediments to the Government's steamroller.

There are other ways too that Government monopolises the political process with little or no accountability to Parliament. When something big and embarrassing happens, the Prime Minister will normally set up a public inquiry, but the chair, members and terms of reference will be chosen by him/herself without reference to Parliament. When Blair finally set up the Hutton report after the Iraq war, it was designed to produce a tame or loyalist report to let the Government off the hook, but it led to the shame of a whitewashed report because Parliament failed to challenge the PM's prerogative. When Cameron refused to set up an inquiry into the August 2011 riots because he didn't want the likely causes to be inquired into, Parliament failed to set up its own inquiry, as its Victorian predecessor would almost certainly have done. When the PM at the start of a Parliament announces his Cabinet, Parliament, unlike the Congressional Hearings in the US, does not publicly interview each proposed Minister before the relevant Select Committee, on the proviso that the Minister's position is not ratified unless Parliament after lengthy and if necessary aggressive questioning agrees.

Select Committee reports, by far the most effective form of holding the Government of the day to account, are nearly always pigeon-holed in the archives because they (or at least a small quota of them) are not brought to the floor of the House for a brief (3 hour) debate and then a vote(s) on their key proposals. The Intelligence and Security Committee (ISC), potentially one of the most important Select Committees, yet structured to be one of the feeblest, is chosen by the PM without reference to Parliament, cannot subpoena documents and only sees what it is shown, and its reports are subject to redaction by the PM who needn't even publish them at all. Which is why it failed even to detect the huge programme of State surveillance revealed several years later by Edward Snowden. It's also why at this very time the investigation into Britain's involvement in US rendition and torture in 'black sites' has been handed to the ISC so that as little as possible of the truth emerges.

The list of failures and missed opportunities by Parliament goes on and on because the grip of the main party establishments on retaining the status quo is too strong for MPs bent on career advancement to take on.

That suggests there is at least one more device which should change the balance of power at Westminster. If MPs could be made more accountable to their own voters rather than the Whips often seen as the main avenue to their advancement, voters' demands might get a much better chance of being taken seriously and indeed passed. The Government has indeed introduced a Bill purported to enable electors to pursue MP Recall, but it suffered (deliberately of course) from the fatal weakness of requiring any such demand to be subject to agreement by a Commons Committee before it could proceed!

All of these profound weaknesses in Parliamentary accountability are explored by the 10 authors in this booklet from their own differing standpoints, but together they make an irrefutable case for a major round of radical reform which is so desperately needed now if Parliament is to perform its real fundamental role of holding the Government to account in the interests of the people. But it will not succeed in this objective unless reformers can win the support of a broad mass of public opinion and transform it into an unstoppable campaign for making Parliament fit for purpose. This is why we are now publishing this booklet to trigger a start to the campaign needed.

Michael Meacher MP

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Chapter One:

WHY ISN'T REFORM WORKING?

by Mark Fisher

Parliament First came together in 2001, an All Party Group made up of long-serving MPs, such as Ken Clarke, Menzies Campbell, Frank Field, Gwynneth Dunwoody, Alex Salmond and Tam Dalyell, most of whom had served as Ministers and now, on the backbenches, were thoroughly frustrated by the growing dominance of the Government/the Executive over the Legislature/the Commons.

That dominance had markedly increased since the early 1980s to the point at which the Commons (though not the Lords) was becoming little more than a rubber stamp for the will of the Executive.

The Government determined when the Commons rose, when it sat (and thus when it was actively scrutinised and held to account by the Commons), what it debated and, when the Government held an overall majority, how it voted. The Commons operated by grace and favour of the Government. It was an imbalance that was in danger of making a mockery of Parliamentary democracy.

Large sections of important legislation went unamended and, at times, were not even debated. The Government made increasing use of Secondary Legislation, which is not, in practice, subject to amendment. The Government even began to "deem" that legislation, that had not even been debated in Standing Committee, had indeed been considered and 'scrutinised'.What had been a weakness was becoming a disgrace.

There had been no shortage of Commissions and Committees considering this. Lord Norton for the Conservative Party (2000); a Hansard Society Commission, chaired by Lord Newton (2001); Mr Blair's Poodle, a stinging squib by Andrew Tyrie MP (a founding member of Parliament First, and now the Chair of the Treasury Select Committee), all recognised the problem and proposed constructive agendas for reform. Some changes have been achieved - the Prime Minister is now required to attend two meetings of the Liaison Committee to answer questions posed by the Chairs of Select Committees. The Chairs of Select Committees are now elected. But none of this goes to the political heart of the problem, the Government's control of the Commons. The three key sources of that

dominance (the power of Patronage, and the control of Standing Orders and of the Business of the House) remain untouched.

The 2010 General Election significantly changed the membership of the Commons, bringing in a number of new members, such as Zac Goldsmith and Sarah Woollaston, who were amazed, indeed horrified, by the impotence of the Commons and the imbalance between the Executive and the Legislature.

The reforms with the greatest potential to begin to correct that imbalance were those to the Select Committees. For the first time Chairs of Select Committees were paid. Although the payment was modest, in line with that of Junior Ministers, it offered backbench Members a career alternative to trying to become a Minister. In doing so it caused a dent in the Government's power of patronage. The Commons's crucial role of Scrutiny was, implicitly, given an increased value.

But in themselves these reforms, welcome as they were, were not going to challenge the fundamental imbalance between Executive and Legislature. If the Commons is to fulfil its responsibility to monitor and scrutinise the Government on behalf of the public, who elected it, more reforms are necessary, and at the centre of that is control over the Business of the House. The Scottish Parliament has come to the same conclusion and introduced just such a Business Committee but it is not yet clear that it does, in effect, rebalance the relationship between Executive and Legislature.

Meanwhile there are useful reforms which could be achieved at Westminster. The Select Committees need additional resources, and staff, if they are to hold Government Departments to account and have, for instance the ability to commission independent research. A Petitions Committee would offer the electorate the possibility of contributing to a debate on what new legislation ought to be considered.

MPs on Select Committees need training, not least in the scrutinising of Departmental Estimates which few MPs have the time or ability to read. Pre-legislative Scrutiny should be the norm, rather than the exception.

In particular the House will not be able to fulfil its responsibility to hold the Government to account until it gets some purchase on the huge expansion of non-Departmental expenditure and Private Finance.

But even if such reforms are achieved there needs to be a significant shift in the culture of Parliament : a reconsideration of the way that the House views itself in relation to the Government; a fundamental reassessment of the rights and responsibilities of both the Executive and the Legislature.

Having won a General Election a Government has the right to sufficient time to introduce the legislative programme for which it has achieved a mandate, and to try to persuade the Commons to vote it Supply (taxation). But it does not have the right to determine how it is held to account. That is properly the job of the Commons, not of the Government. Indeed it undermines Parliamentary Democracy if the Executive is "judge and jury" of the Committees set up to scrutinise it.

In practice only a relatively small amount of Parliamentary time is taken up with scrutinising legislation, particularly in the current Parliament in which the Government has a considerably smaller legislative programme than has been the norm in most sessions of Parliament in the past thirty years.

There is no need for the Government to determine how the Commons fulfils its responsibility of holding the Government to account - the Questioning of Ministers and their Departments; Select Committees; how much time should be spent scrutinising legislation in Standing Committees; when, and on what, votes should be taken. Those are all matters that should properly be the responsibility of the Commons, with the detail determined by a reformed Business Committee.

The Scottish Parliament has such a Business Committee and the experience in Edinburgh makes it clear that finding a just balance is not easy. But until a Business Committee is established that respects the roles of both the Government and the Commons, the Commons will continue to be the creature of Government.

Since 2010 there have been the first glimmerings of such independence, beginning with the House's vote on the recommendations of the Wright Committee. The current Speaker has shown admirable courage in standing up to both Front Benches, and the performance of the Chairs of some key Select Committees (notably the Public Accounts Committee. The Treasury and the Home Affairs Select Committees) shows that such a shift in attitude can be established.

But there is still much to be done before Parliament achieves a proper balance and partnership between Executive and Legislature. Indeed in some respects the House has slipped back by agreeing to a considerable erosion in the number of days on which the Commons sits, with the result that, for weeks at a time, the Government is subjected to no Parliamentary scrutiny.

The Commons must find the self-confidence to look the Executive in the eye and assert its distinctiveness and independence.

Until it does so, and while it continues to act by grace and favour of the Government, the need for Parliament First will continue.

Mark Fisher

Chapter Two:

THE LEGISLATIVE PROCESS AND COMMONS-LORDS RELATIONS

by Paul Tyler

The other contributions to this book naturally concentrate on improvements to the way in which the Commons operates. My experience in both Houses has led me to challenge the overall assumptions on which Parliament currently performs: if this was any other organisation, I suggest, our product or service would not be rated very highly by our customers, and they would try to go elsewhere.

We have an obligation, therefore, to review the totality of the way in which Parliament does its job, both in relation to legislation and to holding the Government of the day to account. The barriers between the Commons and Lords and the gaping holes in their joint work must be attended to.

Conventions

It is now eight years since that Jack Straw provoked Parliament to set up the Joint Committee on Conventions *"to consider the practicality of codifying the key conventions on the relationship between the two Houses of Parliament which affect the consideration of legislation."*[1]

The context for the exercise was two-fold. First, a frustration within the then government that the Lords as a whole was using its power too readily and regularly, and that this made for a Parliament more cantankerous than the government's overall majority of 66 in the Commons than Ministers expected. Secondly, the ongoing 'debate' about reform of the Lords, which is regularly – though probably wilfully –beached, and still is, on the perennial refrain that irrational composition cannot be remedied without a review of powers.

On the first point the empirical basis for this frustration was comprehensively dismissed by the Clerks, who showed deftly that bills which took a long time to emerge from the Lords had usually not been allocated debate days by the Government in 'the usual channels'.

On the second, the necessity for a review of powers was undermined at the first turn by the then Leader of the House of Commons, whose written

[1] Terms of Reference, Joint Committee on Conventions, *Conventions of the UK Parliament,* HC1212-I (2005-06)

memorandum to the Committee acknowledged that *"it is a clear tenet of the UK constitution that the House of Commons is the pre-eminent body within the sovereign parliament. That will remain the case whatever the composition of the House of Lords. Elections to the House of Commons will continue to select the people's primary representatives in Parliament, and they will continue to determine who forms the Government."*[2]

In that context, this chapter examines from a different starting point the relationship between the Houses. My premise is not that Parliament should be tamed, or that one House must be, but that both Houses can and should be empowered further to fulfil their joint function – a joint endeavour to hold the Executive to account. What follows does not seek to revisit the old argument about whether the Lords' powers or its composition should be addressed first in a big structural reform of the second chamber: I am content with Jack Straw's premise; others disagree strongly with it. These proposals would apply to the present Lords, or to an elected House, and they are all aimed at increasing the influence of Parliament as a whole, rather than of one House over another.

Primary Legislation: Government Bills

The legislative process itself is a key element of Parliament's armoury when it comes to scrutinising the intentions and the likely effects of government policy. Parliament as a whole should therefore take control of that cross-House process, by establishing a Joint Business Committee (hereafter, JBC). This should manage the flow of legislation, and take a decisive role in determining which House a Bill should start in. In doing so, it would seek to avoid the 'London Bus Syndrome' which so often affects us at present, where governments eager to obtain a Commons mandate for most legislation begin a disproportionate number of Bills at that end. This leaves the Lords without legislative work for a long period, followed later by an intense scrabble to fit sufficient scrutiny in when the Bills do emerge.

[2] Memorandum by Her Majesty's Government to Joint Committee on Conventions, *Conventions of the UK Parliament*, Ev 1, HC1212-II (2005-06)

Clearly, an amendment to the Parliament Acts, applying its provisions to amendments offered by the Commons to Lords Bills, would underpin this principle. Yet there need be no delay to the procedural change. Bills which begin in the Lords are still introduced by the Government, and MPs are still at liberty to remove the Lords' changes during Commons consideration. It seems unlikely that the Lords would insist on its position more often just because doing so involved repeatedly rejecting Commons amendments, rather than repeatedly offering Lords amendments.

The JBC could additionally allocate time to Bills in each House, and agree "carry over" when it is desirable to provide more time for scrutiny, rather than rush it at the end of session. Each House as a whole should have the right by resolution to refer a Bill back to the Committee for more time to be allocated.

Far from the aspiration put to the Conventions Committee by Jack Straw, to remove Bills from the Lords' clutches after 60 days, the JBC should instead set a minimum time threshold for Bills to be considered, perhaps based on how many clauses each Bill has. Meanwhile, the Lords should develop a mechanism to 'star and shame' the Commons when it has not examined a particular clause in detail at all, by marking them with a star in the Lords version of the Bill. This would motivate the Joint Business Committee and the business managers to provide sufficient time at Committee Stage for full debate on every clause in a Bill, rather than effectively guillotine large sections by way of a programme.

The Conventions Committee also examined the way in which 'ping-pong' works. It agreed that this process of exchanging amendments was "not a convention, but a framework for political negotiation"[3]. That being so, it is time to build out of that framework a real forum for representatives of the two Houses to negotiate, when agreement cannot otherwise be reached.

Conciliation committees between the two Houses could replace the laughable 'Reasons Committees' which now meet briefly to discuss why

[3] Joint Committee on Conventions, *Conventions of the UK Parliament*, HC265-I (2005-06), p. 53

the Commons disagrees with the Lords in an amendment. When the Modernisation Committee of the House of Commons looked at these in 2005, Stephen Laws from the Office of the Parliamentary Counsel, put it well describing the Committees and their 'product' as *"rarely informative, consisting in most cases in a paraphrase of the proposition that the Commons do not think what the Lords have proposed is a good idea."*[4] That surely is no way for two chambers of Parliament – however composed – to enter dialogue with each other.

Conciliation committees exist in the European Union's co-decision procedure, and work well to arbitrate between the Council and the Parliament. They exist also in countries as diverse as France, Germany, Switzerland, Romania, Japan, Thailand and the United States, for resolving inter-cameral disputes. In the United Kingdom Parliament they could kick in at the same point that the Reasons Committees do today: when the Commons disagrees with the Lords in their amendment, without proposing an amendment in lieu, or insists on an amendment to which the Lords have disagreed.

Where amendments in lieu are proposed by one House to another, there should be at least 24 hours for these to be considered by the receiving House and its members before they are formally debated. All amendments sent from one House to another, whether from government or not, should include an accompanying explanatory note, explaining *both* the effect *and* the rationale of the proposed change.

Initiation of legislation

As well as holding Ministers' feet to the fire on Government Bills, Parliament as a whole ought to be able to take far more initiative in proposing legislation for itself. As ever, the existing preponderance of Government Bills among those which achieve Royal Assent is predicated not just on the decisive influence of the executive over a majority in the

[4] Stephen Laws, Office of the Parliamentary Counsel, evidence to Select Committee on the Modernisation of the House of Commons, The Legislative Process, HC1097 (2005-06), Ev 128-135

House of Commons, but on the executive's capacity to control time in the chamber. That Private Member's Bills are deliberately debated at the time in the week when it is least likely that a Member can attract enough of his or her colleagues even to carry a closure motion is surely an absurd contrivance.

There is no especial logic to the present Commons arrangements when Government business begins at 11.30am on a Tuesday. This neither permits travel from the constituency on Tuesday morning rather than Wednesday nor early return to the constituency on a Tuesday evening, since Wednesday is still – rightly – usually a very full parliamentary day. Yet reverting to a 2.30pm start as a standalone measure would simply be a step back to 'the good old days', of late starts and intoxicated late-night Divisions. Instead, a change if it is made should facilitate the institution of Tuesday mornings – in both Houses – as the time for consideration of Private Members' Bills. Many more could be considered each year under this arrangement, and of these many more would have the chance to secure their passage through both Houses.

The present 'ballot' arrangement – actually a parliamentary lucky dip –for members of the Commons to get a Private Members' Bill slot could be replaced with a real ballot, predicated on the long-title of a Bill that a Member wished to bring in, with each party group entitled to a proportionate number of slots. Likewise the laissez-faire arrangement in the Lords whereby any Member may bring in any Bill at any time could be replaced with a similar, real ballot, for slots from which it might reasonably be expected that there would be time for a Bill to be carried.

These reforms would place genuine potential to introduce change, to innovate, and to challenge the status quo, in the hands of every individual MP and Peer. Both Houses would become the subject of creative, open lobbying for legislative initiatives to be sought, leading and stimulating the Government of the day – a stark contrast to Parliament today, which is caught in a state of almost permanent reaction.

Secondary Legislation

The Joint Committee on Conventions looked at the process for agreeing (or, very occasionally, not agreeing) secondary legislation in both Houses. Yet it was cautious in simply elucidating a general understanding that the Lords does not reject secondary legislation, because the only way to do so is by outright dismissal, which is considered to be incompatible with the role of the Lords as a revising chamber. The Committee largely rejected the then Government's contention that *"Statutory instruments are made by Ministers and it is for the Commons [only], as the source of Ministers' authority, to withhold or grant their endorsement of Ministers' actions."*[5] The Committee agreed more closely with our witness, Lord Norton of Louth, who branded their contention *"an absolutely atrocious statement in the best Jim Hacker or Sir Humphrey style."*[6]

Yet Parliament as a whole is still in a tremendously weak position when it comes to scrutinising – still less altering – the detail of significant legislative change which can be effected through these Statutory Instruments. The two Houses could come together to remedy this democratic deficit by merging the present Joint Committee on Statutory Instruments – which deals only with whether the Instruments are ultra vires – and the Secondary Legislation Scrutiny Committee of the Lords, which looks at their substance. Both Houses – through a Joint Committee – should be involved in assessing the merits and the vires of an SI together, and should report to the floor of each House before votes are taken. Such a committee could recommend amendments, and invite Ministers to re-table the instrument in the light of those recommendations. If a Minister declined to do so, each House should be able to vote by resolution to accept the recommendations and to insist on the amendment.

These changes would have the joint effect of enabling Parliament to take greater control of secondary legislation proposed by Ministers, and of encouraging governments to build the detail of their proposals into Bills at

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[5] Memorandum by Her Majesty's Governmentto Joint Committee on Conventions, *Conventions of the UK Parliament*, Ev 1, HC1212-II (2005-06)

[6] Oral evidence from Lord Norton of Louth to Joint Committee on Conventions, *Conventions of the UK Parliament*, Ev 133, HC1212-II (2005-06)

the primary legislative stage rather than go through a committee scrutiny procedure later.

Holding the Executive to account: in the chamber

As any leading parliamentary academic would tell their students, Parliament's function ranges far beyond its simple conveyor belt mechanism for legislation. We are here to hold Ministers to account for the executive actions they take too, and each House has something to learn from the other in pursuit of this function.

First, the Lords could take a leaf out of the Commons' book by simply devoting more time to this vital activity. Questions is by far the best attended, liveliest and most informative part of the day in the Lords, yet it is artificially constricted to four questions of 7½ minutes' length. Five questions of nine minutes' length would make for only 45 minutes – still somewhat less than the hour devoted to the task in the Commons – but permit both more subjects to be debated and more Peers to debate them.

Additionally, it is now high time the Lords activated its well-paid and very capable Lord Speaker by employing her to chair the questions session: without that light discipline, from the independent member elected for that precise purpose, the whole episode each day is the preserve of the sharp-elbowed. In the final event disputes about who should speak next are resolved in the interests of the Executive, by a Whip/Minister. How anyone can seriously believe this represents 'self-regulation' is beyond me.

The Commons, in turn, would do well to use at least some of its hour to reflect the Lords' practice of questions which are effectively mini-debates, with an opportunity for Party spokespeople and expert backbenchers to comment on and challenge the answers of the Minister. The strength of the Lords' process is that – unlike Commons topical questions – subjects (rather than just Departments) are known in advance to the Minister so that he or she can give a full answer, but the exact nature and personnel involved in the exchanges about that answer is not known in advance and offers a significant but constructive challenge as a result.

Both Houses could benefit from an additional, apparently symbolic but significant, change too. The principle that Ministers are members of one or other House is in place so that Ministers can account for themselves direct to Parliament. Yet Ministers are Ministers everywhere, not just in the House of which they are a member. To that end, it is time to permit Ministers from one House to come and account directly for their actions to the other. This would put an end to the dry repetition of statements in the Lords, and enable the Minister actually operationally responsible for a particular action or problem (rather than the most recent recipient of the short straw) to account directly to both Houses. It would also enable senior Ministers who are Peers – as Lords Mandelson and Adonis were – to account directly to, and offer statements first to, the House of Commons.

Holding the Executive to account: Select Committees

The Commons and the Lords have distinct but complementary approach to committee work. The Commons works with a committee following the work of each Department, and enjoying a special relationship of detailed and regular scrutiny with the relevant Secretary of State and ministerial team. The Lords, by contrast, operates on a cross-departmental basis, covering broader areas like Science and Technology, Economic Affairs, and the Constitution.

These two approaches complement each other well, but there are areas where the two Houses could work together more closely, forming Joint Committees as a matter of routine. More regular use of such committees would make both for better scrutiny, and for increased cross-cultural understanding between members of the two Houses. The process and practice of a Joint Committee can itself offer the chance to adopt different ways of working and of building alliances which bridge in equal measure the gap between political parties and the short corridor between the Commons and the Lords.

The first candidate for joint working is where ad hoc committees are set up to consider particular issues, which cut across government

departments. The Lords has one in session as this chapter goes to press on Affordable Childcare, and one sat and reported last year on 'Soft Power' and the UK's influence in the world. There is no reason not to have MPs on these committees too.

Secondly, Joint Committees should take formal and regular responsibility for working together across the two Houses on examining the product that the two chambers together have produced in Acts of Parliament. Pre-legislative scrutiny is now far more common than it was, and is often achieved through Joint Committees. Yet post-legislative scrutiny is all too rare, and still occurs on a one-House basis, as with the Lords Extradition Committee, which was set up to examine the operation of the Extradition Act 2003. The Commons played its part in passing that Act, and should be part of assessing its operation too.

In two recent high-profile cases, the Lords has sent amendments to the Commons making provision for a review of a particular Act after so many years: this happen in the cases of both the Health and Social Care Act 2012 and the Transparency Act 2014. Such reviews should not need to be eeked out of government as a concession in return for compliance from the Lords on the substance of a Bill. Revisiting the operation of an Act should be routine, and it should be done not by an 'independent' reviewer appointed by government but by the progenitor of the Act: Parliament itself, through the Joint Committee process.

Working together as an institution

The House of Commons is presently engaged in a programme to save £45m per annum[7]. As part of a move by Members in both Houses to accept a clearer, joint role – working together rather than against each other to hold the Executive to account – it is a logical conclusion that the operational parts of the two Houses should come together too.

[7] House of Commons Finance and Services Committee, House of Commons Administration: Financial Plan 2013/14 to 2016/17, including draft Estimate for 2013/14, HC691 (2012/13), p. 5

Both the House of Commons and House of Lords Libraries are excellent, with brilliant research staff, able to carry out complex and often esoteric tasks at little notice. There are great subject specialists, and gifted generalists. Some joint working currently operates; however, it would surely make sense to pool this talent in one Parliamentary Library, there to assist Members of either House. This could save money over time, but much more importantly create a greater 'institutional' knowledge and memory which is shared rather than divided between the two Houses.

Incidentally, this would also be a useful opportunity to standardise catering costs and procurements between the two Houses. This would surely be more economical in running the service and might finally bring to an end that greatest of all parliamentary absurdities: the 24% difference between the cost of a Danish pastry in the Lords and one in the Commons!

Conclusions: masters of the Crown

As visitors walk through the Palace of Westminster, they get a sense both of the long historical struggle between Parliament and the monarchy, and of the struggle for pre-eminence between the two Houses. Starting in Norman Porch – once home to busts of Norman Kings – visitors now see busts of a whole host of Prime Ministers who were members of the Lords. They learn, though, that the Commons has comprehensively won the struggle to be the primary chamber: irrespective of the future composition of the Lords, the Commons will be the place which controls 'supply' (money) and which supports or slays governments of the day.

Citizens also learn that Parliament has won the struggle against the monarchy, and that the Sovereign will never enter the House of Commons for fear his or her head would go the same way as that of Charles I. Yet refusing to issue a security pass to the Windsor household is not sufficient for Parliament to establish pre-eminence over the Queen's Ministers. It is in this endeavour that the ideas in this chapter, and those of members across both Houses, can be used to put aside concerns that a gain in the influence of one House necessarily diminishes that of the other. Only if

the two Houses will work together can the public be confident that their Parliament has finally cast itself as master not servant of the Crown.

Paul Tyler *was MP for North Cornwall, 1992-2005; Liberal Democrat Chief Whip 1997-2005; and Shadow Leader of the Commons 1997-2005. He is now Co-Chair of the Liberal Democrat Constitutional and Political Reform Parliamentary Party Committee, and sits in the Lords as a Working Peer. He is author of Who Decides? which gives guidance on the working of the working of committees.*

Chapter Three:

A NEW MAGNA CARTA – A WRITTEN CONSTITUTION

by Graham Allen MP

We have an unelected Chief Executive, a feeble Parliament, an overcentralised Whitehall machine, an unelected second chamber, a dependant local government, incomplete devolution, an hereditary Head of State and no publicly available political rule book. Apart from that do we have a fit for purpose democracy?

As the nation approaches the 800th anniversary of the sealing of Magna Carta at Runnymede, it is time for us to think again about a fundamental review of our democracy. That is why I am asking everyone to comment on my Select Committee's draft Written Constitution and also to write for me rousing Preamble to that constitution (see www.parliament.uk/pcrc)

Magna Carta is rightly revered as one of our earliest constitutional documents and is widely acknowledged as the foundation of the concept of limited government, subject both to the law and to the people. The genesis of Magna Carta was the impunity with which King John used his prerogative powers without the consent of those affected. In other words, Magna Carta was about accountability and about power: a statement that the King should only exercise his power on the basis of a shared understanding with those subject to that power.

Today we need a new Magna Carta – a written constitution to embody a new agreement and a new shared understanding that would enhance the accountability of government both to Parliament and to the people.

The executive power of today is just as overmighty as King John and equally keen to avoid constraints on and definition of its power. And our failure to have put in place that fundamental of democracy – a meaningful separation of powers - means that it has a degree of control over Parliament that Charles I could not even have dreamt of. Let us not forget that that same executive-controlled Parliament is 'sovereign' under our current constitutional arrangements, meaning that there are in principle no legal limits on its power to legislate on any subject matter. Lord Hailsham's 'elective dictatorship' is alive and well.

The potential dangers of this situation are clear. We find ourselves with a constitutional and political system in which those who benefit most from this undefined and unconstrained power – the Government – are largely able to decide on whether or not to make changes to that system. And we as individuals have no guarantee that our rights and freedoms will not be eroded. As Professor Robert Blackburn has said: 'The truth is that Governments of all persuasions have a vested interest in moulding our constitutional arrangements in a manner that suits their own political, financial, and administrative convenience...Nothing is more dangerous than corrosions of liberty dressed up as constitutional safeguards'.

It is undeniable that our traditionally 'unwritten' constitution has changed significantly over recent decades, and much of it is now written down. Legislation has provided for devolution in Scotland, Wales and Northern Ireland, freedom of information, the creation of the Supreme Court, the introduction of fixed-term Parliaments, and the legal protection of human rights. The Cabinet Manual was also a significant step forward, bringing together in one place the laws, conventions and rules that are said to govern the government.

But in spite of these changes, which are to be welcomed, significant problems remain. The legislation that has reformed many aspects of our constitution has been brought forward on a piecemeal basis and in the absence of an overarching, coherent design. The Cabinet Manual was drafted internally and in secret, by government and for government. Our constitutional rules are scattered across a wide variety of sources, and discovering what they are often requires what John Smith described as 'judicial archaeology'. In short, the fact that many of our constitutional rules are now written down does not mean that they are easily accessible or readily understood.

The uncertainty surrounding the exact scope of these hard-to-access rules and the perception that the Government is able to bend those rules to their own advantage may have contributed to the mistrust in politics and politicians that has become a major feature of our democracy over recent years.

There is a widespread dissatisfaction with traditional forms of political engagement. While political activism through campaigning organisations and protest movements is thriving in the UK, membership of political parties is in serious decline. And this trend is most pronounced among younger people: according to figures published by the Hansard Society in 2013, only 41% of those interviewed said they would definitely vote in the event of an immediate general election, but this figure dropped to a mere 12% among 18-24 year olds.

And although many may argue that the UK's uncodified constitution has contributed to the long-term stability of our democracy, that stability may soon be tested in unprecedented ways. The Scottish independence referendum, whatever the outcome, will lead to major constitutional reform. And what if a government is formed in May 2015 having won only a small minority of votes on a low turnout? Or what if a party receives a significant percentage of the national vote in the general election but does not win a single parliamentary seat?

Now is the right time to ask some difficult questions: is our current constitution clear enough? Would codifying our constitutional rules help combat the current widespread suspicion of politicians and of our political system? Would that enable us adequately to hold those in power to account?

I believe that a written constitution would help to reinvigorate our democracy. It would have a symbolic and seminal role, much like the one that is played out across the Atlantic, and importantly it would enable every person to own the rule book of their democracy.

It is vital that both Parliament and the people are able readily to access and understand the constitutional rules that bind the government and regulate its actions. We need to know the rules of the political game if we are to be able to test whether or not those playing the game are playing it fairly. Only then can we hold the government properly to account.

Understanding where power resides and the ability to hold those responsible for exercising that power to account are features of a mature

democracy. It is now time for the UK to join most other democracies around the world and adopt a written constitution. This will ensure that our political system is founded upon a legitimate basis that is understandable to all.

As our political leaders appear paralysed and fearful, trapped in the headlights of tomorrow's headlines, it falls to Parliament to act. It can do only so because the 5 year fixed term has allowed the Committee to plan its work, and because MPs elected for the first time to select committees by secret ballot can think and propose public debate without anxiety about the Whips.

Until 1st January 2015 the Political and Constitutional Reform Select Committee, which I chair, will have open for consultation its report 'A new Magna Carta?' The product of a four year partnership with King's College London, the report briefly sets out the arguments for and against a written constitution for the UK and then outlines three different detailed models for comparison and consideration, including a model Written Constitution:

- A Constitutional Code: sanctioned by Parliament, but without statutory authority, setting out the essential existing elements and principles of the constitution.
- A Constitutional Consolidation Act: consolidating existing laws and practices relating to the constitution, including statues, common law, parliamentary practice and a codification of essential constitutional conventions.
- A Written Constitution: basic law by which the United Kingdom would be governed, setting out the relationship between the state and its citizens, an amendment procedure and some elements of reform.

The Committee deliberately does not prefer one option over another, instead seeking the views of as many individuals and organisations as possible: politicians from central and local government, academics, think tanks, charities and campaigning groups and, above all, members of the

public. We have asked:

- Does the UK need a written constitution? Which, if any, of the options set out by the Committee do you support? What should a written constitution for the UK contain?

After 1st January 2015 the responses will be synthesised and will form the basis for a further report to inform thinking up to the May General Election and the evolution of our politics thereafter.

In 1792 Tom Paine famously declared: 'A constitution is not the act of a government, but of a people constituting a government, and government without a constitution, is power without a right'. We - the people of the UK - have never constituted our government. And our indirectly-elected government has, over time, usurped the power of our Parliament. The result is that political legitimacy is now under threat from many quarters: the media, separatism, over-centralisation, voter antipathy and apathy. Hence many of our once unquestioned institutions are now widely regarded as not fit for purpose. Our democracy needs to be refounded and resecured on new, strong principles of legitimacy and consent. The only way that we can achieve this is through the adoption of a written constitution.

Let the debate begin.

Graham Allen MP

Chapter Four:

DIRECT DEMOCRACY – MAKING MPS ACCOUNTABLE TO THE ELECTORATE

by Zac Goldsmith MP

There can be no doubt that the relationship between people and power is growing ever more strained.

We know that turnout at elections has been sinking for years. From 1945 until 1997, the average turnout at General Elections was over 76%, peaking at 83% in 1950. In the most recent elections, it has hovered at around 60%. Membership of political Parties meanwhile is at an all time low.

It is a fact that anyone involved in politics is acutely aware of, but rather than confront the root cause of the disengagement, it has always been more convenient for politicians to attribute it to the most recent scandal, as if the problem hadn't existed immediately before. As a consequence, solutions invariably fall short of what's needed.

Others blame apathy, but that too must be wrong. A million people marched in London against the war in Iraq. Half a million people took to the streets in opposition to the ban on hunting. Nearly six million people belong to environmental and conservation groups. These are not signs of an apathetic nation.

I believe the cause of this disengagement is that our politics has spectacularly failed to adapt to the modern world.

The world has changed beyond recognition, in large part due to the internet, and the almost limitless access to knowledge and information it has made possible. We no longer depend on a small handful of newspapers to inform our politics; today anyone can create their own platform, anyone can become a media baron. Whereas voters used to have to make do with sending their reps to Parliament, and receiving the odd newsletter or newspaper report, today's voters can see immediately what their MP is saying and doing.

But while these vast changes have been taking hold, the way we do democracy has stood still.

Locally, voters are often amazed by how little power their elected Councillors have, and how often they are simply overruled on Planning

issues by distant, unelected quangos.

At the international level, no one really believes they can influence decisions made by the European Union, whose decision makers are almost entirely insulated from democratic pressure. European elections are rarely seen by voters as an opportunity to vote for change. At best, they are seen as an opportunity to send their own governments a message.

The national equation is only marginally more tipped in people's favour. But for the 1,500 or so days in between general elections – when most people can choose between – at a stretch - three political parties, they are denied any access at all to the decision-making process.

Nor can voters properly hold their own representative to account. After an election, the pressure on an MP is virtually all top down from Party, not bottom up from constituents. There is no mechanism allowing voters to sack their MP, no matter how badly they are let down. Unless jailed for more than a year, an MP is inviolable. In some safe seats, even the election is a formality. With a few exceptions, the function of an MP has been reduced to electing a Prime Minister and providing him or her with the votes needed to pass largely unscrutinised legislation.

Unsurprisingly there is a sense that politics has become so detached, so remote, that no matter how, or even if, people vote, nothing ever changes. It is an alarming trend; after all, no country has ever walked away from democracy towards a brighter or better place.

I believe we have reached a pivotal moment in our history where our democracy must evolve to survive, as it has so often in the past.

Consider the First Reform Act of 1832, where the vast social transformation brought about by industrialisation meant politicians had no alternative but to yield to society's demands and broaden the franchise to give more people more ownership over their democracy.

It happened again in 1867, when reforms were brought in that effectively doubled the number of men able to vote. And again in 1884. 1918 saw the first women being allowed to vote, albeit only those over 30,

and with property. That changed in 1928, when everyone under the age of 21 could vote; man or woman, and again in 1969, where the voting age was lowered to 18.

One way or another, each of these steps involved Parliament reluctantly handing more power to people, and edging towards a purer democracy. No one today questions the wisdom in any one of those reforms.

In the heat of expenses scandal, the leaders of the three main Parties seemed finally to acknowledge the appetite and need for reform. David Cameron talked vaguely but enthusiastically about Direct Democracy. Nick Clegg went further, promising something akin to a new great Reform Act. All three Party leaders promised to bring in a system of Recall that would allow voters to sack underperforming MPs.

No one imagined Britain would adopt full Direct Democracy, but many expected us to take a few steps towards it.

Direct Democracy is a simple concept, and although it is not a panacea, I believe it would help us repair the relationship between people and power. In essence, it means empowering ordinary people to intervene on any political issue, at any time of their choosing. With sufficient popular support, existing laws can be challenged, new laws can be proposed, and the direction of political activity, at local and national level, can be determined by people rather than distant elites.

The principle tool is the referendum, or more specifically, the 'Citizen's Initiative', and it's not a new concept. 24 of the 50 States of America use Citizen's Initiatives. There are versions of it in Austria, Italy, New Zealand, and - since the fall of the Berlin Wall - various countries in Eastern Europe.

There is good reason to believe that Direct Democracy would radically transform politics here in the UK. Not only would voters be able to stop unpopular policies from becoming law; they'd be able to kick-start positive changes. The whole process of calling a referendum would ensure more widespread and much better informed debate. We'd also see greater legitimacy given to controversial decisions.

The key is that decisions are always taken at the lowest possible level. For example, if there is a proposal to build an incinerator in a particular borough, people living in that borough would be able to 'earn' the right to hold a referendum if they manage to collect a specified number of signatures.

We would need debate about the kind of issues that could be influenced, made or reversed via referendum nationally. Constitutional issues, like the transfer of powers to the EU would clearly justify use of a national ballot initiative.

We would need rules ensuring balanced coverage of an issue, fair expenditure by interest groups, honest wording of questions, the number of signatures required to trigger a referendum, and so on. But these problems can be overcome.

One fundamental component of Direct Democracy is Recall. Its beauty is in its simplicity. If a percentage of constituents – usually 20% - sign a petition in a given time frame, they earn the right to have a referendum in which voters are asked if they want to Recall their MP. If more than half say yes, there is a subsequent by-election.

It is extraordinary that under today's rules, if an MP were to ignore their voters from the day of the election, if they were to systematically break every promise they made, or disappear on holiday for three years, or even switch to an extremist Party, there is literally nothing their voters could do about it until the next General Election.

Even then the choice is limited, because it would require people to vote for a different Party, and in many parts of the country, people are only comfortable voting for their traditional Party. Under Recall, people can sack their MP at any time, and replace them with someone from the same Party. You could still have seats that are 'safe' for a Party, but MPs would always be kept on their toes.

Perhaps even more importantly, Recall would change the dynamic in Parliament. Because the greater pressure on an MP (after the election) is

from the hierarchy of the Party they belong to, and not voters, they are unlikely to perform their priority task: holding the Executive to account. Genuine Recall would, at a stroke, remind all MPs that the only 3-line whip that counts is the one imposed by their constituents. It would encourage far greater independence in Parliament.

Unfortunately, and perhaps unsurprisingly, talk of direct democracy quickly evaporated after the election, and all we are left with is a promise to bring in a version of Recall that is Recall in name only, where Recall could only happen by permission of other MPs, and where the criteria are so narrow as to make it virtually impossible. It has been rejected by all democracy campaigners and reform-minded MPs alike.

So why are Britain's political leaders so reluctant to pursue direct democracy? Pressed for an explanation into the Government's failure to deliver a proper Recall system, Ministers invariably cite their fear of 'kangaroo courts', or of 'mob rule'. But boil it down, and this is essentially an argument against elections, and indeed democracy itself, because in true Recall, the only court is the constituency, the only jurors are the voters. Where Recall happens, there are no known examples of successful vexatious recall attempts.

But it is this same fear of the 'mob' that has prevented meaningful reform for years. Precisely the same arguments were used to prevent women being given the vote, and the same arguments are now used to row back direct democracy.

We hear for example that direct democracy will give newspapers too much influence. But newspapers already have far more influence over 650 vulnerable and frightened MPs than they ever could over a notional audience of 60 million.

The same is true of special interest groups. Ask any lobbyist whether he would rather persuade a government minister, over an expensive lunch, to insert a clause into a bill, or instead seek to win a proposal in a public referendum. The answer will invariably be lunch with the government minister.

We hear that that policy is too complex for ordinary voters. But no one is suggesting a form of Government-by-referendum. Referendums would necessarily only be used where the demand is very high.

Besides, as any honest Parliamentarian would admit, it is routine for MPs to vote on amendments to Bills without the slightest idea what those amendments would do. The volume of legislation means no MP can possibly follow each and every turn, and the vast majority rely limply on the instructions of their Party whips.

Direct Democracy expert, Professor Matt Qvortrup has described a study in Denmark following the referendum on the Masstricht treaty, where a sample of ordinary voters were shown to know more about the Treaty than a sample of Danish MPs.

Even where MPs do understand the details of the legislation they are voting on, the overwhelming pressure is in any case to follow the Party line.

Any referendum, even one dealing with a complicated subject, would prompt precisely the kind of public engagement that politicians claim they want to encourage. Indeed it is worth noting that voter turnout in those States in the US that allow the Citizen's Initiative is higher on average, than in those that do not.

Some commentators, particularly to the left of politics, fear that Direct Democracy would render minority groups powerless, but there is no evidence at all to suggest that minority interests are more threatened by direct democracy than by representative democracy. On the contrary, there have been many cases in the US of citizen's Initiatives overturning reactionary legislation.

As Matt Qvortrup points out, South Dakota voters overturned a law that made abortion illegal in almost all cases, including for rape victims. Missouri voters backed stem cell research, against the position of their legislature. Arizona voters rejected an initiative to ban gay marriage.

Nor is the greatest fear – of the 'mob' - borne out by practical experience. In 2009, a nation with a reputation for insularity, was asked to tighten its citizenship laws, making it harder for foreigners to gain naturalisation. Much to the surprise of international commentators, the proposal was rejected by a margin of almost 2 to 1. This country can justly claim to be the most democratic on earth: Switzerland.

Edmund Burke is often cited as an opponent of direct democracy. But it is worth remembering his observation that "in all disputes between people and their rulers, the presumption is at least upon a par in favour of the people.'

Zac Goldsmith MP

Chapter Five:

HOW TO MAKE GOVERNMENT ACCOUNTABLE TO PARLIAMENT

by Michael Meacher MP

The accountability of Government to Parliament has steadily eroded over a long period of time and now several procedures urgently need to be radically reformed if Parliament is to be fit for purpose.

1. The scrutiny of Government bills needs to be much more effective

At present, Government acts on the basis that the only votes in Parliament which it will recognise as decisive are those concerning its own legislative bills, and here Government has the whole process entirely stitched up. By definition Government has the numbers to win any vote at second reading. At committee stage Government has a majority which is effectively chosen by the Whips to ensure enough loyalists to make it virtually impossible to amend the bill in any significant way if Government is determined to take a hard line. At report stage a short time is allotted (nearly always only 1 day), and when a large number of amendments are tabled and grouped by the Speaker, the Government Whips can readily ensure, even when blocks of amendments are timetabled, that earlier less significant amendments are talked out at length to prevent later more controversial ones being reached. At Lords' Amendments stage Government has the numbers to resist any amendments, however reasonable or desirable, either on grounds they involve some cost or through overriding any number of 'ping-pong' exchanges with the Lords on the grounds that the Lords does not have an electoral mandate.

There are several reforms needed here:

(i) Bill committees should be replaced by sub-committees of enlarged Select Committees, which have continuity and greater expertise, and are not dominated by the Whips. There is a precedent for this in the Scottish Parliament.

(ii) These specialist sub-committees should on all important bills seek external expert opinion for 3-4 sessions to focus on central issues rather than marginal detail.

(iii) For report stage 30-50 word explanatory statements should be

required from the proposer of each amendment which should be included on the Order Paper with the amendment as well as shown on the TV annunciator when the amendment is being debated and voted on, so that Members know what they're voting on (when at present most simply follow their own Whips without knowing precisely the substance of the amendment).

(iv) All blocks of the Speaker's amendments or new clauses should be timetabled to ensure they're all reached, and more time allotted on a further day if necessary.

(v) A Parliamentary website should ASAP after a vote publish the voting lists for all key amendments so that constituency parties and their members know how their own MP (as well as other MPs) voted – or did not vote – and also the media and other interested groups (voluntary or charity groups and lobby organisations) can be quickly told the pattern of voting.

(vi) Lords' Amendments should not be ruled out of order on money grounds as long as the cost of the amendment does not exceed [say 5%] of the cost of the whole bill. Where Commons and Lords do not agree after 2 (or 3) rounds of ping-pong, the issue should be put to the relevant combined Commons and Lords Select Committee to reach a compromise.

2. Non-Government business which commands a majority in a Commons vote should have to be adopted by the Government, subject to certain conditions

(i) Votes on Back-Bench Business Committee (BBBC) motions which now take 35 days of Commons time in a year should, where Government is defeated, be referred to the Lords for ratification, and if ratified, Government should be required to implement the decision in full within a reasonable time period [say 6 months], and not produce countervailing measures to invalidate this HC/HL decision. At present, votes which the Government has lost but then simply disregarded include:

(a) several BBBC votes, including one that a Committee of Inquiry be set up to investigate the impact of the welfare 'reforms' on poverty (which the Government lost by 125 votes to 2), and another that the badger cull be moderated or ended (which the Government lost by 129 votes to 1).

(b) A PMB on the Right to Recall an MP (which the Government lost by some 70 to 10 votes),

(c) A motion in the Commons demanding a reduction in the EU budget.

(ii) Key Select Committee proposals [say half a dozen a year as selected by the Liaison Committee] should be debated on the floor of the House and voted on, and if agreed, should then be referred to the Lords for ratification, and if agreed there, should be implemented as a 2(i).

(iii) Private Members Bills (PMBs), at least 20 or perhaps 30 a year, should be taken for second reading every Tuesday and Wednesday at 9.00-11.30am, not as at present on Fridays when most MPs have left. They would then be taken upstairs for committee stage at these times, and the committee stage members of the party of the PMB sponsor should be chosen by the sponsor, not the Whips. The committee stage proceedings should be timetabled to ensure that all amendments are reached and properly debated. The report stage (and third reading) should also be taken at these times on Tuesdays and Wednesdays and similarly timetabled so that all amendments are properly debated .

3. Parliamentary control over other rights now exclusively vested in Executive

(i) The setting up of Committees of Inquiry, now vested in the PM, should be extended to Parliament. This would apply particularly to cases where the PM for his own reasons refuses to establish an inquiry, for example after the riots in August 2011. Parliament would have the right to choose the chair, members and terms of reference for the Committee of Inquiry, and the Executive under this ordnance would be required to provide sufficient funding.

(ii) As a corollary to the latter, Parliament should have the right to ratify any Committee of Inquiry set up the PM, both in terms of its chair and members as well as its terms of reference. Where it disagreed in any of these respects, the PM would be required to propose alternatives until agreement with Parliament was finally reached.

(iii) The Intelligence and Security Committee (ISC) is the one Select Committee which is kept firmly out of Parliament's hands by the PM. The ISC is chosen by the PM and largely filled with Establishment trusties, it only investigates what the PM requests, it has no means of knowing whether it has been given all the relevant documents by GCHQ/MI5 (the Snowden revelations indicate it isn't), and its report once completed goes directly to the PM who can secretly edit or redact it or not publish it at all. The ISC is a sham pretence of democratic oversight and in its present form should be ended. Instead the ISC should be constituted like all other Select Committees, should investigate what Parliament as well as the PM may choose, and should report primarily to Parliament rather than the PM. Issues of national security and confidentiality should be verified, not on the say-so of the security services, but by the adjudication of the Information Commissioner.

(iv) All chairs of senior public sector organisations should be subject to ratification by the appropriate Select Committee, as already happens in the US Congress. This procedure is followed in some cases in the UK, but it should be made routine across the board. Where on balance the Select Committee votes not to accept the Government's nominee, the PM (or other Minister) must produce an alternative nominee until agreement is reached with the Select Committee.

4. Additional reforms needed to secure proper accountability

(i) A House Business Committee was intended by the Wright Committee, after the introduction of the Back-Bench Business Committee, to negotiate on equal terms between Government and Parliament the transaction of Government business for a future period ahead, while of

course preserving the right of Government to have sufficient time to put all its business before the House. It was written into the Coalition Agreement in 2010, but the Government has recently reneged on it. It must now be the central priority for any Parliamentary reform programme.

(ii) Clearly reform of the House of Lords, on the basis that access is either wholly by election or at least on an 80:20 electoral balance, remains a very important objective. But it will obviously require a sustained governmental push to gain the necessary momentum, and that can only happen after 2015.

(iii) A Parliamentary Ombudsman is required, along with an activist Speaker, to preserve the rights of Back-Benchers to call the Government to account. One area where this is particularly needed concerns the quality, openness and completeness of written parliamentary answers where at present the information provided is often selective, evasive or simply rejected on dubious grounds of disproportionate cost.

(iv) A Parliamentary website is needed so that members of the public can be better informed about what is really happening in Parliament and to help mobilise popular opinion both specifically in the early stages of Bill preparation when involvement is likely to be most influential and also more generally in support of procedural reform.

Michael Meacher MP

Chapter Six:

MANDATORY EXPLANATORY STATEMENTS AND E-PETITIONS

by Caroline Lucas MP

Introduction

The combination of weak structures for scrutiny and inadequate rules for corporate lobbyists, who no longer simply lobby MPs about policy, but - via secondments directly into Whitehall - are drawing up policy themselves, risks Parliament becoming increasingly irrelevant and powerless.

If we are to avoid this risk, the procedures and processes of the House of Commons need urgent reform. This is hardly a new observation. In this Parliament and before, there has been a cross party effort to effect change to get a healthier balance of power between the Executive and Parliament.

For example, those of us still calling for reform have built on the work of the 2008/09 Wright Committee[1] and the 1997/98 Select Committee on Modernisation of the House of Commons[2].

Since 2010, there has been some progress, but overall it has been too slow and too limited. Members calling for Parliamentary reform in 2010, were told by some in the old guard who opposed change that they would 'get used to it'. Some of us haven't - and that goes for both 2010 intake MPs and senior colleagues.

Far reaching changes are needed if we are to have a Parliament that represents the population it serves. We need the Executive to be robustly scrutinized and held to account by MPs. The structures and information needed to actually legislate should be easy to understand so that the Party Whips (who for some unjustifiable reason are still funded by the taxpayer) do not have too much power.

Greater transparency is the pre-requisite for much of the necessary change – and inevitably progress towards achieving it will be made up of many small steps. Often, seemingly small but actually very significant changes to the way we do everyday business in Parliament, could have far-reaching impacts. One of these would be to introduce mandatory explanatory statements to amendments tabled to Bills.

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[1] http://www.publications.parliament.uk/pa/cm200809/cmselect/cmrefhoc/1117/111702.htm
[2] http://www.publications.parliament.uk/pa/cm199798/cmselect/cmmodern/779/77903.htm

Yet the fight for 'compulsory' transparency has been fiercely contested. The resistance to making such information mandatory shows how very convenient it has been for the Whips to leave MPs in the dark. Information is power, as the Whips well know. Some of that power urgently needs to be handed from the Party managers to back bench MPs and the public.

Mandatory explanatory statements to amendments

"Explanatory Memorandums on Amendments to Bills to be taken on the Floor of the House" might sound like impenetrable procedural housekeeping, but it is in fact entirely straightforward.

The current system of voting on amendments to Bills means that MPs often don't have the faintest idea of what they are voting on when they walk through those lobbies. That scandal is one of process and provision of information for which there is a simple solution.

The introduction of a requirement for Members to provide a short statement, of up to 50 words, to make clear the intention of the amendments they are proposing, would enable all Members to make their own considered judgment on the votes they cast, rather than relying solely on their Whips to tell them whether to go through the 'Aye' or 'No' Lobby.

It is quite right that MPs should, as far as possible, listen and contribute to debates in the Main Chamber. However, being an effective MP involves many other tasks, including responsibilities to undertake work on Committees, to attend debates in the parallel second Chamber in Westminster Hall, and to chair and attend meetings. As a result, MPs do not and frequently cannot sit in the Commons Chamber all of the time that debate is going on.

As well as it being often difficult for MPs to know exactly what they are voting on when the bell summoning them to vote on an amendment goes, the current system makes it difficult to see the intention behind amendments tabled ahead of the debate. If it was easy to see what an amendment meant, backbenchers might be inclined to add their names to demonstrate support, which might increase the chances of it being

chosen for debate (only a few of those tabled are 'selected' by the Speaker). Constituents or NGOs would be better able to follow what was going on and could lobby their MPs to sign up.

For example, amendments often read like this:

1. Clause 1, page 1, line 5, leave out subsection (1).

Without an explanatory statement, if another Member or a constituent or a journalist wanted to know what this actually meant, they would have to be familiar with the Bill and go separately, possibly to a number of documents, to get the basic gist. When a large number of amendments are tabled MPs don't find out which will actually be debated until an hour or two before the debate starts, so a simple explanation would substantially increase transparency e.g.:

"The effect of this amendment is to remove the provisions of the Bill that allow for the privatisation of Royal Mail."

The mechanism to add a short explanatory note could remain optional for Public Bill Committees as arguably the small Committee of MPs should be expert in the Bill anyway. However, for the stages of a Bill which can be taken on the floor of the House, and for which amendments can be voted on by all 650 MPs, the provision of a short note explaining the effect of an amendment should be obligatory – not least because, if the Government whips have exercised strong control over the Committee stage, the Report stage is often the only real opportunity for the House to modify the contents of the Bill.

Everybody seems to now agree, in theory at least, that the 50 word explanations are a good thing. Progress was made in November 2013, with the Procedure Committee recommending a voluntary scheme and the House accepting it. So sometimes, we can now find out easily what an amendment is designed to do.

During November's debate, when some of us argued for a mandatory system, the Chair of the Procedure Committee argued that a voluntary system should be tried as he had great faith in Honourable Members. The

need for explanatory statements was reflected by his words:

"let us make this a new beginning for the way we conduct business in this place."

He went on to warn:

"If the House does not take this opportunity, however, the Committee will revisit the matter and bring forward more prescriptive recommendations."

Since November, some MPs have tabled the explanations. Backbenchers often do, possibly as they see the value in transparency and don't have a vested interest in leaving things unclear. The Government, for some reason, only agreed to table the explanations for Bills starting after January 2014, so a large amount of controversial ongoing legislation was conducted in what might be described as 'the old way'. However, to its credit, the Government has started tabling the explanations as promised for Bills beginning after January.

More disappointing, however, has been the position of the Official Opposition. The Labour front bench has rarely used the voluntary system at its disposal to increase transparency and to grasp this small but extremely significant opportunity to make the work of this place easier to navigate and understand.

The argument that providing the statements takes up resources the Opposition cannot afford is not persuasive. If a Member cannot explain the purpose of their amendment, why did they table it in the first place? Commenting on the pilot that lead to the current voluntary system, the Public Bill Office clearly stated:

"Where assistance was given with the drafting of explanatory statements this took little time (no more than five minutes per amendment), and usually saved time elsewhere by establishing a verifiable shared understanding of what the amendments were intended to achieve.

The Procedure Committee, has also stated that they want the statements to "become an accepted norm of the legislative process". But under the voluntary scheme they have not yet become part of the culture of this place.

Mandatory explanatory statements would give a little more power to backbenchers and take a little from their whips. We might get a bit more independent thinking and voting from our representatives if they had the chance to consider amendments in advance.

The fact that we have made some progress to at least the voluntary system, shows that the case for these statements has real traction. But the decision on whether to provide transparency should not be at the whim of the whips, but rather an obligation on those tabling an amendment for debate.

It might not sound like a radical change but there is resistance to it being mandatory and it is worth considering why. It would be a real step forwards to end the scandal of MPs walking through the lobbies like 'fodder'. If MPs understand what they are trying to achieve it will probably save time and resources.

As Einstein said, "If you can't explain it simply, you don't understand it well enough."

Reform of the e-petition system

As well as requiring explanations of amendments, another way that we could increase transparency and public engagement, and better hold the Whips to account, would be to reform the public e-petition system.

The Coalition Agreement set out commitments on ensuring that petitions securing 100,000 signatures would be eligible for debate in the House of Commons and the e-petitions website[3] went live on 4 August 2011.

[3] http://epetitions.direct.gov.uk/

However, the current situation is confusing: the petition is on the Number 10 website but it is the House's Backbench Business Committee which decides which petitions will be debated.

Concerns about public understanding and expectations were raised by the Procedure Committee in 2012[4] and the Political and Constitutional Reform Committee July 2013[5].

As a result, the Procedure Committee is now looking into the matter and whether we need a 'Petitions Committee'.

An in-House, properly resourced e-petitions system, with staff whose job it is help members of the public who want to use the process to effect change, would be a very helpful step forward.

In designing the system we need to make sure that we have more time for e-petitions to be debated and that this time does should not eat into the current allocation of time for Backbench Business.

Secondly, some action must be taken to stop the Government neutering the process. Too often, the Government simply doesn't 'whip' debates on petitions, which is effectively telling its MPs they don't have to turn up. They put a junior minister in to respond to the debate but hardly any other Government MPs bother to come to the Chamber. The payroll vote is given the time off and no vote is called, despite the Government being in principle opposed to the contents of the motion.

The substantive motion is then 'agreed to' to at the end of the debate, but nothing is ever done.

For example this is what happened following the debate on the 'war on welfare' on sick and disabled people in February 2014[6] and following the debate on wrongful sanctions being applied to people in receipt of benefits in April 2014[7].

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4 http://www.publications.parliament.uk/pa/cm201012/cmselect/cmproced/1706/1706.pdf
5 http://www.parliament.uk/business/committees/committees-a-z/commons-select/political-and-constitutional-reform-committee/inquiries/parliament-2010/revisiting-rebuilding-the-house-the-impact-of-the-wright-reforms/
6 http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm140227/debtext/140227-0003.htm#14022785000001
7 http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm140403/debtext/140403-0003.htm#14040365000002

If a member of the public read the Hansard record of these two debates, they would be lead to believe the Government had agreed to end with immediate effect the work capability assessment and to review the targeting, severity and impact of benefit sanctions. Yet neither of these things are Government policy and they are not happening.

The Government therefore neuters the whole e-petition and debate process by not participating. This insults those who have worked hard to get the motion debated and demeans the role of Parliament. The House is at risk of serious reputational damage as a result.

One task for a new Petitions Committee should therefore be to assess and formally report on what the Government has done once a motion has been 'passed', and to require a formal Government response to be published in reply to any recommendations and concerns about inaction.

Conclusion

Rightly, the public have not forgotten the MPs' expenses scandal. Reforms have been made for the better but there are still other scandals in this place: like MPs not being given the information they need to know what they are voting on; like the Government ignoring motions that have been passed by the House.

If Parliament is to regain the trust of the electorate, it must be seen to be taking steps to assert the power of backbenchers and reduce the power of the whips. The reforms set out in this chapter are small but significant steps to achieve that.

There is scope for change, a responsibility not to 'get used to it' and to work on a cross party basis to make things better.

More information on these ideas and on previous work I have done on Parliamentary reform can be found here: *http://www.carolinelucas.com/assets/files/localparties/brighton/publications/THE%20CASE%20FOR%20PARLIAMENTARY%20REFORM.%20NOV%202010-1%20-%20Lucas%20C.%202010.pdf*

Caroline Lucas MP

Chapter Seven:

ENHANCING THE ROLE OF SELECT COMMITTEES

by Andrew Tyrie MP

Foreword

(In March 2011, Andrew Tyrie, Chairman of the Treasury Select Committee, published 'Government by Explanation', a paper for the Institute for Government that reflected on the growing role of Select Committees. That paper is reproduced here, accompanied by this Foreword. The following summarises some of the developments since 2011).

When I was first elected in 1997, the executive stranglehold on parliamentary procedures and timetables had been tightening for more than a century. A parliamentary revival is now underway. This is described and assessed in my paper for the Institute for Government.

There has been at least one major procedural development since 2011. With the creation of the Parliamentary Commission on Banking Standards, Parliament ran its own inquiry for the first time since the Marconi scandal a century ago. The Commission demonstrated that it was possible to operate at speed and at low cost, drawing together the expertise of Members of both Houses. It reported within a year at a cost of less than £1 million, a sharp improvement on other forms of inquiry. It proved able to secure access to persons, papers and records. It used counsel to question witnesses.

Furthermore, as legislators, the members of the Commission were able to ensure that the vast majority of the Commission's recommendations were placed on to the statute book. Where the Commission's recommended legislation was rejected, the Government was often forced to provide a full explanation. This set the Commission apart from other forms of public inquiry whose members are, for the most part, not able to give legislative voice to the reforms they recommend.

As Chairman of the Commission it is not for me to judge whether the substantive recommendations were the right ones. But the experience has left me confident that Commissions can be of use again in the right circumstances. Four criteria probably need to be met:

- there needs to be a clear and identifiable problem with a high level of public concern and salience;
- this problem needs to be amenable to proposals for change;
- there should be all-party agreement to the idea of a Parliamentary Commission—party divisions would have been fatal to the Parliamentary Commission on Banking Standards;
- the problem cannot readily be dealt with by an existing select committee, and the Commission approach is likely to be quicker and cheaper than a judge-led inquiry or a committee of experts.

I made clear, at the time of writing the paper (March 2011) that, while both Parliament and the executive's legitimacy had probably been boosted by the election of Select Committee Chairmen and Members, and probably also by the creation of the Backbench Business Committee, further reforms were needed. How many of these have been delivered, and what remains to be done?

Some ground has been taken on the scrutiny of public appointments. The most recent example of this is the Home Secretary's commitment to a pre-appointment hearing by the Home Affairs Select Committee for the proposed Chair of the inquiry into historical allegations of child sexual abuse. The Cabinet Office also issued updated guidance, and has sought to increase information-sharing with Committees about appointment processes. However, the Government has so far proved unwilling to accept the proposals of the Liaison Committee, the Institute for Government, and my 2011 paper, to apply more widely a power of veto for Parliament, akin to that secured by the Treasury Select Committee with respect to the Chairmanship of the Office for Budget Responsibility.

There has been some progress on the so-called Osmotherly rules[1] —and in particular on the idea that civil servants, as well as Ministers, should be accountable to Parliament. New Cabinet Office guidelines now make clear that "Senior Responsible Owners" in charge of major projects can be held to account by committees. But there is still some way to go.

[1] That is, the guidance given to government departments about the nature of ministers' and civil servants' interactions with Select Committees.

On another issue raised in the 2011 paper, that of outside interests of MPs, there has been further slippage. The drift towards a fully professional political class at Westminster will diminish scrutiny. Yet all the pressures remain in that direction. Among other things, it will reduce the range of knowledge and experience of MPs to Parliament's, and to the Select Committee corridor's, detriment.

The 2011 paper also put the case not just for Chairmen but also for Select Committee members to be elected by a secret ballot of the whole House. It is little appreciated by those outside Parliament that Chairmen are put in their jobs by the House, and members by their parties. In other words, Chairmen are elected by the whole House but members are elected by their respective parliamentary party colleagues.

Far from these reforms becoming entrenched, the Government has been back-sliding on election of committee members. When the Backbench Business Committee was first established, its members were elected by the whole House—in line with the recommendations of the Wright Committee. But in March 2012, the House agreed to government proposals that members of the Committee be elected by their own parties. This recidivism is a mistake. Nor has the Government been prepared to permit election for the increasingly important job of Chair of the Intelligence and Security Committee, another recommendation of the Wright Committee.

The strengthening of Select Committees is creating a "new part of the efficient constitution." At the very least, there should be no more back-sliding. It is crucial that these reforms be allowed to take root. A new Parliament will shortly have an opportunity to take forward further reforms. There is certainly plenty of scope to strengthen further Parliament's ability to demand 'government by explanation'—that is, not Parliament stymying the executive, but rather extracting more of the meaningful scrutiny that a twenty-first century democracy requires.

A programme for further reform

First, scrutiny of public appointments

Select committees should be given a greater role in scrutinising appointments to major quangos and other public bodies. For many years, almost all such public appointments were wholly a matter for the executive, with all the risks of patronage this brought with it. Since 1995 there has at least been an independent Commissioner for Public Appointments to regulate the recruitment process. But until much more recently there was no role whatsoever for MPs or select committees in scrutinising appointments to these important posts, even though the size and scope of the quango state has grown considerably. In recent years Parliament has put its toe in the door.

The Treasury Committee took a lead here more than a decade ago, introducing pre-commencement hearings for members of the Monetary Policy Committee when the Bank of England was given control over monetary policy. Since 2008, other committees have had the ability to hold pre-appointment hearings over a range of senior public sector posts. But Committees have for the most part been reluctant to press the point despite having serious reservations about candidates from time to time. And on the two occasions that committees have asked ministers to reconsider – the appointment of a member of the MPC, and the appointment of the Children's Commissioner – the decisions were still pushed through by ministers. Over the past year, however, things have begun to move further and faster.

Again, I am pleased to say that the Treasury Select Committee has been active. When the Chancellor came before the Committee for the first time on 15 July last year, he responded to a request that we had made to him, that the independence of the newly created Office of Budget Responsibility be buttressed by a new form of Parliamentary accountability. He came back with a suggestion. He proposed that the committee should play a partnership role in the appointment of the OBR's Chairman. That is, he

offered the Committee a veto over the appointment. We accepted. We went further and demanded and obtained more.

First, we demanded that the veto be reinforced by statute. Secondly, we demanded a veto over the power of the Government to dismiss the OBR Chairman. The latter point is crucial. It means that if and when an OBR Chairman produces a fiscal assessment or forecast which is inconvenient or embarrassing to the Government, his or her independence can be protected by the Treasury Committee. There is now a 'double-lock', protecting the OBR. And the fact that the Committee is deeply engaged in the Chairman's appointment and dismissal means that the OBR is now very directly accountable for its actions.

I don't think that Parliament should stop there. What may look like a small change for one committee can serve as a beacon for a radical extension of committee scrutiny and Parliamentary authority. This was vividly brought home to me by a remark made by a very senior member of the Government a few weeks after the TSC secured the concession. He sidled up to me in the lobby and said, "This is a one-off, you know. We don't want this to serve as a precedent." Exactly. Committees now have a route map. They know what they should do. They can do best by marching resolutely towards the sound of gunfire.

The opportunity is now there, right across Whitehall, for select committees to open up the quango state. It is now up to us to restrain and reverse the growth of executive patronage. Already, the process has begun. In January this year Ken Clarke, the Justice Secretary, agreed that when he appoints a new Information Commissioner in three years' time, he will "accept the Committee's conclusion on whether or not the candidate should be appointed". A further precedent has been set.

I'm delighted that the Institute for Government has engaged in this debate, following on from an informal meeting with a number of select committee chairmen some months ago. The result of that is the outstanding consultation paper on appointments published by the Institute. I agree with all its main proposals.

The consultation paper reminds us that the volume of quango appointments is vast. Ministers are responsible for making several thousand appointments to a wide array of Non-Departmental Public Bodies, Non-Ministerial Departments, Advisory Councils, Commissions, Grant-Making Bodies and more.

It would, of course, be absurd to expect committees to engage with all of these. However, as the Institute recommends, there is a smallish category of the most senior regulators, ombudsmen, inspectors and constitutional watchdogs, where Parliament, and select committees in particular, should certainly play a greater role in confirming appointments.

This category of posts, described in the paper as the "A List", has been identified on the basis of the following four criteria:

Independence. Committees should have a say in appointments where the credibility of the body in question depends upon its independence from government. This can be illustrated by looking at Treasury related appointments. Independence is manifestly needed for the OBR. On the same grounds, similar treatment could be applied to the Governorship of the Bank of England, the head of the Competition Commission and the Chair of the UK Statistics Authority.

Certainly, consideration now needs to be given to this, not least by the Treasury Select Committee and we will be examining some of this as part of our recently announced inquiry into the accountability of the Bank of England. With the new powers being conferred on it, the Bank will shortly be by far the most powerful quango in the land.

Representation. Greater committee involvement is required where a post's responsibilities include representation of the public interest in dealings with government. The Parliamentary Ombudsman and the Information Commissioner are two examples.

Public Interest. Committees should engage where there is particularly strong public interest in how the candidate will carry out his or her responsibilities. This might apply for the Chief Inspector of Schools or the Chair of the BBC Trust.

Parliament. Where the post is important to the workings of Parliament itself, as for the Chairman of the House of Lords Appointments Commission, committees should also keep alert.

I'd be tempted to add a fifth criterion to cover an issue already identified in the Institute's paper: where an *ad hoc* or temporary appointment is made which, for the duration of his or her appointment, would fall within the above four criteria, the most relevant select committee should also be involved. This should enable enquiries to be covered such as those chaired by Lord Butler, Lord Hutton, Sir Thomas Legg and Sir Peter Gibson. In total, the Institute lists around 25 top posts to which an appointment should not be made if the select committee express their opposition to the Government's proposed candidate.

This leaves a number of questions. At least two are crucial, the answers to which may vary, case by case. First, should the committee's powers be entrenched in Statute? Second, should the House as a whole – in practice the Government, by mobilizing its majority – retain the authority to override a committee veto? I won't answer either of these questions now, except to say that the exercise of any override process should certainly require a good deal of government by explanation on the floor of the House. This will also act as a restraint on arbitrary use of power by the committee – it, too, would have to explain its decision.

So, a new system is available to us. It has already been tested in pilot schemes. It seems to work. The OBR Directors have acquired some added authority by having received, in public, a stamp of approval from the Treasury Select Committee. Now the same can and should apply across the quango state.

Second, scrutiny of the Prime Minister

On this, I am a radical and I know that many colleagues will disagree. Meetings with the Prime Minister should take place monthly when Parliament is sitting, rather than every six months. Arguably, during the week of that meeting, there could be no session of Prime Minister's

Question Time. The latter would provide some compensation for the higher workload for the Prime Minister implied by frequent committee appearances. I can't see him agreeing without some sort of *quid pro quo*.

The main objection is that more frequent appearances would further bolster Prime Ministerial power at the expense of his or her Cabinet colleagues. In my view, this concern needs to be tempered by two points.

First, as earlier mentioned, power needs to be scrutinised where it really lies: Parliament has responded relatively poorly, so far, to the steady growth of presidentialism in our system of government in recent decades. Second, Prime Ministers can and do already by-pass their colleagues – they have many tools at their disposal to do so, not least press conferences at Number 10- a counterpart to a US President appearing on his lawn at the White House. In our parliamentary system would it not be better to bring at least some of these exchanges in house?

Meetings should be restricted to two hours. The topics to be raised should be given greater advance publicity. Scrutiny can be more penetrative and enlightening than the PMQs, Number 10 press conferences or fifteen minute interviews on the Today programme.

A meeting of some thirty committee chairmen is too big and lacks focus. Instead, the Liaison Committee should be represented by a smaller group of about a dozen chairmen, while having the scope to co-opt another chairman when his or her expertise is needed. There may be other approaches to reducing the numbers – it is up to us to sort this out.

There are arguments both ways about the proposal for more frequent appearances but I am sure about one thing: Parliament should not sit idly by while the Presidential Premiership continues to develop.

Third, other Liaison Committee reforms

The Liaison Committee, chaired by Sir Alan Beith, can help set the agenda on behalf of Parliament. It is composed of a group of people who, insofar as it can be said of anyone, represent the back benches of the House

of Commons. But they are little seen as a group. If we as a group of select committee chairmen feel that more needs to be done, it is for us to speak up. I hope it develops in this way.

We could start by examining the Institute's excellent proposals on appointments. There's much more that we can do, including linking the work of committees more closely with that of the Chamber, better oversight of parliamentary budgeting, both on committees and more widely, bringing more light to bear on the House of Commons Commission's work, and much more besides. It seems sensible at least to consider such ideas. Collectively, I feel that we could become more than shop stewards for our respective committees.

Fourth, the balance between committees and the Chamber

Committee scrutiny is from time to time stymied by the plenary business in the Chamber. We can have the absurdity of a full committee corridor emptying to vote on business – debated in the Chamber by only a handful of members. We should consider a reconfiguration of the Parliamentary week, giving greater scope for uninterrupted committee work.

There are numerous possible routes to achieving this. I would be inclined to consider creating a Committee day, as have many other Parliaments, although I realise that the executive, and some traditionalists, will baulk at the idea. Few if any parliaments in advanced democracies rely so much on the main Chamber. Too much of what goes on there is time and energy wasted. As far as the Chamber is concerned, less can mean more. A Chamber which acted as a forum for crucial issues could and should then be able to allocate more time for this: the Iraq debate is a case in point.

Fifth, resources and support

Most committees could do more if they had the resources. Given the financial stringency necessitated by the deficit, now is not the time to bid for more cash, but resources can be reallocated. Would it be too radical

to suggest that committees should, within a given budget allocation, decide on their own priorities? I hope I do not upset too many colleagues by suggesting that there had to be, for example, some reduction in travel budgets.

At the same time, much more imagination should be used to get access to high quality advisers from outside bodies, and to obtain secondees for specific projects in ways which do not imperil Parliamentary independence. With this in mind, Alan Beith and I developed a revised set of guidelines for committees, now accepted, to enable the greater deployment of outside expertise. I am very grateful to my own committee clerk for working up these proposals. She and I both have more ideas in the pipeline.

In my experience, committee clerks and staff are extremely dedicated and motivated by their work, and I have enormous respect for the high calibre and commitment of the clerks to making Parliament work. Still, I agree with the recommendations of the Menzies Campbell enquiry into the running of the House – triggered by the Damian Green affair – that, early in this Parliament, there should be "a fresh examination of the roles and responsibilities of the officers of the House."

The time has probably come for further reform, including changes in the way that senior House staff are recruited and their careers managed. Among other things, we should consider measures to secure greater integration of staff support with that of the Library and committee experts. We could also consider the recruitment of more people in mid-career, particularly from the private sector, and those with management expertise.

Sixth, the Osmotherly rules

These rules need to be re-examined. They make it clear that civil servants speak on behalf of ministers and, to that extent, the rules act to protect them from scrutiny. The House of Commons has neither accepted, nor approved, the Osmotherly rules: they are nothing more than internal government guidelines, which the Government has chosen

to make available to committees. On some occasions when committees have demanded that named civil servants appear, Ministers have come in their stead. In previous Parliaments, committees have seemed content with this. If a committee had insisted on calling a named civil servant, the decision would have been referred to the House as a whole, and the committee would have lost. It is said that the Osmotherly convention may be breaking down. In my view, it is probably time that it did break down, and committees should not shrink from summoning named civil servants if they feel it necessary. Any Ministerial resistance should be given maximum sunlight.

One further idea put to me – at least worth exploring – would be to make contempt of a committee, that is, failing to appear, a criminal act. But this might get the courts into an area Parliament would prefer them not to tread, which makes me wary.

Seventh, committee members and outside interests

I have been on the committee corridor for more than twelve of the fourteen years that I have been in Parliament. For most of that time, I have served on at least two, sometimes three and occasionally four select committees simultaneously. It is hard work. But it is not and it should not be a full time job. I have learned a huge amount from those colleagues with experience from their working lives, both from past and current employment.

To draw on a personal example, I found my experience serving on the boards of two public companies has given me insights on much parliamentary work – not just with respect to FSMA, but also in broader discussions of, for example, corporate governance when on the Treasury Committee, or offshore financial centres when on the Justice Committee.

I am concerned that the trend to professionalisation of politics could reduce the number coming to Parliament with that experience. I am equally concerned that well-meaning but ill thought out guidelines on outside interests may deter some of the most knowledgeable MPs from

making a contribution on the select committee corridor. Declarations of interest should not have the effect of becoming a bar on interests, but they are threatening to do so. Parliament would be the weaker.

Eighth, setting the agenda

For the most part, committees in previous Parliaments have responded to executive action. Since the election the Treasury Select Committee has been coming forward with some initiatives of its own, inviting the Government to react. For example, we fought, I think with some success, to influence the legislation creating the OBR by producing a detailed report on its structure and role, well before the Government finalized the shape of the Bill. Similarly, we are already engaging, before the budget, on the tax principles that should underlie fiscal reform and on how the Bank of England should be made more accountable for its greater powers, before the Government finalizes its ideas.

The Committee is starting to produce two distinct strands of work. One will force the Government to explain itself. The second will force the Government to consider and respond to proposals from the Committee itself. I don't expect that the Government will immediately adopt all our recommendations. I do hope that we can play a significant role in shaping the debate.

Ninth and last, election for all

Most Members of Parliament agree that election of select committee chairmen by secret ballot has been a success, so far. Sooner or later there will be a case for revisiting whether parties should continue to elect committee members. It might be a bit administratively cumbersome but there is a good case for electing all members by secret ballot of the whole House. Parties are already coping with by-elections. Robin Cook proposed something in a similar spirit as long ago as 2001. This appealing idea was defeated by the scarcely disguised cooperation of government and opposition whips. The rules setting out eligibility may need to be revisited further to demarcate membership of committees from the executive.

A beguiling idea

Lastly, it is worth commenting briefly on an idea, one among many, that flatters to deceive. It is often proposed that committees should, as their bread and butter business, focus on departmental spending and estimates. Public expenditure does indeed need to be better scrutinised and the Treasury Committee has created a sub group to monitor the spending of the Treasury and its sub-departments. I am, however, wary of proposals that would give committees the authority to restrict or delay supply. It is important to think through the consequences of such powers, and the scope for pork barrel politics that could eventually develop. The American experience here is not a happy one.

Andrew Tyrie MP

Chapter Eight:

THE SPECIAL SELECT COMMITTEE ON HOUSE GOVERNANCE

by Bernard Jenkin MP

PASC submitted its evidence to the Select Committee which has been established to consider the governance of the House of Commons including the future allocation of the responsibilities for House services currently exercised by the Clerk of the House and Chief Executive in the first week of November. I also gave formal evidence. There is a serious danger that the committee will concentrate too much attention on the narrow question of the role of the Clerk/ Chief Executive at the expense of the main issue, governance.

The remit of the Public Administration Select Committee extends across the whole of government. It covers in particular the work of No 10, the Cabinet Office and the effectiveness of the Civil Service. We have sought to understand why things go wrong, why some ministers feel that the system has become less accountable than it should be or even that they are being frustrated or deliberately obstructed by the system.

Our report of last September, Truth to Power: How Civil Service Reform can succeed, explored how system and organisational failure tends to reflect behaviour and attitudes which have become ingrained in the culture of failing organisations. We found that when leadership reacts to persistent failures with change programmes focussed on organisational and structural change, but without understanding the failures in behaviour and attitude of the people in the organisation, then such change programmes tend not to succeed. Above all, such change depends on the leadership, which must be both united and committed to change in behaviour and attitude, for change to succeed.

There are significant parallels between the operation of Whitehall and the operation of the House Service. The task of the House Service is much smaller and very different, and has to operate in a more complex and divided political environment, but the challenge of promoting positive change is similar. I am grateful to PASC for its support in the preparation of this evidence, and for the advice of Dr Gillian Stamp, specialist adviser to PASC, and to Prof Andrew Kakabadse, who has also given substantial support to PASC's work.

The key questions

As the Committee approaches the question of the Governance of the House of Commons, we find that the debate is focussed on the narrow but important question of whether or how to split the role of the Clerk of the House of Commons from the role of Chief Executive. The Civil Service has gone through a similar debate, first splitting the roles of Cabinet Secretary/ Head of the Civil Service, and now re-merging them and appointing a "Chief Executive of Whitehall", reporting to the Cabinet Secretary/ Head of the Civil Service. Before the Committee makes any recommendations about structure, there must first be analysis and understanding based on the answers to a number of questions:

- What is the work that the House Service is required to do?
- What is driving the demand for change?
- In what ways is the organisation failing to meet the expectations of those it is seeking to serve?
- What are the underlying causes of the perceived failings?
- How much discussion and understanding is there of those causes throughout the organisation, but most particularly amongst the leadership, and between the leadership and all levels of the organisation? How much do people dare speak? How much does the leadership hear?
- How does the leadership need to change its focus and priorities so that those causes will be addressed?
- What if any structural or organisational factors obstruct or fail to support the ability of the leadership to deliver on its new focus, and need to be addressed?

The crucial point here is that the immediate focus should be on promoting open discussion throughout the organisation to promote shared understanding of –

- what is perceived to be going wrong and why;
- what needs to be done to address the underlying behaviour and attitude which in the past have discouraged such openness and shared understanding; and

- how the leadership is to be supported and enabled by proactive governance structures to focus effectively on this new priority.

Structure or culture?

Any structural or organisational change should only be considered as a consequence of a full understanding of the underlying causes of difficulty or failure. If this is not done, structural change, with all the disruption which that involves, will become no more than distraction. This may be welcomed by those who want to avoid the more difficult, personal causes of problems in the organisation, which are likely to be in the culture. By culture, we mean what is embedded in the attitudes and behaviour of the people in the organisation, and PASC has found this is by far the most important determinant of organisational effectiveness.

The work of the House Services comprises (i) maintenance of constitutional propriety and support for Members in their legislative and scrutiny roles; and (ii) management of the Estate and the provision of facilities. The Speaker proposed an outsider and expert in facilities management, rather than on procedure and the constitution, to replace Sir Robert Rogers. He subsequently explained his desire to split the role of Clerk in his letter to Sir Alan Duncan. These actions were taken by some to suggest that the Clerk's constitutional role should be regarded as no more than one of the functions of the House Service, or that the Clerk in its present dual role is a potential obstruction to change in the way some of the Clerk's present responsibilities are carried out. In fact, both (i) and (ii) support the work of MPs.

There is evidence that MPs want change in both elements. Before recommending a costly separate Chief Executive role, the Committee would need to be certain that the overriding importance of the constitutional role of the Clerk would not find itself in competition with Estates and facilities. There would also need to be evidence that the splitting of the roles would address what is frustrating Members: the feeling of a lack of accountability.

The importance of employee and "client" engagement

The crucial indicator of the potential effectiveness of any organisation can be found in the employee engagement scores of the organisation. These scores are obtained from the Commons and PICT staff survey, commonly known as a "people survey"[1]. Both the Civil Service and the House Service, in common with most large organisations, conducts an annual people survey.

The latest survey had a response rate of 59 per cent and an overall engagement index of 67 per cent, which is in the upper quartile of such surveys: good but not outstanding. The House Service is somewhat better than the Civil Service engagement figure of 58 per cent. The survey also shows the dissatisfaction of employees in different directorates, and it should be no surprise to most MPs where the main problems lie. Looking at engagement by Directorate, while the Office of the Chief Executive is at 80 per cent, PICT Ops and Members' Services and catering are lower at only 64 per cent.

It is also instructive that engagement amongst professional staff supporting MPs is not higher. DCCS Chamber Support and DCCS Committees are 66 per cent – not bad, but not outstanding. This confounds the idea that senior leadership in the House Service have nothing to learn about how they lead their core service, even though they have outstanding technical skills, ability and commitment. Today's leadership were recruited into an organisation which seemed to many Members to be closed, hierarchical and too sensitive to internal or external criticism. Some clerks and secondees from other organisations often hold different attitudes and perhaps do not have their expectations met, so they feel less supported and understood. For example, it is odd in today's world that so few of the Clerks or staff wear lapel badges bearing their name and title. It is not at all unusual for MPs to pass the familiar face of a Clerk in the corridors over many years, while never knowing their name or what they do. This indicates a lack of "client" or "customer" engagement. No modern

[1] Full details of the 2014 Commons and PICT staff survey can be found here.

organisation would seek to serve its customers in such a way. Much of the frustration of some clerks may reflect their frustration that the atmosphere in which they are expected to work is still behind the times.

What is driving demand for change?

Demand for change appears to motivate the Speaker, who seems to have identified and to be frustrated by what should be done so much better. His public priorities (visitors, public engagement) already score very highly in the engagement survey, though this also reflects strong and engaged leadership which was recruited to manage these operations. His frustration with PICT, Estates and, to a degree, with DCCS Chamber/ Committee Services is reflected in less good engagement scores in these areas. However, his proposal to split such services altogether from the role of Clerk of the House does not appear to be based on an analysis of what led to less satisfactory leadership of those Directorates. The Committee must ask: what lies behind these perceived failings, and how much is this due to the way House Services leadership is governed and supported, rather than how it is structured. Lack of understanding of this would result in poorly thought through change. This is far more common throughout government and commerce than most people expect. Professor Kakabadse has found from his global study that lack of understanding and ill-conceived change are the norm for 80% of the world's corporations.

The underlying causes of dissatisfaction, whether from Members or from within the House Service, are primarily about habits and attitudes which have not been sufficiently questioned or challenged. Mutual suspicion can only be addressed by both Members and staff learning how to develop more supportive relationships based on a deeper shared understanding of what it is that must be achieved and how. This should extend to every person who works in the House, whatever their function, Members and house staff (and contractors) alike.

How to change attitude and behaviour, and to promote increased trust

Change in attitude and behaviour of this nature depends entirely upon a united and committed leadership. There is evidence that there is growing understanding of this amongst the senior leadership of the House Service, but it will require a continuing programme of off-line meetings and seminars, including training and re-training, to identify which attitudes and behaviour needs to be discouraged, and to learn the positive attitudes and behaviour which will encourage more effective review and learning in the normal course of business. Senior leadership must support, listen and understand their subordinates more, and their staff being more ready to offer their thoughts, ideas and concerns. Promoting this new atmosphere of mutual support and cooperation also must be actively led and supported by the House of Commons Commission and the other MPs on the relevant committees. Increased engagement scores in the people survey is the measure of success.

Leadership of change

So, turning to the question of the structure and organisation of the House, this is about how best to lead the necessary change. It is tempting to focus on the hard skills and experience which may be lacking, and to feel that simply bringing in new people with the right skills and experience, will fix the problem. Hence the hunger for a Chief Executive. However, there is no evidence that this is the right solution. It was rejected by the 2007 Tebbit review[2]. This review endorsed previous reviews (Ibbs and Braithwaite). Tebbit sets out how the proposal to split the role of Clerk and Chief Executive would create more complication. In any case, it does not directly address underlying concerns of Members, and House staff, which lie at the door of the leadership. No reform will succeed unless this is done. It is not necessary to upset the constitution, or to undermine the constitutional role of the Clerk of the House, in order to address

[2] House of Commons Commission, Review of Management and Service of the House of Commons, HC685, 18th June 2007, para 84.

the underlying challenges. It may not even be necessary to create the Chief Operating Officer role, as recommended by the Tebbit review. The Committee should review evidence supporting the need for this role, and set out the tasks and value-adding contribution of such a COO. Overall, there is no evidence to suggest that the existing senior leadership are incapable or unwilling to lead this change. On the contrary, my discussions suggest they are enthusiastic. They do however need to be encouraged, supported, trusted and made accountable for achieving this change.

Recommendations

I therefore make the following recommendations:

a) As Tebbit recommends, the Clerk of the House should retain overall responsibility for leadership of the House Service. He/she must embrace the full requirements of that role, be committed to achieving high levels of employee engagement, and accept accountability for the performance of every part of the House services. This means leading the change in behaviour and attitude required throughout the House Service.

b) The Tebbit review recommended the need for a "Deputy Clerk/ Chief Operating Officer" as part of "a slimmed down management board"[3]. This would be by way of the Clerk delegating responsibility to the COO. This could include responsibility for matters like PICT, catering and Estates. He or she would also be an officer of the House, and this might be the place to bring in an "outsider" to address the areas for which a career Clerk may be less qualified by skills or experience.

c) Both the Clerk of the House and the COO should be subject to pre-appointment hearing by a relevant committee, which would not have had any role in making the recommendation of the appointment. Only the Clerk of the House would be appointed by the Queen under Letters Patent on the recommendation of the Prime Minister, and be paid on the same scale as a judge, according to the present arrangements, and continue to require residence within the Parliamentary estate, as a consequence of the

[3] Ibid, para 113.

duties of the role. This is to protect his independence constitutional status both in the UK and throughout the Commonwealth. Whether the COO requires a residence is a separate matter.

d) Such a COO needs to be much more visibly accountable and individually answerable directly to the House for the performance of those services. He/she should promote high levels of employee engagement, as measured by the staff survey, and high levels of engagement and communication between House staff and Members / Members' staff, on a day to day basis.

e) The Governance Committee should review the committees which are responsible for running the House, of which most Members are only dimly aware. This should include a review of whether or not the Speaker, who is elected to be presiding officer of the House, should also be Chairman of the all-important House of Commons Commission. The Speaker's election used to be much more influenced by "the usual channels". Today's more political contested elections for the role of Speaker make it less inevitable that he or she will be chosen for their administrative or leadership skills and experience. The Chair of the Commission should therefore also be elected, separately, by the whole House, in the same way as the Chairs of Select Committees. There should also be elected back benchers on the House of Commons Commission, in place of those appointed by the Speaker. The Commission should feel more like a board of executives and non-executives. It should co-opt two outsiders with relevant corporate leadership experience to sit on the Commission. The Speaker should have the right to attend. The Committees on Administration and Finance and Services (perhaps reconstituted each to include two Commission members and five others, some elected) should be subcommittees of the Commission. All this would require amending the House of Commons (Administration) Act 1978, which long pre-dates today's idea of corporate governance and leadership.

f) The Chair of the Commission should make an oral statement to the House once per year, accounting for the past year and setting out plans for the future, to be followed by a full day's debate.

Conclusion

The COO will need the active support of the Clerk/Chief Executive. Positive and proactive engagement must be the shared objective and task of both roles, and it must be understood and supported by united and determined governance structures, or we will all be back another situation like this again in a few years' time.

Bernard Jenkin MP, Public Administration Select Committee

Chapter Nine:

MPS' NEED FOR ACCESS TO INFORMATION

by John Hemming MP

Although I was only elected in 2005 I have been involved in the details many of the changes that were pressed for by parliament first in the last parliament. I sat on the Modernisation committee of the last parliament and the Procedure committee throughout both as well as being on the Back Bench Business Committee for all of the 2010 parliament.

One of my biggest concerns is access to information. In the last parliament the procedure committee introduced a system whereby the failure to answer written parliamentary questions could be appealed to the procedure select committee. The select committee has looked at these issues and put pressure on departments to answer questions on time which has resulted in improvements particularly in the Department for Education which historically was awful. Aficianados of the issues of accountability should listen or watch the two procedure committee evidence sessions with Elizabeth Truss and Michael Gove that were an experience that many ministers would wish to avoid.

Information is the most important thing to obtain. The absence of timely and accurate information undermines the way parliament works. I am still unhappy about the ease by which departments give misleading answers or simply refuse to answer questions. Non ministerial departments like Ofsted are even worse. I have had a considerable debate with Ofsted about Serious Incident Notifications (which are the reports as to when a child has died in care or as a result of suspected abuse and neglect) that Ofsted are now refusing to give me in a timely manner. I took this issue to the procedure select committee asking the committee to exert its powers to obtain the information. However, sadly the committee refused although it did decide to establish an inquiry into Non-ministerial departments.

If parliamentarians do not assert their rights as parliamentarians there is no-one else who will do this. In failing to use the powers that we have we allow lots of things to go wrong.

David Davis did manage to obtain a statutory instrument protecting people who blow the whistle to MPs. This is particularly important. However, in practise there has been parliamentary privilege attached to

communications to MPs that are linked to parliamentary proceedings. Parliament should act to use its power to protect these communications, but on the advice of house officers the Speaker has decided not to protect such communications. I find this particularly sad as we need to stand up for our constituents. There are often times when people are threatened by local authorities to try to stop them talking to MPs. That has to stop. It is against the law, but it is against the law of parliament that parliament needs to enforce.

Access to information is key because it enables parliament to make the right decisions. Our system of accountability is skewed towards the ministerial executive because we don't have full separation of powers. The size of the executive and the operation of patronage combined with the volume of statutory changes (primary or secondary legislation) makes it difficult for debates on issues to have an impact on the outcome. However, better access to information would mean that debates are better informed and in theory even government is rational and could then be persuaded to act in a different manner.

In order to ensure that parliamentary procedures have more real effect on government those procedures do need to take into account the needs of government.

When changes are made to legislation it is right and proper that a consultation process occurs at least within the departments of government. Hence the government is in a difficulty with amendments at a bill committee as they are proposed in a timescale which makes it impossible for them to be informed by the consultation. Hence even when there is a good idea that the government are likely to support, it waits until the House of Lords before the amendment can be brought in.

What is needed is for such amendments to be parked when initially proposed and debated to enable the consultation to occur and then be brought back with a recommittal of a bill to the bill committee where the amendments can be further considered taking into account the results of the consultation.

I am of the view that contentious changes to government proposals should only occur as a result of the vote of the whole house. I don't think it helps to have committee processes that are structured in such a way that it is possible for contentious changes to be introduced in those committees. In part this is because of the need to interface with the consultation processes, but also there is a difficulty in that the objective of the opposition often is to defeat the government regardless of the merits of the proposal.

The procedure committee did put forward proposals which would have enabled more votes on contentious issues at report stage, but the government unsurprisingly didn't like this. Parliament needs to assert itself to enable parliament to have access to divisions on sensitive issues at report stage. Exactly how this is done is not the issue. It is that it can be done that is being resisted by government.

The procedure committee also proposed a system for private members bills that would have enabled them to be timetabled as long as they had support from a majority of the house. This was also resisted by the government.

Parliament does have the power to establish a committee of inquiry, but should be more willing to exercise that power.

Many of the changes required do not require legislative change, but merely changes to the standing orders of the house or indeed a change of attitude by the house as a whole. The mechanism that allows the Speaker on the advice of House Officers to block the house from considering references to the privilege committee is another area that needs standing order changes.

There are constitutional changes that require legislative change. I support an electoral system that has a closer balance between the electorate and representation in parliament. The idea that a government can obtain absolute power on 35% of the vote seems clearly wrong to me. Electoral reform would have the impact of moreso requiring government to persuade people rather than drive through legislation using the power of patronage.

Similarly statutory changes to the house of lords are needed to bring in election. I tend to support the approach of having a small number of voting appointees who are appointed for their expertise rather than political allegiance. However, at least 80% should be elected.

In the end, however, many of the changes that are needed to make parliament more effective and democratic can be created simply by parliament being more willing to assert itself.

That it should do.

John Hemming MP

Chapter Ten:

RECOVERING GROUND LOST TO THE EXECUTIVE

by Charles Walker MP

The Procedure Committee, as the name suggests, is dry; dryer than the Sahara Dessert or the driest vermouth. Its work goes largely unreported, in fact almost totally unreported, as it doesn't spend any money, it's not involved in high political intrigue and it doesn't deal with great matters of state. Indeed, if it was not for the sterling work of Mark Darcy, the BBC's constitutional anorak (not my description but his), nobody outside Westminster would know of its work.

Despite the above, the Committee's activities remain enormously important to our democratic and constitutional settlement. Indeed, such is the importance of its work, the Committee is on the must see list of the many overseas delegations that visit our Parliament. It is a recurring challenge when meeting a group of Mongolian or Vietnamese politicians, feeling their way towards building their own institutions, to explain the function of the Procedure Committee. Success in this area, however, is normally achieved through a universal understanding of the need for rules and procedures to moderate activity and behaviours.

What seems to excite my international guests the most is the idea of a constructive tension between elected representatives and their national Government. It is often remarked in our meetings that the President or Prime Minister of the nation visiting is too powerful, too overbearing in his demands on his national assembly and too dismissive of emerging legislative rules and procedures, constantly manipulating the outcome of the process to suit his own ends. Of course, over the past hundred years these are criticisms that have been levelled against the UK's own Executive as it has procured more powers for itself at the expense of Parliament. Nevertheless, one gets the very real sense that the problems faced by fledgling democracies are somewhat more acute than our own frustrations!

But our own frustrations in regards to our sovereign Parliament are real and need to be addressed. Executive power in the Chamber has become entrenched over the past century. This is a natural development as it is within the DNA of all recent Governments to seek to enhance their powers in pursuit of advancing their legislative agendas. Up until

the start of the 20th Century, it was the case that the Government of the day had to seek the permission of Parliament to transact its business. But in today's world the Executive owns and controls both the legislative agenda and the Parliamentary timetable. This is not to dismiss the recent innovation that sees Government providing days for Backbench Business, but simply to acknowledge that it is the Government providing those days not Parliament.

In seeking to address the current imbalance of power between the Executive and Parliament, it would be naive to suggest that the halcyon days of the 19th Century can be resurrected to return triumphantly into the 21st Century. As desirable as such an outcome may be to some (including the author of this short piece) quite simply it's not going to happen. However, whilst accepting the past is the past, it is not to say that the future cannot be a great deal better than the present.

There is significant scope in so many areas to change the way Parliament handles business and to change the way that Government interacts with Parliament. Of course delivering these changes will require Government, with the encouragement of the Procedure Committee, to demonstrate both courage and the conviction that it has a wider duty to promote Parliamentary democracy, rather than regarding Parliament as simply a vehicle for achieving executive power. Instead of finding reasons not do things, Government must be willing to find reasons to first tolerate, then embrace and champion change.

In the immediate run-up to the 2010 General Election there was great talk from all sides of the Chamber, but particularly ours, of the need to promote "a new type of politics". To many this sounded exciting and attractive but disappointment soon followed as it quickly dawned that such ambitious language was simply cover for the ruthless exercising of "old politics". The type of politics that continues to entrench executive power at the expense of Parliament.

To accept the reluctance of Government to give up some of its "rights" would be to accept defeat and resign ourselves to the status quo. Such a

choice is unconscionable. There is so much that can be done to rebalance the relationship between Parliament and the Executive.

This rebalancing, both modest in its extent and ambition, would recognise that the interests and ambition of Parliament will, on occasions, diverge from those of Government both in the prosecution of debate and the discharging of business.

The Government has nothing to fear from effective scrutiny. Legislation is drafted by Civil Servants who, because they are unelected, are unaccountable. We, as Members of Parliament, are elected to represent the interests of our constituents and one of these interests is ensuring that the rules that govern them are fair, proportionate and workable. Robust scrutiny does not damage Government but enhances its work, standing and credibility. Good law is a mark of good Government. Tensions between the Executive and the legislature should be welcomed and encouraged.

Recently, the House agreed new sitting hours, and these have been broadly welcomed. However, these hours are often varied by the Executive as it seeks to transact its own legislative agenda and priorities. Without unsettling the broad principle of set finishing times, there must be an opportunity, in extremis, for Backbenchers to ask for the day to be lengthened to allow for debate to continue on matters of great importance. Such a power would be rarely used but should exist for those occasions that it is needed.

Beyond the 2nd Reading of a Bill lies its Committee Stage and it is here that the Committee of Selection is ripe for reform. As attractive as it is for the Whips to meet in secret to decide who sits on Bill Committees, this opaque process does not help to promote the interests of Parliament nor its Backbench Members as the scrutineers of the Executive and its legislation. After fierce but admittedly good natured opposition from the Government and Opposition Whips, the Procedure Committee shelved its modest proposals for reform of this selection process. The Whips determination, however, to thwart our work strongly suggested that they knew full well that they were defending the almost indefensible. Once we

have licked our wounds and repaired our broken bodies, I hope we shall return to the fray in pursuit of change.

Although outside the most egregious meddling of the Whips but still susceptible to their charms, the transacting of legislative business at the Report Stage of a Bill continues to give cause for concern. Despite the present Government ceding a small amount of ground in regards to the timing around the tabling of New Clauses and Amendments, the physical time allowed for the debating of these additions to a Bill will still, too often, fall short of what is required by the House to execute its job of scrutiny properly. The Government is not deaf to these concerns but the mechanisms for dealing with them are not sufficient. Resolving issues of concern through the Whips' "usual channels" is too often the Executive talking to the Shadow Executive. As important as these discussions are, they will not and cannot always reflect the will of Parliament.

The concept of a House Business Committee, enthusiastically promoted in the run-up to the 2010 General Election, seems to have fallen out of favour with many, both inside and outside of Government. If the House Business Committee is not to be brought in to existence a mechanism needs to be found that allows the House, again in extremis, to extend its powers of scrutiny. The manipulation of the legislative process to deny the House the opportunity to review and discuss difficult or challenging matters of importance, attached to the latter stages of a Bill, brings us all into disrepute with our electorate.

If we do indeed face a crisis of confidence in modern politics then it is arguable that the roots of this crisis may lie in the causal disregard we have exhibited towards Parliament, the foundation on which our democracy is built. If political virility is only measured on the attainment of ministerial position and the exercising of executive power then what chance is there for an institution that many simply see as providing the backdrop for this theatre?

Parliament, our nation's greatest success story, should not be so easily dismissed. Our democracy, and the form that it takes, is much more

important than guaranteeing the promotion and survival of the political parties that inhabit Westminster's corridors. As Members of Parliament we have a far wider duty than simply winning and retaining power. That duty is to have regard towards the institution through which that power is exercised and the rules that govern the exercising of that power. Of course, we must adapt our legislative procedures to meet changing circumstances. However, these adaptations should be motivated by a desire to promote Parliamentary democracy for future generations, not skew the playing field in favour of the Executive and its Ministers of the Crown.

As I alluded to in my introduction, despite recent bouts of constitutional vandalism, our Parliament and constitutional settlement is still respected around the world. Those that wish to imitate its success are often from countries where political muscle is too concentrated in the hands of the few. As elected representatives, they understand that the way to hold the powerful to account is through a robust and self-confident legislature that guards its rights of scrutiny jealously. With our rich heritage of Parliamentary democracy, it is a cause of regret that we have casually given away so many of the powers that others in emerging democracies recognise as being so precious. Now is the time to recover some of that lost ground.

Charles Walker MP

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