



Sub # 31

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Committee System Review
Committee

HON JOHN MICKEL MP
SPEAKER OF THE LEGISLATIVE ASSEMBLY OF QUEENSLAND

11 JUN 2010

Hon Judy Spence MP
Chair
Committee System Review Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Ms Spence

Submission – Committee System Review

I thank the Committee for its invitation to provide a submission to its review and apologise for the delay in providing this submission.

Overview

One cannot truly review the parliamentary committee system without considering the operation of both the Assembly and its committees. After all, committees are in theory an extension of the operation of the Assembly. In my opinion, the current business processes of the Legislative Assembly and the structure of the Assembly's committees and, importantly, the relationship and interaction of the Assembly House and its committees are deficient.

There is a real opportunity available to reform not only the committee system, but the entire way in which the Assembly and committees operate. The objective of the reform should be to ensure parliament is equipped to discharge all of its functions in a way that:

- provides time and quality opportunity to examine legislation, consider and debate topical issues and matters of policy and scrutinise the administration of government;
- enables members to raise matters of concern to their electorate and garner information about the operation of government;
- enables members to properly question Ministers about government policy and senior officials of the government about the implementation of policy and legislative proposals; and
- provides genuine opportunities for public engagement on legislative proposals, topical issues and matters of policy, and the administration of government.

Current deficiencies

The Legislative Assembly

The reality of the operation of the Assembly is that the issues of the day are often not considered or debated in the Assembly. Rather the debate on major issues of the day takes place in the media. The media, in turn, are focussed on what leaders and other key players have to say in press conferences on the Speaker's Green or the Red Chamber, rather than what goes on in the Legislative Assembly Chamber. Parliament thereby becomes largely irrelevant to and disconnected from the real issues of the day. To prove this point, I need only point out that the media largely only film and replay portions of Question Time - the only effective time any topical issues are raised and canvassed.

The media and the public's lack of interest in the remainder of the debate in the House are completely understandable – it is all about time and topic. Time in the House is dominated by lengthy debates on legislation, particularly second reading debates. Second reading debates, are not really “debates” at all, but set piece speeches. These speeches dominate the time spent on legislation. Quite often only a quorum or slightly more are present to hear these lengthy speeches, often repetitive of each other. On other occasions the debate on Bills is polluted by members wishing to speak about issues affecting their electorates, but who find themselves without sufficient time or allotments in other debates (such as adjournment debates), and thus choose a Bill somehow connected to the issue or issues they wish to discuss.

Government time dominates the time in the Assembly, and not just the time available for legislation. For example, more time is spent on Ministerial statements in a sitting week than private members' statements and adjournment debates – when members can speak on issues which are not questions before the House.

Private members time, versus other time has diminished over the years. Tables 1 to 3 below set out some statistics for the period 1996 to June 2010 regarding both ministerial statements and private members' statements. During that period, 2,618 ministerial statements were made, compared to 574 private members' statements. Up until August 2007 private members' statements were held prior to question time, so effectively time was shared between ministerial statements and private members' statements with the former taking precedence.

On 22 August 2007, sessional orders were amended to provide for private members' statements to be made from 11.30am to 12 noon each sitting Wednesday. The amendment was incorporated in the sessional orders for the 53rd Parliament, adopted on 22 April 2009. No change was made to the provisions regarding ministerial statements. Table 3 sets out the number of ministerial statements and private members' statements made in the period 2007 to 3 June 2010.

In the period 2007-2010, the Assembly spent a total of 120 hours and 29 minutes (7,229 minutes) on ministerial statements, compared to 19 hours and 54 minutes (1,194 minutes) on private members' statements.

The average duration of ministerial statements per day has increased, from 44.2 minutes in 2006 to 50.2 minutes for 2007-2010. The average duration of private members' statements per day has also increased, but from only 4.1 minutes in 2006 to 8.3 minutes for 2007-2010.

Tables 1-3 – Comparing number of and time spent on ministerial and private members' statements made on sitting days of the Legislative Assembly of Queensland—1996 to 2010 (as at 3 June 2010)

Table 1 – Ministerial Statements

Year	No. made	No. of sitting days	Average number made per sitting day	Total annual duration (in minutes)	Average daily duration (in minutes)
2010	317	18	17.6	917	51.0
2009	634	40	15.9	1,940	48.5
2008	748	43	17.4	2,189	50.9
2007	919	43	21.4	2,183	50.8
2006	675	38	17.8	1,679	44.2
2005	950	49	19.4	2,172	44.3
2004	670	40	16.8	1,025	25.6
2003	741	46	16.1	2,076	45
2002	651	53	12.3	2,213	41.8
2001	484	46	10.5	1,767	38.4
2000	320	41	7.8	1,394	34
1999	431	56	7.7	1,703	30.4
1998	261	35	7.5	1,018	29.1
1997	276	44	6.3	1,046	23.8
1996	318	47	6.8	1,344	28.6

Table 2 – Private Members' Statements

Year	No. made	No. of sitting days	Average number made per sitting day	Total annual duration (in minutes)	Average daily duration (in minutes)
2010	83	18	4.6	172	9.6
2009	193	40	4.8	400	10.0
2008	199	43	4.6	410	9.5
2007 total	99	43	2.3	212	4.9
Before sessional orders amended	31	27	1.2	71	2.6
After sessional orders amended	68	16	4.3	141	8.8
2006	76	38	2.0	156	4.1
2005	130	49	2.7	287	5.9
2004	97	40	2.4	211	5.3
2003	122	46	2.7	245	5.3
2002	151	53	2.8	300	5.7
2001	211	46	4.6	416	9.0
2000	212	41	5.2	420	10.2
1999	319	56	5.7	627	11.2
1998	217	35	6.2	432	12.3
1997	311	44	7.1	621	14.1
1996	315	47	6.7	656	14.0

Table 3 – Ministerial Statements and Private Members’ Statements 2007-10

Ministerial statements				Private Members statements			
Year	No.	Sitting days	Duration	Year	No.	Sitting days	Duration
2010	317	18	917	2010	83	18	172
2009	634	40	1940	2009	193	40	400
2008	748	43	2189	2008	199	43	410
2007	919	43	2183	2007	99	43	212
Totals	2618	144	7229		574	144	1194

The time of the House

I strongly support and commend the comments by the House of Commons Reform Committee in its report “Rebuilding the House” (2008-09) (**copy attached**):

162. It is entirely right that a democratically elected Government should have a priority right to put its legislative and other propositions before the House at a time of its own choosing, and to be able to plan for the conclusion of that business. But it should be for the House as a whole to determine how much time to devote to such debate and scrutiny. It is also right in a democratic Chamber that the Government is free to deploy its majority to pass its business. But the procedures and practices which have grown up over the past two centuries have delegated to Government too much power to fix the agenda, and to take too many decisions without reference to its notional majority in the Chamber. We consider it for example unacceptable that Ministers can determine the scheduling of Opposition Days without reference to others; that they have an untrammelled power to decide the topics for general and topical debates; that they can determine which issues in major bills are debated on the floor of the House and by corollary which issues are not; that they can determine the fate of backbench legislation by procedural means rather than by decision of the House; and that they determine which pieces of secondary legislation are or are not debated in the Chamber. It is not easy for Members to bring on a debate—as opposed to a 30 minute exchange between a Member and a Minister—on a topic which Ministers do not want to have debated, irrespective of the strength of feeling across the House: let alone a debate on a substantive motion. Nor does the House have a mechanism to establish its own inquiry, beyond existing select committees, when the Government is unwilling to do so.

Because of large government majorities over many decades, indeed over a century, a culture of government control over the time of the Assembly has developed. There is a need for more cooperative decision making about time.

Committees

Committees very occasionally consider issues that are the current or topical matters in the media. Committee reports are very rarely considered by the House and there is very little relationship between the Assembly and committees - they are effectively separate working bodies with very little concern for each other’s work. The Assembly does not properly utilise its committees to spread its workload and, with the exception of estimates committee, for all the activities of government there is not a committee with remit.

The trend, both in Australasia and other overseas jurisdictions is for a parliament’s committee system to comprehensively cover the areas of government and for committees to be heavily

involved in the scrutiny of legislation (including the policy underpinning legislation) and scrutiny of the administration of government.

I draw the attention of the committee to the Legislative Council of Victoria's Standing Orders Committee Report "Final Report on the Establishment of New Standing Committees for the Legislative Council" (May 2010) (**copy attached**).

I also draw the attention of the committee to Summary Report of Discussion sessions from the "59th Westminster Seminar on Parliamentary Practice and Procedure March 2010" which I attended (**copy attached**). It was noted by Mr Robert Rogers, an officer of the House of Commons, who had served for 37 years that "fewer MPs saw themselves as legislators or knew a lot about the workings of the House", the focus being on constituency work, but that a significant reform in the last decade was the setting up of and taking of evidence by legislative and parallel debating in the House. A later session involving two Members of the House, Mr Eric Illsey MP and Mr Peter Bottomley MP noted the recent measure of the creation of a backbench business committee. They also noted the point I made earlier about the debate in the House being distinct from the matters being debated in the public arena. I also recommend that the committee examine that part of the proceeding chaired by Mr John Grogan MP that deals with the Committee system of the House of Commons – particularly the point that there is a parliamentary committee for each government department.

My proposals

Committees

What is required, in my opinion, is a greater intersection between the work of the Assembly and the work of its committees. I believe that there is great scope for some of the work of the Assembly to be delegated to the committees, especially some of its legislative work. If the Assembly were to delegate some of its legislative burden to committees for consideration, this in turn would free the Assembly to consider other matters of relevance to the community and members of the Assembly. The aim is to give quality consideration to legislative proposals, rather than simply allow lengthy, largely pointless debate on legislation with no real evaluation or quality consideration of policy behind the legislation or its practical implementation.

What I envisage is process for the consideration of legislation very similar to the current estimates committee process. The committee would consider the legislation, receiving and considering submissions and, if warranted, holding public hearings at which ministers and/or departmental officers would appear and provide evidence. I have long believed that Ministers should be accompanied by departmental officers when questioned about the detail of legislation, and be able to refer those questions to those officers.

Major stakeholders or other submitters could also give evidence, if required. This would be true engagement with the community.

Committee reports should be debated regularly by the House. Indeed, all committee reports that contain recommendations should be presumptively debated by the House. However, I believe that the debate on the reports should be after the government's response is received.

The Assembly

The delegating of much of the consideration and debate of legislation to committees, which can all meet parallel to each other, would reduce the overall burden of the House. This in turn would increase the time available for private members' statements and definite matters of public interest debates (set topic (important/current issue) debates with no question before the House).

I would envisage at least an additional three hours of private members' debate/definite matters of public interest per sitting week as a result.

The business of the House itself would be better organised if it was approached on a cooperative basis, through a Business Committee represented by key stakeholders.

Yours sincerely



HON JOHN MICKEL MP
Speaker



House of Commons
House of Commons Reform
Committee

Rebuilding the House

First Report of Session 2008–09

*Report, together with formal minutes and
written evidence*

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Select Committee on Reform of the House of Commons

The Select Committee on Reform of the House of Commons was appointed by the House of Commons on 20 July 2009 to consider and report by 13 November 2009 on four specified matters:

- the appointment of members and chairmen of select committees;
- the appointment of the Chairman and Deputy Chairmen of Ways and Means;
- scheduling business in the House;
- enabling the public to initiate debates and proceedings in the House

and closely connected matters.

The Committee, which lasts until the end of the Parliament, may also consider other matters referred to it by the House.

Current membership

Dr Tony Wright MP (*Labour, Cannock Chase*) (Chairman)
Mr Graham Allen MP (*Labour, Nottingham North*)
Mr Peter Atkinson MP (*Conservative, Hexham*)
Mr Clive Betts MP (*Labour, Sheffield, Attercliffe*)
Mr Graham Brady MP (*Labour, Altrincham & Sale West*)
Mr David Clelland MP (*Labour, Tyne Bridge*)
Mr David Drew MP (*Labour Co-op, Stroud*)
Natascha Engel MP (*Labour, North East Derbyshire*)
Dr Evan Harris MP (*Liberal Democrats, Oxford West and Abingdon*)
David Howarth MP (*Liberal Democrats, Cambridge*)
Rt Hon Michael Jack MP (*Conservative, Fylde*)
Rt Hon Greg Knight MP (*Conservative, East Yorkshire*)
Mr Elfyn Llwyd MP (*Plaid Cymru, Meirionnydd Nant Conwy*)
Mr Chris Mullin MP (*Labour, Sunderland South*)
Dr Nick Palmer MP (*Labour, Broxtowe*)
Martin Salter MP (*Labour, Reading West*)
Dr Phyllis Starkey MP (*Labour, Milton Keynes South West*)
Mr Andrew Tyrie MP (*Conservative, Chichester*)

The following member was also a member of the committee during the parliament.

Sir George Young MP (*Conservative, North West Hampshire*)

Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at www.parliament.uk/parliamentary_committees/reform_committee.cfm.

Committee staff

The current staff of the Committee are David Natzler (Clerk), Lucinda Maer (Senior Research Clerk) and Rowena Macdonald (Committee Assistant).

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Summary

The Committee aims to make the Commons matter more, increase its vitality and rebalance its relationship with the executive, and to give the public a greater voice in parliamentary proceedings.

INTRODUCTION, CONTEXT AND PRINCIPLES

In the first two chapters the Committee sets out the wider background to its establishment in July 2009; seeks a prompt debate and decision on its proposals and their phased implementation; and describes the principles that have guided its work.

SELECT COMMITTEES

The Committee recommends that the Chairs of departmental and similar select committees be directly elected by secret ballot of the House using the alternative vote. The distribution of individual chairs between parties should be agreed as now by the parties, on the basis of a proportionate division conveyed to them by the Speaker, and put to the House for its agreement. Candidates for chairs would be required to have a minimum level of support from within their party as well as being free to demonstrate support from other Members.

The Committee recommends that members of departmental and similar committees should be elected from within party groups by secret ballot, each party choosing its own publicly declared method approved by the Speaker as democratic and transparent, and that the names then be transmitted to the House for its endorsement.

The Committee also recommends (a) a reduction in the size of a standard departmental committee to not more than 11, with the possibility of adding members to provide for smaller party representation, and a reduction in the overall number of committees (b) a Standing Order ensuring the election of members and Chairs of select committees within six weeks of the Queen's Speech (c) the election by the House of the Chair of the Intelligence and Security Committee.

It is the Committee's hope that these changes, to be implemented from the start of the new Parliament but requiring agreement in the last session of this Parliament, will invigorate select committees, leading to higher levels of attendance and participation, and that with other measures described they will help ensure that the work of select committees is more adequately reflected in the work of the House and on the agenda of public debate.

BUSINESS IN THE HOUSE

The Committee examines the current system for scheduling business in the House in detail, and in particular sets out for each category now scheduled by Ministers how far they are really to be regarded as Ministerial as opposed to House or backbench business. It concludes that all time belongs to the House, but also that Governments are entitled to put their legislation before the House at a time of their choosing, and concluded by a set date.

The Committee recommends a system where backbench business is organised by a

Backbench Business Committee, responsible for all business which is not strictly Ministerial. That Committee would then join with the representatives of the Government and Opposition in a House Business Committee which would be obliged to come up with a draft agenda for the week ahead, working through consensus, with the Chairman of Ways and Means (the Deputy Speaker) in the chair. The agenda would then be put to the House for its agreement, replacing the weekly Business Questions.

The Committee also looks at the sessional sitting pattern within which the scheduling of business operates and recommends that the House should decide its sitting pattern for itself. It provides a detailed prescription for reforming the way bills are considered on the floor of the House after the committee stage and also makes recommendations on consideration of Lords amendments and on Private Members' Bills.

It will largely be up to the Backbench Business Committee to determine how to fulfil its task of organising non-Ministerial business, but the report gives some indications of the sort of new or refreshed opportunities which might be offered, including readier access to the agenda of the House for select committees and better opportunities for backbenchers to raise matters of current concern.

PUBLIC INVOLVEMENT

The Committee calls for the primary focus of the House's overall agenda for engagement with the public to be shifted towards actively assisting a greater degree of public participation.

It calls for urgent discussions on the currently stalled process of introducing an e-petitions system, and for the Procedure Committee to become for a trial period a Procedure and Petitions Committee, dealing with petitions submitted under existing rules. It recommends a number of changes designed to give presentation of petitions greater significance in the House's proceedings, including the possibility of a debate. The Committee also calls for the working up of a scheme for identifying a monthly backbench Motion suitable for debate, alongside the existing Early Day Motions.

The report looks at the prospects for some form of "agenda initiative" which might enable the public to ensure that a given issue is debated in the House. It calls for the House to commission an investigation of the practicalities of such a procedure at national level, drawing on local and international experience, and concludes that the opportunities should be seized for nourishing representative democracy by the exploration of other democratic possibilities.

It concludes that opening up the process of legislation and giving the public a real opportunity to influence the content of draft laws should be a priority in the new Parliament.

1 INTRODUCTION AND CONTEXT

The public are sullen, some even mutinous.

(Sir Robert Worcester, June 2009)

1. We have been set up at a time when the House of Commons is going through a crisis of confidence not experienced in our lifetimes. This is largely, but not exclusively, because of the revelations about Members' expenses, bringing with it a storm of public disapproval and contempt. Public confidence in the House and in Members as a whole has been low for some time, but not as low as now. It is not too much to say that the institution is in crisis.

2. The storm has been gathering, but has now reached its climax. In 2001 a survey found that 30 per cent of people were dissatisfied with how Parliament was doing its job; in 2009, in the wake of the expenses scandal, dissatisfaction with the Commons was a massive 71 per cent (Ipsos/Mori). This demands a response, if public confidence in the central institution of our representative democracy is to be restored. Action is already being taken to establish a transparent, fair and independently regulated system of allowances. This is necessary, but not sufficient.

3. The great majority of Members of Parliament work extremely hard. Members are in closer and more regular contact with their constituents than ever before, and dedicate a great deal of time to serving their interests. But while the House of Commons remains the central institution of British democracy, in both real and symbolic terms, there is a sense in the country that it matters a good deal less than it used to. We believe that the House of Commons has to become a more vital institution, less sterile in how it operates, better able to reflect public concerns, more transparent, and more vigorous in its task of scrutiny and accountability. This requires both structural and cultural change. This report by necessity focuses on structural changes, but we hope they will lead gradually to a change of culture. The core business of Parliament has to matter more to the public and to individual Members. At present many Members do not see the point in attending debates or making the House the primary focus of their activities. In order to address this we must give Members back a sense of ownership of their own institution, the ability to set its agenda and take meaningful decisions, and ensure the business of the Chamber is responsive to public concerns. We believe this is what the public demands, what the institution needs and what most Members want. The present crisis presents an opportunity to make some real progress with this.

4. Without the shock of recent events, it is unlikely that this Committee would have been established. Yet the case for an inquiry such as ours was already strong, and becoming ever stronger. Since 1997 the Modernisation Committee has presided over a number of reforms, some of which—such as sittings in Westminster Hall and oral questions without notice to Ministers—have proved successful. However, a number of the proposals from that Committee, and the Procedure Committee and others, have been shelved, sidelined or simply disregarded, often without being put to the House, which is dispiriting for reform and reformers. A steady stream of reports from outside bodies have made the case for

significant parliamentary reform.¹ Meanwhile, the Modernisation Committee has run out of steam and not met for over a year.

5. We have a rare window of opportunity. There is an appetite for reform inside the House and among the public at large. We have a newly elected Speaker expressly committed to it. Backbenchers are fed up with their inability to make a difference and the deadweight of timeworn procedures. Select committees are universally praised but have few opportunities to initiate debates or propose amendments to legislation and sometimes struggle to maintain a quorum. Thirty years ago, in the closing period of the 1974–79 Parliament, our predecessors took the bold step of proposing a system of departmental select committees, which have now become integral to the work of the House. Unlike our predecessors, we have had to work at high speed under a very tight timetable, but hope to have produced proposals which—if implemented—may have an equivalent impact.

6. We are conscious of the fact that the large number of Members standing down at the next General Election will lead to an exceptional influx of new Members. In fairness to the incoming Parliament we propose that after two years of operation the changes recommended here be reviewed by an elected committee – as this one was.

7. The Prime Minister told the House on 10 June 2009, in the course of a wider statement, that he was ‘happy to give his support’ to a proposal from Dr Tony Wright MP, Chairman of the Public Administration Select Committee, ‘to work with a special parliamentary commission...to advise on necessary reforms, including making Select Committee processes more democratic, scheduling more and better time for non-Government business in the House and enabling the public to initiate directly some issues for debate’.² The proposal arose out of a suggestion for a new special committee set up for a defined period only with a mandate to come forward quickly with parliamentary reform proposals, of which the key one would be to separate the control of Government business from House business. Dr Wright’s letter to the Prime Minister drew particular attention to a report by Meg Russell and Akash Paun of the Constitution Unit, University College London, which had proposed the establishment of a Backbench Business Committee.³

8. The story of the delays in setting up the Committee need not be set out here in detail.⁴ In outline the Motion to establish a select committee for this purpose was tabled on 23 June. On 8 July, a fortnight later and a full five weeks after the Prime Minister’s announcement, the Motion appeared for the first time on the day’s Order Paper. No time was provided for debate. On 20 July it was again on the Order Paper. On this occasion—effectively the last opportunity before the House adjourned for the summer recess—the Government allowed time for debate and tabled a motion to oblige the House to come to a decision. The Motion was duly passed without a vote, nearly seven weeks after the Prime Minister had put his

¹ See for example: Commission to Strengthen Parliament, *Strengthening Parliament*, July 2000; Hansard Society Commission, *The Challenge for Parliament: Making Government Accountable*, 2001; Parliament First, *Parliament’s Last Chance*, April 2003; and Conservative Party Democracy Task Force, *Power to the People: Rebuilding Parliament*, 2007.

² HC Deb, 10 June 2009, col 797

³ Meg Russell and Akash Paun, *House Rules?*, Constitution Unit, University College, London, 2007

⁴ Library Standard note SN/PC/5140, Select Committee on Reform of the House of Commons

authority behind the move to establish a committee to come up with speedy proposals for reform.

9. This matters because it illustrates one of the key problems to which we have been directed to offer solutions. This is the impotence of the House to find time to debate and decide its own internal affairs, unless the Government enables it to. This is not a satisfactory situation for a sovereign legislature. We note that the Ombudsman recently observed that “What...I think citizens at large see is no visible distinction between Parliament and Government”.⁵

10. It is unfortunate that so many weeks were wasted, especially as our timetable was already very tight. We have worked intensively, so that the momentum for reform in this Parliament is not lost. Although we have found our terms of reference to be somewhat constraining, it would in practice have been impossible to give proper consideration to any wider matters in the time available. We have had to leave on one side some relevant matters which bear directly on the vitality of the Commons and its relationship with the executive, such as the number of Ministers.

11. We draw strength from the fact that, uniquely, Members of this Committee were elected in democratic and open procedures within the principal party groups to serve on the Committee. This is an indication of future possibilities.

12. We have not taken formal oral evidence, partly because of the time constraint. Many of the issues are well rehearsed and require political judgement to be applied to them. For the same reason, the Government did not submit detailed written evidence to the Committee.⁶ We have held informal and private discussions with a range of people, including former and current whips and business managers. We are grateful for their help and advice. We have also held a private meeting with Mr Speaker.

13. We issued an invitation for written evidence and the Chair asked all Members for views on the principal matters before us. We received useful contributions and are grateful to those who wrote to us.

14. We owe a particular debt of gratitude to our principal specialist adviser, Dr Meg Russell of the Constitution Unit, University College London. We have also benefited from expert advice on election systems from Professor Iain McLean of Oxford University.

15. It is conventional that a select committee report receives a written Government reply within two months. This is because most select committee reports, although formally made to the House, contain conclusions and recommendations directed at Government. This report is rather different. It is addressed to the House, Ministers and backbenchers alike. We do expect a Government reply on some points. However this is essentially a matter for the judgement and will of the House. What we would now expect is a debate within the next two months when a House majority can freely determine the outcome. To make it

⁵ Uncorrected transcript of evidence taken before the Public Administration Select Committee on 5 November 2009, HC 1079i, Q 24

⁶ Ev 1, letter from the Leader of the House

easier for a conclusion to be reached, and to avoid any doubt about what is being agreed, we have drafted a resolution to be put to the House.

16. The proposals which we make must only be implemented with all-party agreement, and not imposed on the House by a Government majority. They will inevitably need implementation in stages. Some changes can take effect in the course of the last session of this Parliament, such as some of the changes to petition procedures we recommend. Others can only come into effect in a new Parliament, such as the changes relating to select committee Chairs and members, and the scheduling of business. The necessary Standing Orders can and should be passed in this Parliament so that the new Parliament can start with new procedures and practices. As we recommend in para 6 above, they can then be reviewed after a couple of years.

17. This Committee remains in being for the rest of the Parliament. We do not intend to revisit our conclusions, or to undertake a further body of work, but we will reconvene as required to consider progress on our recommendations. We also recognise that this report is the start of a process of change which will take more than a Parliament to complete, and on a wider front than that considered here.

2 PRINCIPLES

Parliamentary control of the executive—rightly conceived—is not the enemy of effective government, but its primary condition. (Bernard Crick, *The Reform of Parliament*)⁷

18. This Committee was established in the wake of the expenses crisis, which triggered demand for wider parliamentary and political reforms. The reforms sought often have little or no direct connection with the cause of the crisis, which was largely cultural rather than structural. Yet the crisis has functioned as a catalyst to release pent-up demands which had been pressed in vain for some time.

19. Only some of these wider demands for change within Parliament are reflected in the matters referred to the Committee by the House: the appointment of members and chairs of select committees and the Deputy Speakers, scheduling business in the House, and enabling the public to initiate debates and proceedings in the House. Some would no doubt welcome a more wide-ranging inquiry. But each of the three distinct though interconnected matters referred to us, as set out below, reflects in some way the wider agenda for change in the way the House does its business. Together, they reflect common cross-cutting concerns about the vitality of Parliament.

- **Control of the parliamentary agenda.** It became clear in June that the House was dependent on the Government to provide time for debate on the motion of no confidence in the former Speaker, something which was quintessentially a House matter. This incident crystallised concerns expressed for some time about Members' inability to control the business in their own House. These concerns are wide-ranging, including the choice of topics for general debates, control over procedural reform, programming of government bills, Private Members' Bills and much else.
- **Select committees.** The select committees are widely respected and seen as generally functioning well. They have won more resources in recent years. Their work on pre-legislative and post-legislative scrutiny, examination of expenditure and pre-appointment hearings is gaining ground. There is a strong desire to strengthen yet further these forums for cross-party work and government scrutiny and indeed extend the way they work to other parts of parliamentary life. Some have long held the view that it is crucial to create a parliamentary career path focussed on select committee work. Concerns have particularly focused on the role of the whips in selecting committee members and, in practice if not formally, Chairs, as well as the powers of committees and their need for access to the Chamber agenda, where despite some improvements they remain essentially noises-off.
- **Public initiation of proceedings.** The expenses crisis and the nature and force of the public reaction to it heightened concerns about Parliament's connection to the public it serves and its public reputation. These matters have been the subject of various

⁷ Bernard Crick, *The Reform of Parliament*, 1970, p 259

inquiries in recent years. There have been many improvements in communication outwards (for visitors, through the internet and the media) but no major changes in terms of the public's ability directly to influence the parliamentary agenda.

General principles

20. The key principle that guides our recommendations is that Government should get its business, the House should get its scrutiny and the public should get listened to. Everything within this report can be measured against that simple proposition.

21. We have also applied a number of general principles which we have relied on in carrying out our work, and in making our recommendations.

Parliamentary control of business

22. We should seek to enhance the House of Commons' control over its own agenda, timetable and procedures, in consultation with Government and Opposition, whilst doing nothing to reduce or compromise such powers where they already exist.

23. The most important common theme is the House's lack of control over its own business. There is a well-established concern (dating back many decades) that Government in general is too dominant over parliamentary proceedings. The House is notionally in charge but, partly because of difficulties of collective decision-making, partly due to imbalance of resources, and partly as a result of its own Standing Orders, the coordination of decisions often rests with the executive. There is a feeling that the House of Commons, as a representative and democratic institution, needs to wrest control back over its own decisions rather than delegating so much (as it does now) to Ministers and frontbenchers. Where the House does retain at least notional control, such as the approval by the Chamber as a whole of select (but not public bill) committee membership, that must not be compromised. There are in fact many aspects of organisation in the Commons which are not directly controlled by the whips: for example the allocation of questions, adjournment debates and Private Members' Bills by ballot (rather than by whips, as in some other parliaments) and the strict neutrality of the Speaker. These should be protected, along with those conventions which sustain respect and fairness in the House's proceedings.

Collective working and individual Members

24. We should seek to enhance the collective power of the Chamber as a whole, and to promote non-adversarial ways of working, without impeding the ability of the parties to debate key issues of their choosing; and to give individual Members greater opportunities.

25. The House of Commons is not just a collection of individuals, but a forum for debate between political parties. Parties are integral to democracy and to coherent political choice. Almost every Member is elected on a party ticket and the continuous party battle between a Government and an Opposition is fundamental to political and parliamentary life. However, there is public concern at the extent to which party considerations (and party games) have come to be too dominant, leading to needlessly adversarial behaviour. One of the characteristics that is most valued in the select committees is the way in which Members work together constructively across party boundaries, with the emphasis being

on the quality of policy decisions. This style of working has obvious appeal to the public, particularly in an era when partisan affiliations outside Parliament are much weaker than once they were.

Transparency and accessibility

26. We should seek to enhance the transparency of the House's decision making to Members and to the public, and to increase the ability of the public to influence and understand parliamentary proceedings.

27. Decisions on matters such as which issues are to be debated in the House or who gets a seat on which select committee or public bill committee seem to be taken through informal hidden procedures (most obviously the 'usual channels'), rather than in more transparent and accountable ways. The public may also have the sense that the parliamentary agenda does not reflect their concerns but is some sort of strange ritual put on for the benefit of insiders.

28. These are all noble sentiments, which we trust are widely shared. However we also have to recognise that there are constraints.

Constraints: Government business

29. We should recognise that the Government is entitled to a guarantee of having its own business, and in particular Ministerial legislation, considered at a time of its own choosing, and concluded by a set date.

30. One of the principal functions of parliament is to scrutinise, debate and ultimately vote on Ministerial legislation, rooted in an electoral mandate. An elected Government must be able to govern. But strong government needs to be matched by strong accountability. There is therefore a balance to be struck between Government's legitimate demands for parliamentary time and the demands from other sources. Our recommendations must respect this need for balance.

Constraints: time

31. We should recognise that time in the Chamber, Westminster Hall and committees is necessarily limited, and therefore should work broadly within the existing framework of sitting days and sitting hours.

32. There is a limited amount of time available within the parliamentary week and within the parliamentary year. While wanting to enhance democracy, accountability and transparency within the Chamber and improve Members' opportunities for influence, we must recognise that there will be little appetite for reforms which put significant additional pressure on Members' time or make unrealistic assumptions about the time that is available. There will always be tough choices to be made about how existing time in the Chamber should be used.

Achievable change

33. Changes should be devised with sensitivity to real-world political constraints, and in a way which maximises the likelihood of achieving majority support in the House.

34. We are all aware that the issues we have to consider are both sensitive and challenging. There is always a danger that a reform committee makes proposals that are theoretically attractive, but which in the end achieve nothing because they are seen by some as too threatening or radical. The present moment offers a limited window of opportunity, where reform is genuinely achievable. It would be a great pity if this was squandered. We have therefore sought to recommend what might actually be adopted and thereby strengthen the House and its reputation with the public.

35. These principles have informed our deliberations and are reflected in our approach to the specific matters on which we have been asked to report. We aim to make the Commons matter more, increase its vitality, and rebalance its relationship with the executive.

3 SELECT COMMITTEES: ELECTION OF MEMBERS AND CHAIRS

There is widespread disquiet, both amongst Members and outside the House, about a system which is not open, and which is not clearly independent of the Government and the party managers. Those being scrutinised should not have a say in the selection of the scrutineers. We believe that the present system does not, and should not, have the confidence of the House and the public. (Liaison Committee, *Independence or Control?*, 2000)⁸

In this introductory section we report on our consideration of the appointment of the Chairman and Deputy Chairmen of Ways and Means (the Deputy Speakers): and recommend the general use by the House of the gender-neutral terms “Chair” for the office-holder and “chair” for the office, as we have in this report.

A. Terms of reference etc

36. The first two matters which we are directed by our terms of reference to consider and to make recommendations on are “(a) the appointment of members and chairmen of select committees, (b) the appointment of the Chairman and deputy Chairmen of Ways and Means..[ie the Deputy Speakers]”. Both matters have arisen from a sense that the House wishes to democratise its internal procedures and practices. The election in June 2009 of a new Speaker by a new procedure involving a secret ballot has shown the way.

Terminology

37. Our terms of reference refer to “chairmen” of select committees, and the same term is used in the official titles of the deputy Speakers. “Chairman” is embedded in the House’s Standing Orders in reference to select committees and general committees, as well as in various pieces of statute law. We do not think that is appropriate in the House of the 21st century. “Chair” is a widely used gender-neutral term for someone carrying out the chairing function, and “the Chair” is already used at Westminster as a shorthand for the Speaker or whoever is chairing proceedings. **In this report we will wherever possible use the term “Chair” to denote the individual chairing a committee, and “chair” to denote the office held, save where a particular officer is meant, such as the Chairman of Ways and Means. We hope that the House will soon follow this practice.**

Deputy Speakers

38. On 2 July 2009 Mr Speaker Bercow told the House of his conviction that the choice of Deputy Speakers should be determined not as hitherto by consultation and formal nomination by the House, but by a process of election. He expressed the hope that a ballot or ballots would be conducted shortly after the House returned in October to choose three

⁸ Liaison Committee, *Independence or Control? The Government’s reply to the Committee’s First Report of Session 1999–2000*, HC 748, para 28

deputy Speakers, one from the Opposition side and two from the Government side.⁹ On 16 July 2009, several days before the Motion to establish this committee was passed by the House, the Procedure Committee announced in a Press Release that it was launching an inquiry into the procedure governing the election of the Speaker and the lessons to be learned and would also make recommendations on the rules governing the election of the three Deputy Speakers. It stated that it aimed to publish its report shortly after the House returned from the summer recess.

39. At our first meeting on 21 July 2009 we decided that it would be fruitless to pursue a detailed inquiry into the appointment of the Chairman and Deputy Chairmen of Ways and Means (the Deputy Speakers) at exactly the same time as such an inquiry was being conducted by the Procedure Committee. We did not therefore seek separate evidence on that particular matter.

40. The Procedure Committee has now reported its outline conclusions.¹⁰ **It must in our view be right that a transparent means be found for the House as a whole to elect the House's three principal office-holders below the Speaker. As we have discovered in our examination of the appointment of members and Chairs of select committees it is not easy to find a generally acceptable and fair procedure. It is now for the House to consider the Procedure Committee's Report.**

B Select committees: what happens now

In this section we describe the current system of appointment of members and Chairs of select committees and how it works in practice. We also report on three closely connected matters: the size and number of committees, the speed of their nomination in a new Parliament and the Intelligence and Security Committee.

41. There are currently 34 “permanent” select committees, including joint committees.¹¹ There are other committees which will lapse at the end of the Parliament or earlier; statutory committees with a membership of Members of this House; and committees whose membership is *ex officio* or similar. Members of each select committee are appointed by the House on the basis of a motion moved in the House, usually in the first months of a new Parliament. Membership lasts for the remainder of the Parliament, unless and until the House agrees to the removal of a Member and their replacement by another.

42. Each Committee elects a Chair from among their number at its first meeting. There are rare exceptions to this general rule. Chairs may be appointed by the House in the Order setting up the Committee, as was the case with this Committee and the recently appointed Committee on privilege and other aspects of police searches on the Parliamentary Estate. The Chair remains in office unless removed by a vote of the committee, on the basis of a motion of which notice has been given. This has not happened in recent times.

⁹ HC Deb, 2 July 2009, col 496

¹⁰ Procedure Committee, Fourth Report of Session 2008–09, *Election of the Deputy Speakers: Principles*, HC 1080. It had reported on the subject in 2002, Second Report of 2001–02, HC 770, *Appointment of Deputy Speakers*

¹¹ Liaison Committee, First Report of Session 2008–09, *The Work of the Committees in 2007–08*, HC 291, Annex 3, p 60

Members

Committee of Selection

43. Under Standing Order [SO] No 121, nomination of members of nearly all permanent committees must arise on a motion moved in the House after at least two days notice by the Chair of the Committee of Selection.¹² Nomination of temporary select committees, such as the Regional select committees, is normally done on a motion moved by a Minister, but in practice following a process of nomination to the Government by the parties.

Motions and amendments

44. Appointments to committees are made in the House in stand-alone motions covering one committee at a time. They can be amended by leaving out names and inserting others, or merely leaving out names. Amendments to add names to a committee already limited in size without a balancing removal are not in order. Members proposing to nominate a Member must endeavour to ascertain if *“each such Member will give his attendance on the committee”*; in other words, Members must be volunteers.

Vacancies

45. Vacancies arise regularly throughout a Parliament. In session 2008/09 there were over 40 cases of members being removed and replaced, for a variety of reasons, typically the acceptance of a ministerial or Parliamentary Private Secretary (PPS) role or an Opposition frontbench role. Many committees have members who have ceased to attend for a variety of reasons and have not been replaced. It is not always easy to fill vacancies.

Origins of Committee of Selection

46. The role of the Committee of Selection in the nomination of members of most select committees is a relatively recent one. The Committee has its origins in 1839 as a means of nominating Members to committees dealing with private bills, of which there were many. When Standing Committees on Bills were first established in the 1880s the task of proposing names for members to be added to the core membership of a Standing Committee in respect of each Bill was given to the Committee of Selection. These names did not need to be approved by the House. The system of nomination of Standing Committee membership changed over the years so that the committee stage was entrusted to a separately appointed set of Members for each Bill; but the Committee of Selection retained under SO No 86 the duty of nominating the Members, still without requiring ratification in the House. In making nominations to such committees, now called public bill committees, it is obliged to *“have regard to the qualifications of those Members nominated and to the composition of the House”*. In practice, the whips bring nominations to public bill committees for the Committee’s ratification, and the names as endorsed by the Committee are simply recorded in the Votes and Proceedings.

47. The Committee of Selection is itself nominated by the House under Private Business Standing Order 109. The names of the nine Members to serve on the Committee are put to

¹² The exceptions are the Liaison, Selection and Standards and Privileges Committees. The Liaison Committee comprises *ex officio* the Chairs of specified committees. For the nomination of the Committee of Selection, see below.

the House in a motion moved formally at the outset of a day's proceedings by the Deputy Chief Whip. It normally comprises whips from all 3 major parties, with a senior Government party backbencher in the chair.

Earlier practice

48. So far as can be discovered, the nomination of Members to serve on select committees, which were from Tudor times if not earlier a regular feature of the Commons, was made relatively casually in a motion moved without notice. In the 18th century the practice was introduced of a secret ballot for select committee membership, in which Members were called up one by one to place their preferred names in large glasses on the Table of the House. The procedure lasted anything up to three hours, with the result declared the next day.¹³

49. In the course of the 19th century the House reverted to moving a motion to nominate membership, and gradually this became the preserve of Ministers, since it was they who controlled the agenda. Motions came to be tabled in the name of the deputy Government Chief Whip, following consultations between the parties, and put down for decision after the moment of interruption, with the intention of avoiding the need for debate or vote. That remains the standard means of nominating temporary committees, such as the current Regional select committees, and was indeed the means used to nominate this Committee. There remains a shadow of backbench initiative in SO No 23, the “ten-minute rule”, now used only to seek leave in a 10-minute speech to bring in a bill, but which also permits a motion by a backbencher to nominate a select committee.

1979 changes

50. The 1976–78 Procedure Committee recommended in its Report that “*in future the preparation of nominations for select committee membership should be entrusted to the Committee of Selection, who have long and valuable experience in the nomination of standing committees*” and that the motions to be tabled by the Chair of the Committee of Selection should be taken after at least two days' notice.¹⁴ The idea was to shift the responsibility for nomination away from the Leader of the House and the Whips to a forum where backbenchers could at least query the party's nominations. It is this thankless task that the Committee has carried out for the past 30 years.

Current practice

51. The Committee of Selection establishes at the start of each Parliament a standard division of places between the parties on committees of different sizes, based upon a calculation of the seats in the House held by each party. This calculation holds good for select committees as well as for public bill and delegated legislation committees. Names of prospective select committee members are brought up in the Committee of Selection by the individual party whips to fill the party “quota” on committees. On occasion a party has given up a place to a Member of another party, for example to ensure some places for

¹³ *House of Commons in the Eighteenth Century*, P D G Thomas (Clarendon Press, 1971) p 267

¹⁴ Procedure Committee, First Report of 1977–78, HC 588-I, para 6.19

members of Northern Ireland parties on committees dealing with Northern Ireland: or to enable an independent Member to take a place on a committee.

52. It is up to each party how it decides who is to be put forward by its whips in the Committee of Selection, and the process is not transparent.

53. Membership of a select committee is open to any member of the House. In 1979 the then Chair of the Committee of Selection told the House that the committee would not nominate Ministers, PPSs or Opposition front-bench spokesmen. This has remained the general practice, so far as circumstances permit. In practice, PPSs have served on committees scrutinising departments other than that in which they serve; and it has proved difficult for committee membership to keep up with the frequently changing membership of the Opposition front-bench. There are no similar constraints on membership of some temporary select committees such as Modernisation, which is chaired by a Minister and has Opposition front-bench membership, or Regional select committees. The House can of course object to the membership of a committee when it is first proposed in the House, but not in practice thereafter.

Size and number

54. We are directed to consider matters closely connected with those matters referred to us. In its Annual Report of March 2009 the Liaison Committee repeated its concern at the size of select committees, which over the 30 years since foundation of the departmental select committee system in 1979 has risen from 9 or 11 on a standard committee to 14, despite objections over many years from the Committee.¹⁵ The number of places to be filled on all Committees, including temporary and statutory committees, has doubled in that time, from 275 to 576,¹⁶ but there has been no change in the numbers willing and able to serve. There has also been a steady rise in the number of committees, from 24 to 39, not counting the Regional select committees. As a result, a number of Members serve on two or more committees, and the prohibition on service by PPSs and Opposition front-benchers has been breached in order to fill vacancies. Chairs have argued that committees are now unwieldy and that it is hard to engender a collective purpose and direction.¹⁷ In this report we make proposals on increased access for select committees to the floor of the House for debate and decision on substantive motions. If committees are slimmed down, we recognise the need to incentivise attendance and participation among that smaller group of Members. Rather than an unremunerated honour to be sought, and a responsibility to be discharged, a select committee place is in danger of being regarded by some backbenchers as a burden best avoided.

55. We propose that the new House of Commons reduce the size of its standard departmental committees to not more than 11; Members in individual cases can be added to specific committees to accommodate the legitimate demands of the smaller parties. We also recommend that the practice of appointing parliamentary private secretaries and front bench Official Opposition spokesmen should cease. We believe

¹⁵ Liaison Committee, First Report of Session 2008–09, *The Work of Committees in 2007–08*, HC 291, paras 78–81

¹⁶ *Ibid.*, page 60, Annex 3

¹⁷ See eg debate on establishment of the new Energy and Climate Change Committee, HC Deb, 28 October 2008, cols 851 ff

there should be clear consequences for unreasonable absence from select committees. The House must also seek to reduce the numbers of committees, ending overlapping or duplicate remits and rationing the scarce resource of Members time and commitment.

Speed of nomination

56. Committees can take an unconscionable time to be set up at the start of a new Parliament. In 1997 and again in 2005 it took a full three months, compared to one month in 2001. The delays are variously attributed to the need for the Government to complete its ministerial appointments and then identify the PPSs, and to delays in the official Opposition naming its front-bench. The Liaison Committee reports of 1999 and 2000 seeking reform of the system were responding as much to concerns over delays in nominating members at the start of a Parliament as to concerns over the way the nominations were made. We do not underestimate the problems. **But we consider that under any system the principal select committees should be nominated within no more than six weeks of the Queen’s Speech and that this should be laid down in Standing Orders and capable of being enforced by the Speaker.**

Intelligence and Security Committee

57. The Intelligence and Security Committee is a statutory committee of Members of both Houses established under the Intelligence Services Act 1994 to examine the expenditure, administration and policy of the three main intelligence and security agencies. Its terms of reference reflect those of the House’s departmental select committees. Under section 10 of the Act, appointments are made by the Prime Minister, in consultation with the Leader of the Opposition.

58. The July 2007 Governance of Britain Green Paper included a number of suggestions for minor changes in how the committee worked, to make it more like a select committee of the House, which it is not, and to increase transparency.¹⁸ In March 2008 the Government published its White Paper proposals based on, but falling short of, its Green Paper suggestions.¹⁹ In July 2008 the House endorsed these proposals, and passed a Standing Order, now SO No 153E, with effect until the end of this Parliament, permitting the Committee of Selection to “*propose that certain Members be recommended to the Prime Minister*” for appointment to the Intelligence and Security Committee. The Lords approved similar procedures in November 2008. A Member of this House was added to the Committee in October 2008 and was appointed as Chair, without a recommendation from the Committee of Selection having been put to the House. A month later, however, a Member was added using the new Standing Order. A change in the formal system of nomination to the ISC, and in the method of appointment of the Chair, would require a change in statute.

59. It is unsatisfactory that any reforms we recommend to the system of election of members and Chairs of the House’s select committees cannot be applied at the same time to the Intelligence and Security Committee. In the interim, we believe that the system we recommend below for electing Chairs of departmental and similar select

¹⁸ *Governance of Britain*, Cm 7170

¹⁹ *Governance of Britain – Constitutional Renewal*, Cm 7342

committees should be applied so far as possible to the Chair of the Intelligence and Security Committee. We recommend that the Committee be regarded as one whose chair is held by convention by a Member from the majority party; that candidates wishing to stand for election by the House to the chair of the Committee should be obliged to seek in advance of the ballot the formal consent of the Prime Minister for their candidature, to be notified in writing; and that thereafter the procedure should be as for other departmental and similar select committee chairs.

Public bill committee membership

60. We are charged with considering appointment of members and chairs to select committees only, and have not considered the membership of public bill committees in detail. However it is notable that the arrangements for appointment of Members to public bill committees are markedly less transparent and democratic than those for select committees. The chairs of public bill committees are selected from the Chairmen's Panel, chosen by the Speaker, and this system is widely accepted. But the members of these committees are chosen by the Committee of Selection with no reference to the House itself. **We conclude that a review would be desirable of the means of selection of public bill committee members, so that it was subject to a similar level of accountability to that long applied to select committee membership.**

Chairs

61. Once a committee is nominated it meets to elect a Chair. The Committee can in theory choose any Member, so long as they do not fall foul of SO 122A introduced in 2002 which establishes term limits for Chairs. In practice Members are constrained by the outcome of private inter-party negotiations on the party affiliation of each committee chair, undertaken to ensure that a fair proportion of chairs are held by the Opposition parties. The outcome of these negotiations is notified privately to Members by whips. The Modernisation Committee has recommended that this distribution be published.²⁰

62. There are rare exceptions. The Liaison Committee's membership comprises one named individual in addition to the *ex officio* Chairs of select committees, and that Member is evidently intended by the House to take the chair. The House has also endorsed the proposition that the Finance and Services Committee should be chaired by a member of the House of Commons Commission, of whom one serves on the Committee. And the presence of the Leader of the House on the Modernisation Committee has, not without occasional controversy, been taken as a signpost as to the obvious candidate for the chair of that Committee.

63. More common has been the nomination to a committee of a "senior" figure by virtue of past Ministerial or Opposition front-bench service, with or without previous select committee experience, although this was less apparent in the appointments in 2005; and it is common knowledge that the whips on all sides ensure that members of their own party are left in no doubt about the "official" view as to the preferred candidate.

²⁰ Modernisation Committee, First Report of Session 2001-02, *Select Committees*, HC 224-I, para 3.22

64. Most Chairs are elected without recorded opposition. That is not to say that there is not sometimes internal dissent within the committee and within members of the same party on a committee. Alternative candidates are not infrequently privately canvassed before the first meeting of a committee. In the 1992 Parliament, where a typical departmental select committee had 6 Government and 5 non-Government members, the minority was well-placed to identify which of the majority party members they preferred without it needing a recorded vote, since the 5 plus their favoured candidate enjoyed an automatic majority. On the Employment Committee the returning Chair was defeated and an alternative candidate from the same party elected in his stead. In 2001 the International Development Committee was unable to find a majority for either of the Opposition party candidates, and eventually a third candidate was added to the Committee and elected unopposed.

65. Controversy has also arisen from candidates for the chair being “parachuted” into a committee where a chair has become vacant, rather than the successor being found from among the existing membership. For this to happen does still require a majority in the House to appoint the new member, and a decision of the Committee to elect that Member to the chair.

66. Chairs evidently play a crucial role in the operation of their select committee, acknowledged by the payment of an additional sum, albeit only half as much as the additional salary paid to the most junior Minister. Perhaps more significantly, the steadily growing public profile of select committees gives Chairs a wider role in the media than hitherto, as their opinion is sought on current areas of controversy. They enjoy some priority in being called in the Chamber. And as members of the Liaison Committee they have the task of twice yearly public evidence sessions with the Prime Minister, and of exercising influence through that Committee over the agenda of the House and Westminster Hall.

C Is the system satisfactory?

In this section we consider the strengths and weaknesses of current practices and set out three general conclusions.

Past criticism

67. There has been persistent criticism over the past decade in particular of the method of appointment of members of select committees, arising both from the lengthy delays in nominating members at the start of a Parliament and from the view that it is in principle wrong that membership should be in the hands of party whips. There has been less public comment specifically on the selection of Chairs, although recent cases of vacant chairs being “given” to former Ministers or other senior figures as a form of patronage have caused concern. The row in 2001, at the start of the 2001-05 Parliament, over the omission of Donald Anderson and Gwyneth Dunwoody from the lists of members proposed by the Committee of Selection for their respective former committees raised issues on the appointment of both members and Chairs, since it was apparent that both would if nominated to their previous committee have been likely to be re-elected to the chairs they had occupied in the previous Parliament. As a result the Parliamentary Labour Party

agreed a procedure for Labour nominations of Chairs and select committee members to be agreed by their backbench Parliamentary Committee.

68. In March 2000 the Liaison Committee proposed that nominations in a new Parliament would be made by a body of three senior Members selected for that purpose, who would invite applications and after a fortnight put suggested names to the House. Replacements would be the responsibility of the Liaison Committee.²¹ In July 2000 the Government gave an unfavourable response, noting the desirability of ensuring a balance not just of party on each committee but also of other categories; the difficulty in filling unpopular committees; and the need for intra-party negotiation.²² In March 2001, with the end of the Parliament looming, the Liaison Committee returned to the issue.²³ But nothing was changed.

69. The matter was taken up by the Modernisation Committee in the new Parliament, chaired by the then Leader of the House, the late Robin Cook. In February 2002 it proposed in place of the Committee of Selection a Committee of Nomination, to be chaired by the Chairman of Ways and Means (the Deputy Speaker) and comprising a number of senior backbenchers. Parties would have made propositions to it as to the Committee of Selection, but the Committee would have been able to hear appeals from excluded Members.²⁴ On 14 May 2002 the proposal was narrowly defeated in the House.

Strengths of current system

70. The system as it has grown up over not just the past 30 years but over several centuries has some strengths which need to be acknowledged in contemplating change:

- membership is subject to approval by the House, and if necessary debate, which the events of 2001 demonstrated is not a mere formality: in many parliaments the parties' propositions require no endorsement;
- not only is party balance within each committee assured by the system, but also a balance of gender, experience, region and so on can potentially be managed;
- the distribution of chairs between the parties ensures that opposition parties have a fair share of chairs, and that on a few specific committees there is an Opposition Chair: this is a feature of the Westminster system which is widely admired overseas;
- the power of committee members to choose the Chair, although perhaps insufficiently exercised in practice, means that Chairs enjoy to some measure the confidence of their colleagues: and committees also have the power to remove a Chair;
- all committees have a full or almost full complement of members, including those committees where service is plainly a duty that needs to be done on behalf of the House.

²¹ Liaison Committee, First Report of 1999–2000, *Shifting the Balance*, HC 300

²² Liaison Committee, *Independence or Control? The Government's reply to the Committee's First Report of Session 1999–2000*, HC 478

²³ Liaison Committee, First Report of Session 2000–01, *Shifting the Balance: Unfinished Business*, HC 21

²⁴ Modernisation Committee, First Report of Session 2001–02, *Select Committees*, HC 224

Reform

71. But there are strong feelings that the system should be reformed, in accordance with the principles we have enunciated above.

72. **It should be for the House and not for the Executive to choose which of its Members should scrutinise the Executive: the House should also have a strong if not decisive influence on the identity of the Chair.** It is unacceptable that the power of the whips has on some occasions in the past been used to keep off select committees those members of their own party who are seen as unsound or too critical – the “mavericks”. Every Member has the right to be considered for membership of a select committee. It is also unacceptable that the whips can in effect offer chairs as a reward or “consolation prize” to former Ministers, and that favoured candidates are parachuted into committees when a vacancy occurs. There is a general perception that the party whips have too great an influence on the choice of Chair; that Members’ chances to serve on a committee at the start of a Parliament may be subject to an understanding as to whom they will support for the chair; and that even after appointment to a committee Members are not robust enough in choosing their preferred candidate for the chair in the face of party discipline.

73. **The system by which parties select names to put forward to the Committee of Selection, and by which the whips divide up chairs between the parties, is very far from transparent.** While on occasions the internal selection procedures of the parliamentary parties have been discussed or revealed, they remain a mystery to many within Westminster as well as to those outside. The criteria for selection are unknown. It may sometimes be that selection has more to do with a record of past or expectation of future service, and proven loyalty, than evidence of interest or expertise in a particular departmental or other area. It is also not clear how particular individuals emerge as Chairs of committees.

74. **The credibility of select committees could be enhanced by a greater and more visible element of democracy in the election of members and Chairs.** Cross-party working is the basis of the success of select committees. That has been achieved under the current system of appointment. But the sense that a committee membership place is merely a form of party patronage—albeit formally endorsed by the House—may adversely affect Members’ sense of duty to attend meetings. There is a danger that appointment to a salaried select committee chair if it remains largely controlled and influenced by the whips might on occasion be less and “alternative career path” and more of an extension of the massive patronage that already exists through the appointment of ministers. Their election by a small group of Members, acting under party constraints, is evidently not conducive to producing a truly independent figure with the required weight inside and outside the House which House-wide election might confer.

D A reformed system

In this section we examine the options for change and make proposals for a reformed system.

Assumptions

75. Before contemplating the range of options for change, we set out three structural assumptions we have made.

- *Party balance on each committee:* we are satisfied that the maintenance in a select committee of a party balance broadly proportionate to the balance in the Chamber is necessary and beneficial to the operation of select committees.
- *Distribution of chairs between parties:* we consider that it is a strong benefit of the present system that it offers a broadly proportionate number of chairs to non-majority party members.
- *Not all select committees need be treated in the same way:* it is not essential that the same nomination system be applied to every committee and every chair: it may well be that different systems will suit different categories of committee, as is the case at present.

Options

76. We identified three overall approaches and based on those a number of potentially acceptable options:

- Maintaining the current system but with democratic safeguards: meaning transparent intra-party elections of select committee members by secret ballot conducted under the auspices of the House authorities, and a secret ballot within the committee for election of a Chair from a party openly identified in advance.
- Creation of a “selectorate” committee of senior members to whom application for a select committee place could be made, who would present their proposals to the House, based on Members’ “expertise” and demonstrable interest in the committee’s subject area.
- Election by secret ballot of the House of members of select committees and/or of Chairs.

77. Having examined the three overall approaches we ruled out the use of a “selectorate” system whereby committee members would be selected by a cross-party committee of senior Members. Whatever its advantages, we do not think it meets the current mood of the House.

78. We then gave detailed consideration to four feasible options for election of members and Chairs of select committees. We list them in an Annex to this chapter, together with some of the relevant considerations we bore in mind in looking at each of them.

A reformed system: conclusion

79. There is no perfect system and no single right answer. There are advantages and disadvantages in all arrangements. But what we propose has clear benefits. In reaching a recommendation to put to the House we have borne in mind a number of factors, including—

- the principles enunciated in chapter 2 of democratising the House's internal processes and making them more transparent;
- the desirability of removing the influence of party whips from the process, while ensuring the maintenance of party balance on committees and a fair division of chairs;
- the timing of appointments at the start of a new Parliament, when it is likely that there will be a large number of new Members who will be unknown to most of their colleagues, in particular those of parties not their own, and who in turn will know few colleagues;
- the need to avoid undue complexity and unintended consequences.

80. **We recommend an initial system of election by the whole House of Chairs of departmental and similar select committees, and thereafter the election by secret ballot of members of those committees by each political party, according to their level of representation in the House, and using transparent and democratic means. The committees within this system should be those appointed under SO No 152 [the departmental select committees] together with the Environmental Audit Committee, the Public Administration Committee and the Committee of Public Accounts. We have concluded that of the four options we considered this is the system most likely to demonstrate the determination of the House more effectively to hold the executive to account, to give more authority to the scrutiny function of Parliament and at the same time to preserve the effective functioning of select committees. We also believe that it is likely to command widespread support in the House as a major step forward, but short of more radical proposals. It should give a major boost to these select committees, help establish the position of their Chairs, and increase the standing of their elected members. The review after two years which we recommend in paragraph 6 above would include examination of whether to extend this system to other select committees.**

Chairs

Distribution of chairs between parties

81. The House itself might decide how best to distribute chairs so as to ensure the outcome we are committed to of a spread between the parties. But the devices for doing this as part of the electoral process of individual Chairs would not commend themselves to the House. Ensuring a proportional balance would require re-distributing a number of chairs to Members who had stood for a chair and not won, and possibly not even come second, on the basis of complicated algorithms. It might be technically fair but it would not be seen as just by Members or others.

82. We have also considered a formalised system of distribution using a system whereby parties would choose a particular committee chairmanship in a systematic order determined in accordance with the distribution of seats in the House.²⁵ That is the system used, for example, in Northern Ireland. It has the benefits of transparency and simplicity. **We recommend that the House return to examination of this and other options for**

²⁵ This is known as a modified d'Hondt system. See eg Ev5 [John Hemming MP]

distribution of the chairs when the rest of our recommendations and conclusions are reviewed two years into a new Parliament.

83. For the first running of a new system we recognise that the House may prefer to rely, as it has for many years, on the party managers coming to an agreement on distribution of chairs on the basis of established conventions. But we do recommend a greater degree of transparency. Immediately after the General Election, the Speaker would convey to the party leaders the number of chairs subject to whole-House election to which each party is to be entitled. The party leaders would then be obliged by Standing Order to report, within a week of the start of the session, to which party, but emphatically *not* to which individual, each select committee chair had been allocated. This would be put to the House for its approval.

Nomination of candidates

84. Candidates for each chair would have to be nominated within two weeks of the date of the House's agreement to the division of the chairs between the parties. So as to ensure that candidates enjoy at least a measure of support within their own party group, there should be a threshold requiring at least 10 per cent of members of that party, or 15 of its members, whichever was the lower, to indicate support for that and no other candidate. Candidates would also be free to seek nominations from those in other parties and have them published, up to a certain number. Those who had already served two Parliaments or eight years as Chairs would be unable to stand by virtue of Standing Order No 122A. We envisage that those who put themselves forward for select committee chairs would be likely to publish some sort of manifesto and that hustings of some sort might well be organised.

Election of Chairs

85. Election of Chairs would be by written secret ballot. All Members of the House would be able to vote, but we consider that Ministers and the principal front-bench Opposition spokesmen should voluntarily abstain from casting their votes for the Chairs of the departmental committee related to their responsibilities. If there were more than two candidates, voting would be by alternative vote, to eliminate the need for any subsequent ballots. If there was only one candidate for a particular chair—and that may well happen—then that candidate would be elected without a ballot.

Chair's term of office

86. A Chair elected by the House would remain in office for the Parliament. A Chair who wished for whatever reason to step down from an office now to be conferred by the House would formally notify the Clerk of the House, and a by-election would be held, on the same terms and conditions as the original election. It will also be necessary to provide for the situation, should it ever arise, of a Committee where the members altogether lose confidence in the elected Chair. It would be open to a Committee, subject to a qualified cross-party majority of its members, and with due notice, to make a special report to the House and thereby trigger a fresh election.

Members

Election within party groups

87. **We propose that in the new Parliament members of departmental and similar select committees should be elected by secret ballot within party groups, by transparent and democratic processes, with the outcome reported to and endorsed by the House.** This has the advantage of ensuring that all members have a fair chance to serve on such a select committee, subject to sufficient support from their colleagues and that committees reflect party proportions in the House whilst maintaining an electoral system that is relatively easy to operate and understand.

88. **Party groups would in effect be acting on behalf of the House as electoral colleges. They would therefore expect to act under some constraints as to the methods used to elect committee members. We do not think it necessary that the House should interfere so far as to lay down one particular method of election rather than another. But the method chosen should be one approved by the Speaker, following independent advice, as transparent and democratic: “kite-marked” as legitimate in effect. Officers nominated by the Speaker would be obliged to assure themselves that the processes followed by each party, as notified by its Leader, were indeed in accordance with these norms. And each party would be obliged to publish the method it had adopted.**

89. This will leave the parties a considerable freedom to organise the elections in accordance with their preferences. For example, they may wish or not to provide for a degree of gender or regional or other balance, such as of more or less experienced members. While it is axiomatic that a Member should serve on only one departmental or similar select committee, it would be open to each party to make the arrangements to produce that result, so long as it was patently fair.

Process of election and term of office

90. At the same time as conveying the number of relevant chairs to which each party is to be entitled, as set out in para 83 above, the Speaker would convey to each party leader the appropriate proportions for committees of various sizes. Parties would be obliged to hold ballots for departmental and similar select committee memberships after the conclusion of elections of Chairs of those committees and to complete the process within two weeks of those elections. The resultant names should then be forwarded to the House for endorsement as at present. A Member who wished to resign from a departmental or similar select committee would give formal notice to the Clerk of the House, and the party would be obliged to hold a by-election within a set time period, after which the procedure as in para 87 above would be followed.

Smaller parties etc

91. There are of course a number of detailed issues requiring resolution. The smallest parties are entitled to representation on committees in accordance with their numbers; and that should not be restricted to the committees scrutinising the nations of the United Kingdom. If merely added to a handful the proportions may be skewed. Similarly, there must be sufficient flexibility to allow independent Members some opportunity to serve on a select committee. We propose that the Speaker be empowered to nominate one member

to a particular committee so that minority parties or viewpoints can be fairly represented; and also that larger parties should remain free to “donate” one of the places to which they are entitled to a smaller party.

92. There may be occasions where parties do not have enough candidates for places on some committees. That is a problem at present. Where that is the case, parties should as now be under an understood obligation to find volunteers without requiring a ballot.

Work of committees

93. Select committees have rightly won respect for the work they do and they are being asked to take on an increasing number of tasks on behalf of the House. As a result committee members find it increasingly difficult to devote time to select committee work as well as all their other duties. **We consider that the Liaison Committee should re-examine the current role of select committees, their resources and their tasks, and in particular how to deal with the increasing demands of time made of Members as their role grows.**

E. Conclusion

94. There are a number of ways in which select committees can be strengthened. We have proposed smaller committees and thus greater competition for places on them among Members which we hope will in turn generate a greater sense of ownership and will lead to higher levels of attendance and participation. The direct election by the House of Chairs of departmental and similar select committees will raise their profile and that of their committees, at Westminster and outside, and help ensure that their work gets the results it merits. We believe that the changes we recommend, modest as they may seem, will be a boost to the whole select committee system.

ANNEX: Options considered by Committee

Option 1: Parties elect Members; Committee elects Chair

This would be a revised version of current practice. The division of seats on each committee between the parties would be agreed. Then each party would elect the requisite number of members for each committee. At the first meeting of each committee, the committee would, as now, elect its own Chair from amongst the membership, following the central guidance as to which party the Chair should be drawn from, but unlike now using a secret ballot.

Relevant considerations include

- whips might be able to manipulate a party election with slates, which might also effect the choice the committee then goes on to make for its Chair; but
- candidates would be better known by those voting than in a whole House election, especially at the start of a Parliament.
- The absence of any sense that Chairs are responsible to, or speak for, the House on a certain matter; but

- the Chair would command support and confidence of at least a majority of their colleagues on the committee.
- The continuing association of select committee membership with party affiliation; but
- The relative ease with which elections within parties can be organised.

Option 2: House elects Chair; Parties elect Members [Recommended Option]

Chairs would be elected first, by secret ballot of the House. The share-out of chairs would have been agreed in advance. After the Chairs have been elected, the parties would then elect members to the committees as in Option 1.

In addition to those mentioned under Option 1 above, relevant considerations include:

- Chairs would represent the whole House, and have a clear mandate and accountability; but
- direct election might result in candidates who did not command the confidence of their committees;
- some Members may feel uncomfortable voting for members of other political parties and a governing party majority could decide the outcome of elections of all Chairs; but
- Chair elections are transparent, minimise the use by whips of committee chairs as a form of patronage and would encourage cross-party working.

Option 3: House elects Members, Committee elects Chair

The first stage would be a whole House election to choose committee members. Once committee members have been chosen the committees would meet and elect their own Chair from amongst their number, as in Option 1.

In addition to those mentioned under Option 1 and 2 above, relevant considerations include:

- a whole House election for so many positions would be complex; but
- a whole House election is the most transparently democratic means of choosing committee members and would emphasise the cross-party nature of select committee working.

Option 4: House elects Chair; House elects Members

The first stage would be the election by the whole House of committee chairs, as in Option 2. Following this (either immediately or on a subsequent day) the remaining members of committees are also elected by the whole House, as in Option 3.

The relevant considerations are as set out under Options 1, 2 and 3.

4 BUSINESS IN THE HOUSE

The balance of power between the Executive and Parliament will remain too firmly tilted in favour of government until MPs win a say on the agenda of their proceedings through some form of collective business committee. (Robin Cook, *The Point of Departure*, 2003)²⁶

A. Terms of reference and connected matters

In this section we map in some detail the terrain of what is meant by “scheduling of business in the House”. We identify a number of closely connected issues, in particular the handling of Bills at report stage, which can only be properly addressed following the solution of the main question, of how the business of the House is scheduled; the question of on what days the House should sit through the year; and related scheduling issues in general committees. There is much necessary detail in the first four sections of the chapter, with our main proposals from section E onwards.

Business in the House

95. Our terms of reference direct us to examine “*scheduling business in the House*”. As originally tabled by the Leader of the House they referred to “*scheduling non-Government business in the House*”. We welcome the change, which has enabled us to consider how all business in the House is scheduled. As we show below, the distinction between “Government” and “non-Government” business is far from clear-cut. By looking at business as a whole we can give a more rounded picture of business in the House and how its scheduling can be improved.

Scheduling and timetabling

96. We have taken “*scheduling*” to mean the act of deciding **which** items of business are to be taken; **on what specific day** they are to be taken; and in some respects **for how long** items of business are to be debated. Some items—for example a motion to approve secondary legislation in an affirmative instrument—have a time-limit fixed in Standing Orders; others are conventionally understood to last for an approximate time often referred to as a “day” or a “half-day”. The actual time available for a “day” is rarely the maximum of around 6 hours. It is determined in practice by how much time is left after the end of questions and statements and before the fixed end-point of each parliamentary day at the “moment of interruption”.

97. *Scheduling* is therefore different from *timetabling*, which conventionally refers to the detailed arrangements made for a given item of business to start or end at a specified time or after a specified period. It is a term particularly applied to legislative business. In practice of course there is overlap between the two terms. The Procedure Committee announced in

²⁶ Robin Cook, *The Point of Departure*, 2003, pp 236–7

May 2009 that it was undertaking an inquiry into timetabling of business, examining “recent developments in the use of business motions and programme motions to govern Commons business on the Floor of the House and in Committee”. The paper from the Clerk of the House provided in connection with that inquiry sets out in detail the issues arising.²⁷ We have sought to avoid duplication with that inquiry.

Sitting patterns

98. The principal constraints of scheduling business in the House and on the volumes of business which can be transacted in a session are the total number of days on which the House sits in a given year, and the length of those sittings. Both issues have been well ventilated in recent years. We have for the sake of argument assumed:

- a) the current pattern of around 35 sitting weeks in a typical year and around 155 days;
- b) the current 4-day week plus 13 Fridays;
- c) the standard sitting day from Mondays to Thursdays of around 8 hours, whether it starts at 2.30 p.m., 11.30 a.m. or 10.30 a.m.;
- d) the 3 half-days for sittings in Westminster Hall on 3 days a week, amounting to 12 hours in total.

September sittings

99. Holding sittings of the House in September would of course increase the number of days available for business, unless countervailing reductions were made in sitting times at other points, for example by rising earlier in July. Following a decision of the House in October 2002, the House sat for the first fortnight of September in 2003 and 2004. There was Government and non-Government business. In 2005 the House was unable to meet in September because of the erection of the security screen in the Chamber. On 1 November 2006 the House decided on a vote not to sit in September, unless subject to an emergency recall.²⁸

100. There is not much Ministerial legislative business needing to be done in September, since the most contentious Bills are by then in the House of Lords. Greater use of carry-over of bills from one session to another, meaning they can conveniently be introduced at any time in the session, could alter that (see para 103). Other categories of business could also be scheduled for September sittings. It is no doubt undesirable that the executive enjoys a 80 day period free from parliamentary scrutiny; while noting that since 2005 it has been possible to table written questions and receive written answers to them in September. There is also a widely held view, mistaken though it may be, that when the House is not sitting then Members are on holiday. **We recommend that the House in the new Parliament should be asked to decide on the issue of September sittings, along with other sittings issues, sufficiently early in its life to be able to decide whether to sit in September 2010.**

²⁷ See www.publications.uk/pa/cm200809/cmselect/cmproced/memo/timetabling/uctb0502.htm

²⁸ HC Deb, 1 November 2006, col 418

Conclusion

101. There are a number of contentious issues over the House's sitting patterns, much debated over the past 10 years. Under Standing Order No 25, decisions on the sitting pattern of the House are taken at present on the basis of effectively unamendable motions which can only be moved by a Minister, and are decided without debate. We have no collective view on September sittings, nor on the issue of the recall of the House, on which proposals were made in the Governance of Britain Green Paper and referred to the Modernisation Committee and which remains unresolved. **But we do recommend that the House should at least decide for itself when it sits and does not sit.**

Annual sessions and carry-over

102. We have also of necessity assumed continuation of annual sessions. In some Westminster-style parliaments these have been either lengthened to two years or more or effectively by-passed by having a single-session Parliament.²⁹ Longer sessions would mean a loosening of the constraints on Bills having to complete their passage in one twelve-month session and would of course have an effect on scheduling. **It may be time to re-examine the need for annual sessions overall, drawing on the varying practice of parliaments around the world who face similar issues.**

103. The House agreed in 2002 to allow for the “carry-over” of bills from one session to the next, so as to allow a smoother flow of legislation through the parliamentary year. Relatively little use has been made of this provision. The Standing Order provides that the passage of a Bill must still be completed in 12 months from its introduction. It was suggested to us that a slight relaxation in that time-limit might be helpful.³⁰ **Greater use of carry-over of Bills from one session to the next could have a significant effect on scheduling business in the House.**

House of Lords

104. The House of Lords exercises a powerful if barely visible influence on the scheduling of business in the Commons. Its commitment to fixed intervals between stages of Bills, the absence of time limitations on debates in the Lords on legislation, and the detailed scrutiny of much legislation taking place on the floor of the Lords Chamber rather than in committees as in the Commons, mean that the time allowed for by the business managers for the passage of Government legislation in the Commons is heavily influenced by the time to be allocated to the passage of legislation through the Lords. The business managers have to pencil in a date for Third Reading for a Bill introduced in the Commons which allows sufficient time for its passage through the Lords.

Closely connected matters: general committees

Committees: public bill committees

105. Our terms of reference also allow us to consider matters which we consider to be “closely connected” to our principal terms of reference. We have not examined in any detail

²⁹ See Ev10 footnote 7 for international comparisons

³⁰ Ev9

the scheduling of business in the House’s public bill committees. They are indeed closely connected to business in the House but subject to a separate set of rules. The recent changes in these committees have been broadly welcomed. A research review identified some areas for improvement of practices and procedures.³¹ We are aware in particular of concerns at some aspects of the way the evidence sessions in these committees are scheduled and the witnesses selected.³² This is an aspect of detailed timetabling of business, since it arises in part from the short time between Second Reading and the first day of the public bill committee. It may well form part of the Procedure Committee’s current inquiry into timetabling. Meanwhile, **we hope that a more open approach to the scheduling of public bill committee evidence sessions can be piloted in the short 2009–10 session without the need for changes to Standing Orders, and request that the relevant authorities produce a report for an appropriate successor Committee in the new Parliament to consider.**

Committees: Grand Committees

106. Standing Orders provide for the existence of Grand Committees—debating committees with a membership comprising all members of a part of the United Kingdom, such as the Welsh Grand Committee, or a region of England, such as the North West. They are “closely connected” to business in the House by virtue of functioning like the House in miniature, with questions and debates. The scheduling of business in these committees is effectively in the hands of Government. Motions to set up a meeting can only be tabled in the House by Ministers. The motion put to the House sets out the proposed subject of debate, the place and starting time and length of meeting. If the House is to take greater control of the scheduling of non-Ministerial business in the House, as we propose below, it must follow that it should take similar steps in relation to these debating committees. **It should be open to others than Ministers to schedule business in Grand Committees, by relaxing Ministerial control of what Motions can be put to the House and decided.**

Committees: delegated legislation committees

107. Most items of the Government’s secondary legislation requiring the positively expressed consent of the House—so-called “affirmative instruments”—are debated in a small specially convened committee upstairs, and then later (normally the next day) formally agreed to by the House without debate. The decision as to whether in exceptional cases to hold the debate in the Chamber is for Government. Similarly, the power to bring on a debate on a prayer—a motion seeking to disapprove an item of secondary legislation which does not require consent resolution, so-called “negative instruments”—is also vested in Ministers. These arrangements will not stand up to examination in the light of the general principles we set out below. The Procedure Committee as long ago as 1996 recommended a system which at least provided an avenue for Members to seek to get prayers debated in a committee.³³ **There will have to be relaxation of Ministerial control of motions to refer negative instruments for debate in committee.**

³¹ Jessica Levy, *Strengthening Parliament’s Powers of Scrutiny?* (Constitution Unit, University College London, 2009)

³² eg Ev9

³³ Procedure Committee, Fourth Report of Session 1995–96, *Delegated Legislation* HC152

Committees: European standing committees

108. European standing committees question Ministers and debate European documents which have been recommended for such treatment by the backbench European Scrutiny Committee. Ministers determine the timing and table the substantive motion which is debated and then reported to the House for its decision without further debate. Ministers need to hold these debates because otherwise they would be prevented by the terms of the House's 1998 Scrutiny Reserve Resolution from agreeing to the documents in the Council of Ministers.³⁴ **The European scrutiny system offers an admirable if still imperfect model of responsible backbench committee control of business, in partnership with the Government, on an important part of the House's work.**

Closely connected matters: Report stage of bills

109. **The single greatest cause of dissatisfaction which we have detected with current scheduling of legislative business in the House arises from the handling of the report stage of government bills—technically the “consideration” stage when a Bill has been reported back to the House from a public bill committee.** In the majority of cases, the programme motion decided without debate immediately after Second Reading allows for a single day for report and Third Reading. It also usually specifies that the report stage will end one hour before the moment of interruption, leaving at most one hour for Third Reading. Even where no other business is taken first, such as a Ministerial Statement, that leaves around five hours for a report stage.

110. The report stage is a highly valued opportunity for scrutiny of legislation for a number of reasons.

- It offers all Members of the House at least a theoretical opportunity to propose amendments to a Bill or speak to them.
- It provides the one opportunity for the House as a whole to vote on a major specific provision of a Bill or a closely connected issue, including issues of public concern which might have been dealt with in a Bill but are not.
- Because it is on the floor of the House, debates on report stage represent the only opportunity for detailed participation in scrutiny of the Bill for senior backbenchers such as select committee chairmen who have not served on the public bill committee, for dissenting backbenchers who have not been chosen to serve on it and those members who for other reasons have been unable to serve on it.
- It represents what in many cases will be the only opportunity for Members from the smaller parties to participate in legislative scrutiny.

The report stage is the only opportunity for the House as a whole to engage with proposed legislation and debate and decide its principal provisions in any detail.

111. Practice and procedure on report have a significant effect on outcome. New Clauses moved by Ministers are taken first. They may well be grouped for discussion with related

³⁴ Standing Orders of the House of Commons, HC 2, 2008–09, pp 167-169

new Clauses and amendments moved by the Opposition or other parties or individual Members. Ministers—and only Ministers—may move a motion to take new Clauses and amendments in a different order so as to prioritise one “topic” over another. Ministers—and only Ministers—may move a motion to provide for end-times—“knives”—for particular groups of amendments so as to give time to others further down the list.

112. In practice, as a result of the programme motion proposed by Ministers and approved with little or no debate, the situation is that on many report stages several groups of amendments from Opposition parties or backbencher amendments selected by the Chair and grouped for a joint debate are not even reached for debate, let alone a decision. The practice of the Chair is only to allow a vote on a non-Ministerial amendment or new Clause if it has been part of a group which has at least had some debate. At the end of the time allowed for report, there is a ritual whereby Government amendments within the last group to be debated, and those relating to later unreached and undebated parts of a Bill are put without any explanation and routinely agreed to, while other amendments are simply lost. Because of the default position of Ministerial new Clauses being taken first, backbench propositions which seek to amend the Bill, including those with cross-party support, are most likely to be “lost” in this way, rather than propositions seeking to add new matter to the Bill. The extent of the problem can be demonstrated by the number of groups lost in this way in bills in recent sessions and the number of Bills affected.³⁵

113. This is an issue which causes great dissatisfaction in the Opposition parties and on the backbenches. The Government stands accused, not always fairly, of having prevented or suppressed debate, and the House bemoans at Third Reading its failure to exercise full and proper scrutiny. The point is then often echoed in the Lords and used by that House as the basis for significant revision in those areas of a Bill not touched upon by the Commons.

114. There are a number of means of ameliorating these problems within existing arrangements or under new arrangements, which do not necessarily require scheduling more time on the floor of the House. They include a combination of one or more of the following:

- more frequent use of internal finishing times—“knives” ;
- protection of time for report stage from intrusion by statements or other urgent business;
- greater use of partial re-committal: that is, requiring part of the bill, or selected new Clauses and amendments, to be sent back to a public bill committee to deal with some or all Ministerial new Clauses and amendments if these are too numerous;
- power given to the Chair to change the order in which new Clauses and amendments are taken;
- use of speech limits at report stage or development of a special speaking time regime;

³⁵ In Session 2008–09, on selected significant Ministerial Bills, the numbers of groups *not* reached included Apprenticeships, Skills, Children and Learning, 5 groups out of 10; Coroners and Justice, 7 groups out of 15; Marine and Coastal Access [*Lords*], 2 groups out of 8; Policing and Crime, 4 groups out of 8; Political Parties and Elections, 9 groups out of 18; Welfare Reform, 5 groups out of 8.

- encouraging the prompter tabling of new Clauses and amendments on report so that the a possible timetable can be established several days in advance: given that there are sometimes weeks between the out-date from Committee and the bringing on of a report stage there is ample time to table texts.

115. **Effective scheduling of business at report stage of many bills would often require nothing more than the allocation of a sufficient total time. It is too often insufficient at present. The House Business Committee which we recommend below will be a forum for agreeing the length of time to be devoted to a report stage in order to fulfil the scrutiny function adequately. But that is not enough in itself. Because effective scrutiny of legislation is of fundamental importance to the role of the House, the detailed use of that time must be a matter of concern. We believe that the time should be set so that the House should if it wishes be able to vote on new Clauses and amendments in every group, if and when they are selected for separate division by the Chair; and that there should be a presumption that no major group should go undebated. The House of Commons would then be able to exercise the same rights as the House of Lords.**

116. **This is precisely why we will have a House Business Committee. It will decide where, if at all, knives should fall bringing debate to an end on each group of selected new Clauses and amendments. As now, priority would be given to Government new Clauses and amendments. It would normally propose a provisional agenda a fortnight ahead as at present. At that stage it would have a provisional view as to how new Clauses and amendments would be most helpfully grouped and would communicate that to the Chair. By its next meeting a week later there would normally be a sufficiently clear idea for the House Business Committee to be able to agree how the report stage should be arranged. That proposition could then form part of the agenda to be put to the House.**

117. **It will be for the House Business Committee working between its formal meetings to interact with all the players to resolve all the practical issues which will require resolution: for example, the tabling at relatively short notice of unanticipated fresh amendments and new Clauses, including Government new Clauses, which inevitably disturbs any previously proposed timetable, and is likely to lead to the Chair making a different grouping; and the extent to which a specialist knowledge of the Bill and its contents is required to be able to construct such a timetable. On the first, the House Business Committee could reconvene if necessary in the event of new groups of new Clauses and amendments being tabled late in the day, and agree a revised scheme. On the second the House Business Committee could invite representations from those who have tabled new Clauses and amendments setting out their preferences as to those matters on which they place particular weight. It is not for us to second-guess the minutiae of House Business Committee business. We are confident that it will deal with these and other such issues and that as trust and experience grow it will operate ever more consensually and effectively.**

118. **In order to ensure that this system can work, without using up too much time and to avoid attempts to “talk out” full debate, we recommend the introduction of a regime of speaking time restrictions at report stage. We have gone beyond the issue of scheduling total time for report stage because we recognise that unless the current problems in this area are resolved then there will continue to be dissatisfaction and a sense that the House is failing to perform one of its core duties. In those circumstances, we will have failed in one of the primary parts of our mission. Our recommendations**

outlined above as part of the general reform which we propose below of the scheduling of business are intended to ensure that the House itself decides what matters are debated and decided at report stage of a Ministerial or a Private Member's Bill.

Closely connected matters: consideration of Lords amendments

119. Similar issues arise when the House considers Lords amendments. Unless Ministers bring forward a Motion to change the sequence, Lords amendments are considered in the order in which they relate to the Bill. Although they may be grouped for debate, that can leave the motions to agree or disagree with significant Amendments to later and thus not reached before the allotted time expires. The rules about the scope and form of permissible amendments in the later stages of “ping pong” – the passage of amendments back and forth between the two Houses – are incomprehensible to most participants. While we recognise that time for consideration is of necessity constrained in the later stages of further consideration of Lords amendments and messages, the initial consideration of Lords amendments is often too compressed. **We recommend the introduction of a scheme similar to that described above for report stage for consideration of Lords amendments, including restrictions on speech lengths.**

B The current framework

In this section we set out the existing system for the scheduling of business as embodied in the House's Standing Orders—its rule-book.

120. The gradual takeover by the Government of House time began in the first half of the 19th century, in response to the growth in Government financial business and Ministerial legislation.³⁶ In 1811 Mondays and Fridays were reserved for Orders of the Day as opposed to Notices of Motions: these Orders were principally Government Orders. In 1835 Mondays and Fridays were reserved for “Government Orders”, a category of business recognised for the first time in that way. Ministers could no longer tolerate waiting in a disorderly queue behind a mass of backbench business, and constantly liable to procedural devices of delay or diversion. The public had growing expectations that a Ministry would bring its own detailed legislation to the House, discussed and agreed in outline in Cabinet, announced in a Royal Speech and drafted by professional draftsmen working for the Crown. By the 1880s legislation was seen not only as largely the preserve of Ministers, but their principal function. In 1896 Balfour first limited by temporary and annually renewed Orders the business of Supply—the principal opportunity to raise debate by moving amendments to a formal Question or by seeking to amend the actual Supply motions—to a fixed number of days each session, with the Opposition given the freedom to choose the subjects. On 11 April 1902 the House agreed to what was first Standing Order No 4, and in a revised form is Standing Order No 14, giving “government business” precedence at every sitting unless otherwise provided.

121. SO No 14 (1) provides that “*Save as provided in this order, government business shall have precedence at every sitting*”. The specific savings in SO No 14 are for:

³⁶ See Erskine May, 24th Edition, pages 6–9

- 20 Opposition days each session, allotted on days determined by the Government: and
- 13 Private Members' Bill Fridays each session, fixed by the House at the outset of each session on the basis of a Motion moved by a Minister.

Protected time

122. Time in the Chamber is also set aside by other Standing Orders for:

- oral questions for an hour on Mondays to Thursdays and Urgent Questions [SO No 21];
- motions for leave to bring in Bills under the “ten-minute rule”, on Tuesdays and Wednesdays [SO No 23];
- emergency debates [SO No 24];
- end of day 30 minute adjournment backbench debates every sitting day [SO No 9];
- three Estimates days each year, for debates under the auspices of the Liaison Committee [SO No 54];
- opposed private business [SO No 20], to be distributed between “the sittings on which government business has precedence and other sittings”.

Westminster Hall

123. Time in Westminster Hall is technically at the disposal of the Chairman of Ways and Means (the Deputy Speaker) under SO No 10. It is used on Tuesdays and Wednesdays for five separate 30 or 90 minute backbench debates selected by ballot and on Thursdays for debates on either select committee reports or other matters chosen by the Government. The same Standing Order provides for the Speaker to appoint six days in Westminster Hall for debates on select committee reports chosen by the Liaison Committee. In practice the majority of Thursdays in Westminster Hall are on select committee reports less formally nominated by the Liaison Committee.

Order in which business is taken

124. Government control of the agenda covers not only what items are considered but the order in which they are considered. SO No 27 allows Ministers the right “*of arranging government business, whether orders of the day or notices of motion, in such order as they think fit*”. The Government therefore organises the Order Paper more or less as it wishes. It chooses which items of Government business to put on the paper. A backbencher may name a specified future day for an item of business but unless the Government assents it does not even appear on the effective Orders for that day.

Technical business motions

125. Only Ministers can move the Business of the House or other procedural motions required to ensure that items of business are decided at a fixed time of day or after the passage of a period of time, or to allow debate to continue after the normal end of the day's business.

Conclusion

126. **The default position is therefore that time “belongs” to the Government, subject to a number of exceptions and practices which allow others to influence and even determine the agenda. Put crudely, and subject to maintaining a majority, the Government enjoys not merely precedence but exclusive domination of much of the House’s agenda, and can stop others seeking similar control.**

C. Government-initiated business

In this section we categorise in detail the various sorts of business which are currently scheduled by Ministers for debate in the House. The categorisation shows how much of this business is not in origin initiated by Ministers.

127. Coming to an unarguable definition of “Government business” is not easy. Some business would be placed by most observers in that category, including legislation brought in by Ministers. This is not to deny that the time devoted to its scrutiny is the House’s time, not the Government’s, since it is the House that scrutinises legislation whatever its source and Parliament that passes laws. Some business is patently not Government business, such as motions moved by the Opposition front-bench on Opposition days. But items of business such as debates on the floor of the House on affirmative statutory instruments which have been sought by the Opposition or backbenchers could be categorised as “Government business” in that it is Ministers who initiated the matter and who move the motion the House is asked to consider, but others who have insisted it be debated on the floor of the House rather than in a committee upstairs.

128. Because of the difficulties in defining the term, we set out below a rough categorisation of most of the business which now comes before the House as a result of Government initiative, and briefly identify how each comes to be placed on the agenda. The fact that at present it may be Government Ministers who either initiate the business or move the relevant Motion has little or nothing to do with whether it is usefully to be regarded as “Government business”. We prefer the terms “Ministerial business” and “Government-initiated business”.

Who owns time?

129. **Ownership of the time of the House is to be distinguished from responsibility for sponsoring or promoting the business before it. There is a strong case for regarding all time as the House’s time. It is not the Government that seeks debate but the House: what the Government needs are the decisions which enable it to carry out its programme.** In practice Ministers may subscribe to the theory that parliamentary scrutiny is good for them, and that good scrutiny makes for good government. But it is hard to believe that, other things being equal, they would of their own volition bring on critical debates. There is not in reality the stark dichotomy suggested between business taken in time controlled by the “Government” and other business.

Categories

1. Ministerial legislation

130. Most business initiated by Ministers is legislative business. It is entirely the result of the Government's own proposals: if they bring in a lot of Bills then there will be a lot of time spent examining them. Legislation accounts for 35–40 per cent of time on the floor, measured in hours and minutes, and around 50 or 60 days in the rougher measure of business management. On the floor of the House that means for a typical Ministerial Bill a Second Reading debate lasting a day: a further day typically several months later devoted to report and Third Reading: and often a half day devoted to Lords amendments. Several Bills have all their stages on the floor of the House, because of their content, urgency or, on occasion, relative insignificance. Ministerial legislative business also covers the associated financial resolutions and programming motions, most of which are not separately debated.

Government Bills: 2008–09

Stage of Bill	Days required in Commons
Second Reading	17 days
Committee of the whole House	7 days
Report and Third Reading	16 days
All stages	1 day
Lords Amendments	8 days

The figures are approximate. Some minor bills were given or required a half-day for committee of the whole House and all remaining stages. One Bill was given 2 days for CWH and all remaining stages. Lords Amendments time is calculated as a day or half-day (three hours) or one hour. Days or fractions of days on Bills carried over from the previous session or to be carried over to the next session are included.

2. Budget

131. The annual Debate of several days (four days in 2008–09) on the Budget arises technically on the first of the many Ways and Means Motions moved by the Chancellor on Budget Day, which are necessary to give effect to the Government's fiscal plans for the year. In that sense these are days devoted to Ministerial legislation. The debate is in practice an opportunity for a general economic and financial debate, and in that respect may be seen as at least in part House business. The number of days devoted to these debates is not wholly of the Government's choosing, in that Ministers would presumably have no objection to fewer days being required, but is determined with an eye to the assumed wishes of the House.

3. Queen's Speech

132. In a similar category to the Budget debate are the five or more days each year dedicated to the debate on the Queen's Speech (six days in 2008–09). The debate on the Queen's Speech, although technically arising on a motion for a loyal Address moved by a Government backbencher, is in effect a debate on all aspects of the Government's programme. The Government constitutionally needs the approval of the House and a

defeat would be fatal, so in that sense it is Government-initiated business. But in practice it is a central part of the House's work in holding the Government to account by wide-ranging debate.

4. Ministerial statements

133. There are typically around 80 Ministerial statements in a year, meaning between two and three a week. The statement and subsequent question and answer normally take around an hour. A statement is made—in theory at least—of a Minister's own volition, and in that sense it is Government-initiated business: but it offers an opportunity for Opposition and backbench critique as well as praise, and in practice again is in part House business. And in practice statements are often made in response to pressure from inside or outside the House.

5. Affirmative instruments and European documents

134. Time also has to be found on the floor for other debates which arise on Ministerial motions, and concern matters for which Ministers are responsible, but where the debate arises because of demands from the House rather than the needs of Ministers. These are now relatively infrequent. The two main categories are:

- debates on the floor of the House to approve *affirmative statutory instruments*, all of which would otherwise be held in committees off the floor, but where convention dictates that they be held on the floor. Several recurring affirmative instruments, including those on the annual local government and police grant settlements, council tax capping, annual social security up-rating, and prevention of terrorism, are by convention normally debated on the floor.
- Debates on *European documents* where there has been a recommendation from the European Scrutiny Committee that a debate is held on the floor rather than as is generally the case in committees. This is now relatively infrequent, with only one debate in the 2008-09 session.

6. Prayers etc

135. When the Government “gives” time on the floor for a prayer against a statutory instrument (see para 107) the motion is tabled in the name of the Member—usually but not always an Opposition front bencher—who has tabled the prayer and who will lead the debate. That is now infrequent. In 2008–09 there were two such motions taken on the floor. Such business is scheduled by the Government in response to demand and arises out of Ministerial actions, but is not in fact initiated by Ministers nor is the relevant Motion moved by them.

7. Estimates Days

136. Estimates Days are a survival of the procedures whereby the Government needed to obtain the consent of the House to spend money, which was the peg for debate and the raising of grievances. The necessary financial motions are now moved formally by a Minister to enable debate to take place on a select committee report selected by the Liaison Committee. This is not really Government-initiated business but an extension to select committees of the 20 Opposition days, which also have their origin in financial supply

procedure. The Liaison Committee has proposed, in the context of reporting on the Treasury's Alignment Project proposals for reforms in the way expenditure figures are presented to Parliament, an additional two days' debate, combined with a widening of the scope of debates on Estimates Days to permit "genuine examination of *future* spending plans".³⁷

137. We broadly endorse the Liaison Committee's proposals for increasing from 3 to 5 the number of Estimates Days and in particular its suggestion that the type of debate on such days be widened to allow substantive opinion motions on expenditure plans for future years. These would normally be tabled and moved by the Chair of the relevant departmental select committee, thus giving committees an increased influence on the House's agenda. The Chair of the Liaison Committee wrote to the Chair of this Committee on 4 November to convey the Liaison Committee's decision that it would be prepared to select for debate a particular departmental Estimate.

138. In view of our desire to enhance the relevance of select committee work to the work of the Chamber we consider that these debates on Estimates Days could also usefully cover substantive motions on departmental annual reports, and recommendations in select committee reports which in the view of the Liaison Committee have not been adequately addressed by the Government's response.

139. We also note the Liaison Committee's repeated view that the Government should give an undertaking to provide a day's debate on the outcome of each Spending Review and on each year's Pre-Budget Report. Pre-scrutiny of expenditure is weak at the moment. In its recent response the Government said that it will aim to provide "adequate time" for debate of these issues, depending on other business. That neatly encapsulates the problem that it is the Government and not the House that determines what time is allocated to holding the Government to account. **The debates on the outcomes of Spending Reviews and the Pre-Budget Report sought by the Liaison Committee are exactly the sort of debates which it should be up to the House to decide whether or not to schedule.**

8. House business

140. Perhaps the most significant category of business scheduled by Ministers but not Ministerial business is the collective domestic business of the House itself. Motions on these matters are conventionally moved by the Leader of the House in her awkward dual role as a Government Minister and a spokesperson for the House.³⁸ In recent sessions they have included a number of motions on Members' pay and allowances and related matters. Some of these are in a technical sense linked to Ministerial business, since the effective motions on Members' pay and allowances require a Money Resolution, which can only be moved by a Minister.

141. In the 2008–09 session time has been spent on, among other things, business relating to the police searches of a Member's office in November 2008; changes in select committees consequent on machinery of Government changes; the proposal that the UK

³⁷ Liaison Committee, Second Report of Session 2008–09, *Financial Scrutiny: Parliamentary Control over Government Budgets*, HC 804, para 116

³⁸ See Justice Committee, Eleventh Report of Session 2008–09, *Constitutional Reform and Renewal*, HC 923, paras 40–49

Youth Parliament use the Chamber; and the membership of the Speaker's Committee on the Independent Parliamentary Standards Committee. Into this broad category also fall matters of privilege, such as those arising out of findings of the Standards and Privileges Committee, or where Mr Speaker has authorised a Member to raise a matter as one of privilege. And exceptionally in June 2009 a day was laid aside for the election of a new Speaker.

142. The Government will also on relatively infrequent other occasions put on the Order Paper motions to be moved by non-Government Members, such as those responsible for Church of England or Electoral Commission business. Motions to appoint members to the House's permanent select committees are tabled in the name of the backbench Chairman of the Committee of Selection.

143. House committees such as Modernisation, Procedure and Administration - all of whose business is intimately linked with the House as an institution - have no special right of access to the House for their proposals. This committee is in the same boat. Committees rely on Ministers to find a slot on the Order Paper for their proposals to be put to the House and decided upon. As we note below, the system is such that a proposal such as for e.petitions does not reach the House at all (see para 252). Where there is no opposition, a substantive proposal can go through without debate if tabled by the Government on the Order Paper. But if there is any objection—as was the case with the establishment of this committee—then committees are dependent on time being “found” by the business managers.

144. There is also no opportunity for the Speaker to put a proposition to the House for its decision, other than through the good offices of the Leader of the House. Any such matters will almost by definition be House and not Ministerial business, and often of some significance.

9. Set piece debates

145. Much Government-initiated business is scheduled as much from respect for conventions that certain debates are held in the course of the year as from a positive desire on the part of Ministers to hold a debate. These debates are sometimes referred to as “default” or “set piece” debates. They include each year:

- five days for defence debates—arising from the former two-day debate on the annual Statement on the Defence Estimates and the three individual service debates;
- two days for pre-European Council debates;
- two half-days [formerly one full day] on recent Public Accounts Committee reports;
- one day on the work of the Intelligence and Security Committee;
- one day on Welsh Affairs;
- one day to mark International Women's Day;
- four days for “periodic adjournment” debates normally held immediately before recesses, during which any matter can be raised.

10. General debates

146. The Government is also responsible for initiating general debates in the Chamber and in Westminster Hall on subjects determined by the Government, whether or not following consultation with others. It is comparatively rare for such debates to be held on a substantive motion; recent examples include the debate on 18 March 2003 on Iraq and on Trident on 14 March 2007. Instead, they are held on an unamendable motion in the form recommended by the Modernisation Committee, that the House has considered the matter. In session 2008–09 there were 12 general debates in the Chamber as set out below. Most were on Thursdays.

11. Topical debates

147. Following a recommendation from the Modernisation Committee, a new category of debate was introduced in 2008, known as “topical” debates. They are in effect shorter versions of the general debates referred to above, lasting 90 minutes and with a bespoke regime for front-bench speech lengths. They have to date always been held on a Thursday. They last 90 minutes. In session 2008–09 there have only been 10 topical debates, compared to 25 in 2007–08. The subjects are explicitly selected by the Leader of the House; there has been some controversy over the means of selection.

Conclusion

148. Leaving aside the 20 Opposition days, three Estimates Days, and business initiated by individual backbenchers, it is Ministers who decide whether a particular debate is held in the House; if so, when; and on what terms. Business scheduled by Ministers is diverse. It is by no means limited to matters the Government is comfortable with debating. But much of the business scheduled by Ministers as a result of their control of the agenda is neither required by Ministers for their legislative and political programme, nor initiated by Ministers. That is the issue. There is no transparent mechanism for individual backbench Members or groups of such Members to get motions onto the effective Orders, let alone secure a decision of the House. That includes motions to give effect to select committee reports as well as the choice of subjects the House is to debate.

D Process of scheduling business

In this section we give a brief overview of some of the mechanics of the scheduling of business.

Sitting and non-sitting weeks

149. The scheduling of business is dictated by the annual calendar of sitting and non-sitting—“recess”—weeks. This calendar is now normally announced by the Leader of the House in the autumn, running up to the return of the House from the summer recess in the year ahead. The dates of the end of the session in the autumn—“prorogation”—and the start of the next session are usually not announced until shortly before the House rises for the summer. The dates of the Christmas, February, Easter, Whitsun and Summer adjournments now follow a fairly standard pattern. Although announced in advance on a

firm but provisional basis, the dates for each recess are only formally put to the House for decision without debate as each individual recess approaches.

Annual planning

150. The business programme is managed at official level by the Private Secretary to the Government Chief Whip and his staff in conjunction with his opposite numbers in the House of Lords. At the outset of a session, or shortly before it begins, the business managers look at the Government's proposed legislative programme. Decisions have to be taken on which House each Bill is to start. Some Bills may require Royal Assent faster than others. A few may be introduced later in the session and be carried over. For each Bill, estimated dates are needed by when they should reach the second House. From these considerations spring the dates by which committee proceedings in the Commons must end—the “committee out-date”—which appears in the programme motion now usually applied to Government Bills in the Commons immediately after Second Reading. The date by which the managers wish to conclude Commons proceedings, at Third Reading, is not published. The business managers also have to allow for scheduling of the 20 Opposition days and the scatter of “default” debates (see para 145) through the year, as well as the Queen's Speech and Budget debates.

Business Statement

151. The business for the next fortnight is agreed internally by the Government business managers at a weekly meeting.³⁹ Before and after this meeting there are some consultations through the usual channels with the Official Opposition Whips. The Leader of the House then announces future business to the House each week on Thursday as a rolling two-week programme, with the second week avowedly less firmly determined than the first. Business in Westminster Hall is often announced more than two weeks in advance. The announcement of future business is akin to a Ministerial statement but preserves the facade of being an Urgent Question from the Shadow Leader.

Business Questions

152. The House is not given the opportunity to approve or amend the draft agenda. Individual members can comment on it in the course of Business Questions, which usually runs for an hour and in which typically 30 members are called to ask questions, meaning all or most of those who seek to catch the Speaker's eye. Few interventions are directly related to the details of the business announced and in practice the occasion is used by backbenchers to raise a range of matters of concern to them.

Changes

153. The statement is neither definitive nor all-embracing. Ministers retain the freedom to put whatever they wish on the Order Paper, whether or not announced at Business Questions, with the conventional courtesy of making an additional business statement if there is a substantial change. These are infrequent: there were two in session 2008–09, one making a proposed topical debate on Gaza into a full day's debate, and the other bringing

³⁹ Rush and Ettinghausen, *Opening up the Usual Channels* (Hansard Society, 2002)

on a full day's debate on Afghanistan in place of one planned on preparations for the Copenhagen climate change conference. In both cases this was in response to demand within the House. The debate on the Queen's Speech in December 2008 was interrupted on its third day to debate the setting up of a committee on the search of a Member's office. The business in the second week is explicitly provisional: it is not uncommon for there to be some change, including the re-allocation of announced business from one day to another, when it is announced a week later as a firm plan.

Matters not announced until later

154. The subject of a forthcoming Thursday topical debate is as a rule not announced until the Monday evening before, by using the House annunciator system and insertion of the information in the House's papers for the next day. The Opposition parties are not obliged to give more than minimum advance notice of the subjects they propose to raise and may change them; the actual texts of Opposition Day motions are usually not tabled until the afternoon of the previous day, and the Government amendments therefore commensurately later.

Matters not announced

155. Detailed Business of the House and other procedural motions are not announced in advance and are often tabled only the evening before they appear for the first time on the effective Order Paper. Formal questions to be put forthwith or without debate, such as those on statutory instruments requiring affirmative approval are not announced. Some Ministerial statements are announced several days in advance but most are not. Although Ministers will use the Future Business section of the Order Paper to give advance notice to Members of significant Motions which the Government intends to put to the House on a subsequent day, that is by no means the invariable practice.⁴⁰

E Is the current system satisfactory?

In this section we describe the strengths and weaknesses of the current system, and identify five ways in which it fails to match the basic principles set out at the beginning of the report: in relation to parliamentary control of business, cross-party working, transparency, topicality and the use of time.

156. The fact that the House has referred to us the issue of "*scheduling business in the House*" implies that the matter requires examination and that there is something unsatisfactory about the current system.

157. Some of the dissatisfaction arises from frustration felt by individual Members or parties represented in the House at the difficulties they have in bringing on a debate on a matter of their choice so that Parliament properly fulfils its function as a forum for deliberation and debate on issues of importance to the country. It may also reflect

⁴⁰ See eg OR 28 October 2009, cols 397ff

frustration that even where there has been an opportunity for debate there has been no resolution of the issue, because there has been no vote on a substantive motion.

158. Others see the fundamental fact that the Government controls the House's time as both a cause and a symptom of the weakness of the House of Commons as an institution, demonstrating the inadequacy of parliamentary procedures and processes as a means of holding the Executive to account. As a result, reformers have for many years called for changes in the management of business.

Strengths

159. We acknowledge the grounds for discontent and the extent of a desire for change. In shaping a new approach we must seek to build on the effective elements of the current arrangements. In comparison with the situation in many of our sister parliaments we have several advantages.

- *Advance Notice:* An outline agenda is now announced two weeks in advance and is largely adhered to; Westminster Hall Thursdays are announced even further ahead. Some seek further notice.⁴¹ But in many parliaments there is little or no advance notice of business.
- *Challenge:* every week there is an opportunity for backbench Members to challenge the Leader of the House on the future agenda, even if not to vote on it, and to seek debate on other matters or a change in the suggested agenda: although we recognise that it is now used by Members primarily for an assortment of other purposes.
- *Consultation:* The Official Opposition—although generally not other parties—are at least recognised as deserving limited informal consultation and the opportunity to make representations, even in the absence of a formal Bureau or Committee as is the general practice in other European parliaments. We are aware that the supposed beneficiaries of this consultation do not on occasion feel it is of much value.
- *Protected slots:* There are protected and regular time slots in the House for the Opposition parties, select committees and individual members to debate matters of their choice and to question Ministers, and no suggestion that these should be reduced or constrained.
- *General debates:* debates on general policy topics are on at least some occasions brought forward in “government time”: and contrary to the impression sometimes given there is not a mass of time taken up by general debates on wholly innocuous topics selected by Ministers.
- *Westminster Hall:* the sittings of the House in Westminster Hall offer backbenchers the opportunity for short 30-minute debates with a Ministerial reply, like those at the end of each day in the Chamber, and longer 90 minute debates on issues of wider interest of their choice, subject only to the luck of the draw.

⁴¹ Ev 7 [Jo Swinson MP]

Operation of the system

160. It is also important not to let frustration with the system spill over into criticising those who operate it, whether Ministers or officials. We acknowledge the excellent work of the professional civil servants in the Chief Whip's Office, in the Leader's Office and in the Opposition Chief Whip's Office. Ministerial-sponsored legislation reaches the statute book by the desired date having been debated on the floor (at least for some parts) and in committee; the 20 Opposition Days are scattered relatively evenly through the session: the days of set-piece debate which seem to be regarded as required are scheduled in. Hundreds of Statutory Instruments are laid, debated and formally agreed. The House runs according to rules which are obeyed and enforced. The smooth running of the House, whatever the political arguments, owes much to the talents of those operating the business system. It is no mean feat in a Chamber of 646 vigorously individual Members, and with a second chamber with interests and concerns of its own.

Failure to match principles

161. But we have concluded that the system fails in several ways to match the basic principles set out at the beginning of this Report. We set out below five ways in which it fails to meet these tests.

Parliamentary control of business

It is wrong in principle that, in addition to controlling its own legislative timetable, the Government rather than the House decides what is discussed, when, and for how long.

162. It is entirely right that a democratically elected Government should have a priority right to put its legislative and other propositions before the House at a time of its own choosing, and to be able to plan for the conclusion of that business. But it should be for the House as a whole to determine how much time to devote to such debate and scrutiny. It is also right in a democratic Chamber that the Government is free to deploy its majority to pass its business. But the procedures and practices which have grown up over the past two centuries have delegated to Government too much power to fix the agenda, and to take too many decisions without reference to its notional majority in the Chamber. We consider it for example unacceptable that Ministers can determine the scheduling of Opposition Days without reference to others; that they have an untrammelled power to decide the topics for general and topical debates; that they can determine which issues in major bills are debated on the floor of the House and by corollary which issues are not; that they can determine the fate of backbench legislation by procedural means rather than by decision of the House; and that they determine which pieces of secondary legislation are or are not debated in the Chamber. It is not easy for Members to bring on a debate—as opposed to a 30 minute exchange between a Member and a Minister—on a topic which Ministers do not want to have debated, irrespective of the strength of feeling across the House: let alone a debate on a substantive motion. Nor does the House have a mechanism to establish its own inquiry, beyond existing select committees, when the Government is unwilling to do so.

Cross-party working

The current framework provides protected time in the Chamber for the Government, Opposition and individual Members, but scarcely recognises the cross-party work of select committees, let alone other groups of Members.

163. The House devotes considerable resources to select committees and then largely neglects their output in drawing up the House agenda. That is in sharp contrast to prevailing parliamentary practice elsewhere. Time in Westminster Hall is not a substitute for committees having access to the House agenda when it is most useful rather than when it suits the convenience of Ministers.

Transparency

The system for scheduling business is not transparent to many inside the House, let alone those outside.

164. Even the term “the usual channels” has a distinct air of mystery which demonstrates the difficulty of establishing who has made or can make a particular decision.⁴² There is no consultation with minority parties or backbenchers. Most decisions are taken in private, do not have to be justified in public and can sometimes only be gleaned after the event. Naturally much of the detailed planning and negotiation needs to be conducted in private, but the process itself needs to be clear in order to be legitimate.

Topicality

The House is not systematically using its time to debate those matters of current concern which the nation expects its elected Chamber to be debating, nor is it responding flexibly to a swiftly moving political agenda, nor setting a long term policy agenda.

165. This applies to general and topical debates in the Chamber, and in Westminster Hall. Some debates seem to be mounted as platforms for speeches a department wishes its Ministers to make. Others are provided because there may be a row if they are not or because they have traditionally been provided; it may be a convenience for the business managers to plead such *force majeure*. As a result controversial select committee reports are often not debated promptly; and other controversial issues are avoided.

⁴² It dates back to at least 1905, when used by the then Prime Minister Arthur Balfour in response to a question.

Use of time

Time in the House is frequently described as a scarce commodity; but it is often wasted on business stretched out artificially to a pre-determined voting time or on arid debate on subjects on which backbenchers on neither side much wish to speak.

166. Ministers may not be best attuned to deciding how long or short an item needs to be. Each session around 30 hours of possible Chamber debate are “lost”, measured by the half hour adjournment coming on early. Many other debates are pointlessly strung out. In Westminster Hall a number of the 3-hour Thursday debates on subjects picked by the Government fall away early and time which backbenchers might have welcomed is lost: almost a third of the available time for the 8 such debates in session 2008–09 was not used, and only 2 backbenchers on average participated in a debate. This could of course change if there were whipped votes on Thursdays on a regular basis.

F Five elements of a reformed system

We describe five elements of a reformed system: the House determining its own agenda and sitting pattern; backbench business to be scheduled by backbenchers and the House; the Government retaining the initiative on ministerial business; more say and more freedom for the Opposition on its business; and enhanced opportunities for select committees and individual Members. We propose a committee of backbenchers to propose backbench business, and that business should be put to the House in a weekly agenda motion.

167. We consider that there is a strong case for change, particularly in the scheduling of debates on backbench business in the House and Westminster Hall, but also in the way in which the agenda as a whole is decided and justified.

1. The House should determine its own agenda and sitting pattern

168. Time in the House belongs to the House. At present the House has no mechanism for determining its own business and therefore takes no responsibility for it and for the difficult choices which have to be made. It is then all too easy to blame the Government for not providing time for debate: the Business Statement is followed by a raft of suggestions for additional debates but no proposal as to where the time is to come from. The current system infantilises Members and demonises Government: ending it would be to the advantage of both Ministers and Parliament.

Weekly agenda motion

169. **The agenda should therefore fall to be decided by the House, if need be by a majority. The straightforward way of doing that is by putting a motion to the House on a set day and time each week.** That is standard practice in many parliaments around the world and has operated in the Scottish Parliament without problems for the last decade.

No extra time would be required as it would take the place of the Business Statement and subsequent questions. This Motion would:

- set out the basic details of the agenda in the House for the week ahead, including the next Thursday in Westminster Hall;
- be available for inspection by Members by the middle of the previous day;
- be open to amendment, subject to the Chair's powers of selection;
- be put formally to the vote after the elapse of a period set in Standing Orders, such as 45 minutes;
- if an amendment were selected, give rise to a debate with specific speaking time limits following the 45 minute question and answer session, and would if need be end in a non-deferrable division.

Business for the second week in the cycle

170. The House would plainly want to retain the advance notice currently given for the second week in the cycle, if not get a rather longer forward look.⁴³ The introduction in the 1992 Parliament of the fortnightly forward look was widely welcomed as helping members and others plan ahead. **A draft agenda for the second week should also be announced to the House at the same time as the formal agenda Motion, and on broadly the same provisional basis as at present.** It would be explicitly provisional and it would be open to Members to make representations to the Business Committees (see below) before it was finalised for the formal motion the succeeding week.

Vote

171. **There is no reason why there should as a rule be a vote on the agenda, all the more once it has been the subject of wider discussion than at present and will have been exposed in draft the previous week.** But the ability of Ministers to deploy a whipped majority provides a necessary insurance policy for them. On what we expect to be the rare occasions when push comes to shove, a disciplined majoritarian party can have its way if it disagrees with a proposed agenda or if it wishes to defeat a proposed amendment. Such decisions will of course normally be taken on a whipped vote. It would be unrealistic to seek to stop the whips from operating in votes on such decisions. The Government will generally be able to secure a majority, should it wish to do so. But if a significant number of its own backbenchers are unhappy it will at least have had to make a convincing case, and in public: and at the cost of delaying the main business for the day and interrupting the smooth flow of business for all Members. If the time lost as a result of debate and vote on an amendment moved by Ministers comes out of backbench business, there should be commensurately more backbench time available in the next week's agenda.

⁴³ Ev 7, [Jo Swinson MP]; Ev 26, para 9 I [Hansard Society]

Scope of possible amendments to agenda motion

172. **The Speaker's power of selection of amendments would be required to ensure that merely destructive amendments were not selected and that a proposition coming from the House Business Committee (described below) was treated with respect.** No consideration would be given to amendments which had not been raised previously with the committee. Amendments intended merely to draw attention to some issue without proposing an alternative would not be in order, and we would expect the Chair only to select amendments demonstrating widespread support. But where Members across the House disagreed with, for example, the specific topic proposed for a general or topical debate and wished to press a cogent alternative expressed in an amendment, it should ultimately be for a majority in the House to decide. Such amendments to backbench business should however only be in order if tabled and moved by backbenchers. The House could not restrict the overall time allocated to backbench business (as set out below), nor deny the Opposition or government its time. It could not alter the topic of an Opposition Day, which is properly the property of the Opposition frontbench. But Members could, for example, propose that time on one Government Bill be curtailed in order to allow for more debate on another. We would hope that such challenges, to either government-initiated or backbench business, would be rare, with most difficulties ironed out beforehand in the House Business Committee.

Consensus

173. Where there is serious dissent a majority will of course prevail. That majority may not always be the majority of the governing party. But the system we propose will clearly have failed if disagreements have to be re-fought on the floor of the House. It will also have failed if debate on the agenda becomes a ritual leading to a ritual party vote. Ideally the agenda will be put together so as not to require a vote or an amendment: the effectiveness of the mechanism is not to be judged by the frequency of discord but its absence.

Conclusion

174. **A votable motion on the agenda provides a traditional accountability mechanism for such decisions, and ultimately a sanction were the wishes of a majority of the House to be misjudged or ignored. Any programme which requires the positive approval of the House will necessarily be drawn up—and we deal below with how and by whom it is to be drawn up—with the intention of satisfying a clear majority of members and delivering to the Government sufficient time to get the business it initiates through the House.**

Sittings

175. As set out above [paras 100–101], the House as a whole must also be given the opportunity to determine on a regular basis when it is to sit, on the basis of a proposition made by the House's own Business Committee in the autumn for the year ahead, which can be amended by the House nearer the time of each adjournment should it be thought necessary.

II Backbench business should be scheduled by backbenchers and the House

176. **Backbenchers should schedule backbench business.** Ministers should give up their role in the scheduling of any business except that which is exclusively Ministerial business, comprising Ministerial-sponsored legislation and associated motions, substantive non-legislative motions required in support of their policies and Ministerial statements. The rest of the business currently scheduled by Ministers—such as House domestic business, select committee reports and general and topical debates—is for backbenchers to propose and the House to decide.

Partnership

177. **On some business there needs to be an explicit partnership between Ministerial and backbench scheduling:** this includes the length of debates on the Budget and Queen's Speech, the timing of Estimates Days and the handling of secondary legislation and European documents on the floor. And the rota for oral questions must allow for ministerial availability but is also quintessentially an opportunity for the House to scrutinise the Executive. The suggestion has for example been made that oral questions might be switched from being first business to later in the day, so as to give an opportunity to the majority of the population who are otherwise engaged during the day to see it live. This would be a matter for backbenchers and for Ministers to agree together.

Backbench Business Committee

178. The scheduling of backbench business by backbenchers will require a means to decide what proposals for such business should be put to the House for its agreement. The obvious route is a committee of backbenchers elected by the House for that purpose. Such a committee's task will not be an easy one. **But it is in our view time for Members of the House, through a committee of their elected colleagues, to take some responsibility for what the House debates, when and for how long; and also for what it does not wish to debate, either at all or at its current length.** For example, the House must be enabled to decide whether to sacrifice or curtail or move to another forum one or more of the set piece debates to make space for other business.

179. This will reduce the current extent of Government control or influence over the Parliamentary agenda. But the matters "lost" to Government will be principally those in which it has no direct interest: for example, the timing and topics of general debates and discussion of select committee reports. Rather than Ministers seeking to prioritise the many demands for time that are presented by Members, this responsibility would be handed to a committee representative of the House as a whole.

180. **We therefore recommend that a Backbench Business Committee be created. It should be comprised of between seven and nine members elected by secret ballot of the House as a whole, with safeguards to ensure a due reflection of party proportionality in the House as a whole. The Chair would also be elected by ballot of the whole House. Frontbench members of all parties and PPSs would be ineligible for membership of the committee. The committee would have its own secretariat, provided by the Clerk of the House. To ensure that it was fully informed on a range of considerations affecting the scheduling of debates, such as the availability of Ministers, it might wish to invite the attendance of the Government's business managers for part of the meeting. The**

committee would meet weekly to consider the competing claims for time made by select committees and backbenchers in groups or as individuals for the protected days and/or time-slots [see below] available in the two weeks ahead, and then to come to a firm view on the backbench business in the week immediately ahead.

181. So what would be gained by a Backbench Business Committee along the lines we suggest? We believe that establishment of clear "backbench time" managed by a Backbench Business Committee will be a major step forward. Without in any way compromising Government's ability to have its own initiatives discussed and scrutinised, this Committee will take clear charge of part of the agenda for at least one day a week or its equivalent for the House collectively to discuss those matters that Members feel should be prioritised. It will create new opportunities for all Members, giving them a greater sense of ownership and responsibility for what goes on in their own House. It will make debates more responsive to public concerns, as fed in to Members by their constituents. It will strengthen the position of the widely-respected select committees. We feel that this is an essential reform which will have many benefits for Members, for Parliament as a whole, and for the esteem in which it is held. But these gains will not be realised unless individual backbenchers are committed to parliamentary activity and avail themselves of these opportunities, and that will only happen if they think it a more worthwhile use of their time than the many other tasks which make up the life of an elected Member.

III The Government should retain the initiative on scheduling ministerial business

Ministerial Business

182. **Ministers should continue to have the first call on House time for Ministerial business, meaning Ministerial-sponsored primary and secondary legislation and associated motions, substantive non-legislative motions required in support of their policies and Ministerial statements on major policy changes.** Ministers would for example retain the right to determine the date of second reading of a Government Bill, and the day by which the Bill was to conclude its passage through the House.

Ministerial control of timing

183. Ministers should also continue to be entitled to put to the House for its assent the order in which items of Ministerial business are scheduled and the day on which they are to be taken. They would also retain the ability, which any Member in charge of an Order of the Day has, to prevent others bringing a Ministerial-sponsored item forward onto the Order Paper which Ministers do not want to have moved at that time. Their control over the timing of the business they need to be put to the House will thus be preserved.

Length of business

184. **The Government's right to have the opportunity to put its legislative and other propositions to the House, at a day of its choosing, should not however extend to deciding without any reference to the House for how long these are to be debated by the House.** Scheduling must allow for Ministers to have a proper opportunity to present their case; for Opposition parties to present theirs; and for backbenchers to speak. But it cannot be right that Ministers effectively decide with little or no consultation the length of a

Second Reading debate or the report stage of a Bill or the time to be devoted to Lords amendments. There needs to be some means of consultation with Members speaking for the House and not just front-benchers.

185. Under programming of most Government Bills, the time allowed for the report stage is put to the House in the programme motion moved immediately after Second Reading. These motions are effectively unamendable and are not open to separate debate. It is unnecessary for the House to be asked to agree so peremptorily *before* a Committee stage how long the report stage should last.

186. Generally there is and will be no controversy. The current “standard allowance” of a day for Second Reading, a day or two for report and Third Reading, and a day or a half day for Lords Amendments is broadly recognised. But there are rough edges and rough justice. Every session there are second readings to which a full day is allocated which is not required: report stages which may require an additional half or full day to the amount given, or which do not require a full day: and Lords amendments which are unnecessarily squeezed. The House itself should take responsibility for determining how much time it wishes to devote to such matters.

Ministerial Statements

187. Some similar considerations apply to the time devoted to ministerial statements and the subsequent question and answer, which conventionally lasts for 60 minutes, up to a third of which may be devoted to the Minister reading out the text of the statement in full for up to 10 minutes, and the exchanges with the Opposition parties front-bench spokesmen. The text of the statement is not made available to most Members in advance. **There is plainly room for different procedures designed to give an opportunity for a more thorough form of parliamentary scrutiny, without undermining a Minister’s right to make a statement and respond to questions on it; and statements could well be taken at a different point in the parliamentary day.**

IV The Opposition are entitled to more say in when Opposition Days are scheduled and how they are used

Opposition Days

188. **The Official Opposition and other Opposition parties should continue to have a pre-emptive right to their fixed number of days, to be spread evenly through a session. There is a case for the Opposition parties to be given more say on when they can take such a day or half day.** In order to give the Opposition parties more opportunity to have a debate when they need one, Standing Orders could provide for the Opposition to have the right to schedule a day at a week’s notice, exercisable on a given number of occasions in the session. Opposition business would not come within the ambit of the Backbench Business Committee.

Content of Opposition Days

189. There is a “somewhat ritualistic element” to Opposition days.⁴⁴ **A wider range of business could be taken rather than what has now become the standard fare on Opposition Days of two debates of three hours each, dominated by the front-benches:** such as the introduction of the format used in European Committees of question and answer followed by debate. It has also in the past been suggested that there could be Opposition legislative business. This would represent a change in practice sufficient to require an explicit decision of the House and could of course have repercussions for the existing system for prioritising non-Ministerial bills. But it would in our view represent a significant opportunity for debate to focus around a specific legislative proposition from an Opposition party.

Announcement of topics

190. We are also aware of the inconvenience and uncertainty sometimes caused by delays in announcing the subjects to be debated on Opposition Days, or those subjects being changed at the last moment. **We consider that the subjects of Opposition Day motions should normally be laid down with at least two days’ notice.**

V Select committees and individual Members should be given enhanced opportunities, while retaining their existing rights of initiative

Select committee debates

191. Select committees do have some opportunities for having their reports debated. Most Thursdays in Westminster Hall are taken up from 2.30pm to 5.30pm by such debates. That may not be the most popular time or place, but these debates are often lively and reasonably well-attended. Six further select committee reports are in practice debated on the floor each year on the three Estimates Days [see para 136 above] . But there are flaws in the system, which the Liaison Committee has pointed out over the years. It is hard for select committees to get the attention of the House itself. Debates are not held until a Government Reply is received, which can take two months to compile, and sometimes more. And where there are debates there is no opportunity for a committee to test its conclusions in a vote of substance, based on a draft resolution it can put forward, itself then subject to amendment. Furthermore the now standard time of three hours for a debate on a report either on an Estimates Day or in Westminster Hall is on occasions too long and could usefully be reduced to 90 minutes, as for topical debates and longer backbench debates in Westminster Hall. These are the sort of opportunities which should be possible under a reformed system. **Select committees, including those concerned with the House’s own affairs, deserve greater access to the agenda, so that they can have their reports debated and decided upon a substantive motion, at a time which best suits them and the House.**

⁴⁴ Conservative Democracy Task Force, *Power to the People*, p 5: Ev 27, para 15 II

Individual Member initiatives

192. **Individual backbenchers must continue to be able to raise subjects as adjournment debates in the Chamber and in Westminster Hall, and to press legislation through Private Members' Bills, as well as participating in debate and questioning. In addition, any revised system must respond to the widespread sense that the right should be restored to Members to get a substantive motion put to the House and decided.** We propose below [paras 271–2] the introduction of a regular slot for debate on a heavily signed motion from the backbenches, separate from the EDM system. That would offer a return to backbenchers of the right to move a motion in the House which was lost in 1994. We also propose some other new forms of business which might be introduced, to be scheduled within backbench time.

Private Members Bills

193. Several Members have expressed dissatisfaction with the system of Private Members' Bills. It was last reviewed in detail by the Procedure Committee in 2002–03.⁴⁵ The proposition that they be taken after the end of other business on Wednesdays enjoys some support, as do the ideas that there should be some sort of automatic guillotines after a certain number of hours of debate on second reading and report, so as to constrain the ability of a handful of members or a Minister to “talk a Bill out”. Our recommendations on report stages apply equally to Private Members' Bills.

194. One essential test of the House's control of its own business is whether the handful of legislative propositions tabled by those backbenchers fortunate enough to win one of the top 7 places in the sessional ballot should be able to see their bills progress in the House unless and until defeated by a majority. **The House should be responsible for ensuring that merely procedural devices cannot obstruct Private Members' Bills, and that they are brought to a decision.** This could among other things mean scheduling Private Members' Bills at some other time in the week than Fridays, such as Wednesday evenings. As a corollary to this, the Government and other parties should be free to whip against those Bills it opposes; but the outcome should be clearly dependent on a decision of the House one way or another.

Key elements of revised system

195. **In summary, we envisage a system whereby Ministers indicate as now the business they intend to bring forward, principally legislation and related motions. It would not be realistic, or indeed reasonable, to expect Government to surrender control over these decisions to a committee of backbench Members. Ministers quite rightly want to determine the broad timing of the legislation they sponsor. At the same time, a committee of backbenchers should be set up to bring forward proposals to the House for backbench business. The Opposition should have some greater say than at present in when it uses its Opposition Days. Select committees and backbench Members deserve enhanced access to the House agenda. By giving Members greater control of the agenda, we are confident that the House of Commons will be strengthened.**

⁴⁵ Procedure Committee, Fourth Report of Session 2002–03, *Procedures for Debates, Private Members' Bills and the Powers of the Speaker*, HC 333

G Assembling the jigsaw

In this section we set out our proposals for a House Business Committee which would assemble a draft agenda to put to the House in a weekly motion

196. A draft agenda will have to be assembled from these various separate streams of business as a “composite” motion to be moved in the House, a task now carried out for want of any other structure by the Government Chief Whip’s office. We considered a number of options before deciding on a model to recommend to the House.

Option 1: a single Business Committee deciding all business

197. One option would be an all-purpose Business Committee with responsibility for all scheduling decisions, including backbench business. Any backbenchers on the committee would be in practice overshadowed by the Whips, as on the Committee of Selection. The conclusions of the studies by Meg Russell and Akash Paun of the Constitution Unit is that a Business Committee with wide-ranging and quasi-decisive power will in practice be dominated by party whips, and was so dominated in every case studied where that system currently runs, including Scotland.⁴⁶ If such a committee was created and then dominated by the Whips, the House would have gained no more ownership of backbench business than it has at present. **We therefore rejected this option.**

Option 2: the existing system with a Backbench Business Committee bolted on

198. Another option would be to continue with a variant of the present system, with a Backbench Business Committee feeding in its proposals for the use of backbench time. Such an arrangement would fail on several counts. The Backbench Business Committee would be just one more player—albeit a significant one—on the stage, together with the Official Opposition, the Liaison Committee, and other parties. It would as now be left to the Leader of the House and Government officials to sort it all out. There would therefore be no real sense of House ownership of the Ministerial part of the agenda: and no backbench challenge possible to it before the agenda was put to the House. A Backbench Business Committee created in these circumstances might not long survive. The House would gain something by its creation, but not to the degree we believe possible under other schemes. **We therefore rejected this option.**

Option 3: a House Business Committee with two sub-committees

199. A further variant would be to have a single House Business Committee with two sub-committees—a backbench sub-committee and a government business sub-committee. This would have the advantage of giving clear and equal weight to both backbench and government business. It would also formalize the usual channels. However, we accept there may be some reluctance from the executive to take this additional step. **We therefore rejected this option.**

⁴⁶ Meg Russell and Akash Paun, *House Rules? International Lessons for Enhancing the Autonomy of the House of Commons* (Constitution Unit, University College London, 2007)

Option 4: a House Business Committee and a Backbench Business Committee

200. **Our preferred solution is to have two committees. The task of assembling a draft agenda to put to the House should be undertaken by a unified House Business Committee, comprised of representatives of all parts of the House with a direct interest: backbenchers, Government and Opposition.** The members of this committee would comprise the elected members of the Backbench Business Committee, together with frontbench Members nominated by the three party leaders. We would expect the Leader and shadow Leaders of the House to be among these nominees. **The House Business Committee should be chaired by the Chairman of Ways and Means [the Deputy Speaker], whose would have been elected by the House as a whole to that office with this function partly in mind. It would have a secretariat combining the House officers who support the Backbench Business Committee and the Government officials who currently support the usual channels.**

House Business committee: internal operation

201. Given the complex nature of House business and the competition for scarce time, we accept that, in the interests of individual Members and the need for Government to get its business, and in order for our proposed system to work, extensive informal negotiation would take place well before the formal committee meetings. In such meetings, the frontbench members of the House Business Committee would be free to comment on the propositions brought to the Committee by the Chair of the Backbench Business Committee, but would not be able to alter or attenuate them. Similarly, the backbench Members of the House Business Committee would be free to raise objections to, make suggestions on and seek explanations of the Government or Opposition propositions. Either part of the committee would be free to change their original proposition following discussion. Standing Orders would oblige the Committee to accommodate the reasonable demands of Government, Opposition and backbenchers for time. A consensus would have to be arrived at. We do not envisage that a vote in such a committee would be possible. In the absence of a consensus the Chair would have to use their discretion to settle the matter so far as deciding what was to go into the draft agenda to be put to the House. Anybody wishing to challenge that would have to contemplate moving amendment to the draft agenda on the floor of the House.

Agenda and agenda motion debate

202. The resultant draft agenda would be moved formally in the House in the name of the Chair of the House Business Committee. We envisage that the question and answer session thereafter would be answered by the Leader of the House as at present where the matter concerned Ministerial business or the Chair of the Backbench Business Committee if it concerned backbench business. This session would in effect provide a similar opportunity to the current Business Questions on Thursdays.

Process of consultation

203. We would expect both committees to meet weekly, with the Backbench Business Committee meeting first to consider backbench business to be brought up to the House Business Committee. We would also expect that there would be a process of constant

consultation and negotiation between the secretariats of the two committees. The drawing up of a draft agenda for the second week gives a further chance to reach consensus as well as to react to the views of Members. Discussion in the privacy of a select committee should also enable Members to resolve any remaining rough edges.

Usual channels

204. It may be that the Government and Opposition nominees on the House Business Committee will want to meet separately in advance of the House Business Committee meeting to settle so far as possible the scheduling of the business for which they each have responsibility. We regard that as a matter for them and should they wish to constitute themselves as a Government business committee comparable to the Backbench Business Committee that could be accommodated and would have the benefits of greater transparency.

Annual planning transparency

205. The House Business Committee will not operate effectively unless it has a handle on the sort of annual planning exercise carried out at the start of each session—or rather before that—by the business managers. Without some sense of what other business might be coming up, it would not be possible to challenge the judgements being made about the time to be devoted to an item of Government business or how far additional time could be spared without creating countervailing pressures elsewhere in the programme. It is legitimate that some of this be held in confidence by the Government: for example, if they have in mind some legislation not yet announced which they do not wish to reveal to others. But we believe most of this provisional long-term planning could be shared with such a committee without damage.

Advance notice of plans

206. If there is not a guaranteed day each week for backbench business it will be difficult for the Backbench Business Committee to know what spaces it is seeking to fill. Even were there to be a regular day, there would still be the option of scheduling some backbench business on days largely devoted to other business. The Government should therefore be under an informal obligation to indicate to the Committee and its staff well in advance the slots it envisages needing in the coming fortnight for specified government business, and the Opposition likewise. By the time the House Business Committee meets to agree a draft agenda, there should be no surprises for anyone.

Minor unannounced business

207. Present practice allows a good deal of latitude to Ministers to bring up additional items not mentioned in the Business Statement. These are principally motions of a technical nature put down for the end of the day and either requiring unanimity to be agreed, or being capable of being voted upon as a deferred division on the next Wednesday. But they also include motions of real significance which seem as if they are being “smuggled through” [see para 155]. **We would expect a greater discipline to be applied in giving advance notice of motions, to the extent of allowing the Speaker to refuse to put a Motion to the House of which sufficient notice had not been given.**

Avoiding undue rigidity

208. **Tying the agenda down in a Resolution of the House should not be allowed to impose excessive rigidity on the House’s business.** There are rare occasions when the announced business has to be changed at short notice [see above]. We believe that the Leader of the House should be given the right, subject to the discretion of the Chair, to move a supplementary business motion without previous written notice, and have it decided by vote if need be after 10 minutes. The Leader would be obliged to signify the consent of the Chairman of Ways and Means and the Chair of the Backbench Business Committee.

Decisions of the House

209. The House Business Committee could be empowered to include in the agenda to be put to the House a binding proposition—which the House could amend or reject—that debate on a specified item of business be brought to a decision point after a fixed period—for example “after 90 minutes”—or at a specified time—for example “at Four o’clock” : or a mixture of the two—for example “at Four o’clock or after 90 minutes, whichever is later”. Such propositions could also cover backbench business. **Some advance timetabling is fairer to the House and ensures that debate cannot be used to talk out a specific proposition where it is reasonable to expect the House to express a view. But we would expect such a power to be used sparingly.**

Substantive motions

210. Most general debate in the House and in its debating committees proceeds on neutral and unamendable motions. There will on occasions be good reason to hold a debate on, for example, a foreign policy issue or a general social topic where being tied to the detailed terms of a draft proposition may be positively unhelpful. A substantive motion may invite amendment and stimulate dissent without necessarily achieving a useful outcome. On such occasions a take note or equivalent motion is positively helpful. **But in general terms we favour more use of substantive motions so that the House can come to a recorded conclusion which will then carry weight.** The Backbench Business Committee will be in a position to decide as to what sort of motion is best suited for the backbench business it proposes and to put forward for inclusion on the agenda either a neutral motion or a substantive motion already drawn up by a select committee or by backbenchers.

H Time available to the backbench business committee

We set out the options for protecting the time available for the business to be scheduled by the Backbench Business Committee: a nominated day each week, whether always the same day or a movable day, or the equivalent of a day spread through each week or through the year as a whole. We conclude that the minimum offering should be of one day a week or the equivalent.

211. Put very crudely, the current system relies on the Government taking the time it needs for legislation; the Opposition getting its allocation over the year as a whole; any other of those with a call on time—such as for opposed Private Business—being satisfied; and then

filling the rest with set-piece debates either from the list of hardy annuals or ad hoc debates. Some weeks there is virtually no non-Government business other than an Opposition Day; in other weeks there may be two days of miscellaneous non-Ministerial business. The creation of a Backbench Business Committee will call for a more transparent system and one which gives the protection of Standing Orders to backbench business. We have identified several options.

A foreseeable weekday every week?

212. The simplest and probably most transparent way of ensuring sufficient time for backbench business spread evenly throughout a session, and susceptible to planning by the Backbench Business Committee, is to identify in Standing Orders a fixed day of the week as reserved for backbench business. From the figures available, one day a week could easily be devoted to backbench business as we have defined it above, leaving more than enough days required for a standard Government legislative programme and for Opposition days. The Backbench Business Committee could fill the day as it thought fit, drawing on the menu of possible items we refer to below, and with regard to any regular mandatory slots. This system would be easy for all to foresee. It would import a degree of rigidity, however, and it might also tend to rule out shorter items of backbench business being taken on days otherwise given over to Ministerial business.

213. If a particular day were to be identified, and if it were to be the same day every week, the first suggestion made is likely to be *Thursday*. With the move in 1997 of Prime Minister's Questions to Wednesdays, Thursdays in the Chamber have lost status and are now increasingly used for unwhipped or only lightly whipped business. They are not well attended. The prospect of votes on substantive motions may change that. Another possibility is *Monday*. This is a day for main-stream business. But Members from further afield may only reach Westminster some way through a Monday, in time for an evening vote. **Ideally, if a particular day is to be protected, we would like backbench business to be scheduled on Wednesdays, with Thursdays once again becoming a "main" day for debate on Government legislation and other matters.** It is important that backbench business is not relegated to a backwater, and that Thursday be revived as a proper day for business, with its earlier finishing time. One suggested way of doing that would be to return Prime Minister's Questions to Thursday. **We ask the Chief Whips to pursue the suggestion that Prime Minister's Question Time be timetabled for Thursday afternoon.**

A changing weekday every week?

214. Alternatively, it could be left open to a process of regular discussion and negotiation as to which day of each week would be devoted to backbench business. This would avoid the rigidities referred to above.

Equivalent of a day every week?

215. Another means of providing a guaranteed minimum amount of backbench time every week would be to spread backbench time over each week in packets of half days or smaller fractions. This could ensure some backbench business on most days but might be unduly diffuse.

A minimum ration of days through the year?

216. A further variant, drawing on the parallel of the provision of 20 Opposition Days each session, would be to provide for a similar but higher number of backbench business days—say 35 Backbench Business Days—possibly with a requirement in Standing Orders that they be spread over the year as a whole. This could also allow for half days and shorter periods. In order to allow for some weeks which for good reason would be devoted exclusively to Government and Opposition business, there could be a fixed number per three month “term”.

Quotas for specified categories of business

217. Whichever option is chosen, it would also be possible to create an obligation on the Backbench Business Committee to schedule a given minimum number of specified items for the agenda over a period of a month or the year as a whole, or indeed every week. For example, it could be an obligation to have

- one topical debate each week;⁴⁷
- one select committee report presentation slot each week or fortnight⁴⁸ or 35 select committee presentation slots spread through the year:
- one debate on a heavily supported backbench cross-party motion each month.

218. Whichever option emerges from the debate and discussion which we expect to follow this Report, some time must be identified and protected for backbench business, not less than the equivalent of one day a week. We propose that Standing Orders should be sufficiently tightly drawn to guarantee this, but with some flexibility, so that the Backbench Business Committee can take matters forward.

I Backbench business

219. In the time we have had available it has not been possible to conduct an exhaustive inquiry into all the possible categories of backbench business which a Backbench Business Committee might in future bring forward. Over recent years there have been a number of suggestions and propositions, but no means of implementing them or even putting them to the House. A Backbench Business Committee will be empowered and expected to do that. It would be up to that Committee to innovate and mix and match. The last thing we would wish to do is to try and set down a narrow menu now.

220. Existing categories may well be adapted. Some changes may not require changes to the Standing Orders, or very minor changes. For example a topical debate could in future be led off by a back-bencher; some general debates could draw on the European Standing Committee format; and a debate on a select committee report could usefully be held on a substantive draft resolution based on that report. We would expect the Liaison Committee

⁴⁷ Ev4 [sir Patrick Cormack], Ev6 [Dr Brian Iddon]

⁴⁸ Eg Ev6 [Michael Meacher]

to continue to take the initiative in selecting select committee reports for presentation and debate, leaving it to the Backbench Business Committee to find an actual slot.

221. There are a number of welcome ideas for new sorts of business or revised forms of current categories. A Backbench Business Committee would be in position to seek the House's agreement to try these out. Some of the sorts of business which we would hope to see included are :

- substantive motions moved by backbenchers either after a ballot or based on the sort of procedure we identify in para 271;
- some category or categories of non-Government bills given priority over, or at least equality with, those presented following the ballot;
- brief presentation of a select committee Report in the Chamber by the Chairman and one or two Members, without it engaging instant rebuttal by Ministers;
- alternative uses of the 10-minute rule bill slot or its extension to Monday and/or Thursday;
- periods for short miscellaneous speeches not expecting a Ministerial reply, on the Australian model, where in the equivalent (and predecessor) of Westminster Hall six 10-minute speeches from backbenchers on any matter are permitted in a weekly "grievance" debate and ten 3-minute "constituency statements" at the start of proceedings: neither attracting a ministerial response.

J Conclusion

222. We have concluded that reform is both necessary and desirable. We have not drafted the specific changes to Standing Order No 14 and many other Standing Orders which will be required to implement our recommendations, but we believe that work on that task should now begin.

223. The House is unused to deciding its own business and has become dependent on Government. It may therefore be understandably fearful about change. But the public would find it strange if Members do not summon up the confidence to give effect to the view of all three party leaders that the time is now right for a clearer and more important role for Parliament. It is also worth pausing to consider how some of the practices and procedures we now value would look if proposed as an innovation, and how quickly they take root. Who would now suggest a 10 minute slot for a backbencher to move a motion to bring in a Bill—a quite unnecessary stage in procedural terms—at prime time before the main business of the day? And how many people 10 years ago could imagine that the parallel Chamber in Westminster Hall could thrive as it has? Is there any likelihood that the House would turn its back on topical questions introduced only a couple of years ago? Innovations swiftly become traditions; and it may in the future come to seem odd that the House once lacked the ability and confidence to control its own business.

5 INVOLVING THE PUBLIC: NEXT STEPS

“ [Political conversation was] when the next election would be—of the probable Prime Minister—of ins and outs—of Lord This and Duke of That—everything except the people for whose existence alone these politicians exist’ (*The Life and Work of Thomas Hardy*, 1891)⁴⁹

A Introduction

In this section we describe the general background to the matter of public initiation of proceedings which was referred to us, and connected matters, and conclude in favour of a shift towards a greater degree of public participation.

Debates and proceedings

224. We are directed to report on “*enabling the public to initiate debates and proceedings in the House*”. “Proceedings in the House” covers a range of activities. Debate and ministerial response is one form of proceeding, and enjoys the highest profile. There are a number of other types of proceedings, including oral or written Questions and Answers; the introduction of legislation or of amendments to Bills; motions, including Early Day Motions; and select committee inquiries, comprising the taking of oral or written evidence, commissioning research and making a report to the House, as well as private consideration of issues.

Public participation and influence

225. Members of the public already participate in proceedings in the House as witnesses in select committee and public bill committee hearings. Furthermore, online forums are now frequently used by select committees to garner experience directly from the public on specific topics.⁵⁰

226. The public already exercises a very substantial influence on what is discussed in the House; on the subjects on which Ministers are questioned; and on the inquiries pursued by select committees. It is indeed rare that proceedings in the House do not have their origins at some point in public concerns. Whether the vehicle for such concerns being raised is backbench questions and adjournment debates; Opposition day debates; Ministerial or backbench legislation; questions following Ministerial statements; or general debates, proceedings in the House—for all their admitted failings—cannot be fairly represented as having no connection to public concerns.

227. The overriding thrust of our Report is that Members of the House should be given substantially increased means of initiating proceedings, primarily through taking control of backbench business. That will automatically enhance public influence on the agenda, since

⁴⁹ *The Life and Work of Thomas Hardy*, ed. M Millgate, 1984

⁵⁰ See <http://forums.parliament.uk> for recent forums: also Ev10 [Lord Norton of Louth]

it is from the public that Members receive their impetus.⁵¹ The change should help create a sense that the public have some ownership of time in the House. Our proposals should ensure that what happens in the House is more reflective of public concerns; with more debates on topics which have a resonance with the public and fewer abstruse ones.

Outreach and engagement agenda

228. Much attention has been focused at Westminster in recent years on efforts by Parliament to “reach out” and reconnect to the public, and to make proceedings more readily accessible and more easily understood. Much has been done, and much remains to do, to attract more people to see and hear proceedings in person or through all available media. The June 2004 Modernisation Committee Report acted as a major stimulus in this area.⁵² Ambitious targets have been set for inward visitors on Education Service visits; the website is being radically upgraded and new media being extensively used; a positive outreach effort now includes parliamentary staff based in the regions; and all public proceedings are webcast. The BBC Parliament channel is widely watched. All 18 year olds receive a positive and personalised invitation from the Speaker to register to vote.⁵³ Members themselves engage in relentless communication with their electorates, increasingly using the resources of interactive media to do so.

229. Hitherto less attention has been devoted to the mirror image of that process of outreach. One of the stated aims of the Government’s July 2007 Governance of Britain Green Paper was to re-invigorate our democracy.⁵⁴ It paid particular attention to the possible role of petitions both at Westminster and in local government. In July 2008 the DCLG published a White Paper entitled *Communities in Control: Real People, Real Power*, which covered various aspects of the “community empowerment” agenda.⁵⁵ The prospect of facilitating public initiation of proceedings in the House is one part of that wider agenda of stimulating, facilitating and supporting greater public engagement with the democratic process at local and national level.

Conclusion

230. **There are varying views about the prospects for greater public participation.** Recent research from the Hansard Society conveyed in its submission to us warns that the level of public desire for direct involvement may be low and falling.⁵⁶ Dr Ruth Fox, Director of the Parliament and Government Programme at the Society, has warned in a recent article that

⁵¹ See eg Ev 6 [Dr Brian Iddon MP]

⁵² Modernisation Committee, First Report of Session 2003–04, *Connecting Parliament with the Public*, HC 368

⁵³ For latest published account of outreach activities, see House of Lords Information Committee, HL 138–II, pp 117–119

⁵⁴ *Governance of Britain*, paras 157-159. See also Ev 25 [Professor Bogdanor]

⁵⁵ Cm 7427

⁵⁶ Ev31 para 24

There is a danger that if the scope and scale of what the public want is misread, any new mechanisms will in fact come to be dominated by damaging groundswells of impassioned faction or organised economic interest groups.⁵⁷

One of the strengths of representative democracy is precisely that it can give a voice to the less advantaged and the unengaged.

231. The phrase “*the public*” can mean different things to different people. Through political parties and pressure groups, the public already exerts much influence on the parliamentary agenda. Individuals can exert influence much less readily, but the representative system and the constituency basis of our politics are designed in part to facilitate that. Well-organised groups will, quite properly, use any new or improved opportunities offered for public initiation to press their own causes.⁵⁸

232. **But none of these doubts should rule out making further and better opportunities available for public participation and engagement.** Many other parliamentary democracies provide such opportunities and surveys regularly find that people say that they feel disempowered and would like to have more say on decisions that affect them. We received submissions from several individual campaigners which conveyed the difficulties they found in getting their views and concerns heard.⁵⁹ If more or better opportunities are offered it may well be that more and better use will be made of them. **The primary focus of the House’s overall agenda for engagement with the public must now be shifted beyond the giving of information towards actively assisting the achievement of a greater degree of public participation.**

B What happens now

This section briefly describes four existing ways in which the public can directly or indirectly influence the agenda: through individual members, through petitions, through inviting members to sign Early Day Motions, and through contacting select committees.

Individual Members

233. The simplest way in which people initiate proceedings is by bringing a particular issue to a Member’s attention and asking them to pursue it. Such an initiative may come from individuals or organised groups focused on a particular cause.

234. In many cases a Member will deal with the matter by correspondence and forward an issue raised by a constituent to a Minister or other appropriate authority to respond. These activities are not strictly speaking “proceedings”. But in practice they form a significant part of the constituency workload of Members and offer the public a parliamentary route to pursue issues. Where a Member feels that a ministerial response is inadequate, or where a larger problem is revealed by casework, this may lead to pursuit of the issue through questions, debates, amendments etc. Many issues quite evidently do not lend themselves to

⁵⁷ Parliamentary Affairs 2009 62(4), p 674

⁵⁸ See eg Ev2 [Hugh Bayley MP], Ev3 [William Cash MP]

⁵⁹ See eg Ev 16-22 [David Watts]

being debated or publicly questioned; but others do, as can be seen in the number of half-hour debates instigated by backbenchers on such subjects, and of written questions that have probably been generated by issues raised with a Member by the public. It is also not unusual that a select committee inquiry has its origins in a matter being raised with individual Members.

Petitions

235. The only more or less direct means for those outside the House to initiate proceedings is through presentation of a petition, a practice of great antiquity.⁶⁰ In the earliest parliaments, dealing with petitions for justice was one of a parliament's core tasks. Gradually, as Parliament developed into a legislative and political rather than a judicial institution, petitions ceased to occupy centre-stage. Until the mid-19th century debate could be and frequently was raised on the subject of petitions, either because of the significance of the issue raised or later as a means of delaying other business. A Standing Order [now SO No 153] originally passed in 1842 limited a Member presenting a petition to a statement of the parties whence it came, the number of signatories and the material allegations, together with the "prayer"—the part of the petition which defines what the petitioners seek.

236. Subject to meeting relatively relaxed formal requirements, and to finding a Member willing to present it, any individual can petition the House. The issue does not—unlike a parliamentary question—have to engage ministerial or in any real sense parliamentary responsibility. The petition can either be presented in the Chamber by a Member just before the half-hour end of day adjournment or placed in the bag behind the Chair; the latter is now very infrequent. No debate is allowed, save for a petition complaining of "*some present personal grievance requiring immediate remedy*", now rarely invoked. The text of the petition is printed in Hansard. In due course all petitions get an answer from a Government department: not the House of Commons to which it was in fact presented. The answer is also printed in Hansard. Copies are sent to departmental select committees; to date none have been explicitly taken up, although the subjects have on occasions coincided with inquiries already under way, such as post office closures.

237. In the 2008–09 session, over 120 petitions were presented. Most addressed local concerns: none the less important for that. Around 10 per cent concerned national policy issues, including foreign affairs issues such as Sri Lanka and Gaza, taxation, immigration, social services and so on. Several raised issues which had hitherto received little attention in the House and might conceivably have repaid inquiry: for example, on the storage of embryos or the control of airguns.

Early Day Motions

238. One of the principal means by which public concerns are mediated through individual Members to become "proceedings" is through Early Day Motions [EDMs]. These are formal motions of no more than 250 words on any subject, drafted so that they are in theory capable of being debated in the House. They are tabled by a Member and printed in the House's daily business papers. Other Members can sign them to express their support.

⁶⁰ See memo from Clerk of the House, First Report of Procedure Committee of Session 2006–07, HC 513, Ev 15–20

They are proceedings of the House in the technical sense that their contents are, for example, protected by privilege from suit for defamation. They are practically never debated or decided, with the rare exception when an Opposition party may choose to use time on one of their days to debate an existing EDM critical of the Government and signed by some Government backbenchers. Unlike petitions from the public, they do not receive any written “response” from Ministers. There have long been critics of the value of this sort of proceeding, which may offer a false prospectus to those outside as to the likelihood of any concrete outcome. EDMs were the subject of a recent inquiry by the Procedure Committee, which reported in May 2007.⁶¹

239. EDMs offer an opportunity for Members to test the volume of support a proposition can gather from among their colleagues: and to give that proposition a public airing. They can be a powerful tool for cross-party initiatives, and for government backbenchers to convey publicly to Ministers some pressing concern. Debate is by no means necessary for this to be effective.

240. Many EDMs have their origins in campaigning of various sorts outside the House. An organisation may invite a Member or group of Members to table an EDM and will then use signature of it as a focus for a campaign in a particular cause, for example by inviting supporters around the country to ask their local MP to sign. In turn, Members may sign existing EDMs because they have been asked by constituents to do so, as a sign of support for a particular cause. An added signature does not of itself trigger anything beyond reprinting the motion in the House’s papers. But EDMs are one means, however imperfect, of reflecting a wide range of popular concerns in the formal papers of the House of Commons, in a way which exists in few other parliaments.

Select committees

241. The public can also express concerns and views through making submissions to select committees, either by sending a letter or memorandum, or participating in a web forum where one is being run on a particular inquiry. Several members of the public indeed submitted evidence to this inquiry. Members of the public have on occasions been invited thereafter to appear in person to give oral evidence to a committee, if they have a particular insight or relevant experience which will assist the Committee in reaching its conclusions. And select committees frequently undertake informal visits around the United Kingdom where opportunities may be provided for public input in meetings or conversations.⁶² It is rare that a committee undertakes an inquiry directly and solely because of public representations to it, but the choice of matters inquired into frequently reflect what its members have been told by the public in person or in correspondence.

⁶¹ Procedure Committee, First Report of Session 2006–07, *Public Petitions and Early Day Motions*, HC 513

⁶² Liaison Committee, First Report of Session 2008–09, *The Work of Committees in 2007–08*, Annex 4, pp 61–65, listing 86 such visits made in 2007–08.

C Reform agenda

This section lists a number of proposed reforms and innovations, including a suggested way forward on e-petitions, changes in current practices and an interim expanded role for the Procedure Committee as a Petitions Committee; the introduction of Motions for House debate; opening up the process of legislation; and serious consideration of agenda initiative and similar tools of direct democracy.

General

242. Critics may with reason suggest that, while the House may be becoming more effective in reaching out to the communities it serves, it is insufficiently responsive to pressures from outside to debate or consider some issues of concern to the population. These often do not seem to be reflected in what is visible of parliamentary proceedings. If the Government and the Opposition do not want an issue debated, it will not be, save as a result of the exertions of individual members; and the options open to individual Members are limited. It may be thought that debate on issues such as assisted suicide or organ donation or same-sex partnerships was largely absent from the parliamentary agenda at a time they were being actively canvassed outside the House. In foreign affairs, a country or region of concern can easily fall off the political agenda.

243. The range of issues in Early Day Motions already on a notional parliamentary agenda, and indeed on the Number Ten petitions website, demonstrate that there will always be controversies not echoed in Parliamentary debate even if the House sat in permanent session. But we acknowledge that the range of subjects that are debated and inquired into by the House and its committees could usefully be broadened yet further. Enhanced possibilities for direct or indirect public initiation of proceedings could possibly ensure that matters of great public concern did not seem to be ignored.

244. It is not only because of a sense that there are matters deserving of debate which are missing from the parliamentary agenda that enhanced public participation is sought: it is also seen by some as a desirable end in itself. Reconnection—or indeed connection—of the public with Parliament is essential if our democracy is to thrive, whatever effect opportunities for participation have on the agenda of the House.

245. We set out below several proposed changes to the existing mechanisms used: and examine one area where there is a prospect for more radical innovation.

Petitions

246. As a result of the recent examination by the Procedure Committee, a number of improvements have been made recently to the procedures and practices on petitions.⁶³ In particular Government replies are now given to all petitions, and these replies are overall better and swifter. The petitions system is still not widely used by the public. It can easily be talked down. But it should be noted that for all its failings it does offer an unconstrained right for any Member to present a specific public grievance on the floor of the House, albeit

⁶³ Procedure Committee, First Report of Session 2006–07, *Public Petitions and Early Day Motions*, HC 513

near the end of a parliamentary day, and an opportunity for a petitioner to get at least some formal written response from Government.

Petitions: e-petitions

247. The Procedure Committee made detailed proposals for an e-petitions system in April 2008.⁶⁴ In essence, this would involve the House hosting a site where over a limited period of time public petitions could be signed up to electronically by anybody interested, so long as “facilitated” by a Member. These petitions would form a sort of public EDM system. At the end of the period the petition would be presented to the House and would become thereby part of the proceedings of the House. Signatories would be able to opt into receiving an e-mail on progress of the petition and up to two e-mails from their constituency Member. All petitions would receive a reply from the Government.

Number Ten petitions website

248. The proposed system drew on some aspects of the Number Ten petitions website introduced in November 2006. That site has attracted criticism, but it would be facile to dismiss the subject matter of Number 10 petitions simply because of some well-publicised foolish petitions. The most heavily signed petition so far on that site has been a petition of 1.8 million people to scrap the vehicle tracking and road pricing policy.

Debates

249. The scheme proposed by the Procedure Committee would not automatically provide for further proceedings on any specific petition but would offer some time for debate on selected petitions. In its May 2007 report the Committee had recommended a half-hour slot for members to initiate a debate on a specific petition at the end of Thursday sittings in Westminster Hall.⁶⁵ In its April 2008 Report, the Committee recommended three 90 minute slots a year in Westminster Hall to debate one or more e-petitions selected by the Procedure Committee “*in a manner similar to the way the Liaison Committee chooses the select committee reports to be debated in Westminster Hall*”.⁶⁶

Government response etc

250. In July 2008 the Leader of the House welcomed the Procedure Committee’s Report in a written ministerial statement and anticipated a debate in autumn 2008. But no such debate was scheduled. In December 2008 the Committee received a letter from the then Deputy Leader asking it to consider a lower-cost option. In May 2009 the Committee again set out its views and asked the Government to think again.⁶⁷ On 8 July 2009 in a letter in response to the Committee’s latest report the Deputy Leader of the House, expressed the hope that “*the new Committee [ie the Reform of the House of Commons Committee] will be able to draw on the Procedure Committee’s findings in considering the role that a simpler,*

⁶⁴ Procedure Committee, First Report of Session 2007–08, *e-Petitions*, HC 136

⁶⁵ HC 513, para 48

⁶⁶ HC 136, paras 113–4

⁶⁷ Procedure Committee, Second Report of Session 2008–09, *e.Petitions: Call for Government Action*, HC493

*cheaper form of on-line communication might take, whether in the form of an e-Petitions system or something slightly different”.*⁶⁸

251. There are evidently differences of opinion in the House, and between Ministers and the Procedure Committee, on the best way forward on e-petitions. There is a consensus that some sort of electronic petitioning system would be valuable. Ministers suggest that the Procedure Committee’s proposal is unduly complex and costly, in comparison with the costs attributed to the Number Ten site. The Procedure Committee has doubts as to the allegedly much lower costs of the Number Ten site. But in any event parliamentary costs are under pressure like all other costs in the public sector, and it would be foolhardy to embark on a scheme without a clear idea of the balance of cost and the benefit it might bring in terms of public engagement.

252. But what is curious is that in all the to-ing and fro-ing the House has not been given the opportunity to pronounce upon the Procedure Committee’s scheme one way or the other. It should of course be for the House and not for the Government to decide if it wishes to spend public money on the scale recommended. This is another example of where Ministerial control of the agenda denies a Committee set up by the House the opportunity to bring its proposals before the House. Under the reformed system we propose it would be for the Backbench Business Committee to ensure that such a proposal was at least debated in the House.

253. The estimated level of expenditure on the Procedure Committee scheme arises in some measure from the proposed link between all those who sign a petition and their constituency Member. This would require a complex and relatively staff-intensive system for matching up the postcode of each signatory with the appropriate Member. This and other aspects of the scheme would benefit from further detailed discussion and analysis. The Finance and Services Committee and ultimately the House of Commons Commission would have to find the resources for the scheme. The House would no doubt be assisted by their views and those of the House’s Management Board in advance of reaching a view.

254. We recommend urgent discussions among all those involved in the e-petitions scheme, with a view to bringing to the House in the early part of 2010 a costed scheme which enjoys the support of the Member bodies engaged: that is, the Finance and Services and Procedure Committees, and the House of Commons Commission.

A Petitions Committee?

255. A number of recent commentators have called for the establishment of a Petitions Committee, along the lines of those in operation in several other European countries, and more recently in Scotland.⁶⁹ Typically, such a committee meets regularly to examine all petitions received and decide what if any follow-up action to take. Such actions may include referral to another committee, typically a specialist subject committee; offering the petitioner[s] the opportunity to present a case in person; investigating the allegations itself

⁶⁸ Procedure Committee, First Special Report of Session 2008–09, *e-Petitions: Call for Government Action: Government Response to the Committee’s Second Report of Session 2008–09*, HC 952

⁶⁹ Ev21, para 27 [The Hansard Society]; Ev33, paras 7-19 [Unlock Democracy]; Ev7 [Michael Meacher MP]; Ev12 [Lord Norton of Louth]; Ev15 [Democratic Audit]

and reaching conclusions; and ultimately seeking a change of some sort in policy or practice.

Experience in other legislatures

256. The Procedure Committee looked in depth in its 2006–07 inquiry at the systems in operation in Germany and Scotland of Petitions Committees, and visited Berlin and Edinburgh for that purpose. It concluded that there was not a case for establishing a Petitions Committee along the lines of that in operation in Berlin and Edinburgh. Instead, it proposed a more active consideration by departmental select committees of the petitions which had been forwarded to them as a result of an earlier Procedure Committee recommendation of 2004.⁷⁰ The Scottish Parliament instigated a review of the operation of its Petitions Committee in 2006, which presented a rather mixed verdict.⁷¹ In 2008 the House of Representatives in Australia set up a Petitions Committee to investigate and report on petitions and forward selected ones for ministerial response.

Role of a committee

257. Opinions vary on the possible merits of establishing a select committee to scrutinise or investigate selected petitions. The parliaments which have a thriving petitions committee do not necessarily have the same strong Westminster tradition of Members pursuing constituency casework, and some of their workload would seem more properly to fall to individual members here. Furthermore, cases pursued may be matters which in the UK would be within the responsibility of elected local authorities; it would be plainly undesirable for the House to encourage the view that those dissatisfied with a local authority decision or policy could “appeal” to the House. Local democracy and accountability need strengthening, not weakening.

Formal referral to other committees

258. Referral by one select committee to another does not sit easily in the Westminster system of relative committee autonomy. A departmental select committee at Westminster is not likely to relish having its agenda set for it by a fellow committee, regarding itself as best placed to judge whether or not to follow up on a petition. There has been no perceptible outcome of the current system by which petitions are forwarded to departmental select committees.

Petitions: hard copy

259. The benefit of an electronic system is in the ease with which support can be gathered from around the country and indeed the world, and the accessibility to all concerned of the text. But petitions in their current format still have a role to play. Many people are happy to sign petitions in hard copy. And many people are not connected to the web, so an exclusively web-based system would be inaccessible to many. Democratic Audit warned of the danger of unintentionally excluding people by reliance on electronic means.⁷² If

⁷⁰ Procedure Committee, HC 513, paras 18–27, 39–41

⁷¹ SP Paper 654, Scottish Parliament Petitions Committee, October 2006

⁷² Ev33 para 7

proceedings can flow from an e-petitions scheme, they should also be able to flow from a “non-electronic” petition. **It is important that the focus on an e-petitions scheme does not displace concern with “standard” petitions, which are of equal validity.**

Petitions: Case for change

260. **The House cannot be satisfied with its current procedures for petitions.** Whether electronic or paper-based, they should be scrutinised by some organ of the House capable of deciding two things: does the matter merit investigation by the House in some way, and does it now or in due course merit debate? Experience suggests that if this is not a duty of a single identified committee then it will not be done at all.

Petitions Committee: Conclusion

261. Scrutinising petitions and investigating and reporting on some requires the commitment of resources. Dr Carman, who reviewed the Scottish system, noted that

Considering petitions is a time-consuming enterprise involving numerous discussions between parliamentary staff and petitioners, significant research efforts, time and resources devoted to contacting and following up on enquiries to Ministers and other public bodies, legal enquiries, records management and interactions with other committees... If the system becomes over-burdened, it cannot meet the needs and desires of petitioners.⁷³

Lord Norton of Louth warned that

There needs to be sufficient resources available to the Committee to process and assess petitions. Inadequate resources, be it in terms of staff or time, can fundamentally undermine the utility of the process.⁷⁴

Even a cursory look at the subjects raised on the Number Ten website, as well as the petitions presented to the House in the current session, demonstrates the scale of Member and staff commitment required. **We are cautious about recommending a full-scale free-standing Petitions Committee at this time.**

Procedure Committee role

262. The Procedure Committee envisaged that it would eventually play the main role in determining which petitions might be the subject of a debate. We do not envisage that the Procedure Committee would be held out to potential petitioners as a court of appeal on any matter on which they wished to petition the House, but it does offer an existing means of exercising some quality control over the current system, which is effectively an interim one until an acceptable e-petitions scheme is introduced. It might also function as a scrutiny committee. Its inward-facing procedural role would combine with an outward-facing role in relation to petitions.

⁷³ SP Paper 654

⁷⁴ Ev12

263. The Committee could at its regular meetings look at the petitions received and decide if any merited special treatment or raised immediate issues requiring further inquiry or a special reference to a departmental select committee. We do not envisage that more than a handful in any session would require such treatment. The Committee would then await a Government response. If that was unduly delayed then the Committee would have the errant department chased up. Having read the response, and any material supplied to the Member and/or petitioner by the House authorities, the Committee would decide if the issue merited debate. It would in sum operate in a scrutiny and not investigative mode. Such a task could in time be a potentially significant burden on Members and could involve at least modest additional staff cost: but in advance of an e-petitions system we do not believe it would be unduly onerous. The best thing is to try it and see. **We recommend that the Procedure Committee's terms of reference be broadened, and its title changed to Procedure and Petitions Committee, so as to enable it to exercise scrutiny of the petitions process, on an experimental basis from January 2010 until the end of the Parliament; and that it make a report of its experience before the end of the Parliament so that this can be available to a new Parliament.**

Proceedings on Petitions: Debates

264. If there is in place a reformed and refreshed petitions system, it must be right for it to be reflected in the business of the House. It is of course already open to a Member to seek an adjournment debate on the subject matter of a petition. The Procedure Committee envisaged three 90 minute slots in Westminster Hall each session. To give greater flexibility the time could be taken in 30 minute slots. The Committee proposed that it should take the role played by the Liaison Committee in relation to debates on select committee reports. We envisage the member who presented the petition taking the lead in applying to the Procedure Committee for a debate. The Procedure Committee would make its views known to the Backbench Business Committee. It would then be up to the Backbench Business Committee to allocate time in Westminster Hall, or to recommend to the House a short debate on the floor. **We recommend a trial in 2009-10 in advance of e-petitions of debates on petitions, subject to the presentation of petitions of sufficient significance.**

Response from House

265. A number of petitions now—and the same is likely to be true in a reformed system—raise issues which have been the subject of some recent debate or other proceedings in the House. The “responses” from departments are often helpful in setting out the issue as seen from Whitehall, but understandably make little or no reference to the House’s own proceedings. Petitioners may well like to know what has been said or done not just by Ministers but more widely in a parliamentary context. **We recommend that the House authorities ensure that petitioners are informed of recent relevant House proceedings.**

Proceedings in House

266. No notice is required when Members intend to present a petition in the House at the end of the day’s business. All that a Member has to do is have the petition checked for orderliness by the Journal Office and then inform the Table Office of the desired date of

presentation.⁷⁵ This relatively casual procedure has the disadvantage that no notice appears on the Order Paper. Hardly anybody knows that a petition is to be presented. **It would give petitions a slightly enhanced status if notice was required and when given if it appeared on the House’s Order Paper at the appropriate place.**

267. Under current procedures, a Member who has presented and read out the prayer of a petition, goes behind the Speaker’s Chair and places it in the bag kept there for that purpose. That gives an unfortunate and misleading impression of neglect, given that the petition is in fact subsequently printed in the House’s record and replied to [see para 246 above]. **We consider that it would be more dignified if, as is the case with Bills presented to the House by backbench Members, the front sheet of the petition was taken to the Table, and an appropriate announcement read by the Clerk.**

Regional grand committees

268. We would also welcome using the sittings in the regions of Regional Grand Committees as a means of greater public participation. One small way of taking this forward would be to enable Members to present petitions to an appropriate Regional Grand Committee at the start of the sitting, where the subject-matter was of regional or local significance.

Early Day Motions and Motions for House debate

269. EDMs are an indirect form of public initiation of proceedings. It is sometimes suggested that an opportunity for debate and decision on selected EDMs on the floor of the House would both nourish public engagement with the EDM process, and might act as a control on the subject matter, weeding out the fatuous or trivial. An EDM could be automatically identified for debate either as a result of the number of signatories—weighted as desired to encourage cross-party initiatives—or by a process of selection by, for example, the Backbench Business Committee, based on criteria other than the merely mathematical.

270. We share the general view that there would be benefit in having a regular slot for a debate on a motion tabled and supported by a number of backbenchers, and capable of being decided in the House. Until 1994 backbenchers balloted for the opportunity to have such a motion debated on a Friday. A ballot is used for prioritising Private Members’ legislation, and to allocate slots for backbench adjournment debates and is thus well understood by the House. But it is not widely used outside the House and is inevitably arbitrary in its effects.

271. We consider that it would be wiser to leave the existing system of EDMs to fulfil its present functions, and create alongside it a bespoke system of producing Motions on subjects which a number of backbenchers genuinely felt required *debate*—as opposed to, for example, unexceptionable motions praising an organisation, or purely politically partisan motions. Members could be constrained to signing one “*Motion for House Debate*” over a given period of, say, a month. At the end of that period, the number of signatories could be weighted by party grouping to create an order of priority, and a

⁷⁵ Procedure Committee, HC 513, Ev17, para 17

selected motion from among the most heavily supported could be given a guaranteed debate slot in the House or Westminster Hall by the Backbench Business Committee.

272. It would be open to the public to seek such debates through Members and to lobby individual Members to sign such an application. Members would have to choose from a number of options. The responsibility would rest with backbench Members, accountable to their constituents. There would no doubt be some “game-playing”. The system would have to allow for Members to switch their signatures in the event of a more “attractive” Motion being tabled later in the period. **We recommend that a scheme to this effect be worked up by the House authorities for piloting in the new Parliament.**

Legislative Process

273. The legislative process is already significantly influenced at all stages by public opinion, organised through interest and pressure groups. From the identification of an issue as requiring legislation, through the process of consultation in drawing it up, to debate and scrutiny in both Houses, organisations are engaged in pressing home their particular concerns. Backbenchers themselves have limited opportunities to influence legislation, including the possibility of service on a public bill committee and the opportunity to move or support amendments at report stage. Concerns from the public in general and from organisations in particular are often reflected in Private Members’ legislation.

274. An individual citizen, however, has few opportunities for involvement in the legislative process, beyond taking opportunities to influence individual Members. There may be an opportunity to submit evidence if the bill is undergoing pre-legislative scrutiny by a select committee. And there is a largely theoretical possibility of submitting written evidence if and when evidence is heard on a Bill at the outset of public bill committee proceedings. To date there have been very few individual submissions

275. The process of Second Reading of a bill followed by public bill committee followed by report stage is in technical terms fairly transparent, in that the relevant papers are findable on the website and the process is foreseeable. But in the same way that many consultations carried out by Government departments are conducted via a departmental website and genuine public engagement is not positively facilitated, nowhere are the public positively invited to comment in any detail on the provisions of Bills, or to propose amendments which might at least be worthy of debate. Nor are the legislative language and formats employed designed to be user-friendly in the wider world: they read as what they are, draft legal texts.

276. Proposals have recently been made for the introduction of an explicit opportunity for public comment on the details of legislation, immediately after Second Reading: a “public reading” stage.⁷⁶ In the past there have been similar proposals for every Government Bill to be the subject of a web forum. A procedure could also be envisaged for a mandatory period of pre-legislative scrutiny, either of a draft text or of a concepts paper setting out the thinking and objectives of the forthcoming legislation.⁷⁷ The latter would be more

⁷⁶ Speech by Rt Hon William Hague MP, 5 October 2009, Conservative Party Conference

⁷⁷ Ev 10 [Lord Norton of Louth]; Ev 16 [Better Government Initiative]

susceptible to public engagement. The publication of a draft legislative programme goes only some way along that path. Subject to the caveats we have expressed above about the appetite for such intense engagement, and to ensuring that the result is not to diminish the already short time in which elected Members have to examine a Bill in detail, some such opening up of the current system would be welcome. **Opening up the process of legislation and giving a real opportunity to the public to influence the content of draft laws should be a priority for consideration in the next Parliament. That is an issue for the House and not for Government.**

D Going further

General

277. The dominating characteristic of the current system—and some would argue a sign of a mature representative democracy—is that initiation of proceedings is dependent on the mediation and intervention of an elected Member. This may be seen as a “gatekeeper” or triage function, since Members are seen as best placed to judge whether, and if so when and how, an issue needs to be ventilated in debate or is better handled in other ways. It is by the same token only also through Members that the public can have a grievance against a public body explored by the Parliamentary Ombudsman, whose reports of unsatisfactory outcomes can be and are taken up by the Public Administration Committee in evidence and reports.

278. In 2004 an independent inquiry chaired by Baroness Kennedy of The Shaws was set up to consider how political involvement and engagement in Britain could be increased. It reported in 2006 in a report entitled *Power to the People*. It made a number of recommendations on public involvement and the introduction of rights of initiation. In its wake several campaigns have been launched to press the case for greater citizen initiative rights. A paper from the distinguished constitutional expert Professor Vernon Bogdanor urged us to consider some system of popular initiative.⁷⁸ Unlock Democracy made a submission to us on this subject.⁷⁹ Michael Meacher MP proposed a form of agenda initiative.⁸⁰ In April 2008 Douglas Carswell MP introduced a Bill to permit members of the public to initiate legislation, the Citizens’ Initiative (Legislation) Bill. This would have led to the introduction of six bills with the most public signatures. In other countries there are a range of tools of direct democracy, many of which can be used to trigger referendums of one sort or another.

279. We examine briefly the initiative model which we judge most likely to command parliamentary support, as one which does not weaken Parliament by by-passing it but might reinforce its authority as the central place for national debate. It was particularly drawn to our attention by Unlock Democracy.

⁷⁸ Ev 25-27

⁷⁹ Ev 34, paras 20-26

⁸⁰ Ev7

Agenda initiative

280. “Agenda initiative” is the generic term used by proponents of direct democracy for procedures designed to allow for public initiation of proceedings in a parliament or similar body, but which falls short of being able to bring on a national or local vote or a binding or non-binding referendum. In the USA they are known as “indirect initiatives”.⁸¹ Typically, such a process sets a numerical threshold of support for an initiative to begin, provides some control on the topic, and then allows a period in which proponents can gather support in a specified way. If a threshold figure is reached, expressed as a number of supporters or a percentage, then the parliamentary body must consider and/or act on the proposal.

281. Agenda initiatives are relatively common in modern constitutions, notably in South America and in the democracies of central and eastern Europe, such as Poland, where there have been more than 20 such initiatives. They also operate at sub-national level, in particular in the USA and Scandinavian countries.

282. Among the parliamentary democracies of Western Europe the process has been most frequently used in Austria, where there have been over 30 such initiatives since 1964. It is apparent that they are used there by opposition parties as well as organisations to gather and demonstrate support for policies. In the past such initiatives have led in Austria to reforms of state broadcasting governance, the 40 hour week and school re-organisation.

Local authorities

283. Agenda initiatives and similar “petition-based” practices will soon be in operation in England and Wales at local authority level. Chapter 2 of the Local Democracy, Economic Development and Construction Act obliges local authorities to provide an e-petition facility, and to make a scheme for the handling of petitions. The scheme has to allow for a number of possible outcomes, including holding an inquiry or a public meeting or commissioning research. Section 15 of the Act introduces a category of locally-signed petition, entitled “*petition requiring debate*”. It is envisaged that such a petition signed by, typically, 5 per cent of a local authority population would oblige the authority to consider the petition at one of its meetings.

European Union

284. New Article 8B.4 of the Treaty on European Union inserted by the Treaty of Lisbon would allow for an agenda initiative whereby “*not less [sic] than one 1 million citizens who are nationals of a significant number of Member States may take the initiative of inviting the European Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties*”.⁸² The detailed regulations to clarify how this is to work in practice have not yet appeared. This is not a close parallel; the procedure would affect a non-parliamentary body and merely “invites” it to submit a proposal; but it plainly reflects the enthusiasm some feel for agenda initiatives.

⁸¹ see Initiative and Referendum Institute website, www.iandrinstitute.org

⁸² Cmnd 7294, page 17

A Direct Line to Westminster?

285. Serious consideration should be given to following the route taken in the Local Democracy, Economic Development and Construction Act with respect to local authorities. The equivalent threshold would require several million signatures, which seems oppressive. On the other hand, some threshold is required. Numbers alone, especially in an electronic age, easily mobilised by organised groups, should not be enough to guarantee attention. That is why “deliberative democracy” is thought by many to offer more promising possibilities. Unlock Democracy advised that such an initiative should be “difficult but possible”.⁸³ That seems right.

286. If our principal recommendations are implemented Members will have greater access to the agenda on behalf of their constituents. But the House should remain open to the possibilities afforded by mechanisms such as the agenda initiative and similar proposals to involve people more directly in the parliamentary process. **We recommend that the House commission an investigation of the practicalities of applying at a national level the procedures applied to local authorities for “petitions requiring debate”, drawing on local and international experience, including the appropriate thresholds to be applied.**

E Conclusion

287. It is for Members collectively and individually to represent all their constituents, and to ensure that their concerns are properly represented in the House of Commons. The recommendations made in this report should make the proceedings of the House more responsive to public concerns, by giving backbench Members a greater say over the House’s agenda. Our aim is to strengthen a representative democracy, not supplant it. As the memorandum from Democratic Audit put it

...proposals that will enable the public to initiate debates and proceedings in the House, and to participate in them, will deepen the quality of democracy in the United Kingdom. But that deepening can only take place if Parliament has first regained a real measure of self-government and with it, the ability to respond to the public.⁸⁴

288. The House of Commons is nothing if its proceedings fail to reflect the concerns and aspirations of the people. In this part of our report we have looked at ways of enhancing some existing processes and procedures. We make a number of proposals for extending the antiquated petitions procedures we have. And we suggest that the House remains open-minded on the prospect for agenda initiatives, whereby people can get a matter onto the agenda of the House for debate, and investigate the practicalities of such a procedure.

289. It is sometimes suggested that there is an opposition between representative democracy and more direct forms of political activity. This is not our view. Representative democracy is indispensable, but it can be nourished by the exploration of other democratic possibilities; the opportunities for doing so are now greater than ever before and should be seized. Democracy is about culture and not merely structures; but this needs to be cultivated by practice. The challenge for the House is to understand this and to respond to it.

⁸³ Ev35, para 24

⁸⁴ Ev13, para 2

6 CONCLUSION

I then ventured to tell this House that its business was not to govern, but to call to account those who govern. (Gladstone, Feb 1855)⁸⁵

290. Everything in this report is aimed at making the House of Commons matter more. It should sit, in fact and not just in name, ‘at the apex of a system of accountability’. A flourishing representative democracy demands an effective and vital House of Commons, with strong government improved by strong accountability. This is also the best antidote to the political disengagement and anti-politics that characterises our age, and which is dangerous in its consequences.

291. It is our contention that, at present, the House of Commons is not as effective or vital as it could—and should—be. This was so long before the expenses scandal that has rocked it to its foundations and done so much damage to its reputation. The task of rebuilding confidence in the House, both within and without, is immense; but it is also urgent. Paradoxically, the present crisis has also presented an opportunity at least to begin this task.

292. This is not to suggest that a cultural problem (in this case, of standards and behaviour) can be resolved by a structural solution. Nor to deny that there may be political reforms needed that go beyond anything discussed in this report. Yet we have to start somewhere; and the changes we recommend in how the House works are designed to make an immediate and practical contribution to the enterprise of rebuilding trust in the ability of the House of Commons to act as the vigorous guardian of democratic accountability.

293. That is why we want the House to control more of its own business; boost the standing and authority of its select committees; and connect more strongly with public concerns. From these key changes could flow many associated opportunities for the House to work in new and innovative ways as other bodies are having to learn to do. This will only happen if Members are fully engaged and committed to the task. We believe that the public wants to see its House of Commons restored to robust health. The challenge for its Members, both present and future, is to ensure that this happens.

⁸⁵ HC Deb, 23 February 1855, col 1826

Conclusions and recommendations

A PRINCIPLES

1. (a) We should seek to enhance the House of Commons' control over its own agenda, timetable and procedures, in consultation with Government and Opposition, whilst doing nothing to reduce or compromise such powers where they already exist;
- (b) We should seek to enhance the collective power of the Chamber as a whole, and to promote non-adversarial ways of working, without impeding the ability of the parties to debate key issues of their choosing; and to give individual Members greater opportunities;
- (c) We should seek to enhance the transparency of the House's decision making to Members and to the public, and to increase the ability of the public to influence and understand parliamentary proceedings;
- (d) We should recognise that the Government is entitled to a guarantee of having its own business, and in particular Ministerial legislation, considered at a time of its own choosing, and concluded by a set date;
- (e) We should recognise that time in the Chamber, Westminster Hall and committees is necessarily limited, and therefore should work broadly within the existing framework of sitting days and sitting hours;
- (f) Changes should be devised with sensitivity to real-world political constraints, and in a way which maximises the likelihood of achieving majority support in the House.

These principles have informed our deliberations and are reflected in our approach to the specific matters on which we have been asked to report. We aim to make the Commons matter more, increase its vitality, and rebalance its relationship with the executive. (Paragraphs 22 to 35)

B DEPUTY SPEAKERS

2. It must in our view be right that a transparent means be found for the House as a whole to elect the House's three principal office-holders below the Speaker. As we have discovered in our examination of the appointment of members and Chairs of select committees it is not easy to find a generally acceptable and fair procedure. It is now for the House to consider the Procedure Committee's Report. (Paragraph 40)

C SELECT COMMITTEES: CHAIRS AND MEMBERS

Terminology

3. In this report we will wherever possible use the term “Chair” to denote the individual chairing a committee, and “chair” to denote the office held, save where a particular officer is meant, such as the Chairman of Ways and Means. We hope that the House will soon follow this practice. (Paragraph 37)

Principles

4. (a) It should be for the House and not for the Executive to choose which of its Members should scrutinise the Executive: the House should also have a strong if not decisive influence on the identity of the Chair.
(b) The system by which parties select names to put forward to the Committee of Selection, and by which the whips divide up chairmanships between the parties, is very far from transparent.
(c) The credibility of select committees could be enhanced by a greater and more visible element of democracy in the election of members and Chairs.
(Paragraphs 72–74)

Conclusion

5. We recommend an initial system of election by the whole House of Chairs of departmental and similar select committees, and thereafter the election by secret ballot of members of those committees by each political party, according to their level of representation in the House, and using transparent and democratic means. The committees within this system should be those appointed under SO No 152 [the departmental select committees] together with the Environmental Audit Committee, the Public Administration Committee and the Committee of Public Accounts. We have concluded that of the four options we considered this is the system most likely to demonstrate the determination of the House more effectively to hold the executive to account, to give more authority to the scrutiny function of Parliament and at the same time to preserve the effective functioning of select committees. (Paragraph 80)

Election of members

6. We propose that in the new Parliament members of departmental and similar select committees should be elected by secret ballot within party groups, by transparent and democratic processes, with the outcome reported to and endorsed by the House. Party groups would in effect be acting on behalf of the House as electoral colleges. They would therefore expect to act under some constraints as to the methods used to elect committee members. We do not think it necessary that the House should interfere so far as to lay down one particular method of election rather than another. But the method chosen

should be one approved by the Speaker, following independent advice, as transparent and democratic: “kite-marked” as legitimate in effect. Officers nominated by the Speaker would be obliged to assure themselves that the processes followed by each party, as notified by its Leader, were indeed in accordance with these norms. And each party would be obliged to publish the method it had adopted. (Paragraphs 87–88)

Distribution of chairs

7. For the first running of a new system we recognise that the House may prefer to rely, as it has for many years, on the party managers coming to an agreement on distribution of chairs on the basis of established conventions. But we do recommend a greater degree of transparency. We recommend that the House return to examination of this and other options for distribution of the chairs when the rest of our recommendations and conclusions are reviewed two years into a new Parliament. (Paragraphs 82–83)

Appointment

8. We consider that under any system the principal select committees should be nominated within no more than six weeks of the Queen’s Speech and that this should be laid down in Standing Orders and capable of being enforced by the Speaker. (Paragraph 56)

Size, number and attendance

9. We propose that the new House of Commons reduce the size of its standard departmental committees to not more than 11; Members in individual cases can be added to specific committees to accommodate the legitimate demands of the smaller parties. We also recommend that the practice of appointing parliamentary private secretaries and front bench Official Opposition spokesmen should cease. We believe there should be clear consequences for unreasonable absence from select committees. The House must also seek to reduce the numbers of committees, ending overlapping or duplicate remits and rationing the scarce resource of Members time and commitment. (Paragraph 55)

Intelligence and Security Committee

10. It is unsatisfactory that any reforms we recommend to the system of election of members and Chairs of the House’s select committees cannot be applied at the same time to the Intelligence and Security Committee. We recommend that the Committee be regarded as one whose chair is held by convention by a Member from the majority party; that candidates wishing to stand for election by the House to the chair of the Committee should be obliged to seek in advance of the ballot the formal consent of the Prime Minister for their candidature, to be

notified in writing; and that thereafter the procedure should be as for other departmental and similar select committee chairs. (Paragraph 59)

Role, resources and tasks of select committees

11. We consider that the Liaison Committee should re-examine the current role of select committees, their resources and their tasks, and in particular how to deal with the increasing demands of time made of Members as their role grows. (Paragraph 93)

D BUSINESS IN THE HOUSE

Time

12. The default position is that time “belongs” to the Government, subject to a number of exceptions and practices which allow others to influence and even determine the agenda. Put crudely, and subject to maintaining a majority, the Government enjoys not merely precedence but exclusive domination of much of the House’s agenda, and can stop others seeking similar control. (Paragraph 126)
13. Ownership of the time of the House is to be distinguished from responsibility for sponsoring or promoting the business before it. There is a strong case for regarding all time as the House’s time. It is not the Government that seeks debate but the House: what the Government needs are the decisions which enable it to carry out its programme. (Paragraph 129)

Agenda

14. The agenda should fall to be decided by the House, if need be by a majority. The straightforward way of doing that is by putting a motion to the House on a set day and time each week. A draft agenda for the second week should also be announced to the House at the same time as the formal agenda Motion, and on broadly the same provisional basis as at present. (Paragraphs 169–170)
15. A votable motion on the agenda provides a traditional accountability mechanism for such decisions, and ultimately a sanction were the wishes of a majority of the House to be misjudged or ignored. Any programme which requires the positive approval of the House will necessarily be drawn up—and we deal below with how and by whom it is to be drawn up—with the intention of satisfying a clear majority of members and delivering to the Government sufficient time to get the business it initiates through the House. (Paragraph 174)
16. There is no reason why there should as a rule be a vote on the agenda, all the more once it has been the subject of wider discussion than at present and will have been exposed in draft the previous week. The Speaker's power of selection of amendments would be required to ensure that merely destructive

amendments were not selected and that a proposition coming from the House Business Committee (described below) was treated with respect. (Paragraph 171–172)

Backbench business

17. Backbenchers should schedule backbench business. On some business there needs to be an explicit partnership between Ministerial and backbench scheduling. But it is in our view time for members of the House, through a committee of their elected colleagues, to take some responsibility for what the House debates, when and for how long; and also for what it does not wish to debate, either at all or at its current length. (Paragraph 176–178)
18. We therefore recommend that a Backbench Business Committee be created. It should be comprised of between seven and nine members elected by secret ballot of the House as a whole, with safeguards to ensure a due reflection of party proportionality in the House as a whole. The Chair would also be elected by ballot of the whole House. Frontbench members of all parties and PPSs would be ineligible for membership of the committee. The committee would have its own secretariat, provided by the Clerk of the House. To ensure that it was fully informed on a range of considerations affecting the scheduling of debates, such as the availability of Ministers, it might wish to invite the attendance of the Government's business managers for part of the meeting. The committee would meet weekly to consider the competing claims for time made by select committees and backbenchers in groups or as individuals for the protected days and/or time-slots available in the two weeks ahead, and then to come to a firm view on the backbench business in the week immediately ahead. (Paragraph 180)

Ministerial business

19. Ministers should continue to have the first call on House time for Ministerial business, meaning Ministerial-sponsored primary and secondary legislation and associated motions, substantive non-legislative motions required in support of their policies and Ministerial statements on major policy changes. (Paragraph 182)
20. The Government's right to have the opportunity to put its legislative and other propositions to the House, at a day of its choosing, should not however extend to deciding without any reference to the House for how long these are to be debated by the House. (Paragraph 184)

Opposition business

21. The Official Opposition and other Opposition parties should continue to have a pre-emptive right to their fixed number of days, to be spread evenly through a

session. There is a case for the Opposition parties to be given more say on when they can take such a day or half day. A wider range of business could be taken rather than what has now become the standard fare on Opposition Days of two debates of three hours each, dominated by the front-benches. We also consider that the subjects of Opposition Day motions should normally be laid down with at least two days' notice. (Paragraphs 188–190)

Select Committees

22. Select committees, including those concerned with the House's own affairs, deserve greater access to the agenda, so that they can have their reports debated and decided upon a substantive motion, at a time which best suits them and the House. (Paragraph 191)

Backbenchers

23. Individual backbenchers must continue to be able to raise subjects as adjournment debates in the Chamber and in Westminster Hall, and to press legislation through Private Members' Bills, as well as participating in debate and questioning. In addition, any revised system must respond to the widespread sense that the right should be restored to Members to get a substantive motion put to the House and decided. (Paragraph 192)

Overall system

24. In summary, we envisage a system whereby Ministers indicate as now the business they intend to bring forward, principally legislation and related motions. It would not be realistic, or indeed reasonable, to expect Government to surrender control over these decisions to a committee of backbench Members. Ministers quite rightly want to determine the broad timing of the legislation they sponsor. At the same time, a committee of backbenchers should be set up to bring forward proposals to the House for backbench business. The Opposition should have some greater say than at present in when it uses its Opposition Days. Select committees and backbench Members deserve enhanced access to the House agenda. By giving Members greater control of the agenda, we are confident that the House of Commons will be strengthened. (Paragraph 195)

House Business Committee

25. Our preferred solution is to have two committees. The task of assembling a draft agenda to put to the House should be undertaken by a unified House Business Committee, comprised of representatives of all parts of the House with a direct interest: backbenchers, Government and Opposition. The House Business Committee should be chaired by the Chairman of Ways and Means (the Deputy Speaker), whose would have been elected by the House as a whole to that office with this function partly in mind. It would have a secretariat combining the

House officers who support the Backbench Business Committee and the Government officials who currently support the usual channels. (Paragraph 200)

Notice and flexibility

26. We would expect a greater discipline to be applied in giving advance notice of motions, to the extent of allowing the Speaker to refuse to put a Motion to the House of which sufficient notice had not been given. But tying the agenda down in a Resolution of the House should not be allowed to impose excessive rigidity on the House's business. (Paragraphs 207–208)

Timetabling

27. Some advance timetabling is fairer to the House and ensures that debate cannot be used to talk out a specific proposition where it is reasonable to expect the House to express a view. But we would expect such a power to be used sparingly. (Paragraph 209)

Substantive Motions

28. In general terms we favour more use of substantive motions so that the House can come to a recorded conclusion which will then carry weight. (Paragraph 210)

Protected time for backbench business

29. Ideally, if a particular day is to be protected, we would like backbench business to be scheduled on Wednesdays, with Thursdays once again becoming a “main” day for debate on Government legislation and other matters. We ask the Chief Whips to pursue the suggestion that Prime Minister's Question Time be timetabled for Thursday afternoon. (Paragraph 213)
30. Whichever option emerges from the debate and discussion which we expect to follow this Report, some time must be identified and protected for backbench business, not less than the equivalent of one day a week. We propose that Standing Orders should be sufficiently tightly drawn to guarantee this, but with some flexibility, so that the Backbench Business Committee can take matters forward. (Paragraph 218)

Sittings

31. We recommend that the House in the new Parliament should be asked to decide on the issue of September sittings, along with other sittings issues, sufficiently early in its life to be able to decide whether to sit in September 2010. We do recommend that the House should at least decide for itself when it sits and does not sit. (Paragraphs 100–101, 175)

Sessions and carry-over

32. It may be time to re-examine the need for annual sessions overall, drawing on the varying practice of parliaments around the world who face similar issues. Greater use of carry-over of Bills from one session to the next could have a significant effect on scheduling business in the House. (Paragraphs 102–103)

Report stage

33. The single greatest cause of dissatisfaction which we have detected with current scheduling of legislative business in the House arises from the handling of the report stage of government bills—technically the “consideration” stage when a Bill has been reported back to the House from a public bill committee.[...] Effective scheduling of business at report stage of many bills would often require nothing more than the allocation of a sufficient total time. It is too often insufficient at present. The House Business Committee which we recommend will be a forum for agreeing the length of time to be devoted to a report stage in order to fulfil the scrutiny function adequately. But that is not enough in itself. Because effective scrutiny of legislation is of fundamental importance to the role of the House, the detailed use of that time must be a matter of concern. We believe that the time should be set so that the House should if it wishes be able to vote on new Clauses and amendments in every group, if and when they are selected for separate division by the Chair; and that there should be a presumption that no major group should go undebated. The House of Commons would then be able to exercise the same rights as the House of Lords. [...] the House Business Committee will decide where, if at all, knives should fall bringing debate to an end on each group of selected new Clauses and amendments. As now, priority would be given to Government new Clauses and amendments. It is not for us to second-guess the minutiae of House Business Committee business. We are confident that it will deal with these and other such issues and that as trust and experience grow it will operate ever more consensually and effectively.

In order to ensure that this system can work, without using up too much time and to avoid attempts to “talk out” full debate, we recommend the introduction of a regime of speaking time restrictions at report stage. We have gone beyond the issue of scheduling total time for report stage because we recognise that unless the current problems in this area are resolved then there will continue to be dissatisfaction and a sense that the House is failing to perform one of its core duties. In those circumstances, we will have failed in one of the primary parts of our mission. Our recommendations outlined above as part of the general reform which we propose of the scheduling of business are intended to ensure that the House itself decides what matters are debated and decided at report stage of a Ministerial or a Private Member’s Bill. (Paragraphs 109–118)

Lords Amendments

34. We recommend the introduction of a scheme similar to that described above for report stage for consideration of Lords amendments, including restrictions on speech lengths. (Paragraph 119)

Ministerial statements

35. There is plainly room for different procedures designed to give an opportunity for a more thorough form of parliamentary scrutiny, without undermining a Minister's right to make a statement and respond to questions on it; and statements could well be taken at a different point in the parliamentary day. (Paragraph 187)

General Committees

36. It should be open to others than Ministers to schedule business in Grand Committees, by relaxing Ministerial control of what Motions can be put to the House and decided. There will [also] have to be relaxation of Ministerial control of motions to refer negative instruments for debate in committee. The European scrutiny system offers an admirable if still imperfect model of responsible backbench committee control of business, in partnership with the Government, on an important part of the House's work. (Paragraphs 106–108)

Public bill committees

37. We conclude that a review would be desirable of the means of selection of public bill committee members, so that it was subject to a similar level of accountability to that long applied to select committee membership. (Paragraph 60)
38. We hope that a more open approach to the scheduling of public bill committee evidence sessions can be piloted in the short 2009–10 session without the need for changes to Standing Orders, and request that the relevant authorities produce a report for an appropriate successor Committee in the new Parliament to consider. (Paragraph 105)

Estimates Days

39. We broadly endorse the Liaison Committee's proposals for increasing from 3 to 5 the number of Estimates Days and in particular its suggestion that the type of debate on such days be widened to allow substantive opinion motions on expenditure plans for future years. In view of our desire to enhance the relevance of select committee work to the work of the Chamber we consider that these debates on Estimates Days could also usefully cover substantive motions on departmental annual reports, and recommendations in select committee reports which in the view of the Liaison Committee have not been adequately addressed by the Government's response. (Paragraphs 137–138)

Private Members' Bills

40. The House should be responsible for ensuring that merely procedural devices cannot obstruct Private Members' Bills, and that they are brought to a decision. (Paragraph 194)

E PUBLIC INVOLVEMENT

Public Participation

41. There are varying views about the prospects for greater public participation. But none of these doubts should rule out making further and better opportunities available for public participation and engagement. The primary focus of the House's overall agenda for engagement with the public must now be shifted beyond the giving of information towards actively assisting the achievement of a greater degree of public participation. (Paragraph 230–232)

Legislation

42. Opening up the process of legislation and giving a real opportunity to the public to influence the content of draft laws should be a priority for consideration in the next Parliament. That is an issue for the House and not for Government. (Paragraph 276)

Agenda initiative

43. We recommend that the House commission an investigation of the practicalities of applying at a national level the procedures applied to local authorities for "petitions requiring debate", drawing on local and international experience, including the appropriate thresholds to be applied. (Paragraph 286)

e-Petitions

44. We recommend urgent discussions among all those involved in the e-petitions scheme, with a view to bringing to the House in the early part of 2010 a costed scheme which enjoys the support of the Member bodies engaged: that is, the Finance and Services and Procedure Committees, and the House of Commons Commission. (Paragraph 254)
45. It is important that the focus on an e-petitions scheme does not displace concern with "standard" petitions, which are of equal validity. (Paragraph 259)

Petitions committee role

46. The House cannot be satisfied with its current procedures for petitions. We are cautious about recommending a full-scale free-standing Petitions Committee at this time. We recommend that the Procedure Committee's terms of reference be

broadened, and its title changed to Procedure and Petitions Committee, so as to enable it to exercise scrutiny of the petitions process, on an experimental basis from January 2010 until the end of the Parliament; and that it make a report of its experience before the end of the Parliament so that this can be available to a new Parliament. (Paragraphs 260–263)

Debate

47. We recommend a trial in 2009–10 in advance of e-petitions of debates on petitions, subject to the presentation of petitions of sufficient significance. (Paragraph 264)

Information for petitioners

48. We recommend that the House authorities ensure that petitioners are informed of recent relevant House proceedings. (Paragraph 265)

Proceedings in House

49. It would give petitions a slightly enhanced status if notice was required and when given if it appeared on the House's Order Paper at the appropriate place. We consider that it would be more dignified if, as is the case with Bills presented to the House by backbench Members, the front sheet of the petition was taken to the Table, and an appropriate announcement read by the Clerk. (Paragraphs 266–267)

Motion for House debate

50. We recommend that a scheme to this effect [Motions for House debate] be worked up by the House authorities for piloting in the new Parliament. (Paragraph 272)

Annex: draft Resolution

That this House welcomes the First Report from the House of Commons Reform Committee, *Rebuilding the House*, HC 1117;

looks forward to the full implementation of its proposals in the next Parliament, subject to agreement in this session of the necessary Standing Orders, and to implementation in the current session of some proposals;

acknowledges the need for Government to retain the first call on House time for Ministerial business and the House's collective ownership of its time;

welcomes its proposals for enhanced access to the House agenda for select committees and backbenchers;

endorses its proposal for an elected Backbench Business Committee to schedule non-Ministerial business, and to join with Government and Opposition representatives in a House Business Committee in drafting a weekly agenda to be put to the House for decision;

welcomes its conclusions on the House's sitting patterns and on the need for improved procedures at the report stages of bills;

supports its recommendations for the election by the whole House of Chairs of departmental and similar select committees, and the election of members of such committees by secret ballot of parliamentary parties;

endorses its recommendations on the size and number of committees, and the timetable for their establishment;

welcomes the proposals designed to help the House connect more strongly with public concerns, and enhance opportunities for public involvement in proceedings, including the proposed shift in the House's engagement agenda towards facilitating public participation and opening up the process of legislation; and

endorses its proposals on petitions, e-petitions and a petitions committee scrutiny function.

Formal Minutes

Thursday 12 November 2009

Members present:

Dr Tony Wright, in the Chair

Mr Graham Allen	David Howarth
Mr Peter Atkinson	Mr Greg Knight
Mr Clive Betts	Mr Chris Mullin
Mr Graham Brady	Dr Nick Palmer
Mr David Clelland	Martin Salter
Mr David Drew	Dr Phyllis Starkey
Natascha Engel	Mr Andrew Tyrie
Dr Evan Harris	

Draft Report proposed by the Chairman, brought up and read.

Draft Report proposed by Natascha Engel, brought up and read as follows—

“1. The Select Committee on Reform of the House of Commons was instigated by the Prime Minister in response to a suggestion from Dr Tony Wright MP, Chair of the Public Administration Committee. Its ambit as envisaged by the Prime Minister was to look at

- making Select Committee processes more democratic;
- scheduling more and better time for non-Government business in the House; and
- enabling the public to initiate directly some issues for debate.

2. The remit of the Committee was subsequently widened to include scheduling time for all business in the House, and refined to cover the appointment of members and chairs of select committees.

3. The Committee was directed to report to the House on these matters by Friday 13 November 2009.

4. After much detailed discussion on the three matters referred to us as well as some closely connected matters, we have been unable to come to agreement. **We therefore recommend that the matters be remitted to a new committee in the next Parliament to continue our detailed investigation and analysis.**

5. We looked at different options for democratising the process of nominating Chairs and members of Select Committees. The Committee was divided on whether those elections should be by the whole House or within party groups, and did not come to a satisfactory conclusion. **We therefore believe that a new committee in a new Parliament should explore this further and make a decision.**

6. We examined the prospects for setting up a Backbench Business Committee to decide on the better use of backbench time in the House, as well as options for a House Business Committee which comprised members of the Backbench Business Committee as well as party managers. The Committee was divided on the matter of a House Business Committee, some believing it to be the answer to ‘wresting control’ from Ministers, whilst others believed that this was merely an exercise in moving the deckchairs: to paraphrase Professor Vernon Bogdanor, some members of the Committee believed that we were in danger of shifting the balance of power from one democratically and directly elected elite (the Executive) to a less directly accountable and less expert elite (backbenchers). **We therefore recommend that we continue with the current system and explore more widely in the next Parliament options for better scrutiny of legislation and accountability of Ministers.**

7. We examined how best to encourage greater public engagement in the activities of Parliament. Whilst the Committee was unanimous in its support for widening participation in our democratic processes with e-petitions and exploring the possibilities for ‘agenda initiatives’, we felt too restricted by its remit to be able to do justice to this important question. **We would like a future Parliament to look at the wider role of Parliament and Members of Parliament; and to start an open and honest debate about what it is that Members of Parliament do and how the constituents that we represent can better influence our work and decisions.**

8. Our deliberations were informed by submissions from members of the public, from interested and expert individuals and organisations, from Members of Parliament and constitutional academics. **We would like this evidence to be made available to the new Parliament so that our work can inform the debate of a new generation of Members of Parliament, rather than tie their hands with decisions we make today before they have even started.”**

Motion made, and Question proposed, That the Chairman’s draft Report be read a second time, paragraph by paragraph.—(*The Chairman.*)

Amendment proposed, to leave out “Chairman’s draft Report” and insert “draft Report proposed by Natascha Engel”.—(*Mr Peter Atkinson.*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 2
Mr Peter Atkinson
Natascha Engel

Noes, 10
Mr Graham Allen
Mr Clive Betts
Mr Graham Brady
Mr David Clelland
Mr David Drew
Dr Evan Harris
David Howarth
Mr Greg Knight
Mr Chris Mullin
Martin Salter

Main Question put and agreed to.

Ordered, That the Chairman’s draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 56 read and agreed to.

Amendment proposed, to leave out paragraphs 57 to 59.—(*Dr Phyllis Starkey*)

Question, That the Amendment be made, put and negatived.

Paragraphs 57 to 73 read and agreed to.

Paragraph 74 read.

Amendment proposed, in line 12, to leave out the word “House-wide”.—(*Dr Phyllis Starkey*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 4
Mr Clive Betts
Mr David Clelland
Natascha Engel
Dr Phyllis Starkey

Noes, 10
Mr Graham Allen
Mr Peter Atkinson
Mr Graham Brady
Mr David Drew
Dr Evan Harris
David Howarth
Mr Greg Knight
Mr Chris Mullin
Dr Nick Palmer
Martin Salter

Paragraph agreed to.

Paragraphs 75 to 195 read and agreed to.

Amendment proposed, to leave out paragraphs 196 to 205.—(*Natascha Engel*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 3
Mr Peter Atkinson
Mr David Clelland
Natascha Engel

Noes, 10
Mr Graham Allen
Mr Clive Betts
Mr Graham Brady
Mr David Drew
Dr Evan Harris
David Howarth
Mr Chris Mullin
Dr Nick Palmer
Martin Salter
Dr Phyllis Starkey

Paragraphs 196 to 293 read and agreed to.

Annex agreed to.

Summary agreed to.

Resolved, That the Report be the First Report of the Committee to the House.

Ordered, That the Chairman make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Written evidence was ordered to be reported to the House for printing with the Report

Written evidence was ordered to be reported to the House for placing in the Library and Parliamentary Archives.

[Adjourned to a date and time to be determined.]

List of written evidence

1	Rt Hon Ms Harriet Harman MP, Leader of House of Commons	Ev 1
2	David Amess MP	Ev 1
3	Hugh Bayley MP	Ev 1
4	William Cash MP	Ev 2
5	Colin Challen MP	Ev 3
6	Sir Patrick Cormack FSA MP	Ev 4
7	Dai Davies MP	Ev 4
8	John Hemming MP	Ev 4
9	Brian Iddon MP	Ev 5
10	Michael Meacher MP	Ev 5
11	Jo Swinson MP	Ev 7
12	Professor The Lord Norton of Louth	Ev 8
13	Democratic Audit	Ev 12
14	Better Government Initiative	Ev 14
15	David Watts	Ev 15
16	Professor Vernon Bogdanor	Ev 21
17	Hansard Society	Ev 24
18	Unlock Democracy	Ev 30
19	John Owens	Ev 33
20	Andrew Dismore MP	Ev 36

List of unprinted evidence

The following memoranda have been reported to the House, but to save printing costs they have not been printed and copies have been placed in the House of Commons Library, where they may be inspected by Members. Other copies are in the Parliamentary Archives, and are available to the public for inspection. Requests for inspection should be addressed to The Parliamentary Archives, Houses of Parliament, London SW1A 0PW (tel. 020 7219 3074). Opening hours are from 9.30 am to 5.00 pm on Mondays to Fridays.

Pat Molloy
 Robin Watson
 David HB Tarr

Written evidence

Letter to the Chairman from Rt Hon Ms Harriet Harman MP, Leader of the House of Commons

I am pleased that the Motion to establish the Select Committee on Reform of the House of Commons was agreed to last night.

Thank you for agreeing to chair this Committee which presents an important opportunity to look at how the reform of parliamentary procedure can achieve stronger accountability of the Government to Parliament through a larger role for backbench Members and the wider public.

The Government does not propose to submit detailed written evidence to the Committee. The areas which the Government will be considering have been the subject of a great deal of debate and discussion in recent years, both within the House and wider academic study. We have established the Committee precisely because we want to hear the views of backbench MPs on these issues. However, I would be happy to appear before the Committee either formally or informally, towards the end of your inquiry, in order to discuss potential recommendations.

We would like the Committee to report quickly so that the proposed reforms can be considered for implementation early in the next Session. We look forward to receiving the Committee's recommendations.

21 July 2009

Memorandum submitted by David Amess MP

The appointment of Members and chairmen of select committees: the attempts by the Government to certainly remove at least two select committee chairmen because they were not running the committees to their liking was totally inappropriate and should not be allowed to happen again. I am not sure that arrangements for the House to choose Members is very practical, I would hope common sense and decency would prevail. The important point is that select committees should have some independence guaranteed and that their power to scrutinise the executive should be uninhibited.

(ii) I myself am not convinced about having a beauty contest for the appointment of Chairman and Deputy Chairman of Ways and Means. It seems to me that the Speaker and his three deputies at the time of appointment should reflect the balance of the House's composition so that parties themselves decide on who the candidates should be.

(iii) The scheduling of business in the House has become increasingly haphazard. Greater notice and care should be taken in terms of scheduling business. Within that area the guillotine procedure should be used more sparingly than it is at the moment.

(iv) Enabling the public to initiate debates and proceedings in the House and closely connected matters: I think this is a ridiculous proposal and totally unworkable. The House of Commons and its Members should be well aware of how the public feel on any number of issues and should act accordingly.

September 2009

Memorandum submitted by Hugh Bayley MP

SELECT COMMITTEES

I have been a member of a departmental select committee while my Party was in opposition (Health Committee 1992–97) and in government (International Development Committee 2001 to present). Departmental select committees exist to hold the Government to account and the executive should play no part in deciding which party should chair each committee, or selecting the chairs or Members of committees.

I believe it is fair for the allocation of chairs and Members between the parties to reflect the party balance in the House after each general election. The Clerk should calculate the shares for each party. Thus, if there are 20 Committees, and the party balance is calculated to be, say, 12, 8 and 2, the allocation of chairs should be determined by drawing "party labels" from a hat and applying them to committees listed in a pre-determined order.

I reject the idea that the usual channels should negotiate which party chairs each committee. It would be invidious to give this role to the Speaker and Deputy Speakers so I suggest the allocation is made by ballot.

Once the vacancies for chairs and committee members open to each party are decided, Members should indicate if they wish to be considered as a chair or member of a committee. Elections should be held if there are more candidates than vacancies. Voting should be restricted to MPs from the same party as the vacancy to be filled. It would be wrong, for example, for the governing party—who are likely to have a majority in the House—to be able to influence which opposition Members should chair or sit on a committee

scrutinising the executive. It used to be the practice that front benchers (on both sides) were not members of select committees. This is a good practice which should be re-established, and I think it would be best to restrict voting to back benchers, on both sides.

I see no reason why Members should not stand for election for more than one vacancy at a time (say to chair a committee, and to be a member of the same committee, or to be a member of more than one committee) but I do not think it would be right for a Member to hold more than one select committee post at the same time. A Member selected to two posts would have to choose one job and the vacancy should go to the runner up.

Casual vacancies should be filled by by-elections.

SCHEDULING BUSINESS IN THE HOUSE

Westminster Hall has increased the opportunity for back benchers' adjournment debates, but far too much time in the main chamber is taken by the front benches for Government or opposition day debates. In particular there is too little time for Private Members' Bills. The worst aspect of this problem is the lack of committee time for Bills which have had a second reading. I should like your committee to recommend increasing the number of Public Bill Committees listed to consider Private Members' Bills so that there is sufficient committee time allocated to ensure that all Bills which receive a second reading have as good a prospect as Government Bills of returning to the House for report and third reading.

This, of course, would also require more time for Private Members' Bills on the floor of the House. This additional time should be provided on days when the House has whipped business, rather than Fridays when MPs from constituencies far from London usually give priority to constituency meetings. One possible time would be between 7pm and 10pm on Wednesdays.

ENABLING THE PUBLIC TO INITIATE DEBATES

The amount of mail I receive from constituents on behalf of lobby groups has increased during my seventeen years in the House. There is certainly an appetite from members of the public to seek to put things on Parliament's agenda. This is a healthy part of our democracy. It shows that the public believe that parliament is relevant and well organised lobbies have had a major impact on legislation and Government policy over the years (Action on Smoking and health campaigning for a ban on tobacco advertising, Make Poverty History, Friends of the Earth promoting a Climate Change Bill and commercial lobbies on all manner of things).

However, it is necessary to have some checks and balances. Parliament needs to decide whether the interests of a lobby coincide with the public interest. There are examples of groups with apparently conflicting interests lobbying to get Parliament to back their side of the argument rather than seeking a compromise with other interests (I recall canoeists and anglers lobbying to restrict each others access to inland waterways). As well financed groups are better able to mobilise support for their causes, I would suggest that the public and the lobby groups are not able to place items directly on Parliament's order paper.

If the House wants to encourage the public to nominate topics for debate, I suggest they do so via their MPs. However, for this to be meaningful back bench MPs would have to have access to time on the floor of the House for general debates—a back bench equivalent of Opposition Days.

A mechanism would be needed for deciding which of the hundreds of subjects nominated by the public and sponsored by MPs are selected for debate. The options would be a cross party "Committee of Debate Selection"; or asking the Speaker to make selections, as is done for adjournment debates; or a ballot as with Private Members' Bills. I would like as much transparency as possible (because transparent decisions are accountable and therefore likely to be more rational), so I would personally favour the first option over the second, and the second over the third.

October 2009

Memorandum submitted by Bill Cash MP

1. I strongly believe that members and chairmen of select committees should not be appointed at all but should be elected. The whips should not be involved at all and should be prohibited from involvement by Standing Orders. Both members and chairmen should be elected on merit and experience and if the whips are effectively prohibited from involvement, then it would be down to the good sense of the House using the authority it has and also to prove its authority by showing its independence to have the good sense to ensure that there is proper and fair representation of the political spectrum so that when the select committees report, the voting on the content of their reports reflects proper analysis and not party political allegiances of the kind I have witnessed in my 25 years on the European Select Committee, now the European Scrutiny Committee, on many occasions of vital importance. The Chairmen of Scrutiny Committees, in particular Public Accounts, Procedure and European Scrutiny, should always be from the Opposition and not the Government.

2. The House should elect the Chairman and Deputy Chairman of Ways and Means according to similar principles of (1) above.

3. There should be a business committee and the House should run this and restore and enhance its authority, which was lost in the Irish obstructionism of the 1880s, as was fully described by a former Clerk of the House, in an essay by Sir Edward Fellowes in *The Commons in Transition*, edited by A. Harry Hanson and Bernard Crick (Fontana, 1970). The closure, the guillotine, programme motions and similar devices which originated in the 1880s might have been justified in view of the wilful obstructionism of the then Irish Members in order to undermine the authority of the House of Commons and its business.

However, now these devices are used in themselves as a means of delivering the Government's own business and intrinsically to undermine the authority of the House of Commons and to enhance the authority of Government as an objective in itself. They have almost nothing to do these days with the fair and proper allocation of time, but everything to do with ramming through legislation even though this means that Bills and large sections of Bills are not properly discussed at all, as everyone knows. Parliament, as I have said on a number of occasions, is now "a sham" and many Bills and much of the legislative business of the House is derived from the European Communities Act 1972 and hardly debated at all. The supremacy of the House of Commons has been whittled down to almost ground zero and must be restored in line with the amendment which I have now put forward on many occasions, most recently in the Parliamentary Standards Bill a few months ago and the Legislative and Regulatory Reform Bill in 2006, which on both occasions was supported by the Conservative Party, the explanations of which are well known and are set out in Hansard: "Notwithstanding any provision of the European Communities Act 1972, nothing in this Act shall affect or be construed by any court in the UK as affecting the supremacy of Parliament".

4. I believe that Members of Parliament are elected as representatives of the electors. I do not subscribe to the idea of enabling the public to initiate debates and proceedings in the House. This would be a prescription for chaos and could well lead to unwarrantable pressures unrelated to the democratic principles of government and stimulated by, for example, Internet chatrooms and noticeboards or networking sites.

September 2009

Memorandum submitted by Colin Challen MP

Thank you for your e-mail. As you say, the Committee is working under a very tight timetable, and this is symptomatic of the knee-jerk fashion in which the House (and Government) are responding to the expenses scandal and related issues. A mad rush to "sort everything out" is under way and will lead to many bad decisions being made. Perhaps this is not entirely unrelated to the fact that we (Labour) have to be seen to be doing something in the remaining months before our presumed defeat in the general election, and to tie the Tories hands thereafter. Whatever, I feel there is an atmosphere in parliament now which recalls the words "chickens" and "headless".

Having said which, there is much to do to improve the way Parliament works—and that process is and should be seen to be a continuing process. At the heart of it I would suggest that the role of the member is paramount. Members, if they are to earn the respect of the public must endeavour to do a job in parliament which commands respect, and this means amongst other things not diminishing the MPs' role to that of a councillor, social worker or parish pump greaser. I recognise the shift of power that has taken place from the legislative assembly to the executive, and yet this does not seem to feature in your remit. How strange. We may discuss whether or not to elect the Chairman of Ways and Means, but not how to execute control over the executive. We may have more debates initiated by Members (and that would be a good thing) but still, are we merely going to facilitate a greater torrent of verbiage to no obvious effect?

And what's this about how the public can "initiate proceedings in the House"? How about a weekly referendum or *The Sun* (which apparently wants to dictate defence policy) telling us what we need to do? Have we completely lost sight of the fact that MPs are elected not only as representatives but also mediators?

Sad to say the trend towards the diminution of parliament did not start with the expenses row, but with the accumulation of unaccountable executive power, which New Labour has accelerated with its vast array of quangos, arms' length arrangements and semi-privatisations. The expenses row resonates so much with the public in my opinion precisely because the public now sees us as a useless collection of tools happily defining our real responsibilities out of existence. The latest batch of reforms now on the cards will further diminish the respect which MPs deserve or are capable of earning. It's almost as if we are ashamed of being MPs because of the craven behaviour of many of our colleagues and now consider reform a suitable antidote to this collective guilt. It won't work.

September 2009

Memorandum submitted by Sir Patrick Cormack FSA MP

I do not wish to burden you with a long letter but I would like to make the following points.

1. Members of select committees should be appointed by a new selection committee, which is not dominated by the Whips. Members wishing to serve on select committees should make their applications direct to a committee of selection, and it should bear in mind a variety of factors, such as knowledge and experience on the subject, location of constituency, age and seniority, in making its selection. It should be a requirement that no Member should be appointed to more than one select committee and that every Member appointed to a select committee have a 60% attendance record. Each committee should elect its own chairman.
3. I have made separate representations on this subject to the Committee of Privileges.
4. The business of the House should be determined by a business committee chaired either by the Speaker or the Chairman of Ways and Means.
5. If there is an independent business committee it will obviously take into account matters of great public interest when determining the business of the House. There should be one topical debate per week, and it should take place between 7.30–10.00 pm on a Wednesday evening, and the subject should be chosen by the business committee.

I hope these comments are helpful and if you wish me to expand on any of them I will gladly do so.

September 2009

Memorandum submitted by Dai Davies MP

Select Committee Structure. (I believe the following should also apply to Public Bill Committees) Those interested in being an Officer or Member of a select committee should apply in writing and then present their credentials and case for membership to a committee of the whole House which would then elect all Officers and Members.

The committee should also be open to any Member to give oral or written evidence.

The appointment of chairman and deputy chairman should also be by application and a vote of the Committee of the House.

Scheduling Business in the House. There is a need for less legislation and more time allocated for debate on the floor of the House. More use could be made of the larger committee rooms to stage general debates.

General debates could be generated by the public by either petitions, via contact with a dedicated office such as the Leader of the House or via their MP.

September 2009

Memorandum submitted by John Hemming MP

In terms of appointing the members and chairmen of select committees:

If the House of Commons were to use the system of single transferable vote for the membership of committees then it would be possible to ensure that the balance of the house is replicated on the committees, but the Members of the House have the power to decide on membership rather than the whips. It is, however, sensible that the party allegiance of the chairman is identified on a D'Hondt basis on membership of the House and only candidates who are members of that party are allowed to stand for election by the whole house to the position of chairman (on the basis of secret ballot with preferential voting). This would allow a single vote casting exercise to allocate all the membership and chairmanship of committees.

Additionally, however:

- (a) Nominations should be in public over a period of time to enable Members to identify where there are vacancies and challenges. (A sheet in the division lobby with a list of nominees should be updated by the lower table office at the end of each hour that nominations are made).
- (b) There should be a priority sequence for committees where Members can drop out of subsequent elections if elected to previous positions.

As far as business of the house is concerned it should be determined in full by a business management committee including the identification of knives and subject matters to be allocated time at reports stage to ensure that key issues in bills are considered and voted on by the house as a whole. The details of this should be implemented by the Speaker on the advice of House Officers. The committee should have the duty to ensure that the government gets sufficient time to progress its bills and should be elected as other select committees.

September 2009

Memorandum submitted by Brian Iddon MP

1. Nominations for select committees should be taken by the Parliamentary Labour Party, or equivalent body for other political parties, and put to the membership of the political parties for agreement—by secret ballot, if that is agreed.

2. I believe that the chairman of select committees should be elected by those committees through taking nominations and by holding secret ballots.

3. There should be much more “space” for backbenchers to raise matters of concern (other than through the very unsatisfactory procedures for adjournment debates, when front bench spokespersons take up much of the time) for a wide ranging debate along the lines of Opposition Days. When did we last have such a debate (as in the early days of this Government) on the Government’s drug policy, for example? These debates could take place even after the full sitting has ended on a Wednesday. I would be prepared to see an extension of the parliamentary year (shortened summer recess) to accommodate this.

4. The general public already initiate many of the debates through public pressure or by raising campaigns through individual MPs.

September 2009

Memorandum submitted by Michael Meacher MP

In response to the letter inviting comments on the three issues mentioned regarding House of Commons reform (leaving aside the separate inquiry into the appointment of the chairman and deputy chairmen of Ways and Means), I would like to offer the following views:

THE APPOINTMENT OF MEMBERS AND CHAIRMEN OF SELECT COMMITTEES

I would propose that at the start of each Parliament the Speaker should call for nominations for each select committee, and any Member may nominate any other. From those nominated for each committee the Members should be elected by secret ballot, with each Member of the House having one vote in regard to each select committee. Those elected will be those with the highest number of votes for the number of places allotted to each party in accordance with party strengths in the House. The minority parties (ie other than the three main parties) will collectively be entitled to one Member on each committee, to be determined by themselves according to their numbers. The select committee thus elected will then elect its chairman from among its members.

I also believe strongly that if select committees are to fulfil effectively their main function of holding the executive to account, it is essential not only that the appointment of the members and chairman is kept free from the influence of the party managers so far as possible, but also that the main recommendations of at least some of the major reports from select committees in the course of the year are able to be debated and submitted to voting on the floor of the House. Only in that way can it be ensured that some of the key reports have access to exercise real influence over government thinking to the degree they perhaps deserve.

I would therefore propose that the Liaison Committee should have the right once a month when Parliament is sitting to select from those select committee reports which have been completed one or two (either for a whole-day or half-day debate) which are to be debated, with a vote at the end, on the floor of the House. In each case the relevant select committee would then draw up the substantive motion for debate based on the main conclusions of their report.

Where the Liaison Committee has not chosen a select committee report for debate on the floor of the House, I would also propose that in some cases chairmen of select committees should have the opportunity to make a statement introducing their committee’s report on the floor of the House, and to take questions for, say, half an hour. As with the earlier proposal, the Liaison Committee should allocate a predetermined quota for this purpose.

SCHEDULING BUSINESS IN THE HOUSE

I strongly support the call that has been made that Members should elect their own business committee to control the agenda of the House. Over time the executive has encroached more and more on the rights of Members until the House has now become little more than a rubber-stamp for proposals previously determined by the executive without any prior consultation with the legislature. The purpose of the House as a debating and voting chamber is to act as a forum for the public representation of the concerns of the electorate, and that must entail Members collectively taking control of the agenda of the House and the manner in which it is conducted.

That does not of course mean procedurally preventing the Government from getting the business through the House on which has been elected. The Government, in negotiation with the business committee, must be allotted adequate time for this purpose, though the timetabling of all business would remain ultimately in the hands of the elected business committee.

The business committee should be elected by secret ballot of Members of the whole House in accordance with the strengths of each party. It should consist of 15 Members and would then elect its own chairman who should be one of the Members from the opposition parties.

The role of the business committee would be to prepare a rolling fortnightly programme for the future business of the House which would be renewed weekly and put to the House for decision. Notice of the proposed business programme should be given at least three days before it is put to the House (though be subject to amendment in the light of urgent matters arising). The business statement would then be formally moved by the chairman of the business committee, replacing the statement currently given by the Leader of the House. It could be subject to questioning and on specific items put to the vote, though not on the basis of a debate which should be the purpose and prerogative of the business committee itself.

ACCESS FOR THE PUBLIC TO INITIATE DEBATES AND PROCEEDINGS IN THE HOUSE

It has traditionally been the practice that members of the public can petition Parliament, but it has largely fallen into desuetude because there is currently no guarantee that such petitions will receive proper consideration or indeed any consideration at all. I therefore wish to support the call that has been made that a Public Petitions Committee should be established, elected by secret ballot of Members of the whole House. It would then elect its own chairman, and its function would be to respond to all petitions received (other than those that are vexatious, offensive or litigious).

The committee would be empowered, in the light of their discussions, either to refer the matter to the appropriate select committee for their consideration, or to the appropriate Minister for necessary action to be taken, or to the business committee with a request that time be given for a debate on the floor of the House. The petitioners should then be informed as promptly as is feasible of the action that is being taken and of the eventual outcome. To improve the public's sense of engagement in the parliamentary process, it would also be desirable that the petitions committee should rotate their meetings around the major cities across the whole country (which is already the practice of the Petitions Committee in the Scottish Parliament).

I also believe (as again happens in some other countries) that there is a strong case for allowing petitions that have attracted the signature of a certain significant proportion of the electorate (say 5%) automatically to have the right to be debated on the floor of the House with a vote at the end of the debate. That does not of course prevent the tabling of amendments or preclude the House from reaching whatever conclusion it may collectively decide. But if the petition were approved, either in its pristine or amended form, it would be strongly incumbent on the Government to respond accordingly, and failure to do so, or to do so adequately, could have serious electoral consequences.

OTHER MATTERS

I appreciate that colleagues' views are not being sought on other issues, but wish to indicate disquiet that the proposal that Parliament should adopt the right to set up its own commissions of inquiry, where it considered this necessary and appropriate, has been omitted from the ambit of the Select Committee on Reform of the House of Commons. It has already been explored and recommended by the Public Administration Committee and reflects practice that was regularly followed by our Victorian predecessors. Ironically in setting up this select committee the House has accepted a restriction on its deliberations which

it was the whole purpose of this committee, if it so chose, to seek to sweep away. I think this is regrettable and hope that this particular very much needed reform, as well as others, will not be lost in the current discussions and that the Committee may so recommend.

October 2009

Memorandum submitted by Jo Swinson MP

INTRODUCTION

I thoroughly welcome the Committee's formation and trust that it will approach the issues outlined with a genuine spirit of reform. Such a spirit is something which I find sadly too often lacking in the House of Commons, where tradition and the status quo are often not questioned. My ideas mainly relate to how we can engage the public much more with Parliament, though I will also briefly address the other issues in the inquiry.

APPOINTMENT OF MEMBERS AND CHAIRMEN OF SELECT COMMITTEES

In keeping with a democratic institution, these positions should be elected by MPs, by secret ballot to avoid cajoling by party whips. Procedures should allow for committee membership broadly reflecting the balance of political representation in the House.

APPOINTMENT OF CHAIRMAN AND DEPUTY CHAIRMEN OF WAYS AND MEANS

The success of the recent election for the Speakership makes an excellent case for these positions to be elected in a similar way. The hustings process in particular enabled MPs to challenge candidates on how they would perform the role of Speaker, making a more informed judgement.

SCHEDULING BUSINESS IN THE HOUSE

Many MPs have long argued for a business committee to schedule parliamentary business, such as exists in Holyrood and in many other Parliaments around the world, and I share this view. This should be drawn from all parties, and while recognising Government requirements for time for its legislative programme, it should be independent of Government. Provisional business should be published at least a month in advance: the current practice of finding out what will be discussed only a week or two in advance makes it incredibly difficult for MPs to plan their time. In reality, the Government does plan business further ahead than two weeks, but does not publish its plans. Other large organisations do not operate with such secrecy about future timetabling, and there is no need for the House to do so. Of course MPs will understand that provisional business can be subject to change due to unforeseen circumstances.

ENABLING THE PUBLIC TO INITIATE DEBATES AND PROCEEDINGS IN THE HOUSE

Petitions

I understand the Procedure Committee has looked at the current practice of petitions, and compared examples from elsewhere such as the Scottish Parliament where petitions can be submitted online and a committee discusses petitions presented. Such ideas could be developed further so that the public could influence debates in the House. This could be done through the petitions system, perhaps with a certain threshold of signatures triggering a debate in the House or Westminster Hall.

Public choosing debates

Similarly, the most popular early day motions could be voted on by the public and prioritised for debate. A weekly debate on an issue or EDM chosen by the public could replace one of the current adjournment debate slots in Westminster Hall, or its sitting times could be extended by using it on Monday afternoon or Thursday morning for such a purpose. The subject of the topical debate is currently chosen by the Leader of the House, but instead this could be voted on by the public from a shortlist agreed by the business committee. There could also be a function for the public to submit possible topics for these debates.

Online interactivity

Facilitating many of these new initiatives will require the use of the Internet, though thought should also be given to ensuring fair access for those who are not online, perhaps by a House of Commons public engagement telephone line for voting and suggesting topics. As time goes on, however, the proportion of people using the Internet will grow until it is as ubiquitous as using telephones. Parliament must move with the times, recognising and embracing the opportunities this gives for opening up public access to politics and meaningful two-way involvement. The House should be looking at all aspects of its organisation and how they need to change for the digital age. The education service is one example where this has started already, with a wide range of online tools to complement the face-to-face work they do, and reach out to places geographically remote from Westminster. The Public Bill Office is rather further behind. Changes

need to be made to let the public track bills online and the data must be presented in a suitable electronic format to enable external organisations to develop tools to help people get to grips with the legislation, making it accessible, along the lines of the Free Our Bills campaign (www.theyworkforyou.com/freeourbills and EDM221). Similarly, while watching BBC Parliament for hours on end may be an attractive prospect for a small minority of people, the Internet has huge power to help the wider public see the bits of Parliamentary proceedings that they are most interested in, whether about their area or an issue close to their heart. The BBC's new Democracy Live service is one example of how this can work. Currently this power to engage is severely hampered by restrictions on use of Parliamentary clips online (EDM 1104). On the BBC Democracy Live site which will stream footage from the Scottish Parliament, Welsh Assembly and European Parliament, Westminster alone will not allow full functionality, for example letting users "share" the clips they like. The Administration Committee has looked into this issue and concluded that relaxing these restrictions is desirable—I hope this Committee will endorse that view and encourage this to be done speedily and completely. After all, footage of what happens in Parliament should be seen as an electronic Hansard, the property of the people who elect us.

October 2009

**Memorandum from Professor The Lord Norton of Louth
Professor of Government at the University of Hull**

My starting point is that we tend to see the relationships between Parliament and Government and between Parliament and the public as distinct rather than inter-related relationships. In considering reforms to structures and procedures to strengthen the House of Commons in calling government to account, the public tend not to figure as part of the exercise. I think that there is a compelling case for considering to what extent any reform can enhance public engagement with the political process. The greater the opportunity for such involvement, the greater the potential for a better informed House and the greater the likelihood of bolstering public confidence Parliament.

THE LEGISLATIVE PROCESS

There is clearly a case for strengthening the House of Commons in the legislative process. This has always been the weakest point of parliamentary scrutiny. The introduction of Public Bill Committees in place of Standing Committees is a very welcome development. It is something I have long supported. However, there remains a serious problem in terms of time. The time usually provided between Second Reading and the first evidence-taking session is too short to enable a good range of witnesses to be assembled. Too often, the evidence-taking is confined to the "usual suspects"—interest groups who are known to Members—and, even then, they may not always have sufficient time to prepare material. There is also insufficient time between the evidence-taking sessions and consideration of amendments to enable Members to digest the evidence and to utilise it as part of the probing and amending process. The problems are well researched and expressed by Jessica Levy in her study, *Strengthening Parliament's Powers of Scrutiny*?¹

The tight timetable not only causes problems for MPs but also for those outside the House. The process is too short to enable anyone other than organised interests, who hire or have an in-house parliamentary monitoring facility, to know what is going on and to be able to have an input into the process. It is skewed in favour of an established set of bodies. They can and do provide useful and often authoritative input into the process: my concern is with those who are excluded.

There is a solution that will enable people outside Parliament to have a greater say as a Bill goes through. It can be realised without jeopardising the capacity of the Government to get its legislation. The House has already made provision for Bills in certain circumstances to be carried over from one session to the next. The rules in the Commons are not as constrained as in the Lords.² I have long advocated the use of carry over. It enables Bills to be staggered in their introduction (reducing pressure on parliamentary counsel) and for a more equitable distribution of parliamentary resources: it avoids the bunching of committees at roughly the same time of year. As long as one maintains a specified cut-off point (a Bill must be passed within a specified period otherwise it falls) then the discipline provided by the sessional cut-off is maintained. At the moment, the cut-off point for a Bill that is carried over is twelve months from First Reading. This cut-off point replicates the problems associated with the traditional sessional cut-off. It fails to provide time for proper evidence-taking by committees.

What I recommend is the greater use of carry-over, with a fourteen-month cut-off point.³ This enables time to be built into the process to widen the gaps between Second Reading and evidence-taking, to reduce some of the pressure on the evidence-taking period, and to enable time for Members to assess the evidence and, as appropriate, table amendments. This not only benefits Members, it also opens the process more to

¹ Jessica Levy, *Strengthening Parliament's Powers of Scrutiny?* (The Constitution Unit, 2009)

² For the provisions, see *Modernisation: Carry-over of public bills*, Standard Note SN/PC/03236, House of Commons Library, 4 December 2008

³ As recommended by the Constitution Committee, *Parliament and the Legislative Process*, Fourteenth Report of Session 2003–04, HL Paper 173–I, p 41.

those outside Westminster. Allied with better dissemination of information about Bills, there is the opportunity for more people to have their say. This may be achieved not only by the traditional method of calling for and taking evidence, but also through the greater use of online consultations. The UK Parliament has tended to be at the forefront of such consultations—it is one area where it is ahead of other parliaments—and they provide a useful means of eliciting input from people who may have experience of the matter being considered.

The Parliamentary Office of Science and Technology (POST) employed an online consultation on flood management and the all-party group on domestic violence employed one as part of its study of domestic violence. In 2004, Professor Stephen Coleman was able to tell the Modernisation Committee:

On-line consultations are something that you [Parliament] have in fact pioneered, and have done better than any other parliament in the world. There is quite a lot of data suggesting that these consultations have had an effect on the fairly small minority of people who have engaged in them—because they have been deliberative, because they have been expansive over a period of a month, and because they have taken people seriously.⁴

Since then, the use of online consultation has been expanded, a number being run by the Hansard Society on behalf of Parliament⁵ and more recently by Parliament itself.⁶ Topics covered have included hate crime, human reproductive technologies, conditions of prison officers, traditional retail markets, universities' admission processes, UK engineering, post offices, armed forces recruitment and retention, criminal justice, forced marriage, the role of local government in the drive to reduce carbon emissions, as well as issues being addressed by the Speaker's Conference. They have also been held on connecting both Houses with the public. As the TellParliament website noted, of those who contributed to the consultation on diabetes, 78% had never contacted an MP before. Though they have been used by select committees and for draft bills, I believe there is the potential for their greater use in the legislative process. Creating more time would provide a short but useful window of opportunity to invite contributions from those who have something to say but who may never have thought previously of contributing to the parliamentary process.

It is also worth recording that creating a cut-off point of fourteen months after introduction remains, in international perspective, extremely tight. The present sessional cut-off renders the UK Parliament distinctive in comparative perspective.⁷

PRE-LEGISLATIVE SCRUTINY

Pressure on the legislative process is arguably reduced, and people outside Parliament have a greater opportunity for some input, when Bills are published in draft and subject to pre-legislative scrutiny. The use of pre-legislative scrutiny is to be welcomed and the experience to date has been encouraging—at least where employed.⁸ Committees have the opportunity, albeit often under considerable time pressures, to take evidence, to utilise online consultations and even, on occasion, to be peripatetic. They obtain input from interested bodies at a stage when they may have an opportunity to influence the content of the Bill.

The Constitution Committee of the Lords in its 2004 report on *Parliament and the Legislative Process* welcomed the practice and argued for its extension. As it recorded:

The Modernisation Committee in 2002 stressed that it wished to see publication in draft become the norm. The Deputy Leader of the House, Phil Woolas, has stated that “a bill should be published in draft form unless there are good reasons for not doing so” and has made clear that “it is the Government's intention and policy to increase the amount of legislation that is subject to pre-legislative scrutiny”.⁹

The problem has been that there not been a consistent increase in the use of pre-legislative scrutiny. As the data published by the Constitution Committee demonstrate, there was a notable fall in the number of bills published in draft in the sessions following that of 2003–04, expressed both in absolute terms and in terms of the ratio of draft bills to government bills.¹⁰ The explanation offered by the Government for the failure to increase the number of bills published in draft was expressed by Baroness Ashton: “The main practical obstacle remains the need to have the freedom to bring forward much legislation on a timetable which does not allow for publication of the proposed legislation in draft form.”¹¹ I have more than once asked for an explanation of what this means, but have received no answer. Given that the Government have

⁴ Modernisation Committee, *Connecting Parliament with the Public*, First Report of Session 2003–04, HC 368, pp 20–1

⁵ www.tellparliament.net

⁶ <http://forums.parliament.uk/html/index.html>

⁷ The UK and Denmark are at one end of the spectrum (tight cut-offs) and the Netherlands at the other (no cut-off point). The norm is for a bill to remain on the agenda, unless voted down, until the end of the legislative term (typically, four or five years). P. Norton, “Time Limits on Bills: Ending the sessional cut-off in the UK”, *The Parliamentarian*, Vol. 78 (1), 1997, pp 96–99

⁸ See Constitution Committee, *Parliament and the Legislative Process*, pp 13–15

⁹ *Ibid.*, p 15

¹⁰ House of Lords, *Report of the Constitution Committee, Pre-Legislative Scrutiny in the 2006–07 Session*, Session 2007–08, HL Paper 43, Table 1, p 6

¹¹ House of Lords, *Report of the Constitution Committee, Pre-Legislative Scrutiny in the 2006–07 Session: Follow-up*, Session 2007–08, HL Paper 129, p 5

expressed disappointment at the limited number of Bills published in draft, it appears to be the case that it favours their use in principle but in practice cannot persuade ministers to utilise the procedure on a more regular basis.

The House benefits from pre-legislative scrutiny: it can examine bills in detail at a stage when Government has not finalised the content and when the views of those outside the House can be heard. The greater use of carry-over also reduces some of the time pressures for committees engaged on pre-legislative scrutiny. The Constitution Committee of the Lords recommended that publication in draft should be the norm rather than the exception, with ministers having to justify those occasions when measures are not published in draft. The Government should be urged to commit itself to publication in draft, and pre-legislative scrutiny, as the norm rather than the exception.

A BUSINESS COMMITTEE

The proposal for a business committee has been variously made. I would make three observations.

First, the House of Commons is distinctive in international comparison for the amount of time that is controlled by the Government. When I chaired the Conservative Party's Commission to strengthen Parliament, some of the most remarkable data we received were from Dr Thomas Saalfeld, showing just how marked that control was compared to other countries.¹² We recommended that the House move more in the direction of the practice of other countries.

Second, giving control of business to bodies other than the Government's business managers does not prevent the Government from getting its legislation. That again is apparent from comparative study. As long as the Government has its majority, it will be able to get its bills passed. To enable the distribution of time to pass to some other body or bodies does not necessarily affect outcomes. Time can be allocated within the limits of a set out-date. The House largely proceeds on the basis of the adage that the Government is entitled to get its business but the Opposition is entitled to be heard. Reducing the Government's grip on the business timetable may enable all parts of the House to contribute more effectively to proceedings.

Third, the transfer from Government of control over business does not necessarily have to be total and, perhaps most importantly, it does not necessarily have to be transferred to a single body. I favour a business committee, but there is a case for allowing other bodies to determine some part of the timetable. This avoids Members fearing that control will pass from one body that may be viewed as a little too powerful and distant to another that may possibly be similarly viewed (especially if it is a small body of the great and the good). Distributing responsibility to more than one body prevents an unhealthy monopoly. Alternatively, a business committee could determine allocation of time but not necessarily determine the content. At the moment, for example, three Estimates Days are scheduled each session, but it is the Liaison Committee that determines which reports will be debated on those days. At the moment, this is the only example of a committee of the House determining the content of business in the chamber. This practice of allowing a committee of the House to determine the content of business could usefully be developed, perhaps encompassing more than one committee.

TIME OF THE HOUSE

In allowing more than one body to determine what the House debates may also be allied with a more varied distribution of time. The timetable at the moment is largely predictable and unimaginative. Government business managers have no obvious incentive to depart from the tried and tested. However, creating a more varied timetable may also link to my theme of enabling those outside Parliament to be heard, directly or indirectly. By directly I refer to the proposal for some debate to be prompted by petitions and indirectly through greater opportunities to debate select committee reports, possibly on substantive motions. The use of debates in Westminster Hall has greatly expanded the opportunity to consider committee reports, but allocating time on the floor for occasional half-hour or hour-long debates would add considerably to the process. Another procedure worth considering is something similar to Questions for Short Debate (QSDs) in the Lords. These are not dissimilar to the half-hour adjournment debate at the end of business in the Commons, but if taken in the dinner hour they last for a maximum of 60 minutes and if taken as the last business of the day they last for ninety minutes. There is considerable opportunity for several peers to take part. One possibility may be to extend the length of the adjournment debate at the end of the day. Even if it lasted for forty-five minutes, the difference in terms of opportunities for others to contribute briefly would be significant. Given that the issues raised are often matters of concern to particular individuals or groups outside the House, greater time would fit very much with the theme of enabling those outside the House to have a greater voice.

Some scheduled debates, including Second Reading debates, are lengthy and unproductive, characterised by empty green benches—sending out the wrong (albeit misleading) signals to people outside the House. A more varied diet of debates, including greater opportunities for emergency debates under Standing Order 24, has the potential to engage Members and to enable debate on matters of concern to those outside the House.

¹² Commission to Strengthen Parliament, *Strengthening Parliament* (The Conservative Party, 2000), p 28

PETITIONS COMMITTEE

Petitions committees are common in West European legislatures. The Scottish Parliament has one. Indeed, the House of Commons used to have one. There is pressure for the House to have greater regard to petitions that are presented to it. Though now referred to the relevant select committee, petitions still, for all intents and purposes, enter a parliamentary black hole. This is not good for Parliament's reputation. Many thousands may sign petitions in good faith, hoping their views will at least be given serious consideration, only to find that nothing of note happens.

There is a case for considering a petitions committee and, indeed, as the Procedure Committee has recommended, utilising e-petitions and enabling some debates to be triggered by petitions.¹³ Having accepted the proposal in principle, the Government have now rowed back on grounds of cost.¹⁴ Even if cost proves an inhibiting factor in enabling e-petitioning, there is still a case for dealing more effectively with petitions, whether submitted electronically or in paper form. A failure to move ahead with e-petitions is not in itself a bar to creating a petitions committee. However, there are still resource implications. There needs to be sufficient resources available to the committee to process and assess petitions. Inadequate resources, be it in terms of staff or time, can fundamentally undermine the utility of the process. In the German Bundestag, the sheer number of petitions submitted tends to overwhelm the system. "Given its modest resources (especially time), the Committee cannot follow up all complaints and petitions".¹⁵ Time is also a factor in the Portuguese Parliament. "The main criticisms of this instrument are its ineffectiveness and the long time span between the presentation of a petition and its consideration by parliament. In any case, it soon becomes clear that the main petitioner is not the citizen, but rather organized groups, such as trade unions."¹⁶

There may be a case for appointing a petitions committee with a staff that can engage in an initial sifting exercise, farming out those with a small number of signatures, or dealing with topics previously covered, for a response from the relevant Department, and enabling well-supported petitions on topics not previously the subject of petitioning to be assessed by the committee. Three days each session could be set aside, either in the chamber or Westminster Hall, for debates on topics selected by the petitions committee. This is very much line in with the recommendation of a more varied use of time, and with the decision as to content being determined by different bodies. The petitions committee could select topics in a manner analogous that of the Liaison Committee in the selection of reports for debate on Estimates Days.

SELECT COMMITTEES

Departmental select committees have proved a great boon to the House of Commons. They were the product of pressure from the House and are sustained by the House. They deserve now to be developed further.

The Committee has already discussed the means by which committee members are chosen. Some of the debate has surrounded whether they should be elected by the House as a whole. It is important to remember that they already are. Nominations for committee memberships are placed before the House for approval. The nominations for the Transport and Foreign Affairs Committees were voted down in 2001. There may be a case for duplicating or overlaying the process, but it is not clear as to the extent to which this will make a difference. There is competition for places on the high-profile committees but not for places on the rest (the majority). I have seen no study assessing by how much the membership would be different if other modes of selection were employed.

I would contend that the more pressing issue to be addressed is one of resources and ensuring that Members know how to utilise resources effectively. Time is a major resource and there is not much scope for extending the time available to select committees (unless other commitments of Members are reduced). Given that, the alternative is to make additional staff and research resources available. In 1994, Sir John Banham recommended that each committee "should have a budget of, say, £2 million per session, to enable Members to secure the necessary independent and expert advice".¹⁷ Even with a smaller research budget than this, each committee could commission research, complementing the necessarily self-serving evidence given by witnesses and not eating into the time of the committee itself. Researchers would be on tap but not on top. The committee could commission research on particular programmes or indeed utilise research in topics just coming on to the political agenda. (Research suggests that it is when addressing such topics that select committees have the greatest impact.)¹⁸ The committees could also utilise the budgets to fund online consultations and, if necessary, opinion surveys. Providing more resources, though, will have little effect if members are unwilling to utilise them or don't know how to utilise them effectively. Providing greater

¹³ Procedure Committee, e-Petitions, First Report of Session 2007–08, HC 136

¹⁴ Procedure Committee, e-Petitions: Call for Government action, Second Report of Session 2008–09, HC 493; e-Petitions: Call for Government Action: Response to the Committee's Second Report of Session 2008-09, First Special Report of Session 2008–09, HC 952

¹⁵ T Saalfeld, "Parliament and Citizens in Germany: Reconciling Conflicting Pressures", in P. Norton (ed.), *Parliaments and Citizens in Western Europe* (Frank Cass, 2002), p 51

¹⁶ C Leston-Bandeira, "Parliament and Citizens in Portugal: Still Looking for Links", in P. Norton (ed.), *Parliaments and Citizens in Western Europe* (Frank Cass, 2002), p 140

¹⁷ Sir J. Banham, *The Anatomy of Change* (London, Weidenfeld and Nicolson, 1994), p 50

¹⁸ See, for example, D. Hawes, *Power on the Back Benches? The growth of select committee influence* (SAUS Publications, 1993)

research resources to select committees has the capacity to enhance their work but needs to be accompanied by advice and training on how to utilise those resources effectively. The Scrutiny Unit may possibly have a role to play in providing such advice.

CONCLUSION

These recommendations are not exhaustive, but they provide I believe some proposals that are achievable and that enable the House of Commons to link more effectively to the public. I have previously argued that a number of conditions have to be met for significant parliamentary reform to be achieved (as in 1979): a window of opportunity, a reform agenda, leadership, and political will. The Committee has the opportunity to offer a reform agenda and may contribute to leadership in seeking to implement it. Ultimately, though, schemes of reform count for nought if Members themselves are not willing to embrace and sustain such reform. Without political will, the House cannot enhance its capacity to scrutinise government and engage more effectively with the public. The present public mood may (and I hope) engender the political will.

A reform agenda is thus not sufficient. It is, however, necessary.

September 2009

Memorandum submitted by Democratic Audit

1. For the purposes of this paper Democratic Audit has re-ordered the three matters on which the Committee will deliberate as it is our view that the executive's formal and de facto control of the business of the primary legislative chamber is a crucial issue in itself; and that the opportunity for reform is most probably now at its highest point, given the House's commitment to "put its house in order" and the public interest outside Parliament in how this can be achieved. While there is no clear popular consensus about what the central elements of a reform agenda might be, people need to be reassured that MPs have the capacity as well as the integrity to represent them and restore public confidence in our democracy.

2. In the longer run, proposals that will enable the public to initiate debates and proceedings in the House, and to participate in them, will deepen the quality of democracy in the United Kingdom. But that deepening can only take place if Parliament has first regained a real measure of self-government and with it, the ability to respond to the public.

Bullet points

3. We have the following observations to make on the three matters, (i) the scheduling of business in the House; (ii) the appointment of members and chairs of select committees; and (iii) enabling the public to initiate debates and proceedings in the House:

THE SCHEDULING OF BUSINESS

- The Government's control of the parliamentary agenda is at the heart of the undue dominance of the executive over Parliament that discredits and damages our parliamentary democracy;
- The House of Commons should therefore take control of the parliamentary agenda, placing a limit of two days a week on government time on the agenda and establishing a similar period for House business, in addition to allowances for adjournment debates; Private Members' Bills; and debate on select committee reports;
- In consequence, governments should modify their approach to law-making (see below);
- In consequence, Standing Order 14 should be abolished and a business committee of cross-party backbench MPs established to determine the allocation of House business;
- The business committee should be established independently of the whips and to consolidate this principle, it should have no role in the determination of government time;
- The House should have a vote on the business committee's proposals;
- The House of Commons Liaison Committee proposal that six days a session should be set aside for debates on select committee reports should be adopted.

THE APPOINTMENT OF MEMBERS AND CHAIRS OF SELECT COMMITTEES

- It is unacceptable from the perspective of both democratic principle and practice that the appointment of committees charged with overseeing government activities should be dominated by government whips;
- It is also important to the independence of those committees that opposition whips should play no part in their establishment;
- A selection committee to allocate places on select committees should be established early in the Parliament on the same basis as the business committee;
- The chair of the committee should be elected by the House in a secret ballot;

- The overall composition of select committees, as recommended by the committee, and the party division of chairs should require the approval of the House;
- Select committees should elect their own chairs by secret ballot;
- The Committee should consider making it normal practice that all backbench MPs would serve on select committees, in order to strengthen the capacity of committees and Parliament as a whole to hold governments to account;
- The Committee could also consider the possibility that opposition chairs of select committees could become the norm (as is the case for the Commons Public Accounts Committee) in order to assert their independence.

ENABLING THE PUBLIC TO INITIATE DEBATES AND PROCEEDINGS IN THE HOUSE.

- At present the means by which the public may initiate debates and proceedings in the House are limited—even if a substantial number share a particular concern. The Commons should be required not merely to receive, but to act meaningfully upon, petitions;
- The current arrangements for petitioning should be liberalised and extended so that a reasonable fixed number of people outside Parliament should be enabled to initiate debates and committee inquiries;
- To facilitate this practice, a committee akin to the Public Petitions Committee in the Scottish Parliament could be established, to ensure that full consideration is given to petitions and to recommend an appropriate course of action, from a range of possible options including a response from the executive, a parliamentary debate, or substantive consideration by another parliamentary committee or committees;
- As well as their initiation, consideration should be given to means of involving the public more widely in the proceedings of the House as they take place, including pre-legislative scrutiny on-line.

OTHER MATTERS

- The Committee should make use of its time after 13 November to conduct further research and analysis on matters of reform and make further proposals designed to right the balance between the executive and Parliament, as well as commenting on—and if necessary taking up issues within—any government responses to its proposals;
- The Committee should consider recommending a parliamentary self-assessment exercise on the model of the International Parliamentary Union’s for the continuation of its work in a future Parliament.

The scheduling of business in the House

4. As members of the Committee will be aware, the Government’s control over the House of Commons does not rest solely on its majority in the House. Standing Order 14 gives the government, regardless of whether it has a majority over a given issue or not, a mandate to decide every day what the agenda of the Commons should be, except for 20 opposition days, 13 Private Members’ Bill days and three days for select committee business.

5. The damaging repercussions of this power over the legislative are apparent in two aspects of parliamentary governance. First the growing number of clauses of primary and secondary legislation squeezed through Parliament, often ill-prepared, badly thought out and insufficiently scrutinised; and it is important that governments should not try and squeeze a similar amount of legislation through should more limited time be at their disposal. (As such, the Committee could perform a valuable service by re-examining the legislative process as a whole and considering whether it remains “fit for purpose”). Secondly, it prevents MPs from being able to debate and vote on key issues, such as the “third runway;” and ongoing military operations in Afghanistan. Even the Speaker has no power to overrule the government on its determination of topics for decision by vote.

THE APPOINTMENT OF SELECT COMMITTEE MEMBERS AND CHAIRS

6. It has long been appreciated that current arrangements for the appointment of select committee members and chairs are unsatisfactory. The most blatant attempt by the executive to abuse its patronage in July 2001, when it sought to remove the chairs of two select committees, was rejected by the House. But Members are aware that a broader ongoing problem exists, in terms of principle, perception and practice. The lack of independence from the Government (and Opposition) Whips enables both ministers—and on occasion even the Prime Minister—and opposition front benches to promote or block particular appointments. It is time to act on the report of the Committee on Modernisation, in response to the July 2001 debacle, endorsing the statement by Lord Sheldon that: “the executive, via the Whips, ought not to select those members of select committees who will be examining the executive”. We trust that the Committee and the House as a whole will take advantage of this “reform moment”.

 ENABLING THE PUBLIC TO INITIATE DEBATES AND PROCEEDINGS

7. The most effective means of involving the public in initiating debates and proceedings in the House would be through the introduction of a petitioning process that—as in Scotland—serves to encourage and build-in citizen initiatives rather than to inhibit them as at Westminster. As well as giving people opportunities to instigate parliamentary debates and proceedings, consideration should be given as to how the public could be engaged in deliberative fashion in proceedings as they take place, using modern communication facilities, involving citizen participation for example in pre-legislative scrutiny and the work of select committees. Another improvement could be mandatory annual meetings between MPs and constituents, including a report-back session, to give the local public opportunities to make recommendations for the future. But Parliament and Members should take measures to ensure that such openings to greater participation do not widen the “participation gap” within society and thus further disempower already marginalised groups within society.

Other reform matters

8. We will deal with these matters in bullet point form to facilitate consideration by the Committee:
- The Committee should consider whether and how far current government proposals for reform of Royal Prerogative powers place those powers on a statutory footing so that Parliament has a fuller say in the conduct of government;
 - Select committees, the main instruments of scrutiny in the House, do not have the resources or time to do their job properly. The Committee should consider how best to give these committees adequate research resources, powers to subpoena ministers and officials, and more powers to oblige government to respond fully and in good time;
 - In addition to our proposals to integrate time for select committee reports into the parliamentary timetable, we also recommend that they should be given the power to introduce their own Bills;
 - Select committee chairs often find it very difficult to muster sufficient members to keep their committees quorate, and especially to hold meetings during the long recesses. The Committee should consider proposals that would make the House a modern committee-driven chamber and bring to an end the pernicious ‘case-work’ ethos that does more to shore up MPs’ incumbency than to bring real redress to their constituents; as well as looking at ways of introducing a rolling parliamentary calendar where work does not grind to a halt over long recesses;
 - Other issues that would bear consideration:
 - (i) the introduction of fixed-term Parliaments;
 - (ii) applying the same procedures for determining the composition of select committees to the choice of members of public bill committees;
 - (iii) bringing the choice of Prime Minister and ministers into the House prior to their appointment at Buckingham Palace;
 - (iv) finding ways to ensure that government initiatives are announced first in Parliament, not the media;
 - (v) giving Parliament its own legal counsel;
 - (vi) making pre-legislative scrutiny of draft bills the norm;
 - (vii) giving MPs more space to introduce their own bills;
 - (viii) strengthening the role of the all-committee Liaison Committee.

Parliamentary self assessment

9. The Select Committee—while focussed on certain specifics at present and subject to serious time constraints—could consider the idea of at least recommending a full self-assessment exercise as a continuation of its work in a future Parliament. We have identified above a particular need to consider the legislative process, but our democracy would benefit from a comprehensive assessment of the work and performance of Parliament. The Select Committee could be an ideal body to facilitate such an urgently-needed assessment, using the model put forward by the Inter-Parliamentary Union.

September 2009

Memorandum submitted by the Better Government Initiative

On behalf of the Better Government Initiative (BGI) I am writing to put forward, on the basis of our work and consultation with parliamentarians over recent years, some key points which the Committee might consider in preparing their report in the short time available.

The resolution setting up the Committee does not include the objective of reforming the House. But two of the specific matters listed in the resolution (scheduling business in the House and appointments to Select Committees) and the Government’s constitutional agenda, suggest to us that a quotation from the Governance Green Paper of July 2007 expresses the core of the objective well:

“...to rebalance power between Parliament and Government, and give Parliament more ability to hold the Government to account...”

A key part of this is strengthening parliamentary scrutiny. As a 2006 report by the Modernisation Committee put it: “the purpose...is to make better laws by improving the scrutiny of Bills.” Our proposals are geared to these purposes.

KEY POINTS

1. Parliament should set standards for thorough preparation by the executive of legislation and policies. This could be initiated by Parliament (we have suggested an illustrative resolution to be found at Annex A to the summary attached to this letter), or alternatively by Government and then endorsed by Parliament. Either way this would produce agreement between Parliament and executive; and would need to be accompanied by changed procedures within the executive.

2. The standards would include showing that:

- a. The bill or other proposal is complete and comprehensive;
- b. New powers are operationally necessary;
- c. The criteria for secondary legislation are defined when a bill enters Parliament;
- d. The problem addressed, and the purpose and intended effects of the measure, have been defined;
- e. It is practicable.

3. Once standards were agreed, they would need to be enforced. For example, the relevant departmental select committees could check compliance before the proposal reaches the floor of the House. If the proposal were judged non-compliant, it might only reach the floor of the House if a motion from the select committee is voted down (perhaps by a qualified majority). Alternatively a business committee could withhold time on the floor for a proposal judged non-compliant by a select committee. Such cases should be rare once standards are agreed between Parliament and executive.

4. The volume of legislation should be limited to a level that can be adequately scrutinised by Parliament. Ministers should confirm to Parliament that their programme satisfies this criterion. A business committee could, if necessary, reject this statement and reflect this in the allocation of time. Again this should be rare.

5. Pre-legislative scrutiny should become the norm with timely publication of draft bills, along with adequate explanatory documents (Green, White papers and impact assessments) directly related to the bill or major policy proposal.

6. Select committees should be strengthened, partly through changes in the way chairs and members are chosen, and partly through other means, including the pay of chairs, designed to create an attractive career in scrutiny, as an alternative to becoming a minister. Their chairs should be able to present their reports on the floor of the House and the Committees should have the power to propose substantive motions and amendments or bills.

7. The Commons and Select Committees should play a greater role in expenditure and tax matters, as proposed by the Liaison Committee report, *Financial Scrutiny: Parliamentary Control over Government Budgets*, and by the BGI.¹⁹

The Committee may consider other measures merit similar improvements in parliamentary scrutiny: for example, major policy proposals not requiring legislation, among them significant changes in the machinery of Government, and in service delivery and information systems.

We wish the Committee every success in its crucial task.

July 2009

Memorandum submitted by David Watts

INTRODUCTION

1. The format of this document

With regards to the four distinct matters that the select committee is discussing, this submission is specifically targeted at point (iv), which is:

“enabling the public to initiate debates and proceedings in the House”

I believe that the “enabling” will require two definitive pre-conditions in order for it to take place and to be successful:—

- 1) Given the low level of interest that the public currently show in the parliamentary process, radical steps must be taken to regenerate that interest.

¹⁹ See Liaison Committee, *Financial Scrutiny: Parliamentary Control over Government Budgets*, Second Report of Session 2008–09, HC 804; and BGI Report, *Governing Well*, on the BGI website: www.bettergovernmentinitiative.co.uk

- 2) Create a simple, easy-to-use, all-inclusive method for the public's views to be received, processed and turned into sensible legislation in a democratic fashion.

This introduction gives details of my background, and of my communication experiences with people involved in the parliamentary process. I have split the main part of this submission into two sections, to reflect each of the points 1) and 2) above. These sections are further sub-divided into “problems” and “solutions”. Obviously all of the points raised are my views. The emphasis is on “my view”—I am sure there will be quite a few people who share my views, but there may also be a substantial number who do not. I honestly admit that many of my views will have been shaped and conditioned by the various media articles that I have seen, viewed and listened to, but the same is obviously true for the vast majority of people in the country.

With regards to the suggested solutions, please at least consider them. Once considered, they may be discarded if you wish, but please take the time to give them a thorough review before allowing them to join the queue marked “trash”. Even if they are rejected, they may create the odd spark of inspiration in your deliberations.

I have concluded this document with a summary of the main points, and a heartfelt wish that you are successful, forthright and courageous in your endeavours.

2. MY BACKGROUND

My name is David Watts. I am 56 years old, I work full-time (in accounts) for a not very lucrative wage and I live in Bedfordshire.

Whenever I have the time and, just as importantly the energy, I campaign on behalf of various environmental, wildlife and animal causes. This also includes campaigning about social problems or developments that impact upon the environment. After researching a topic thoroughly, I write to MPs, MEPs, government departments, ministries and individual ministers, as well as overseas governments and ministers.

I am a member of the Royal Society for the Protection of Birds and Birdlife Malta. I make small financial contributions when I can to organisations that I believe are making positive contributions in the continuous battle to protect the environment and wildlife. I am not affiliated to any political party and for many years I have refused to vote in general, European or local elections. This is because:

- Most of the political decision-making process is complex, long-winded and incomprehensible to anyone outside of politics;
- The party system and particularly the “whip” system diminishes or even roadblocks true independent thought and action from MPs;
- The integrity of many MPs and government ministers has been called into question many times over the past 20 years or so. This situation is getting worse rather than improving;
- The House of Commons appears to be devoid of independent, honest, rational debate;
- The “first past the post” system for general elections which occur every four to five years encourages complacency, incompetence and arrogance for some MPs in “safe” seats;
- I am sure many MPs enter parliament intending to be honest, hard working and principled. Why is it that so many seem to lose all of these ideals after a few years?

3. MY COMMUNICATIONS WITH MEMBERS OF PARLIAMENT AND GOVERNMENT MINISTERS

In my communications with my constituency MP, I am heartened by the fact that he always reads my letters and emails, and always replies after a week or two. I am disappointed by the fact that he tends to “toe the party line”, but generally, I am happy with the job that he is doing. I also share many but not all of his views.

Although I send many emails and letters to government ministers and departments, much of my energy and time appears to be wasted. I'm afraid that I am getting more and more angry and more and more frustrated about the poor level of communication from ministers and their departmental officers:

- After researching an environmental problem or topic, it is a real challenge to determine which individual in the Government, or which department to write to. I would like to direct my communication to the place where it will have both the most impact and where it will be most efficiently processed. At the moment, I tend to have a slightly “scattergun” approach, which is not ideal.
- After writing to a government minister, I have never had a reply from that minister. If I receive a reply at all it is usually a “bog standard” reply from a junior employee working in a “customer contact unit” or something similar. This is terribly disheartening and frustrating. I can easily spend a day (from my “spare” time) researching and then constructing a communication. I do this because I care about the environment that we all share and are responsible for. I want to do

something positive for future generations. It appears that my letters and emails are more or less ignored— to receive a “generic” reply from a junior official in a “customer contact unit” is an insult.

- Incidentally, a couple of years ago, in response to my letters about the unintentional (but still tragic) killing of seabirds by the New Zealand fishing industry, the New Zealand Minister of Fisheries was considerate enough to write me two personal letters within a few days of his receiving my letters. His actions, attitude and professionalism throw into sharp relief the amateurish and arrogant stance shown by British ministers and their departments.

As you can see, I have a somewhat jaundiced and cynical view of British politics and politicians, and I am sure that I am not alone in that. However, like many people, I also want things to improve.

REGENERATING PUBLIC INTEREST IN POLITICS AND THE PARLIAMENTARY PROCESS

The current problems

1. The Legislative Process

- The Parliamentary process, and the ways in which new legislation is suggested, amended and introduced is incomprehensible to 99% of the population.
- The vast majority of the population have no idea what select committees, working parties, green papers, white papers, private member’s bills, early day motions etc. actually are and what they achieve.
- Much of the existing legislation is incomprehensible to the man in the street. Lawyer-speak and over-complexity seems to be the order of the day. However, this system still allows wealthy individuals to employ clever accountants and lawyers to find loopholes and escape routes, while the rest of the population have to abide by the rules.

2. How MPs vote in Parliament

- MPs are always under pressure to vote in a particular way ie stick to the party line, obey the Whip’s office diktats, give priority to their career prospects when making judgements or decisions. There is also the nonsensical lack of a secret ballot for debates and legislation.
- Ideally, when MPs vote, they should be thinking both “locally” (the views of their constituents) and “globally” (the state of the planet and all of its inhabitants). Above all, they should be thinking and acting independently—if their views coincide with the party line, then that’s fine, but if not, then they should be free to vote as they choose.
- Currently, I can write as many letters and emails as I like to my MP, but the chances of he/she seriously considering my views when debating or voting in parliament is negligible.
- With a few honourable exceptions, many politicians are unwilling to speak and act independently. Those that are willing to do so are labelled as “rebels”, “mavericks”, “eccentrics” and such like.

3. The Electoral System

- Many voters are effectively disenfranchised, resulting in a feeling of “powerlessness”. The “first past the post” electoral system, with a general election every four to five years is to blame. For example, imagine that if I live in a leafy village in Surrey and I want to support and vote for the Green Party. Even if I vote in every general election that I can, it is highly unlikely that I will see a Green Party MP returned in my lifetime—so what is the point of voting?
- It is possible for a minor political party to receive 5% of the total votes in a general election but still end up without an MP in parliament. This implies that the votes of a few million British residents are totally wasted.

4. MPs’ background and experience

- Far too many MPs have none, or very little experience of working life (or even social life) outside of politics—they simply escalate from university up through the political ranks.
- Many MPs are far too young and inexperienced to make balanced, mature judgements about issues with far-reaching consequences.
- There is a perception (probably true in many cases) that many people enter politics for reasons of ego, self-importance, high remuneration and power seeking, rather than for public-spirited and philanthropic reasons.

5. The workload of MPs and their remuneration

- Many MPs have outside business and employment interests, rather than treating “being an MP” as their only profession. Although an MP’s salary is not excessive for a responsible full-time job, it is bordering on being too high for a part-time job.
- MPs are members of the best pension scheme in the country, paid for out of taxpayer’s largesse.

- Many also participate in the dubious practice of employing family members, again with taxpayer’s money.
 - The MPs expenses system has been shown to be sneaky and shoddy at best, and fraudulent at worst.
6. Communication with government ministers and departments
- Government ministers and departments are very poor at communicating with the public. Politicians complain about the lack of interest that people give to the political process. There is a very good reason for this—communication is a two-way street. Please see my introduction above—I will only continue to communicate with politicians if they communicate back (and not via a junior clerk). I want my communications to be read, understood, noted and even debated. I want my views to be considered as part of the democratic political process. I can accept political decisions that have been democratically made even if the result opposes my beliefs. What I cannot accept is being ignored and then excluded from the democratic process.
7. The House of Commons debating chamber
- The British public is totally fed up with the sight of politicians of all parties constantly exchanging insults across the so-called “debating” chamber. The layout of the chamber ie two opposing rows of benches, I think encourages this behaviour.
 - The current parliament building, because of its history, architecture and traditions probably encourages an egotistical “power” boost for MPs. This is not ideal. By the nature of the job and their career ambitions, a lot of ministers already appear to have succumbed to the problems of “power” and “ego”. “Power” and “ego” must be thrown out, and be replaced by “intellect” and “wisdom”.

SUGGESTED SOLUTIONS

Some of the proposed solutions below may appear radical—that’s because they are! However, I think the British public are crying out for a “fresh start”, so there has to be major changes—a piecemeal approach, or “business as usual” will just not do.

1. The legislative process
 - Simplify the legislative process so that it is more easily understandable by the public.
 - Make it easier for the public to access and monitor new legislation.
 - Speed up the legislative process.
2. How MPs vote in Parliament
 - All votes in Parliament should be by secret ballot.
 - The Whips system should be dismantled. MPs must be allowed to make totally independent decisions.
3. The electoral system
 - Introduce a functional and easily understood proportional representation voting system.
 - Discard the corrupt and debased postal voting system.
 - Introduce a highly secure and easy-to-use online voting system.
4. MPs’ background and experience
 - Take measures that will encourage people from all walks of life to put themselves forward as candidates.
 - Insist that all candidates have at least five years experience of working outside of politics.
 - Set a minimum candidate age limit of thirty. British politics needs far more wisdom, and a lot less ambition.
5. The workload of MPs and their remuneration
 - The workload of MPs is likely to increase a lot if they are required to communicate more regularly and in more detail with their constituents. There will obviously be an increase in the legislation workload if the public can initiate a sizeable minority of it. Therefore, all MPs should work full-time as an MP, with no outside interests, but with a salary that is commensurate.
 - The salary should initially be set at £100,000 per annum, increasing at a fixed rate of 2% per annum. An additional payment of 10% of salary (and no more) should be paid to all MPs to cover expenses. The current debased expenses system should be scrapped.
 - MPs must not be allowed to employ members or extended members of their family. Instead, all MPs should be allowed the resources of two full-time paid assistants, one for their constituency and one for Westminster. These assistants should be paid by the government at a set rate, this rate to be set by a cross-party committee on an annual basis.

- The gold-plated final salary pension scheme for MPs should be scrapped, to bring them into line with the rest of the population. A contributory unit-linked pension scheme should be introduced to replace it, with maximum contributions of 5% of salary matched pound for pound by the taxpayer.
 - The large number of government “advisers and consultants” must be reduced drastically. Limits must be set on the numbers and levels of remuneration for both advisers and consultants, but ideally all advisers should be employed on a voluntary basis ie their advice should be free. This is more public-spirited, and may encourage ministers and MPs to accept or ignore advice as they see fit.
6. Communication with government ministers and departments
- Ensure that all correspondence from a member of the public to a government minister or department receives an acknowledgement (not automated) within one week, indicating that the communication has been received and forwarded to the appropriate person or department for processing.
 - Ensure that all communications are read by a senior employee with appropriate experience in the matter being discussed.
 - All communications should be analysed methodically and accurately so that statistics can be kept of the public’s views and thoughts on issues, events, parliamentary decisions etc.
 - These statistics should be presented to the government minister or head of department on a frequent and regular basis so that he or she can get a balanced and accurate idea of the public’s views. This will help the individual concerned make well-judged decisions and take appropriate actions, which have the backing of the majority of the public.
7. The House of Commons debating chamber
- A working party should be set up to investigate how the physical layout of the chamber could be improved in order to achieve sensible, rational and good-mannered debates.
 - If no suitable solution can be imagined and created, then the working party should then consider the planning and building of a totally new parliament building. A new well-designed building that encourages positive well-informed debates could produce a sea change in the public’s view of the parliamentary process.
 - A brand new, modern building, with high-tech communication systems would encourage MPs to think and work professionally, intelligently and efficiently.
 - A new building could provide far better public access and viewing facilities.
 - As any new building would be extremely costly (£1 billion?), a referendum should be held to determine the public’s acceptance or rejection of such a proposal. I think that it might well be accepted if it was just one of a package of radical measures with a remit to bring parliament and the parliamentary process into the twenty-first century.

PUBLIC INVOLVEMENT IN THE LEGISLATIVE PROCESS

The current problems

1. Direct public involvement in the creation of legislation
- I am not aware that the general public can currently initiate new laws and legislation.
 - The public has a certain amount of input prior to legislation being introduced eg public enquiries, submissions (such as this one) to select committees, asking MPs to raise questions in the House.
 - All of this takes time and effort by the public, and no doubt money as well. Not everyone is aware of the best method (or any method?) to take in order to make their voice heard.
 - Legislation can be introduced to address public concerns about a particular matter, but the legislation can end up only partially solving the problem, or creating disastrous side-effects, or leaving loopholes to be exploited.
2. Indirect public involvement in the creation of legislation via their MP
- It is possible for an MP to introduce a Private Members’ Bill, possibly as a consequence of communications received from their constituents. Hardly any of them are debated in parliament, and even fewer make it onto the statute books.
 - Early day motions can be created by MPs and cover a multitude of topics, many of which are sensible and desperately require debate and then legislation. It is possible that some early day motions are derived from the views of an MP’s constituents. However, many early day motions are inconsequential and comic in nature. Whether the early day motion is important or not, it is unlikely that it will have any impact on the laws of the country. Valuable parliamentary time is therefore wasted.

SUGGESTED SOLUTIONS

1. Direct public involvement in the creation of legislation

- The general public should initiate a large minority (say 30%) of all new legislation.
- The Government's existing e-petitions website is a simple and easy-to-use way for the public to create and support petitions about many aspects of life in the United Kingdom and even international and global matters. Why not use this method (either the same website or a totally new one) for generating new legislation that has the support and input of the British people?
- The security and robustness of the website and its database would have to be maintained at the highest level.
- Most importantly, the e-petitions process would have to be communicated to the public in such a way that nobody would be unaware of it, and everybody would be able to understand and use it.
- To make the system all-inclusive, free Internet access points would need to be set up around the country for people without PCs or Internet access.
- At the moment, voting for a petition seems to be linked to an individual's email address. It is very easy for someone to set up multiple email addresses, and therefore register multiple votes. I think the use of the individual's National Insurance Number would provide a better option, but there may be other solutions.
- An "e-petition consideration committee" should be set up, consisting of voluntary members from outside parliament. The general public (say, every two years) would elect these members via the e-petition website.
- The committee should meet once a month, every month in order to vet the most popular petitions. The committee would then agree which petitions could go forward into the normal political process for the introduction (or amendment) of legislation. If need be, the committee could refine the terminology of the e-petition (without altering the context) to make it more easily digestible by the political process.
- Members of the public could create e-petitions with a "petition time" of 3, 6 or 12 months, depending upon how urgent they viewed the topic. A time limit needs to be set, because at the moment, the petition time limit is very flexible.
- There would probably need to be three levels of e-petition—local issues, national issues and global issues. At the moment, all three categories are mixed up on the website. This results in a vast discrepancy between petitions with the highest and lowest votes, even though the topics may be of equal, or even skewed priority, for the people voting eg is the destruction of a local park more important than the destruction of a whole forest in Latvia? Well, for an individual, it may be.
- Members of the public should be able to view the progress and status of e-petition generated legislation as it follows the parliamentary legislative process. Again, this can be done via the website.
- Extra parliamentary time would be required to consider, review, refine, and introduce e-petition legislation. However, if the existing parliamentary processes were simplified and refined, and if MPs had no outside interests, and worked full-time, then I'm sure that the extra work could be accommodated.

2. Indirect public involvement in the creation of legislation via their MP

- Get rid of Private Members' Bills and early day motions. Replace them with a system that would allow MPs to propose legislation generated by themselves or in tandem with their constituents.
- The proposal should be circulated for the signatures of other MPs who agree with it (similar to early day motions).
- Any proposal that gathers the signatures of a majority of MPs (ie greater than 50%) should automatically be given adequate parliamentary time for debate, refinement, and then acceptance or rejection of the legislation.

CONCLUSIONS

After all of the problems of the last few decades (and who is to blame for the problems?) it is hardly surprising that the British public hold their politicians in such low esteem. However, there is a groundswell of opinion amongst both MPs and the public that "something must be done", and done quickly. There is now a real opportunity to take radical and far-reaching decisions that can reinvigorate political life in Britain. A fresh start can be achieved by taking the following actions:

- Create a simple to use, efficient system that will allow the public to initiate legislation at the local and national level, as well as triggering legislation that has international and global consequences. As individuals, the British public can be inconsistent and even eccentric—however, “en-masse” they normally display a high degree of integrity, common sense and wisdom.
- Encourage MPs to think, act and vote independently.
- Introduce an electoral system that will produce a parliament that reflects the views of everyone in the country. People must begin to believe again that every vote is important, that every viewpoint is important.
- Ensure that MPs come from a variety of backgrounds and have experience of “real” jobs.
- Simplify the legislative process and all laws and rulings that it produces.
- MPs should have one job and one job only, and that is working as full-time Members of Parliament, introducing fair, just and meaningful legislation, with intellect, vision and wisdom. They should work hard, work passionately, work professionally and honestly, and be well remunerated.
- Consider constructing a new debating chamber, or even a new parliament building.

I believe that any proposed reforms should be publicly debated and for any major changes a referendum might have to be considered.

Finally, I would like to wish all members of the select committee every success in conceiving and hopefully introducing a more modern, democratic and for want of a better word “interesting” parliamentary system. I have real doubts that anything of consequence will emerge to disturb the status quo, but I would dearly like to be surprised. I hope that all of you have the necessary courage, fortitude and stoicism required to give British politics a “kick up the backside”!

September 2009

**Memorandum submitted by Vernon Bogdanor, Professor of Government
Oxford University**

- 1. Constitutional reform and popular disenchantment.**
- 2. The second stage of constitutional reform.**
- 3. The popular petition.**
- 4. The popular initiative.**

I. CONSTITUTIONAL REFORM AND POPULAR DISENCHANTMENT.

The constitutional reforms of the years since 1997, reforms such as devolution, the Human Rights Act and freedom of information have had the effect of dispersing power. Yet, this dispersal of power has hardly registered with the electorate. The reforms have done little to counteract that widespread disenchantment with politics which characterises modern Britain, as well as many other advanced democracies. Constitutional reform does not appear to have reconnected voters with government or to have combated disenchantment with politics, a disenchantment marked by a fall in turnout in general elections, a decline in the membership of political parties, and a weakening in popular identification with political parties.

Some suggest that disenchantment with politics is part of a wider loss of community engagement, a decline in what social scientists call social capital, the willingness to form social bonds and networks. Yet survey evidence seems to show instead that popular interest in politics is as strong as it has ever been, and that there is a powerful sense of civic obligation in modern Britain. Around 40% of the population belong to a voluntary organization, while around 3 million 18–24 year olds, the very generation that is least likely to vote, volunteer every year. Although young people aged between 16–24 are far less likely to vote than the over 50s, a Citizenship Survey undertaken between April and December 2007 showed that they were more likely than the over 50s to participate in informal voluntary activities at least once a month—41% compared with 32%.²⁰

The same survey showed that 77% of people in England had given to charity in the four weeks prior to interview.²¹ Survey evidence seems to indicate that four out of ten adults belong to at least one type of group. “18 million adults in Great Britain belong to, 11 million participants participate in, and four million volunteered their time and labour for organisations”.²² It is not so much, therefore, “that participation has declined, but rather that it has evolved over time and taken on new forms”.²³ Popular interest in politics

²⁰ Communities and Local Government, *Communities in Control*, Cm 7427, 2008, p 33

²¹ *Ibid.*, Evidence annex, p 28

²² Liam Byrne, MP, “Powered by Politics: Reforming Politics from the Inside”, *Parliamentary Affairs*, 2005, p 615

²³ *Ibid.*, Paul Whiteley quoted, p 614

remains high, but electors are no longer content to confine participation to orthodox channels. In Britain, so it seems, the democratic spirit is healthy enough. It is the institutions in which that spirit is reflected that are at fault. It is not so much that there is a generalised disengagement with politics, but “rather that a vital link that connected citizens to the state and the formal democratic process has been broken.”²⁴ How, then, can constitutional reform be extended so as to channel this civic spirit and desire for community engagement?

II. THE SECOND STAGE OF CONSTITUTIONAL REFORM

The real achievement of constitutional reform is to have redistributed power, but between elites, not between elites and the people. It has redistributed power “downwards” to politicians in Edinburgh, Cardiff, Belfast and London, “sideways” to the life peers in the House of Lords and “sideways” to the judges interpreting the Human Rights Act. But constitutional reform has not redistributed power to the voter. It has not shifted power from the politicians to the people. That is the crucial weakness in the constitutional reform programme as it has so far been implemented. That is the central reason why it has made so little impact on entrenched attitudes towards the political system.

Of course, political parties will remain, for the foreseeable future, crucial in the formation of governments and in ensuring the periodic accountability of rulers to the people in general elections. But, in a perceptive Fabian pamphlet written as long ago as 1992, entitled *Making Mass Membership Work*, Gordon Brown argued that, “In the past, people interested in change have joined the Labour Party largely to elect agents of change. Today they want to be agents of change themselves”.²⁵ He instanced as agents of popular participation such bodies as tenants associations, residents groups, school governing bodies and community groups. There can be little doubt that, in the future polity, such innovations, including various forms of direct democracy will come increasingly to supplement, though not of course, to replace, the traditional machinery of representative government.

The next stage of constitutional reform, therefore, and a far more difficult stage, must be a redistribution of power, not from one part of the elite to another, amongst those professionally involved in politics and the law, but from politicians to the people. This was heralded in the Green Paper issued by Gordon Brown’s government in the summer of 2007, entitled “The Governance of Britain”. Together with a series of reforms designed to make government more accountable to Parliament, by, for example, rendering the war-making power accountable to Parliament, it contained a short but important section entitled, “Improving direct democracy”.²⁶ “In the past”, the Green Paper declared, “individuals and communities have tended to be seen as passive recipients of services provided by the state. However, in recent years people have demonstrated that they are willing to take a more active role, and that this can help improve services and create stronger communities” (para 169). The Government proposed, therefore, to begin a consultation process on such matters as the introduction of citizens juries and on giving citizens the power to ballot ie call for referendums, on local spending decisions. In doing so, the Government was moving, however tentatively, into a new area of constitutional reform, the introduction of new elements of direct democracy into the British political system.

The proposals, limited though they are, recognise that the era of pure representative democracy, as it has been understood for much of the twentieth century, is now coming to an end. During the era of pure representative democracy, the people, though enfranchised, exercised power only on relatively infrequent occasions at general elections. Between general elections, they trusted their elected representatives to act on their behalf. There was some degree of deference towards elected politicians and, in any case, in an era when educational standards were lower than they are now, few voters believed that they had the political competence to make decisions for themselves. In the late 1940s, for example, the level of political knowledge was pitiable. Just 49% could name a single British colony, while, in a sample survey in Greenwich during the 1950 general election, barely half could name the party of their local MP.²⁷ Voting tended to be tribal and instinctive, based largely on an inherited viewpoint derived from parental attitudes and social position. That, however, was bound to be a transitional stage. It was bound to take time before universal adult suffrage came to be taken for granted, and its implications for popular enfranchisement fully understood. Universal male suffrage had been introduced in 1918, and universal female suffrage in 1928. It took until the general election of 1950, however, for the principle of one person one vote to be fully implemented, since it was not until the 1948 Representation of the People Act that plural voting was abolished. Universal suffrage, therefore, is still a relatively recent phenomenon.

The model of representative democracy—perhaps guided democracy would be a better term—that was acceptable during the first years of universal suffrage—is no longer adequate. The exercise of a modicum of power at relatively infrequent general elections is seen as insufficient. Voters wish to exert influence upon events between elections as well as at them. Deference has largely disappeared, and it is no longer accepted that political decisions should be made only by politicians. Elected politicians, therefore, are no longer accepted as the sole source of power and authority. Few now believe that the system of pure representative democracy is sufficient to enfranchise them, and this feeling of disengagement seems most pronounced

²⁴ Matthew Taylor, “Can Funding Reform Stir the Party Animal?”, *Parliamentary Affairs*, 2005, p 640

²⁵ Quoted in Liam Byrne MP, “Powered by Politics”, *Parliamentary Affairs*, 2005, p 620

²⁶ Paras 157–179

²⁷ David Kynaston, *Austerity Britain, 1945–51* (Bloomsbury, 2007), p 382

amongst the young. It is one of the main reasons why turnout has fallen so precipitously amongst this age-group. In addition, many voters, better educated than those of their parents' generation, find themselves empowered in many other areas of their lives, while the collective organisations which previously ruled their lives, and in particular, the trade unions, have lost much of their authority. Yet, in politics, the people are still expected to remain passive and deferential. The political system has not yet responded to the new individualism. Despite the wave of constitutional reforms since 1997, the political system itself has not been opened up. There is a striking contrast between the empowered consumer and the passive citizen.

The remainder of this memorandum discusses two weapons of direct democracy, the petition and the popular initiative.

III. THE PETITION.

The right of petition is recognized in the European Union, which, after the Maastricht Treaty of 1992, established a European Union Petitions Committee. It is also recognised in Article 19 of the German constitution, and in a number of the new democracies of Central and Eastern Europe. At Westminster, there is a system for presenting petitions, but no way of ensuring that they are taken any notice of by the government; and action taken by the House of Commons is usually minimal. But the Scottish Parliament has developed a petitions system which is well worth adapting for Westminster.

The Public Petitions Committee established by the Scottish Parliament is empowered to receive petitions from members of the public. In the parliamentary year, 2007–8, 103 such petitions were received, and 38 individuals were invited to give evidence on them. The petitions can then be passed on to the relevant subject committee, with the Public Petitions Committee having the task of monitoring what happens to them. But the Public Petitions Committee is not just a postbox, feeding petitions to the subject committees. More often, it takes an active initial role itself, looking critically at the petitions it receives.

The petition, so the Procedures Committee of the Scottish Parliament believed, “has the capacity to be a main driver in expanding and deepening participative democracy in Scotland”.²⁸ Of course, unlike the referendum or popular initiative, a petition cannot be expected to override a decision made by Parliament, nor can it be expected to interfere with or overturn a decision either of the Scottish Executive or of any other public body in Scotland, such as, for example a local authority, which of course enjoys its own democratic mandate, or a health board. Nevertheless the intention is that the Scottish Parliament might initiate legislation based on demands from outside parliament. A petition, therefore, even though it cannot override a decision by Parliament, should be able to influence the agenda of Parliament by bringing the subject-matter of the petition to the attention of its members. Thus the petitions process would, so it was hoped, enable the Scottish Parliament to form a bridge with the people, enabling it to link the legislative process with popular demands.

An example of how the petition process might work in influencing public policy was given in a 2002 report sponsored by the Procedures Committee of the Scottish Parliament.²⁹ In 2001, the Blairingone and Saline Action Group submitted a petition requesting the Parliament to revise its legislation so as to ensure that public health and the environment were not placed at risk from the practice of spreading sewage, sludge and non-agricultural waste on land. The chair of the Action Group gave evidence to the Public Petitions Committee, and the issue was then sent on to the Transport and Environment Committee. This committee asked one of its members to carry out an investigation, including site visits and to produce a report. The Transport and Environment Committee in turn produced a report recommending action by the Scottish Executive and other public bodies to amend the regulatory framework. This report was then debated in the Parliament and the appropriate legislation was passed.

It would be well worth considering whether such a petitions system might also be adopted in Westminster.

IV. THE POPULAR INITIATIVE

Instruments of direct democracy such as the referendum serve to supplement representative government, not to supplant it. Most democracies use the referendum, but, like Britain, only very infrequently. Switzerland, which has on average around one national referendum a year, is far from being typical. It is in fact very much the exception. Switzerland indeed has held around half of all the national referendums that have ever been held. 30 Australia and Italy are the only other democracies to have used referendums at national level at all frequently. No other democracy has held more than 45 nationwide referendums.

In countries with constitutions, the constitution often prescribes when the referendum is to be used. Most frequently, it is used before changes to the constitution itself are made, to ensure that such changes enjoy popular support. The referendum, however, as it has been used in Britain, which of course lacks a constitution, has remained a weapon for the political class, and can be used for purely tactical purposes. It is the government of the day, or Members of Parliament, who suggest whether and when it should be used.

²⁸ Scottish Parliament Procedures Committee, meeting 18, 10 December 2002, Consideration of Draft Report of Consultative Steering Group Inquiry, PR/02/18/A, para 289

²⁹ *Ibid.*, paras 210–213

In practice, however, it may be argued that there is now a constitutional convention that a referendum is required before wide powers are devolved from Westminster, as in Scotland, Wales and Northern Ireland. It is generally accepted that a referendum is required before power is devolved to any of the English regions. A referendum is also thought to be required before there is any alteration in the machinery by which laws are made—for example, legitimizing membership of the European Community in 1975, directly elected mayors, or the introduction of a new electoral system for elections to the House of Commons.

Some would argue that, just as a referendum is needed for the shift of powers downwards from Westminster to devolved bodies, so also it ought to be required before there is a shift of power upwards to the European Union. Yet, British governments have not held referendums on amending treaties to the Treaty of Rome—whether the Single European Act or the treaties of Maastricht, Nice, Amsterdam or Lisbon.

Parliament might perhaps seek to entrench the referendum by requiring it before a statute thought to be of constitutional importance, eg the Scotland Act, is repealed or radically amended. Upon one interpretation of parliamentary sovereignty, this could not be done since a future parliament could simply ignore it. The decision of one parliament cannot, it may be said, bind another. But, it could be argued that the referendum requirement could be made a condition of a bill purporting to abolish a devolved body receiving the Royal Assent. The referendum requirement would then redefine what was to count as a valid Act of Parliament, just as the Parliament Acts of 1911 and 1949 redefined what was to count as a valid Act of Parliament by providing that, under certain circumstances, legislation did not require the consent of the House of Lords.

But a more radical method of ensuring that the referendum was not merely a weapon for the political class would be to allow a certain proportion of registered electors eg 5%, to trigger a referendum. There is a precedent for this in the 2000 Local Government Act which provides that 5% of registered electors in any local authority area can require that authority to hold a referendum on whether it ought to adopt a directly elected mayor. The Local Democracy etc bill currently proceeding through Parliament imposes duties on local authorities to allow for petitions, and a provision by which a percentage of those living in a local authority area can trigger not a referendum but actions by the authority.

Why should this instrument not be extended to other issues? Why should not 5% of registered electors be able, for example, to require a referendum on whether a particular local authority in England or Wales should replace the first past the post electoral system with a system of proportional representation? Why should not 5% be able to propose a referendum on aspects of the budget of their local authority? Why should not 5% be able to propose a referendum on the organization of the schools in their authority—or even a referendum on matters not under the statutory control of the local authority, such as issues connected with the National Health Service?

It is hoped that the Select Committee may be able to examine these two instruments of direct democracy—the petition system and the popular initiative—in order to evaluate whether they would be suitable for wider adoption.

October 2009

Memorandum submitted by the Hansard Society

The Hansard Society is the UK's leading independent, non-partisan political research and education charity. We aim to strengthen parliamentary democracy and encourage greater public involvement in politics.

We welcome the formation of the committee and the areas of inquiry set out. The Committee's deliberations represent a unique opportunity to agree some important parliamentary reforms before the next general election and the recommendations will need to be urgently acted upon if progress is to be made in the short time available.

Following the 17 September seminar with members of the committee the Hansard Society submits this evidence to follow up in more detail on some of the issues discussed and to comment on some areas which were not raised during the course of the round table debate. We also refer members of the committee to our recent *Parliamentary Affairs* article entitled "Engagement and participation: What the public want and how our politicians need to respond" (a copy is attached for reference). The section of our submission concerning public initiation of proceedings draws directly on this article.

EXECUTIVE SUMMARY

SCHEDULING BUSINESS IN THE HOUSE

- The secretive usual channels process for organising parliamentary business should be replaced by a more transparent system designed to: provide greater certainty to and advance notice of the parliamentary timetable; allow for more involvement by the main political parties in the management of business; facilitate greater discussion between all interested parties in the Commons about the shape and timing of the legislative agenda; and introduce greater flexibility for consideration of topical issues of public interest.

- There are advantages and flaws with all the possible business committee permutations. On balance, however, we think the case may be marginally stronger for two committees (one for government and one for non-government business) if some of the concerns about cumbersome administration can be overcome. If not, one single all purpose business committee would still represent a significant improvement on the current secret usual channel arrangements.

APPOINTMENT OF MEMBERS AND CHAIRMAN OF COMMITTEES

- An independent selection committee comprised of senior backbenchers from all parties should be elected by secret ballot within the first few days of a new Parliament. The committee could be chaired by the Chairman of Ways and Means. Members interested in serving on a select committee would submit to the selection committee an “expression of interest” paper outlining their relevant interests and experience and committee preferences. The business committee or usual channels would agree the allocation of committee chairmanships and divide the number of seats between the parties and inform the selection committee accordingly. The selection committee would then nominate Members to each committee—informed but not bound by Members’ expressions of interest—in accordance with the required party balance. A motion outlining the proposed chair of each committee would be put to the whole House for a vote, thereby allowing members to reject the suggestions if desired. The selection committee should be required to complete its work within six weeks of the start of the new Parliament in order to ensure that the work of committees begins promptly.

PUBLIC INITIATION OF PROCEEDINGS

- A parliamentary petitions committee should be adopted to assess issues of public concern and, if appropriate, to make referrals for debate or committee inquiry. Additionally a system of e-petitions should be established and incorporated with paper petitions and processed through this new petitions committee.
- The procedural process for petitions must be clear if this approach is to be effective. The scope of petitions—what is the responsibility of Parliament and what is not, what is therefore admissible and what is not—must be clearly set out. Responses must be provided in timely fashion and it must be clear from whom, when and how these responses are to be provided. Good tracking mechanisms are required. And clearly defined outcomes through the parliamentary process must be sign-posted (for example, whether, as a result of a petition, an issue may simply appear on the order paper, or a written response be provided, a debate triggered or some other form of procedural escalation).
- By placing parliamentary petitions within a clear procedural process a petitions committee and e-petitions approach will help to strengthen the role of representative democracy rather than simply allow the loudest voices and mob mentality to dominate. The introduction of a petitions system would have real symbolic value in better linking Parliament and the public.

GUIDING PRINCIPLES

1. Contrary to popular perception the House of Commons is not a supine body which acts at the whim of the executive. Recent parliamentary sessions have seen the highest rates of rebellion by MPs in the post war period. The scrutiny opportunities of Members have also been augmented through, for example, the enhancement of the role and resources of select committees, the introduction of Public Bill Committee evidence sessions and the Liaison Committee’s opportunities to question the Prime Minister.

2. However, the balance of influence over decision-making in the House of Commons—about, for example, what is debated and when, who sits on what committees etc—is widely perceived to have tilted too far in the interests of the executive to the detriment of Members. But a reform approach focused solely on a desire to reduce the power of the executive and thereby empower parliamentarians collectively is based on too narrow an analysis.

3. Firstly, the tension within the House of Commons is not one solely between members of the executive and other MPs. At times, the frontbenchers of all parties have a common interest which can frustrate the desires and interests of backbenchers. The drive for reform should be based on a desire to dilute the overweening influence of frontbenchers generally over matters that should be the preserve of the House collectively rather than purely focus on the influence of the executive.

4. Secondly, we do not have a political system in which the legislature is a co-equal branch of government alongside the executive but rather a system of “Government in Parliament”. Reform should take account of this constitutional position and Members should work with the grain of it—with what the system is rather than what they might wish it to be. A delicate balance must be drawn between the right of the executive to secure its legislative programme in a timely and efficient manner and the obligations that weigh on the shoulders of Members on all sides of the House properly to scrutinise that legislative programme.

5. Thirdly, MPs are not a homogenous group of like minded parliamentarians: each defines their role, function and interests differently and the relationship each has with his/her party varies. They do not represent an *en bloc* vote for an agreed programme of parliamentary reform. There are already a number of

ways in which backbench Members could exercise more influence and be more proactive in the arena of legislative scrutiny for example, but many choose not to do so. The independence of Members in asserting their rights and role as parliamentarians is largely a matter of personal will and political vicissitude.

6. Fourthly, the vast majority of Members are elected not as individual politicians but as a representative of their party. As such political parties have a legitimate role in the parliamentary process and their influence, as exercised through the whips, cannot and should not be wholly circumscribed but rather restrained from excessive and egregious behaviour.

7. Beyond addressing the right of the House of Commons to determine aspects of its own operation free from executive/frontbench influence and control, a further important reason to pursue reform is the need for Parliament to develop into a more open and transparent institution in which its decision-making structures and administrative processes are held up to full public gaze. Greater transparency and accountability is a necessary precondition if improved standards of governance in the House of Commons are to be achieved.

8. Any reforms proposed must form a coherent, comprehensive package of change rather than a series of unconnected cherry-picked initiatives selected for their populist appeal. Reforms can often have unintended consequences and lead to developments that are the opposite of what was intended. Imperfect implementation of previous reforms can also significantly undermine their value. For example, timetabling is rightly criticised as having failed and descended into partisanship, but it does not work largely because it has been decoupled from the process of pre-legislative scrutiny. The two changes were recommended not as independent stand-alone reforms but as linked elements of a holistic reform package by the Hansard Society and others. It is imperfect implementation that has seriously compromised their value and effectiveness.

SCHEDULING BUSINESS IN THE HOUSE

9. The secretive usual channels process for organising parliamentary business should be replaced by a more transparent system predicated on the establishment of a business (or steering or legislative) committee(s) designed to meet the following principles:

- I. Provide greater certainty to and advance notice of the parliamentary timetable—the work of the House is of interest to many more people than just Members of the House and the organisation of business should provide, in the public interest, greater advance notice than is currently the case.
- II. Allow for more involvement by the main political parties in the management of business.
- III. Facilitate greater discussion between all interested parties in the Commons about the shape and timing of the legislative agenda. A number of key challenges exist with the current arrangement of business: i) there are few avenues by which backbenchers can generate legislative initiatives; and ii) the time split between plenary and committee work needs to be better balanced to reinforce the scrutiny work of committees and ensure that their work is properly debated in the House.
- IV. Introduce greater flexibility for consideration of topical issues of public interest—the limited topicality of current business arrangements is particularly damaging to public engagement and confidence.
- V. Ensure greater transparency in the overall process. A shift away from the secrecy of the usual channels in favour of full transparency and accountability in the organisation of business might act as a natural restraint on any egregious effort by party whips to exercise excessive control and influence. Political reality dictates however, that whatever business committee model is adopted, the whips will have the means to influence its deliberations if they wish to do so.

10. A single all purpose business committee—amounting, in effect, to the usual channels operating in public rather than private—may be sufficient to address issues of transparency and advance planning and would represent a significant improvement on the current arrangements. However, if the committee is not sufficiently inclusive and is dominated by the main party whips then it is unlikely that the issue of topicality will be addressed or that challenges such as backbench initiation of legislation or the balance between plenary and committee work will be explored.

11. The alternatives to an all-purpose Committee are therefore a Committee for non-government business or two separate committees—one for government and one for non-government business. Both have advantages and disadvantages in equal measure.

12. A single non-government business committee would not resolve any issues about the timetabling of government business. A decision would also have to be made about opposition days and whether these would fall under the purview of the committee. If so, opposition whips would want seats on the committee and it would be difficult to do so without also providing equal representation for government whips thereby undermining the committee's rationale *vis-à-vis* the desired reduction in influence of the whips. If opposition business is not included in the committee's remit then the extent of that remit would actually be quite limited in practice, extending to Private Members' legislation and requests for debates.

13. A committee for government business (formalisation of the usual channels, dominated by the whips) and another committee for non-government business (backbenchers, whip free) would combine the pros and cons of the two options set out above. There would be improved transparency as far as the usual channels are concerned and backbenchers would have more control over non-governmental business. But the existence of two committees might prove administratively burdensome.

14. There are thus advantages and flaws with all the possible business committee permutations. On balance, we think the case may be marginally stronger for two committees if the administrative and related issues can be overcome. But if not, one single all purpose committee would, we believe, represent a significant improvement on the current secret usual channel arrangements.

15. Whichever option Members choose, a number of key questions will need to be addressed:

- I. If there is to be anything other than a single all purpose business committee then a decision will need to be made about where the balance of time should lie between government and non-government business in any given week if the system is to operate effectively. This may need to be enshrined in Standing Orders. How time will be managed in the event of emergency/fast-track legislation will also need to be considered as this may not readily fit within the usual timetable constraints.
- II. How are Opposition days to be dealt with—by which committee? When determining this we would urge Members also to consider reform of business arrangements to enable the Opposition to substitute their time for topical debates.
- III. How far will the remit of the committee(s) extend? For example, should it include decisions about pre-legislative scrutiny or the timing of Public Bill Committees? Will it consider the balance of time between plenary and committee work? In order to provide for greater focus on select committee work and resolve the difficult timetabling issues that often confront MPs we recommend that one half or preferably one full day per week be set aside in the parliamentary timetable for committee work during which time the main chamber would not sit. Alongside this the core tasks of the chamber of the House of Commons should be refined and clarified. The floor of the House remains the main public focus for activity but attendance is low for anything other than big, set piece parliamentary occasions. The extent to which discussion in the chamber dominates political debate has also declined. To improve attendance and influence, the work of the chamber should therefore be refined to reflect its emergence as the plenary session of Parliament and the place where ministers are held to account on the topical issues of the day.
- IV. What will the relationship be between a business committee(s) and the Liaison Committee? The latter currently acts as the representative body of backbenchers and determines which committee reports are used in which debating slots. Should this remain with the Liaison Committee or pass to the new business committee(s)?
- V. Finally, how are the chair and members of a business committee(s) to be determined? A single all purpose committee will likely be the usual channels augmented by some backbench representatives. A non-governmental business committee would primarily be composed of backbenchers. The non-whip members of the committee(s) might be (s)lected by an independent selection committee of senior backbenchers set up by the House which would have an obligation to bear in mind party political balance in terms of the committee(s) membership. If the alternative of election of members of the committee is preferred then this should be by secret ballot. The committee(s) might be chaired by the Speaker representing the “interests” of the House and acting as independent arbiter, or perhaps preferably by the Deputy Chair of Ways and Means in order to insulate the Speaker from the partisan debate.

APPOINTMENT OF MEMBERS AND CHAIRMEN OF COMMITTEES

16. Committees currently provide an alternative career path for some MPs with a particular interest in specific areas of public policy. But the structure and membership of select committees is a concern due to:

- I. the frequency of ministerial reshuffles and linked changes in the architecture of departmental administration as a result of which the turnover of select committee membership is unhelpfully high; and
- II. the increased demands on select committee time and the commitment clashes that Members often experience between committee, other parliamentary and constituency duties, resulting in low attendance levels at some committee meetings.

17. We recommend that every member of the House of Commons who is not a member of the Government payroll vote or on the opposition front bench should serve as a member of a select committee. If necessary, the number of Parliamentary Private Secretaries should be reduced to one per department in order to expand the pool of available MPs for select committee work.

18. The choice of committee chairs and members should be more clearly placed in the hands of MPs as a collective body. Given the number of posts to be allocated the election of all members of select committees would be administratively cumbersome, unwieldy and time consuming. It would also give rise to difficult

political questions about the electoral system to be deployed which might in turn inhibit the chances of the proposed reform being adopted. Nor should it be assumed that election rather than selection of members/chairs would result in better outcomes in terms of securing more independently minded committee members free from the influence of the whips. The whips currently exercise considerable influence but once on a committee many members tend to “go native” quite quickly. They adapt to the independent and collegial approach required by the nature of the committee work and members of the governing party often subject their ministers to considerable and often critical scrutiny.

19. We recommend the establishment of an independent, broadly based selection committee comprised of senior backbenchers from all parties elected by secret ballot within the first few days of a new Parliament. The committee could be chaired by the Chairman of Ways and Means and the arrangements for its establishment might be modeled similarly to that of the Chairman’s Panel. This approach is similar to that already proposed in 2001 by the Modernisation Committee when it suggested the establishment of a Committee of Nomination.

20. Members interested in serving on a select committee would submit to the selection committee an “expression of interest” paper outlining their relevant interests and experience and committee preferences. The business committee (or usual channels if a business committee is not established) would agree the allocation of committee chairmanships and divide the number of seats between the parties and inform the selection committee accordingly. The selection committee would then be responsible for nominating members to each committee—informed but not bound by members’ expressions of interest—in accordance with the required party balance. A motion outlining the proposed Chair of each committee would be put to the whole House for a vote, thereby allowing members to reject the suggestions if desired.

21. The selection committee should be required to complete its work within six weeks of the start of the new Parliament in order to ensure that the work of committees begins promptly. If not, a gap of six months or more can develop (encompassing the period before and after a general election) during which no committee work takes place. This is an unacceptable delay.

PUBLIC INITIATION OF PROCEEDINGS

22. Hansard Society research over the last six years—through our annual Audit of Political Engagement—has consistently found that the public view of political engagement and participation is far more complex than many of those advocating for more direct, participatory forms of decision-making are willing to acknowledge.

23. In particular, the Audit finds that:

- 55% simply do not want to be involved in national decision-making;ⁱ
- a lack of time is the greatest barrier to participation;ⁱⁱ
- a clear distinction is drawn between having a say and being involved in decision-making, and influence is favoured but not involvement;ⁱⁱⁱ
- people feel they lack influence in decision-making above all because “nobody listens to what I have to say”;^{iv}
- the more efficacious any form of political action or engagement is perceived to be, the more highly it is valued;^v and
- although the public recognise what it takes to be a good citizen they largely fail to convert good intentions into positive action.^{vi}

24. The barriers to public engagement and participation in the political process are broadly a mixture of a lack of knowledge and interest, low levels of satisfaction, and a shortage of time. If participation in the political process is to be enhanced, knowledge and interest need to be augmented and deep-rooted social and demographic disparities addressed. The objective must be an informed as well as an engaged public. Mechanisms for engagement and decision-making need to be constructed in such a way that they provide for a more satisfying engagement experience, respecting the fact that influence through having a voice in the process rather than direct involvement is preferred by a majority. Such mechanisms must also be mindful of the time that the public is able and indeed willing to give to the political process. Overall the focus should be on the quality of public engagement and participation not just the quantity and scale of direct involvement in the process.

25. The public’s desire for influence rather than involvement, for giving voice to their views and being heard, points to the fact that the political process may be as important as the policy outcomes from any such process, though positive outcomes do reinforce the value that the public places on the process. But such processes have to be satisfying forms of public engagement if that engagement is to have any chance of being sustained. The most obvious form of enhanced democratic engagement in recent years has been the government’s efforts to consult more widely on policy proposals and provide opportunities for the public and interested stakeholders to have a say. However, amidst the blizzard of consultation opportunities a perception has increasingly grown that too often the process is illusory and that the government has already made up its mind, resulting in disengagement amidst increasing cynicism.^{vii}

26. The challenge then is how to adopt new mechanisms to enable people to have a say and exercise influence in a meaningful manner, and in a way that ensures that politicians must listen and respond, but which recognises some core constraints: that not everyone's views can be reflected in the final outcome and the degree to which people actually want to sustain their engagement is quite limited.

27. In light of this data we believe that a parliamentary petitions committee would provide a possible solution to the public engagement challenge and ought to at least be adopted on a trial basis by the House of Commons. It would not be a panacea for public engagement and participation but it would offer a realistic and deliverable reform. Petitions are an important part of the contemporary democratic process. The Audit shows that the public are more likely to sign a petition than they are to engage in any other form of democratic activity.^{viii} Petitions should therefore be made a much more significant feature of the work of Parliament in order to better engage the public and be more responsive to matters of topical public concern.

28. At present, petitions are governed by strict rules about wording and there is little sense that petitions to Parliament result in any concrete action on the part of MPs. In contrast, the Scottish Parliament has a Public Petitions Committee which plays a pivotal role in connecting the public and the legislature. It assesses the merits of each petition, if necessary through the taking of evidence. It filters out petitions where action is already being taken or where the case is weak. But where there is a case to be answered it refers petitions for further consideration. A similar petitions (or public engagement) committee could be established in the House of Commons to assess issues of public concern and, if appropriate, to make referrals for debate or committee inquiry. We further recommend that Parliament adopt a system of e-petitions, incorporated with paper petitions and processed through the new petitions committee.

29. An e-petitions system was recommended by the Procedure Committee in a report in April 2008. The Government response "envisaged providing time" to debate the issue later in 2008 but such a debate was not forthcoming. In March 2009 the Procedures Committee issued a further report calling on the Government to introduce the system. It was critical of the Government for stalling on this issue and for requesting that the proposed scheme be changed in order to cut its cost based on comparisons ministers had made with the No 10 e-petitions system. However, what is proposed with a parliamentary petitions committee and incorporation of e-petitions is markedly different to what is offered on the Downing St site. By placing parliamentary petitions within a clear procedural process the objective of a petitions committee and e-petitions approach is to strengthen the role of representative democracy rather than simply allow the loudest voices and mob mentality to dominate. The introduction of a petitions system would have real symbolic value in better linking Parliament and the public.

30. However, our support for the petitions system is predicated on the assumption that it will become an integral and core part of the parliamentary process and not a bolt-on accessory. Any petitions system, particularly e-petitions, needs to sit at the heart of a well defined procedural process which is transparent and clear to the public. The scope of petitions—what is the responsibility of Parliament and what is not, what is therefore admissible and what is not—must be clearly set out. Responses must be provided in timely fashion and it must be clear from whom, when and how these responses are to be provided. Good tracking mechanisms are required. And clearly defined outcomes through the parliamentary process must be sign-posted (for example, whether, as a result of a petition, an issue may simply appear on the order paper, or a written response be provided, a debate triggered or some other form of procedural escalation).

October 2009

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ⁱ *Audit of Political Engagement 6*, Hansard Society, 2009, pp. 36–37

ⁱⁱ *Ibid.*, p 37

ⁱⁱⁱ *Ibid.*, p 52

^{iv} *Ibid.*, p 35

^v *Ibid.*, p 51

^{vi} *Ibid.*

^{vii} See A. Brazier, S. Kalitowski, and G. Rosenblatt with M. Korris, *Law in the Making: Influence and Change in the Legislative Process* (Hansard Society, 2008) pp 177–178

^{viii} *Audit 6, op. cit.*, p 27

Memorandum submitted by Unlock Democracy

ABOUT US

Unlock Democracy (incorporating Charter 88) is the UK's leading campaigning think-tank working on issues of constitutional reform and democratic renewal in the UK. We focus on constitutional reform, political parties and active citizenship. For more information please see www.unlockdemocracy.org.uk.

EXECUTIVE SUMMARY

- Unlock Democracy welcome the creation of this Committee and in particular the fact that it is examining how the public can initiate debates and proceedings in the House.
- Unlock Democracy believes that there needs to be a rebalancing of power between the executive and the legislature. We believe that this rebalancing of power should include the election of members and chairs of select committees by secret ballot and the creation of a business committee for the scheduling of business in the House.
- Unlock Democracy supports the proposal made by the Speaker of the House of Commons that the debate of Private Members' Bills should be moved from Friday afternoon to Wednesday. We believe that this will strengthen the role of backbench MPs and encourage civic society and the public to engage with Parliament.
- Unlock Democracy urges the House of Commons to establish a petitions committee, along similar lines to the Public Petitions Committee in the Scottish Parliament, at the earliest level.
- Unlock Democracy proposes that the House of Commons should consider introducing a system of agenda initiative so that voters can propose policies that they feel should be debated by Parliament. We believe that this would be a very moderate step towards the use of direct democracy tools which would enable voters to constructively engage with Parliament but would leave the decision making with Parliament.
- Should the House of Commons choose to create a petitions committee or to implement agenda initiative we would strongly recommend that the different stages of the processes are made very clear to the public and that the petitioner or person submitting the proposal is given feedback on what has happened to their idea.

THE APPOINTMENT OF MEMBERS AND CHAIRS OF SELECT COMMITTEES

1. Unlock Democracy believes that that there needs to be both a rebalancing of power and a clarification of roles between the executive and the legislature. All too often Parliament is seen as being the same thing as the Government and this is not healthy for democracy or for encouraging participation in politics.

2. The scrutiny work done by select committees is a very valuable aspect of Parliament's work. Whilst we recognise the excellent work done by those currently serving on select committees, we believe that the select committee system would be strengthened by increased independence from the executive. Therefore Unlock Democracy supports the introduction of secret ballots for the election of select committee members and chairs.

SCHEDULING BUSINESS IN THE HOUSE

3. As part of the rebalancing of power between the executive and the legislature, Unlock Democracy would be interested in the creation of a business committee for the House of Commons. It is of course important that the Government is able to get through its business, but we do not accept that this means they need to unilaterally control the legislative agenda. Establishing a business committee would also increase the openness and transparency of Parliament.

4. Unlock Democracy also supports the proposal made by the Speaker of the House of Commons made in his speech to the Hansard Society,³⁰ that the debating of Private Members' Bills should be moved from Friday afternoon to Wednesday. We agree that this would strengthen the role of the backbench MP and encourage the public and civic society to engage with Parliament.

ENABLING THE PUBLIC TO INITIATE DEBATES AND PROCEEDINGS IN THE HOUSE

5. Unlock Democracy believes that it should be possible for members of the public to suggest issues for consideration by Parliament. All too often political participation is seen as nothing more than cast a vote once every four or five years. We believe that enabling the public to propose ideas for discussion in Parliament is one way to start fix the disconnect between Parliament and the public. The measures we recommend would also encourage the public to engage with the work that Parliament does outside the media set-pieces such as Prime Minister's Questions (which is far from representative of the work of the legislature).

³⁰ *Parliamentary Reform: The Route from Here to There*, 24 September 2009, www.hansardsociety.org.uk

6. There are two measures that Unlock Democracy believes Parliament should introduce to enable the public to initiate debates and proceedings in the House. Firstly there should be a formal petitions committee as is currently the case in the Scottish Parliament. Secondly the House of Commons should consider introducing agenda initiative which is already used successfully at a local government level.

PETITIONS

7. Petitioning is one of the oldest forms of political participation in the UK and is very successfully used as a means of citizen engagement in the devolved administrations, as well as around the world. Submitting a petition is one of the most basic ways in which a voter can seek to raise a policy issue with the legislature and not just their constituency MP. It allows individuals, community groups and organisations to participate in the policy scrutiny process by raising issues of concern with their Parliament. In the Scottish Parliament the public petitions process is seen as a key part of the Parliament's commitment to participation, openness and accessibility. Unlock Democracy believes that the House of Commons should establish a Public Petitions Committee, on a similar basis to that which exists in the Scottish Parliament, as a matter of urgency.

8. While the current system for dealing with petitions to the House of Commons may have a historic and symbolic value, it does not serve the needs of a modern democracy. It is unclear for members of the public who wish to petition Parliament what happens to a petition once it has been submitted, and there is no formal mechanism for the petitioner to receive any feedback.

9. We note that the Procedure Committee³¹ has previously proposed that the House of Commons should use an e-petitioning system. However we have some concerns about the proposals being put forward for e-petitions. Firstly any petitioning mechanism should be as widely accessible as possible and so anything that is available in terms of online participation should have an equivalent offline process. The Internet provides a quick and easy way for people with the skills and technology to participate, but these are by no means universal among the UK electorate.

10. Secondly, the key aspect of any petitioning system is how flexible and responsive it is. Where petitioning works well it is not so much that petitions are frequently adopted but that the institution or legislature responds to the issues raised by popular petitions and acts of its own accord. This has been the case with the petitioning system in New Zealand, where if a petition reaches a significant number of signatures Parliament acts pre-emptively and engages with the issue rather than waiting to be forced to do so. The emphasis on the e-petitioning proposals seems to be the petitioner "getting her day in court" rather than Parliament engaging with the issue and deciding whether to respond. As the day in court in this instance would be a reference in Hansard we don't think this is a satisfactory outcome for either party.

11. Thirdly, the focus on e-petitions does not encourage engagement between citizens and parliamentarians. An individual fills in a form online, if the issue is popular and meets the regulations, then their MP is expected to take it forward. If the individual has requested feedback then they will get a response at the end of the process. Politics is all too often seen as something that is remote, incomprehensible and only conducted in Westminster. This mechanism will do nothing to change this perception. Nor does it engage people meaningfully in the legislative process.

12. While under the Procedure Committee's proposals it would be possible for the petition to be referred to an existing select committee we are concerned that they would not have the time or resources to undertake additional investigations. The workload of departmental select committees is increasing, particularly with moves towards pre-appointment hearings for public appointments. We are concerned that petitions from the public would simply be lost in the system.

13. Fourthly we are concerned that in the proposed mechanism MPs could become gatekeepers rather than facilitators. Unlock Democracy recognises the need for MPs to have a key role in the petitioning process, but we do not believe this proposal is practicable, particularly as there is no filtering mechanism. In theory each MP will present their constituent's petition regardless of whether or not they agree with it. Most petitioning committees use some kind of trigger system, so that they only consider petitions that reach a certain number of signatures for example. Under the current proposals MPs would be sent, and assuming they fell within Parliament's remit, be expected to present every single petition received from a constituent. In the nearly two years that the Downing Street e-petitions system has been in place there over 29,000 petitions have been submitted. It would be all too easy therefore for MPs to be forced to become the filter and decide which of the many petitions they have received should be presented to Parliament.

14. The advantage of a petitions committee is that it gives the process a human face but also that the Committee can go beyond Westminster. For example the Scottish Petitions Committee has gone outside Holyrood to take evidence on a number of occasions including going into schools to take evidence from pupils on the public health impact of cheap alcohol.³²

15. The Public Petitions Committee (PPC) in Scotland accepts petitions from any individual who is not an MSP, and there is no threshold in relation to the number of signatures. An individual can submit a petition with one signature and as long as it is a devolved matter it will be considered by the Committee. We recognise

³¹ Procedure Committee, *e-Petitions: Call for Government Action*, Second Report of 2008–2009, HC 493

³² See the following links for just two examples http://news.bbc.co.uk/1/hi/scotland/south_of_scotland/5116898.stm
<http://news.bbc.co.uk/1/hi/scotland/5404808.stm>

that the House of Commons may be concerned about the number of petitions that any equivalent committee may receive. Therefore the House may wish to consider setting a threshold of a certain number of signatures that a petition has to receive before it can be considered.

16. The PPC meets fortnightly when the Parliament is sitting and all its meetings are held in public. Its membership broadly reflects the balance of the various political groupings in the Parliament. About eight new petitions are normally considered at each meeting as well as a number of current petitions. Should the PPC consider it necessary, in order to broaden its understanding of a petition, it may invite a petitioner to give oral evidence before it. This may be where a petition raises a new issue. Petitioners may also provide written evidence in support of their petition.

17. The role of the PPC is to ensure that appropriate action is taken in respect of each admissible petition. In fulfilling this function, it takes responsibility for the initial consideration of the issues raised.

18. This may involve hearing oral evidence from the petitioners or seeking written evidence from organisations with an interest in the issues raised eg the Scottish Government. Following consideration of the written and any oral evidence, a decision will be taken as to whether the issues raised merit further consideration. The PPC may also refer a petition to the relevant subject committee of the Parliament for further investigation. It can also bid for parliamentary time for a petition to be debated by the whole Parliament. Having considered a petition the PPC (or the relevant subject committee) may agree that no further action is required and close it. In all cases, the petitioner will be notified of any action.

19. Unlock Democracy believes that it is the involvement of the petitioner in the process and the fact that they are kept informed at each stage that makes the PPC a particularly valuable example of how petitioning can be used to enable the public to initiate debates and proceedings in the House of Commons.

AGENDA INITIATIVE

20. Agenda initiative is a direct democracy tool but it does not lead to a referendum and decision-making rests firmly with the legislature, rather than being held jointly with citizens. Generally speaking an agenda initiative leads to either a committee of the legislature, or the legislature as a whole examining the issue, deciding whether it has merit and how if at all it should be taken forward.

21. An agenda initiative procedure is the right of a group of voters, meeting predetermined requirements, to initiate a process for the revision of a law, the introduction of a new law or an amendment to the constitution. While it is voters who make the proposal, the legislature retains full decision-making power.

22. Agenda initiative procedures first began to be used in Europe in the aftermath of the First World War and are now used in 22 countries across Europe with a further seven countries allowing agenda initiatives (though only at a sub-national level). The types of issues that have been raised include proposals to improve the teacher training programme in Poland and the introduction of a 40-hour week in Austria. It should be noted that if the Lisbon Treaty is ratified, as now looks likely, EU citizens will be able to petition the EU Commission to bring forward proposals.

23. The predetermined requirements that have to be met can include the subjects on which proposals can be made, the number of signatures required for a proposal to be considered, the amount of time allowed to collect the signatures and how the signatures can be collected.

24. These requirements determine how easy or difficult it is to use this tool and how likely it is that the public will engage with it. For example, the requirement to collect a high number of signatures, in a short period of time, and with those signatures required to have been collected in specific places means that very few proposals will be successful. This may discourage people from trying to use the tool. However those that are successful are guaranteed to have widespread support. An agenda initiative system which requires a low number of signatures which can be collected over a long period of time means that many more proposals are likely to reach the threshold and be considered by the legislature. This makes it more likely that the public will use the tool but may create more work for the legislature. Unlock Democracy believes that it should be difficult to submit a proposal under an agenda initiative system but that it should be possible. We would therefore support high thresholds.

25. Some countries restrict the subjects on which an agenda initiative can be proposed. For example Austria, Brazil, Cape Verde and Thailand do not allow agenda initiative to be used for amendments to the constitution while Niger does not allow agenda initiative on devolution.

26. Although petitions and agenda initiatives are different mechanisms they are both tools designed to make Parliament more responsive to voters in between elections. These tools enable voters to raise issues, demonstrate that there is a significant level of public support and provide a formal mechanism for

Parliament to respond. We believe that these mechanisms will help to address the disconnect between Parliament and the public.

October 2009

Memorandum submitted by John Owens

My name is John Owens. I am Professor of United States Government and Politics at the University of Westminster, a Faculty Fellow in the Center for Congressional and Presidential Studies at the American University in Washington DC, and an Associate Fellow at the Institute of the Americas in the School of Advanced Studies at the University of London. I have been a student of the United States Congress for almost 35 years and have written extensively on congressional politics, congressional-presidential relations, and comparative legislative politics.

1. INTRODUCTION.

- 1.1. Let me start by pointing to the important and obvious differences between the US “separated” system and British parliamentary government, and to the much greater strength of “party” as an organising force in the House of Commons compared with the US House of Representatives. Still, as I argued in an article written with Professor Burdett Loomis of the University of Kansas, which was published in the *Journal of Legislative Studies*, there are growing similarities between the two chambers, primarily as a result of the growing influence of party in the US House.
- 1.2. Like the House of Commons, the US House is increasingly a majoritarian institution in which the majority party exercises tight control over the chamber’s agenda, most particularly the floor agenda. Increasingly, the leaders of the majority party in the US House can shape and structure the floor agenda through the Rules Committee (which is effectively under their control), while the executive/the president and/or the Senate may be controlled by the opposing party. This control is exercised by the Rules Committee through the use of very often elaborate and increasingly restrictive special rules that limit which amendments, if any, will be considered on the House floor, in what order they will be considered, for how long, whether they will be subject to points of order, which will be the subject of roll call votes, and so forth.
- 1.3. Typically, though not always, these rules prohibit or limit amendments offered by the minority party—which often seek to undermine majority party control by designing amendments aimed at creating cross-party coalitions. In recent congresses, over 70% of special rules are restrictive, whereas 40 years ago about 10% were.
- 1.4. In the US House, the majority party also exercises increased control over standing committees through committee assignments, bill referrals, and legislative access to the House floor. Gone are the days of committee government when committees might write legislation that majority party leaders felt obliged to accept. In the contemporary House, committees now enjoy much less autonomy as parties have become the most significant organisations on Capitol Hill.
- 1.5. Given increased majority party control in the US House, and extant ministerial control of the House of Commons agenda, it seems useful and legitimate to ask what procedural opportunities exist for individual US House members to influence the floor agenda that might be made available to member of the House of Commons.
- 1.6. Several caveats need to be entered in drawing such comparisons, however:
 - 1.6.1. US House members have much larger staffs (18 FTEs). Although most members’ staff concentrate on constituency-related tasks, members are nevertheless able to direct considerable staff resources from within their own offices to their legislative responsibilities, which usually reflect their committee assignments. As a consequence, individual House members are still able to write, recommend and influence legislation, which is still largely written in committees.
 - 1.6.2. Second, when US House members make their legislative decisions, constituency influence trumps party influence if the two sources of influence conflicts.

2. THE DISCHARGE PETITION

Given the extent of majority party leadership control in the US House, one opportunity that is available to House members that your Committee may want to consider is the discharge petition. This is a mechanism by which ordinary backbenchers may use either a) to prize a bill out of the committee to which it has been referred and it has not reported to the House floor, without the Rules Committee granting a special rule; or b) when the Rules Committee/the majority party leadership refuses to grant a rule on legislation that enjoys considerable support.

As Richard Beth, Legislative Specialist with the Congressional Research Service, testified before the US Congress: “[t]he discharge rule in practice today is the *only form of proceeding in the House by which you can get a measure on the floor* if it was over the opposition of the Speaker, the committee of jurisdiction and the Committee on Rules” (US. Congress 1993: 63).

- 2.1. An early form of the discharge petition was introduced in the US House in somewhat similar circumstances to those in which your Committee is considering Commons reform. In 1910, a coalition of minority Democrats and Progressive Republicans combined in a famous revolt against “Cannonism”. The Republican Speaker “Uncle Joe” Cannon exercised autocratic control of the House and would not allow floor consideration of legislation demanded by their constituents. A new discharge rule was introduced (Rule XV, clause 2), which allowed any House member to submit a motion to discharge any bill from any committee when the chair of a committee refuses to place a bill or resolution on the committee’s agenda; without such a procedure, a bill before a committee might never be reported out thus preventing the full House from considering it.
- 2.2. The discharge petition procedure provides that if a bill has been before a standing committee for 30 legislative days any members may introduce a motion to discharge the committee from considering the measure further. The procedure is as follows:
 - 2.2.1. A member introduces a motion to discharge a committee from considering the measure further
 - 2.2.2. One of the House clerks then writes a discharge petition that is made available for House members to sign when the House is in session.
 - 2.2.3. If a majority of House members (218) is willing to sign the petition, a bill can be brought to the House floor for consideration regardless of whether the relevant committee of jurisdiction or the majority leadership (including the Speaker and the Rules Committee) opposes the bill.³³
 - 2.2.4. Once at least 218 members have signed a petition, the motion to discharge a bill is placed on the discharge calendar. Once it has been on this calendar for seven legislative days, the measure becomes privileged business on the second and fourth Mondays of the month, except when these days are the final six days of a legislative session.
 - 2.2.5. Any petition signatory may be recognised to offer the discharge motion. Once the motion is called up, debate is limited to 20 minutes, divided equally between supporters and opponents. If the discharge motion fails, the bill cannot be considered again during that legislative session. If it is approved, however, any petition signer may then make a motion to call up the bill that is the subject of the petition for immediate consideration. The bill is then considered under normal procedure until it is disposed of. Even if the vote for immediate consideration fails, the bill is nevertheless assigned to the appropriate legislative calendar with the same rights of any other bill reported by a committee.

3. THE DISCHARGE PROCEDURE’S LIMITATIONS

- 3.1. In reality, few discharge petitions are successful in collecting the required number of signatories and even less in prizing measures from committees. Between 1931 and 2008, 615 petitions were submitted, but only 47 acquired the requisite number of signatures—less than 10% per (2-year) Congress. For example, after Republicans won control of the House in 1994, no discharge petition gained 218 signatures before 2002 (on the campaign finance reform bill). Over the same 1931–2008 period, no more than 26 bills were discharged, only 19 ultimately passed the House, and only two became law (Beth 2003; 2009), the most recent being the 1960 Federal Pay Raise Act. In the most recent example, in 2003, Congressman Brian Baird successfully entered a discharge petition with the required 218 signatures but the measure (proposing an amendment to the US Constitution of the United States regarding the appointment of individuals to fill vacancies in the House in the event of a catastrophic attack on the Capitol Buildings) failed to gain the necessary two-thirds vote on the House floor.
- 3.2. The procedure is difficult to implement for a number of reasons:
 - 3.2.1. Most obviously, party leaders—particularly those from the majority—often discourage and pressure their party colleagues not to sign discharge petitions. Before 1993, it was more difficult for party leaders to exert pressure because House precedents required the names of signatories of discharge petitions to be kept secret until the required 218 signatures had been obtained. Following public criticism—primarily from conservative House members—that the process was not sufficiently open, the House changed the rules in 1993 to require the names of those who had signed a petition to be made public *as soon*

³³ Originally, only one-third of House members (145) were required for a discharge petition to take effect. In 1935, Speaker Rainey, who wanted to stop legislation awarding veterans a cash bonus from being brought up in Congress, changed the number to a majority. The increase in the number of required signatories, of course, further strengthened the power of Rules Committee and the Speaker in relation to rank and file members.

as the discharge petition was introduced. The argument they used was that previously House members introduced, co-sponsored or publicly declared support for a bill but then refused to sign a discharge petition that would allow it to come to the floor for consideration. Without public disclosure, they argued, committee and party leaders could press members not to sign or to remove their names from the petition if they had signed already. In 1995, the House revised its rules to require the Clerk's office to make available on a daily basis lists of the names of those members who had signed discharge petitions and to publish such lists in the Congressional Record (the equivalent of Hansard) every week.

Besides actively discouraging majority members from signing any discharge petition, the Speaker working in consort with a majority of the Rules Committee, may also circumvent a discharge motion through deft interpretation and use of the House rules (see Patty 2007: 683–4). However, as Cannon discovered in 1910, when the House revolted against his autocratic rule, if support for a bill is very strong, a Speaker's attempts to deny or subvert backbench pressures may provoke even greater hostility, and ultimately threaten his/her position as party leader. As the case of the 1993 rules change demonstrates, in the face of overwhelming backbench support, House majority leaders felt compelled to support the change.

- 3.2.2. Second, members are reluctant to challenge a committee's prerogative to consider a bill. Because the discharge rule violates regular legislative procedure, by definition, even those members who sponsored or support the bill that is the subject of the discharge petition, may not support the procedure. Committees themselves may also vitiate discharge attempts by reporting a bill, possibly adversely, so that they no longer have responsibility for it.
- 3.2.3. Third and relatedly, legislators are typically reluctant to write legislation on the House floor—particularly if it is complex legislation—without the benefit of the committee of jurisdiction's expertise and information provided it by witnesses in hearings.
- 3.2.4. Fourth, gathering the necessary signatures without—and, indeed, likely in contravention of the wishes of—the majority party whips is time-consuming and requires political capital, which most backbench Members will not possess. These costs frequently deter members from resorting to the discharging procedure.
- 3.2.5. Finally, Members are reluctant to use an irregular procedure that might one day be used against committees they chair or on which they serve.

4. POTENTIAL BENEFITS.

- 4.1. Just because its actual use in the US House is rare, however, does not negate the potential benefits of instituting such a procedure. Like the presidential veto and the Senate filibusters, which are also rarely invoked, discharge is a potential threat, a bargaining tool that can be used to extract concessions from majority party leaders while at the same time extending participation in the legislative process.

There are numerous examples from the US House to support this contention. These range from the Equal Rights Amendment to the US Constitution, flag burning, balancing the federal budget, prayers in state schools, consumer protection, gun control, and campaign finance. Although some of these efforts were not successful and/or use of the discharge procedure did not lead directly to legislation, the procedure nevertheless provided an avenue by which these issues could reach the legislative agenda. As Beth (1994:37) argues, “struggles to bring measures to the floor over the opposition of the Committee presumably loomed larger than the raw number of petitions filed (or of rules denied) would suggest”. The threat of a discharge petition may also prompt a committee to hold hearings or report a bill or majority leaders to allow a floor debate on an issue.

- 4.2. Second, although by definition, the minority do not have the numbers to muster 218 signatures, discharge is an important tool for the minority party. That is, the discharge procedure provides minority party members with an institutional incentive to identify issues on which they may seek the support of majority party members willing to defect from their party's position. Still, discharge can be a two-edged sword for the minority. When the minority party seek to use the discharge procedure to demonstrate wide House support for their proposals and then they fail to garner the necessary 218 signatures, they run the risk of appearing as a divided party.

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October 2009



LEGISLATIVE COUNCIL

STANDING ORDERS COMMITTEE

FINAL REPORT ON THE ESTABLISHMENT
OF NEW STANDING COMMITTEES
FOR THE LEGISLATIVE COUNCIL

REPORT – MAY 2010



**Legislative Council
Standing Orders Committee**

**Final Report on the Establishment
of new Standing Committees
for the Legislative Council**

Ordered to be printed

Parliamentary Paper No. 300
Session 2006-2010

May 2010

**EXTRACTED FROM THE MINUTES OF THE PROCEEDINGS
OF THE LEGISLATIVE COUNCIL**

Tuesday, 17 April 2007

A. PARLIAMENTARY COMMITTEES — Mr Lenders moved, That —

* * * * *

(2) Standing Orders be suspended to the extent necessary to enable—

* * * * *

(c) **STANDING ORDERS COMMITTEE** — A Select Committee of 7 Members to be appointed on the Standing Orders of the Council.

(3) Each Committee referred to in paragraph (2) will consist of 3 Members from the Government Party nominated by the Leader of the Government, 2 Members from the Opposition nominated by the Leader of the Opposition, 1 Member from The Nationals nominated by the Leader of The Nationals and 1 Member from the Australian Greens nominated by the Australian Greens Whip.

(4) 4 Members will constitute a quorum of each Committee referred to in paragraph (2).

(5) Members will be appointed to each Committee by lodgement of the names with the President by the persons referred to in paragraphs (1b) and (3) no later than 4.00 p.m. on Thursday, 19 April 2007.

Question — put and agreed to.

Tuesday, 1 May 2007

3 APPOINTMENT TO COMMITTEES — The President announced that he had received from the Party Leaders and the Australian Greens Whip, within the time set by the Resolution of the Council, advice of appointments to the following committees:

* * * * *

Standing Orders Committee — The President, Mr Dalla-Riva, Mr P.R. Davis, Mr Hall, Mr Lenders, Ms Pennicuik and Mr Viney.

Tuesday, 9 September 2008

7 COMMITTEE MEMBERSHIP — Mr Theophanous moved, by leave, That —

(1) Mr P.R. Davis be discharged from the Standing Orders Committee and that Mr D.M. Davis be a member of that Committee in his place;

* * * * *

Question — put and agreed to.

REPORT

The Select Committee of the Legislative Council on Standing Orders, appointed pursuant to the resolution of the Council on 17 April 2007, has the honour to report as follows:

1. On 10 September 2008, the Legislative Council agreed to the following Resolution:
That, the Standing Orders Committee be required to inquire into and report no later than 30 November 2008 on the establishment of new standing committees for the Legislative Council, including —
 - (1) the number, composition, structure and functions of those committees; and
 - (2) the staffing and resources required for the effective operation of those committees.¹
2. On the following occasions, the Council further resolved to amend that Resolution to extend the date by which the Committee was to present its report: 13 November 2008, 31 March 2009, 30 July 2009, 13 October 2009, 27 November 2009 and 11 March 2010.
3. On 15 April 2010, the Council agreed to a further amendment of the Resolution to require the Committee to present its report by 5 May 2010.
4. The Standing Orders Committee held its first meeting on 8 October 2008 and, as at 5 May 2010, has met on twelve occasions.
5. As advised in the Committee's *Interim Report* tabled in May 2009, the Committee formed a sub-committee of its members, consisting of representatives of the Government, Opposition and the Australian Greens, to conduct an interstate study tour to review the structure and operations of upper house parliamentary committees in other jurisdictions. This sub-committee visited the Australian Senate on 25 March 2009 and the New South Wales Legislative Council on 26 March 2009. During these visits, meetings were conducted with a significant number of committee chairs and other Members, as well as with senior parliamentary staff.
6. On 2 April 2009, the Committee determined that the standing committee system in the Western Australian Legislative Council was also worthy of study. Although the Committee did not make a formal visit to that jurisdiction, research was conducted

¹ For background details regarding the reasons for establishing this inquiry, see Legislative Council Standing Orders Committee, *Interim Report on the Establishment of new Standing Committees for the Legislative Council*, PP 197 (Session 2006-2009), May 2009, p. 6.

in relation to that committee system and a member of the Committee, Mr Matt Viney, visited on behalf of the Committee in July 2009 to obtain further information.

7. In September 2009, a discussion paper was distributed to Committee members. This outlined a possible new structure for Legislative Council standing committees, including proposed functions, membership size, party composition and the role of chairs. The Committee subsequently determined on 26 November 2009 that a sub-committee, comprising a representative of the Government, Opposition and the Australian Greens, should meet to refine the proposals contained in the discussion paper as well as considering other options.
8. The sub-committee, consisting of Mr Lenders, Mr Davis and Ms Pennicuik, reported back to the Standing Orders Committee on 11 March 2010. They advised that they had reached broad agreement on the standing committee system that they considered should be introduced. Following further review by the full Committee, it was agreed that the Australian Senate provided the best model for an upper house standing committee system and that this should form the basis of the Legislative Council's model. The Committee believed that the Australian Senate was an example of a well-established, effective upper house committee system in a house which, like the Legislative Council, was elected using a proportional representation voting method and one in which the Government often did not hold an absolute majority.
9. The Committee considers that the recommendations contained in its Final Report should not be implemented until after the commencement of the 57th Parliament of Victoria. Although consideration was given to establishing a new standing committee system on a trial basis during the final year of the 56th Parliament, it was determined that this would be inhibited by certain practical restrictions. Chief amongst these restrictions were financial ones, given that funding had already been allocated to the joint investigatory committees and Department of the Legislative Council for 2009-10 and additional funding was not available.

RECOMMENDATIONS

STRUCTURE OF PROPOSED STANDING COMMITTEES

10. As outlined in the Committee's *Interim Report*, the Australian Senate established a structure of eight pairs of Legislative and General Purpose standing committees in 1994, with each pair consisting of a references and a legislation committee, to cover major government policy areas. Although this structure altered in 2006, with each pair of committees merged into a single committee, the Senate reintroduced the previous system on 13 May 2009. Under the twin committee structure, each legislation committee scrutinises bills, estimates, annual reports and the performance of agencies, while each references committee inquires into other matters within its subject area which have been referred to it by the Senate.

11. The Standing Orders Committee recommends that a similar structure be adopted in the Legislative Council. However, given differences in the membership size of each jurisdiction (76 Senators *vis-à-vis* 40 Legislative Councillors),² consequent concerns about the obligations that would be placed on Members if there were too many standing committees, along with differences in the range of policy areas covered at the federal and state levels, the Committee recommends that only three pairs of committees be established. It is recommended that each pair of committees consists of a Legislation and References Committee, and that they be structured as follows:
 - Economy and Infrastructure
 - Legislation Committee
 - References Committee

 - Environment and Planning
 - Legislation Committee
 - References Committee

² Under the Constitution, there is a minimum of four to six Ministers in the Council who will be unavailable for Committee work. In addition, the President would not be a member of a Legislative Council standing committee. Even if all parliamentary secretaries were involved, there would be a maximum of 33 to 35 Members available for committee work.

- Legal and Social Issues
 - Legislation Committee
 - References Committee
12. In broad terms, the Committee envisages that the Standing Committee on the Economy and Infrastructure will encompass policy areas including agriculture, commerce, infrastructure, industry, major projects, public sector finances and transport.
 13. The Committee recommends that the Standing Committee on the Environment and Planning focus on policy areas including the arts, coordination of government, environment, and planning the use, development and protection of land.
 14. It is recommended that the Standing Committee on Legal and Social Issues inquire into matters including community services, education, gaming, health, and law and justice.
 15. Although the Standing Orders Committee considers that the allocation of the proposed standing committees into such policy areas provides useful guidance, it recognises that these still allow room for overlap between committees (for example, an environmental matter could also relate to agriculture policies). Therefore, to further delineate each committee's role, it is recommended that each standing committee be allocated the oversight of specific government departments. The Committee's recommended allocation is contained in Appendix A and has been done on the basis of the Victorian Government's current departmental structure.

COMPOSITION OF PROPOSED STANDING COMMITTEES

16. As outlined in the Standing Orders Committee's *Interim Report*, three key issues were identified for consideration in relation to the preferred composition of future Council standing committees. These issues related to: (a) Proportionality; (b) Chairperson; and (c) Membership Size.

Proportionality

17. The Committee was attracted to the Senate's method of formalising the concept of proportionality, with standing committee memberships approximating the political balance in the Chamber and, therefore, recommends that in the Legislative Council:
- each standing committee consists of eight members, four nominated by the Leader of the Government in the Council, three by the Leader of the Opposition in the Council and one by minority groups/independents.
 - the allocation of positions to minority groups and independents should be as close as practicable in proportion to their numbers in the Legislative Council, while allowing maximum participation by minor parties as desired.
 - committee memberships amongst minority groups and independents should be determined by agreements between them but, if this is not achieved, the Legislative Council will determine the matter.
18. The Standing Orders Committee acknowledges that, if there were significant changes in the complexion of the Council after the next general election (such as one party having an absolute majority of members in the Council, or the number of minority group/independent members altering substantially), the allocation of members to committees based on political groupings would most probably need to be modified. Nevertheless, should the current political balance in the Council, between Government, Opposition and minor groups/independents, remain similar in the 57th Parliament, then the model outlined is the Committee's recommended approach.

Chairperson

19. In considering the role and political alignments of committee chairs, the Standing Orders Committee examined practices in both the New South Wales Legislative Council and the Australian Senate. In the case of the former, the chairs of the subject based standing committees, Law and Justice, Social Issues and State Development, are always from the governing party. In the normal course of events, the Council's five General Purpose Standing Committees, which cover

particular portfolio areas, have a non-government Chair. Committee chairs hold both a deliberative and casting vote.

20. As foreshadowed in the Committee's *Interim Report*, the Senate's return to a dual stream structure for its standing committees in mid-2009, resulted in the resumption of the previous practice in which legislation committees are chaired by government members and references committees by non-government members. Like New South Wales, Senate standing committee chairs may exercise both a deliberative and casting vote.
21. The Standing Orders Committee was advised during its visit to the Senate that it was considered desirable for a member of the governing party to be chair of legislation committees and to have a casting vote. This was on the basis that one of the central roles of legislation committees was to review government legislation and it was important for the government to maintain a reasonable level of control over the legislative process. Alternatively, it was appropriate for references committees, conducting broader and lengthier inquiries, to be chaired by a non-government member.
22. The Standing Orders Committee is attracted to the Senate model and recommends that the chair of each of its proposed legislation committees be a government member, that the chair of each references committee be a non-government member, and that chairs have both deliberative and casting votes.

Membership Size

23. Appropriate membership size was the third element related to the composition of Council standing committees that was considered by the Standing Orders Committee. Most New South Wales Legislative Council general purpose standing committees consist of seven members each, while the subject based committees have a membership of six. All Senate legislation and references committees have six members (frequently, although not invariably, a senator is a member of both the legislation and references committee for a given subject/policy area). Despite this, the Committee has opted to recommend that Legislative Council standing committees consist of a membership of eight. This takes into account that the Council will have fewer standing committees than the Senate or New South Wales Legislative Council. In addition, it is envisaged that, in most cases, members will

be on both the legislation committee and its equivalent references committee, which increases the need for more members per committee.

24. The Committee determined that a membership of eight was preferable for several reasons. Prominent amongst these was the capacity of a membership of eight to reflect the political complexion of the house, with a wider range of parties or groups being represented within the committee. Thus, a larger membership stood a better chance of achieving the Committee's aim of proportionality. The Committee also noted that an even number of members was consistent with the preferred role for committee chairs, outlined in the preceding section, in relation to exercising a casting vote.
25. The Committee noted that the Australian Senate supplements committee memberships, and in the process enhances the flexibility of the system, by allowing members to be substituted onto a committee, with all the rights of other committee members to participate in the process including the right to vote. This assists colleagues with particularly onerous workloads or when a Senator can bring expertise to a specific inquiry. In addition, the Senate permits participating members to be appointed to committees. They too have the same rights as other committee members, with the key exception that they do not have the right to exercise a vote. The Standing Orders Committee views the inclusion of both substitute and participating members as a desirable approach that should be adopted by the proposed Legislative Council standing committees. The Committee also recommends that substitute or participating members be nominated by the member who is being temporarily replaced, or by the party leader or minority group who originally nominated that member.
26. In terms of achieving a quorum, the Standing Orders Committee recommends that that consist of five members and that substitute members be included for this purpose if a quorum cannot otherwise be achieved.

SOURCE AND SCOPE OF STANDING COMMITTEE INQUIRIES

27. As noted earlier in this report, the standing committee system established in the Australian Senate permits each legislation committee to scrutinise bills, draft bills, estimates, annual reports and the performance of departments and agencies. These committees have the additional capacity to self-reference inquiries in

relation to any matter relevant to their subject areas that emanates from annual reports or departmental/agency performance. The five general purpose standing committees in New South Wales' Legislative Council have a similar role, although they do not perform a legislative function by reviewing bills or draft bills.

28. The Committee recommends that the Council's proposed three legislation committees function similarly to their Senate equivalents, and that they be provided with the same type of self-referencing powers (for annual reports and departmental/agency performance only). In addition, the Committee believes each legislation committee should have the power to scrutinise bills if the House resolves to refer a bill to it. As a consequence, the legislation committees will, in large part, assume the functions of the Council's current Legislation Committee and the Committee recommends that the Legislation Committee be abolished by subsequent changes to the standing orders.
29. Senate references committees exercise no self-referencing powers and may only proceed with inquiries in accordance with resolutions made by the House. The Committee recommends that the Legislative Council adopt the same procedures in relation to its proposed references committees.

RESOURCES

30. The Committee's reference also requires recommendations about the manner in which a standing committee structure will need to be resourced. As noted in the Committee's *Interim Report*, this encompasses issues such as:
 - the overall funding likely to be required by standing committees as a whole;
 - number and seniority of supporting research and administrative staff;
 - allocation and flexibility in the use of staff resources.
31. The Committee gained valuable insights into the funding and staffing of upper house standing committees during its study tour in March 2009. As noted in its *Interim Report*, although there was a greater emphasis on funding upper house standing committees in the jurisdictions visited, this was largely due to considerably less participation in joint committees than occurs in Victoria. The committee's initial review indicated that overall committee funding did not vary

greatly (taking into account the number of Members and committees) and that continues to be the Committee's view.

32. The Victorian Parliament's twelve joint investigatory committees received funding of approximately \$6.4 million for the 2009-10 financial year. The total funds that would be available to the parliamentary committee system as a whole, if the proposed Council standing committee structure was established, is yet to be determined. Nevertheless, if committee funding was to remain at a similar level (in relative terms), there would need to be an allocation amongst a combination of joint investigatory and single-house committees. This would require spreading those funds more thinly amongst committees, which the Standing Orders Committee regards as undesirable as it believes each committee needs to be resourced sufficiently. An alternative means of financing the Council standing committees could be via a reduction in the number of joint investigatory committees.
33. The committee offices, in both interstate jurisdictions that were visited, provide staff to all committees for which the upper house has sole or joint responsibility: staff are not assigned on an ongoing basis to specific joint or upper house-only standing committees as has occurred in Victoria. In general, those jurisdictions employ cross-committee support arrangements on a regular basis and it is common for committee staff to be reassigned to other committees on a needs basis. The Committee is attracted, in-principle, to the greater level of staffing flexibility that applies to committees in the Australian Senate and New South Wales Legislative Council. The Committee noted that both members and staff that it met during its study tour were very supportive of this staffing arrangement.
34. In terms of the number and seniority of staff, the Committee has not drawn any firm conclusions, although it noted in its *Interim Report* that parallels existed between Victoria's joint investigatory committees and other jurisdictions examined. The Committee recognises that the three new standing committees will each have a dual function.

OTHER ISSUES

35. The Standing Orders Committee confirms that the establishment of a Council standing committee structure, along the lines outlined in this report, would have no affect on the house's right to establish select committees when and if it sees fit.

36. The Committee recommends that a motion be considered by the Council which outlines in greater detail the manner in which the proposed system is to operate. A draft motion is contained in Appendix B. Should this be passed, a significant number of additional changes to the standing orders will need to be considered by the Committee.

Committee Room,
15 April 2010

APPENDIX A

Council Standing Committees and Proposed Allocation of Government

Departments for Oversight

A. Standing Committee on the Economy and Infrastructure

- Department of Innovation, Industry and Regional Development
- Department of Primary Industries
- Department of Transport
- Department of Treasury and Finance

B. Standing Committee on the Environment and Planning

- Department of Premier and Cabinet
- Department of Planning and Community Development
- Department of Sustainability and Environment

C. Standing Committee on Legal and Social issues

- Department of Education and Early Childhood Development
- Department of Health
- Department of Human Services
- Department of Justice

APPENDIX B

Draft Motion concerning the establishment of a Legislative Council Standing Committee structure

- (1) At the commencement of the 57th Parliament of Victoria, and of each Parliament subsequently, legislative and reference standing committees shall be appointed as follows:
 - (a) Economy and Infrastructure
Legislation Committee
References Committee
 - (b) Environment and Planning
Legislation Committee
References Committee
 - (c) Legal and Social Issues
Legislation Committee
References Committee
- (2) The Standing Committee on the Economy and Infrastructure will inquire into and report on any proposal, matter or thing concerned with agriculture, commerce, infrastructure, industry, major projects, public sector finances and transport.
- (3) The Standing Committee on the Environment and Planning will inquire into and report on any proposal, matter or thing concerned with the arts, coordination of government, environment, and planning the use, development and protection of land.
- (4) The Standing Committee on Legal and Social Issues will inquire into and report on any proposal, matter or thing concerned with community services, education, gaming, health, and law and justice.
- (5)
 - (a) Legislation Committees may inquire into, hold public hearings, consider and report on any bills or draft bills referred to them by the Legislative Council, annual reports, estimates of expenditure or other documents laid before the Legislative Council in accordance with an Act, provided these are relevant to their functions.
 - (b) Reference committees may inquire into, hold public hearings, consider and report on other matters referred to them by the Legislative Council.
- (6) References concerning departments and agencies shall be allocated to the committees in accordance with a resolution of the Council allocating departments and agencies to the committees.
- (7) Each legislation and reference committee will consist of 8 members, with 4 members from the Government Party nominated by the Leader of the Government in the Council, 3 members from the Opposition nominated by the Leader of the Opposition in the Council and 1 member from among the remaining members in the Council nominated jointly by minority groups and independent members.
- (8)
 - (a) The committees to which minority groups and independent members make nominations shall be determined by agreement between the minority groups and independent members, and, in the absence of

- agreement being notified to the President, representation on a committee shall be determined by the Council.
- (b) The allocation of places on the committees amongst minority groups and independent members shall be, as near as practicable, in proportion to their respective numbers in the Council.
- (9) 5 Members of each committee will constitute a quorum of the committee.
 - (10) Each committee may proceed to the despatch of business notwithstanding that all Members have not been appointed and notwithstanding any vacancy.
 - (11)
 - (a) Members may be appointed as substitutes for other members on the legislative and reference standing committees in respect of particular matters before the committees.
 - (b) On the nominations of the Leader of the Government in the Council, the Leader of the Opposition in the Council and minority groups and independent members, participating members may be appointed to the committees.
 - (c) Participating members may participate in hearings of evidence and deliberations of the committees, and have all the rights of members of committees, but may not vote on any questions before the committees.
 - (d) A participating member shall be taken to be a member of a committee for the purpose of forming a quorum of the committee if a majority of members of the committee is not present.
 - (e) If a member of a committee is unable to attend a meeting of the committee, that member may in writing to the chair of the committee appoint a participating member to act as a substitute member of the committee at that meeting. If the member is incapacitated or unavailable, a letter to the chair of a committee appointing a participating member to act as a substitute member of the committee may be signed on behalf of the member by the leader of the party or group on whose nomination the member was appointed to the committee.
 - (12) A committee may appoint sub-committees consisting of 3 or more of its members, and refer to any such sub-committee any of the matters which the committee is empowered to consider.
 - (13)
 - (a) Each legislation committee shall elect as its chair a member nominated by the Leader of the Government in the Council, and as its deputy chair a member nominated by the Leader of the Opposition in the Council or by a minority group or independent member.
 - (b) Each references committee shall elect as its chair a member nominated by the Leader of the Opposition in the Council or by a minority group or independent member, and as its deputy chair a member nominated by the Leader of the Government in the Council.
 - (c) Members nominated as chairs and deputy chairs by the Leader of the Opposition or members of minority groups or independent members shall be determined by agreement between those groups and, in the absence of agreement duly notified to the President, any question of the allocation of chairs and deputy chairs shall be determined by the Council.

- (d) The deputy chair shall act as the chair of the committee when the member elected as chair is absent from a meeting of the committee or the position of chair is temporarily vacant.
 - (e) In addition to exercising a deliberative vote, when votes on a question before a committee are equally divided, the chair, or the deputy chair when acting as chair, shall have a casting vote.
 - (f) The chair, or the deputy chair when acting as chair, may appoint another member of a committee to act as chair during the temporary absence of both the chair and deputy chair at a meeting of the committee.
- (14) Each committee will advertise the terms of reference for an inquiry and call for submissions and all such submissions received by the committee will be treated as public documents unless the committee otherwise orders.
 - (15) Each committee shall be provided with all necessary staff, facilities and resources and shall be empowered to appoint persons with specialist knowledge for the purposes of the committee, with the approval of the President.
 - (16) The provisions of the Standing Orders relating to Select Committees apply to each committee as if it were a Select Committee.
 - (17) The foregoing provisions of this resolution, so far as they are inconsistent with the Standing Orders and Sessional Orders or practices of the Council will have effect notwithstanding anything contained in the Standing or Sessional Orders or practices of the Council.



The Westminster System

59th Westminster Seminar on Parliamentary Practice and Procedures 7-19 March 2010
Summary Report of Discussion Sessions

MONDAY 8 MARCH 2010**WELCOME AND DELEGATES INTRODUCE THEMSELVES**

Speakers: Mr John Austin MP (Labour), Chairman, CPA UK Branch Executive Committee
Mr Nigel Evans MP (Conservative), Treasurer, CPA UK Branch Executive Committee

Mr John Austin MP welcomed the opportunity provided by the 59th Seminar on Parliamentary Practice and Procedures for parliamentarians to come together, including those from beyond the Commonwealth. He was pleased that the event would also provide an opportunity for Clerks and Secretary-Generals to interact.

Mr Austin said that, owing to the fact that all Commonwealth countries had chosen to adopt the parliamentary system known as the Westminster Model, all the delegates spoke the same parliamentary language. The ways in which the system had been adapted by member states would provide some interesting points for discussion. Delegates had come to the seminar, not to learn from the UK, but to share ideas with each other. It would be an intensive programme but a very worthwhile one. He said that Mr Nigel Evans MP and he shared a positive regard for the Commonwealth and the good that it did in the world.

Mr Nigel Evans MP said that the UK General Election was likely to take place on 6 May 2010, therefore delegates would witness a busy time in Parliament. The issue of MPs expenses was the one interest that united the UK political parties together and he would be interested to hear how colleagues had addressed this issue in their own parliaments. The events of the past year had been very bruising: 147 MPs had already announced that they would not be standing at the election. There would therefore be a tumultuous turnover in the new parliament.

Mr Evans spoke of the bond created between Commonwealth parliamentarians through these events; he had been pleased to visit Tanzania with the CPA alongside Mr Austin and had also acted as a regional CPA representative. Such seminars were a good learning process for all participants. He expressed a desire to make new friends as well as reunite with old ones.

Mr John Austin MP noted that it was International Women's Day. He said that the UK had only experienced genuine democracy for 82 years as it was not until 1928 that women were given full voting rights. The low levels of women MPs meant that the UK Parliament was still not a genuinely representative body.

Mr Austin asked the delegates to introduce themselves.

Hon. Albert Mumbo Thindwa MP (Malawi) said that he was pleased to attend the seminar.

Hon. Sydney CHISANGA MP (Zambia) introduced himself.

Hon. Datuk Tawfiq Haji Abu Bakar TITINGAN MLA (Malaysia – Sabah) said that he was attending the seminar in order to learn best practice.

Mr Syed Zafar Ali Shah MNA (Pakistan) introduced himself as the Deputy Speaker of the National Assembly of Pakistan. He was interested in finding out about the relationship between MPs and Speakers and the judiciary.

Mr Paul Grant (Australia - Western Australia) said that he was particularly interested in parliamentary privilege and education.

Hon. Alyssa Hayden MLC (Australia - Western Australia) was keen to explore the issue of women in parliament.

Ms Lily Broomes (Trinidad and Tobago) introduced herself.

Mr Junia Regrello MP (Trinidad and Tobago) introduced himself.

Hon. Jaha Ahmed Usman MP (Nigeria – Borno) introduced himself.

Hon. Robert Kashaigi MP (Uganda) introduced himself.

Hon. Simon Oyet MP (Uganda) was interested in parliamentary debate in multi-party systems.

Mr Nadeem Afzal Chan MNA (Pakistan) introduced himself.

Hon. Mohamed Asfia Nassar MLA (Malaysia – Sarawak) introduced himself.

Hon. Matiullah Agha Syed MP (Pakistan – Balochistan) introduced himself.

Hon. Wilson Mwortiny Litole MP (Kenya) introduced himself.

Mr Mathew Nionzima Kileo (Tanzania) wanted to learn how to serve the Tanzanian Parliament better in his position as Clerk Assistant.

Mr Karamat Hussain Niazi (Pakistan) introduced himself as Secretary to the National Assembly of Pakistan.

Mr Richard Sawle MLA (Falkland Islands) introduced himself.

Hon. Tara L. Thomas MEC (St Helena) introduced herself.

Deputy Rhoderick Matthews (Guernsey) said that he was glad that the delegates would be discussing climate change during the seminar.

Hon. Nicholas Prea MNA (Seychelles) introduced himself.

Mr Chang Khim Teng MLA (Malaysia – Selangor) introduced himself.

Hon. Ali Waheed MP (Maldives) introduced himself as the youngest member of the Maldivian Parliament.

Hon. Wellars Gasamagera MP (Rwanda) introduced himself as a Rwandan senator and said that he was excited that this would be the first time that his country's flag would be raised at Commonwealth House.

Mr Matthew Abrefa Tawiah (Ghana) introduced himself.

Mr Teiwaki Areieta MP (Kiribati) introduced himself.

Hon. Kayee Griffin MLC (Australia – New South Wales) introduced herself.

Mr Russell Grove (Australia – New South Wales) introduced himself.

Deputy Montford Tadier (Jersey) said that he was interested in youth involvement and new media.

Ms Filomena Rotiroti MNA (Canada – Quebec) introduced herself.

Miss Cheryl Gibson (Jamaica) introduced herself.

Hon. Midiavhathu Prince Kennedy Tshivhase MP (South Africa – Limpopo) introduced himself.

Hon. George Boniface Simbachawene MP (Trinidad and Tobago) introduced himself.

Hon. John Mickel MP (Australia – Queensland) was interested in how parliaments could utilise new technology to remain relevant in the 21st century.

Miss Pauline Ng (Hong Kong) thanked the CPA for inviting Hong Kong to attend this event.

Hon. Dr Margaret Ng (Hong Kong) spoke about the upheaval experienced in the Hong Kong parliament since the region had become part of China.

Hon. Dharmajaye Rucktooa (Mauritius) noted that Mauritius would also hold an election in 2010.

Hon. Abdou F.S.H. Jarju MP (The Gambia) introduced himself.

Dr Muhammad Ashraf Chohan MPA (Pakistan) was concerned with how to sustain democracy in Pakistan.

Hon. Roy Harrigan MHA (British Virgin Islands) was interested in how parliamentarians worked with the public.

Hon. Ignatius J. Karl Hood MP (Grenada) introduced himself.

Mr Luc Fortin (Canada) introduced himself.

Hon. Asser Kapere MP (Namibia) introduced himself.

Ms Mary Harris (New Zealand) was looking forward to discussing parliamentary privilege in the context of police powers to search the offices of parliamentarians.

Mr Allan Peachey MP (New Zealand) introduced himself.

Hon. Charlie Parker (Canada – Nova Scotia) was interested in house decorum and members' expenses.

Mr Ellio Solomon MLA (Cayman Islands) said that the Cayman Islands had recently introduced a new constitution. He was concerned with how to support parliamentary democracy and the relations between parliaments and the media.

Hon. Victor James MLC (Montserrat) said that he had been elected the previous year and therefore this kind of event was a new experience for him.

Hon. Devi Singh Bhati MLA (India – Rajasthan) said that he had been a parliamentarian since 1980.

Mr Pradeep Kumar Dubey (India – Uttar Pradesh) introduced himself.

Mr Jagdish Narain Rai MLA (India – Uttar Pradesh) said that his administration experienced the typical problems of the Westminster Model that were to be discussed during this seminar.

Hon. Cyril Ikechukwu Dennis Maduabum MP (Nigeria) noted that Nigeria had adopted many of the features of the Westminster Model in its constitution.

Mr John Austin MP noted the broad range of delegates, some representing small regions within states, others representing huge national legislatures. He said that the CPA had been very helpful in organising thematic seminars to address parliamentarians' particular interests, including seminars on climate change, fragile states and migration.

Mr Austin was pleased that he would be hosting a few of the delegates in his constituency later in the week; his constituents comprised a diverse number of ethnic groups.

THE ROLE OF WOMEN IN THE 21ST CENTURY

How can women be further empowered in the 21st century? The representation of women in Parliament.

Baroness Northover welcomed the delegates to the talk on The Role of Women in the 21st Century on International Women's Day.

Mr Peter Bottomley MP said that his wife had been a member of the Cabinet and he had created the 'Dennis Thatcher Society' for those men who were married to women more important than themselves. Dennis Thatcher had suggested it should have been called the 'Prince Albert Club' after Queen Victoria's husband.

Mr Bottomley would like to see the day when being male or female was not a predictor of anything.

When he was Minister for Roads he had had to appoint an advisory committee on digging up roads. He was offered eleven people, all were male. When he asked why he was told that they were the best candidates. Mr Bottomley questioned the suggestions stating that, for example, he knew that the retired head of transport for the local authorities was a woman, the retiring head of the Greater London Council was a woman and the Professor of Engineering at the University of Surrey was a woman. The following week his officials came back to him with a new list, six of the candidates were women.

Mr Bottomley explained that 80% of first line managers in the Civil Service were women, yet two grades later 60% were men. He believed that there were two reasons for this:

- The agreement with the Unions that civil servants had to spend a certain number of years at each grade before they got promoted. Women who had babies were therefore held back. There was also the

thought that these jobs had to be taken by full time workers and not part time workers as many women with caring responsibilities were.

- Civil Servants had to apply for promotion unlike in the banking profession where you were told you were to be promoted. Culturally men were better at asking than women and were less concerned about rejection

Mr Bottomley also said that there were a lot more comments on women's appearance than there were on men's in politics.

His wife had been advised that, as an MP's wife, she should not fall asleep when her husband was speaking and when asked her husband's view say that he was very interested on the subject.

He explained that men who are half qualified for a job believe they are over qualified whereas women think they are not qualified at all. When they can do a job men want to look for the next challenge whereas women are happy to remain in place.

In addition women primarily did the caring of the young and old. The change to Parliamentary hours had affected woman badly by making caring responsibilities more difficult.

Mr Bottomley argued that Parliament was about representation and if an MP did a job properly it did not matter whether they were a man or woman.

He asked the delegates to remove barriers and where they could not be removed help women get over them. Road maps needed to be prepared to aid women candidates and women needed to be listened to.

Baroness Northover welcomed Baroness Nicholson.

Baroness Nicholson explained that she had been the Vice Chair of the Conservative Party under Mrs Thatcher with the responsibility for improving the number of women parliamentary candidates. She had also been an MEP on the European Foreign Affairs Committee where she had worked on a sub committee on women in the Mediterranean nations. Both tasks focussed on the involvement of women in the political process.

Baroness Nicholson argued that for women to be involved in the political process:

- It was essential for women to have the right to vote. Not only this but they needed a legal identity. She had found that in the new democracies the implementation of a legal identity was fragmented. There was a need for a change in social attitudes: for example women should not be seen as the property of men.
- Women needed the capability to vote. In elections that Baroness Nicholson had monitored she had seen women coming to the ballot box full of enthusiasm to vote but then they did not understand how to actually vote - mainly because they did not have reading and writing skills. She explained that if aid was given for education of children it needed to be for both boys and girls. This would also take two decades to increase the female vote as the girls progressed to voting age. There was also therefore a need for adult education. Baroness Nicholson explained that if women had had a bad experience at the ballot box, like those she had witnessed in Afghanistan with women leaving in tears, it was unlikely that they would ever vote again.
- Once women had the vote there was a need to get women to put forward themselves as representatives - as MPs and councillors. Having spent four years persuading women to be involved with the Conservative party Baroness Nicholson believed that women were too humble. Women undersold

themselves as Baroness Nicholson observed any political minority did. She believed the answer was to involve women in smaller more local projects and then present them with a ladder to gradually climb.

Baroness Nicholson highlighted the diversity in female participation throughout the Mediterranean region which included Libya. Women were still 30% lower paid than men throughout the EU and yet the EU prided itself in improving conditions for minorities.

Baroness Nicholson concluded that the majority needed to be sensitive to the needs of the minorities. They should be shielded and offered support as much as possible.

Baroness Northover summed up that the debate was clearly about fairness but also about the different patterns of lives that need to be accommodated by the political system. She described a project in Africa where a village was consulted on where a well should be situated, the men suggested one place and the women who actually carried the water chose elsewhere. She also highlighted a thesis she had recently read on the constituency spending patterns of MPs in Kenya. Men spent their budgets on large infrastructure programmes like roads whereas women spent their budgets on health, maternal, welfare and school responsibilities.

Deputy Montfort Tadier, Jersey said that the problem for women was a microcosm of the larger problem of public engagement in politics. The politically engaged were a minority not a majority. There was a need to make politics less elitist.

Simon Oyet MP, Uganda said that there was a need to encourage women to compete and that men should support them in their struggle for equality

Hon. Dr Margaret Ng, Hong Kong, explained that although there were relatively few women in her legislative council, those that were there were not shy and the men felt threatened. Women chaired committees and panels and felt frustrated by the male participants. She asked why women did not like participation but when they did participate they did not act in an inferior way.

Baroness Nicholson answered that she herself had got many women involved in the Conservative party by targeting certain groups. This was supported by Mrs Thatcher. Baroness Nicholson approached women aged between 35-50 years old as they were by then mostly past child bearing age. She also identified professional women: accountants, lawyers, doctors and financiers by acquiring membership lists of associations. She invited these women to lunches with high calibre female speakers and encouraged the participants to become involved in local issues. This worked and she managed to put forward a female candidate for each constituency. Baroness Nicholson highlighted that it was necessary to take account of women's perspectives, they had families and jobs and politics needed to be made relevant to them. It was necessary to highlight that what happened in Parliament could affect their family and profession. Baroness Nicholson explained that women did not like competing, it was not natural to them and so it was necessary to focus on why they should get involved.

In answer to the question from Hong Kong Baroness Nicholson said that it was not numbers that were important but quality of women. She also explained that those in power did not want to give it up, even a little crack to let another person in could be threatening.

Mr Peter Bottomley MP believed that talent mattered and people should be considered on merit. Women should not mind about offending men, men should listen. He was disheartened that of the six Post Office produced stamps of women of distinction, the first female prime minister was not among them. He was also surprised that the most senior judge, the President of the Court in the Hague, Rosalind Higgins was overlooked.

Baroness Northover said that the countries with the highest rates of female participation and representation were Iceland, Sweden and Denmark yet they did not have quotas or short lists.

Hon. Alyssa Hayden MLC, Western Australia, said that of the 36 MPs in her legislative council 17 were women. She was against quotas as she believed people should be chosen on merit and talent but that women needed to be escalated through the system. However she recognised that women were humble. She herself had waited for a man to ask a question that morning before she felt she could stand up. She believed it was necessary to change the mind-set of men, she was the only female on a committee on horse racing and although the men accepted each other from the start she had to prove herself to be accepted. This took four meetings before she was even addressed by anyone on the committee.

Hon. Frederick Nkyai Mbagadhi MP, Uganda highlighted that Uganda had come a long way and now 30% of representatives were women. His Government was elevating women. He believed it was necessary to empower women in areas such as education and asked what the UK had done to emancipate women in these areas.

Baroness Northover asked the Ugandan representatives why there were three men but no women delegates in their party at the conference.

Hon. Robert Kashaija MP, Uganda thanked Gandhi in India for starting the emancipation of women. He said that in Uganda politicians were seen as people who wasted public money and never told the truth. He believed that this made women afraid of participating. He also said that families broke down in households where the women entered politics and that 40% of women politicians in Uganda did not have husbands after participating.

Mr Peter Bottomley MP said that cultural adjustment was needed. He highlighted that although people should be chosen on merit they should also not be discounted on prejudice. He believed that there should be three women and three men on shortlists. Edwina Curry had put forward the idea that men and women should be paired up in constituencies.

Baroness Nicholson believed that the mind-set of the male needed to be changed. Women should support each other, politics was a team game not a game of one against one. Women should be persuaded to form a team and work together.

THE WESTMINSTER PARLIAMENTARY SYSTEM

Speakers: **Mr Robert Rogers**, Director General, Department of Chamber and Committee Services, and Clerk Assistant, House of Commons.

Dr Rhodri Walters, Reading Clerk and Clerk of the Overseas Office, House of Lords.

Lord Tyler, CBE, Liberal Democrat Spokesperson for Constitutional Affairs, House of Lords.

Chairman: **Mr. Paul Keetch, MP**, Liberal Democrat Whip, House of Commons.

Also present: **Mr Andrew Tuggey, DL**, Secretary and Regional Secretary, CPA UK Branch.

Mr Andrew Tuggey, DL, Secretary and Regional Secretary, CPA UK Branch, greeted the delegates and speakers, and introduced the Chairman, Mr Paul Keetch, MP.

Mr Paul Keetch, MP, Liberal Democrat Whip, House of Commons, introduced the topic and the speakers.

Mr Robert Rogers, Director General, Department of Chamber and Committee Services, and Clerk Assistant, House of Commons, explained that his role as the Clerk Assistant involved supporting the Clerk with the day-to-day business of the Chamber, as Clerks Assistant had done for centuries. His first predecessor, John Rushworth, was appointed by Charles I in 1642 and later wrote out his death warrant. Mr Rushworth also survived Charles II, but ultimately died in a debtors' prison in 1690, and so Mr Rogers did not wish to follow in his footsteps! The role of Director General of the DCCS involved running a department of 550 people who provided front-line services to the Chambers and Committees of the House of Commons.

Mr Rogers noted that now was an extraordinary time in Parliament as people were waiting daily for the date of the general election, which had to be held by 4 June, but was generally expected to be on Thursday 6 May. The current Prime Minister had not been returned as Prime Minister in a general election, but that was not unusual. Polls showed that support for the parties was very close, so there was the prospect of a hung Parliament with a minority Government after the election. His colleagues had been giving a lot of thought to the practical implications of such a situation for House business.

Although 2009 had been a dreadful year for Parliament, a recent audit had shown a drop of only 1% in the public's approval rating for politicians to 26%, but 27% was not a particularly high starting point. The reputation of Parliament had to be rebuilt, and a new Parliament would help with that. Mr Rogers and his colleagues had been making plans for the start of the new Parliament and the induction of new Members.

In the 37 years that Mr Rogers had been at the House of Commons, the three biggest changes had been the increase in the number of staff working directly for MPs from 40 to 2,700; the shift to constituency work for MPs, which brought with it a "social worker syndrome"; and the fact that fewer MPs saw themselves as legislators or knew a lot about the workings of the House. MPs were therefore less able to avail themselves of the opportunities available to them.

There had been reform under the Labour Government, including the setting up of the Select Committee on Modernisation of the House of Commons. Other changes included the taking of evidence by legislative Committees, the successful introduction of a parallel debating Chamber in Westminster Hall and of topical questions in the House, and the less successful introduction of topical debates. Some of those ideas had been "stolen" from other Parliaments. The relationship between the Government and the House had been tense in recent years, and there had been complaints about there being inadequate time to scrutinise legislation. In that regard, legislation "on the hoof" did not help.

When the previous Speaker resigned, last year, Mr Rogers had written a paper stating 75 things that could be done in the House of Commons to bring real change, and the new Speaker had adopted the paper as his agenda. In the recent House of Commons debate on the Wright Committee's recommendations, the most important recommendations that were adopted, against the wishes of the Whips, were the agreement to a Back-Bench Business Committee to organise the Back-Bench business of the House, and the decision in principle to have a House Committee take control of the House's business agenda. Such systems were already common practice in some delegates' Parliaments, and the House of Commons was delighted to be following in their footsteps.

Dr Rhodri Walters, Reading Clerk and Clerk of the Overseas Office, House of Lords, said that the position of Reading Clerk might, in European language, be called Deputy Assistant Secretary General. As Reading Clerk, he read documents that had been signed by the Queen regarding the appointment of new Members and other matters. His real job, however, involved corporate services, writing the annual business plan for the House of Lords and dealing with strategic planning. He did not have anyone working under him, but had fingers in lots of pies. His post dated back only to 1660.

Dr Walters did not talk about the work of the House of Lords because his secretary had given delegates a booklet containing information on that. He explained that the Westminster parliamentary model was a bicameral system and that the Upper Chamber, the House of Lords, did not interfere in matters of money or supply. The Government was drawn mainly from Members of the directly-elected Lower House. The House of Lords shared the House of Commons' traditions of Privilege, many of which went back a long way, some being derived from the Glorious Revolution of 1688, but many people did not understand Privilege. The Lords had recently reasserted the power to suspend a Member of the House, which had not been used since 1641. When compared with other countries' Senates, the House of Lords seemed most like the Canadian Senate, although there was no retirement age in the Lords. It tended not to compare well with the Second Chambers of European Parliaments, but making comparisons between Second Chambers was generally unrewarding.

A main strength of the House of Lords was the outside expertise of its Members, which gave rise to good Select Committees. In comparison, the Commons had been criticised in the past 20 or 30 years for being almost entirely populated by people with only political experience. Much of the Lords' time was spent scrutinising legislation in detail, thereby helping to redress the effects of programming in the House of Commons that prevented the consideration of chunks of legislation. The main weakness of the House of Lords was its crazy, nominated system of appointments. It still had 92 hereditary Peers, and it had been described as a "retirement home for MPs". The House of Lords Appointments Commission seemed to have no coherent selection process. Another weakness was the relatively high average age of Peers, at 69.

There was uncertainty over whether the work of Peers was full-time, part-time or remunerated. The House of Lords had had its own expenses scandal recently that revolved largely around whether a second home allowance could be claimed. In trying to improve the House, there was a general feeling of not daring to tinker with the House's powers, as that was a minefield. The issue of membership had needed to be addressed since the hereditary Peer system had ended in 1999, and the Labour Government had been talking about it since then. Members of the House were lively when it came to considering procedures. The Lords also had a second debating Chamber, as well as various Committees to consider legislation. There was currently a lively and healthy debate, of which Lord Tyler had been part, regarding the scrutiny role of the House of Lords.

It was important to sort out certain issues, including the code of conduct, which had been dealt with, and expenses reform, which had not. Looking to the future, Dr Walters referred to Baroness Susan Greenfield's comments about new technology having a detrimental effect on youth psychology, causing the younger generation to withdraw from society, and wondered whether there would be new and unexpected challenges to the political and parliamentary system, such as low voter turnouts, as a result.

Lord Tyler, CBE, Liberal Democrat Spokesperson for Constitutional Affairs, House of Lords did not want to go over what had already been said by Mr Rogers and Dr Walters, who were considerable experts on the workings of the House of Commons and the House of Lords. Lord Tyler described himself as a semi-retired politician and noted that, at 68, he was a year younger than the average age of a Member of the House of Lords, which had been described as "a House of Elders". Actuaries had calculated that Members of the House

of Lords lived, on average, 14 years longer than average citizens and Lord Tyler wondered whether that was because the House of Lords had the best-heated day-care for the elderly, or because of the mental stimulation of the work.

Lord Tyler wanted to discuss two main issues that arose out of 21st century demands on Parliament. First, on reform, the House of Commons had finally decided to take control of its business agenda, but that had taken many years and a great deal of Back-Bench, and some Front-Bench, effort to bring about. Despite having always talked about having proper separation of powers and scrutiny of the Executive, Parliament had not always done a good job on that. The efforts of Robin Cook, in particular, to reform the House of Commons had borne little fruit, as he had been defeated by the “usual channels”—the Whips. However, Parliament’s primary job of holding the Government to account was finally coming to fruition, and it was to be hoped that the changes would be a success in the next Parliament.

It was less known that similar changes had been taking place in the House of Lords, which was extremely pleased with itself as a result. There was a good case for taking Ministers out of the Second Chamber so that it was completely independent, and currently there was some consideration about how to create a bigger role for Back Benchers. There was not a Government majority in the Lords under the current system, and there was not likely to be under any of the systems for electing Peers that were being considered. Future Governments would have to convince other parties to vote with them if they wanted to pass legislation. However, a major defect in the House of Lords was the fact that its business was decided by the usual channels—usually from the main two parties.

Secondly, Lord Tyler wondered whether the Houses of Parliament had lost touch with the public and lost their respect. There was a feeling among the public that MPs and Peers were somehow different. Indeed, an MP had recently said publicly that he did not like to travel 2nd class on the train because there was a different sort of people in there, but Lord Tyler sometimes preferred travelling in the quiet zones of standard class to having to listen to MPs busily dictating into their dictaphones in 1st class.

The election system for the House of Commons was no longer fit for purpose and there had been a decline in voter participation from 76.8% of potential voters in 1955 to 61.4% in 2005. Likewise, the percentage of those who had voted for the party that went on to form a Government had declined from about 49% in 1955 to 35.2% in 2005. In the 2005 election, the Conservative party had got 65,000 more votes than the Labour party in England, but had ended up with fewer seats. The bipolar system no longer existed and no MP could legitimately claim to enjoy majority support in their constituency, even in the safer seats, which tended to have lower turnouts.

The House of Lords was totally unrepresentative in terms of the average age of Peers and the fact that Peers lived predominantly in London and the south-east. There had been a Government White Paper on House of Lords reform in 2008, but still no legislation. As long ago as 1911, Parliament had decided that the Second House should remain, but that it should be elected; perhaps we might achieve that by the end of the century.

Mr Keetch thanked the speakers and invited delegates to ask questions.

Hon. Victor James, MLC (Montserrat) asked about the role of the Opposition in the Second Chamber.

Ms Yasmeen Rehman, MNA (Pakistan) asked what support was available to help Members in their scrutiny role, particularly in relation to information.

Hon. Cyril Ikechukwu Dennis Maduabum, MP (Nigeria) mentioned the expenses scandal and asked about the recommendations that had come out of that affair.

Mr Rogers answered Ms Rehman's question first, stating that Select Committees tended to have the support of 5 to 15 staff, including researchers, and could also draw on the expertise of the staff in the House of Commons Library.

On Mr Maduabum's question, Mr Rogers stated that there was a new parliamentary authority to police the expenses regime, adding that the House of Commons had control over its own expenditure, but that the system was different in the House of Lords.

Dr Walters did not address Ms Rehman's question, as Mr Rogers had answered it comprehensively.

On Mr Maduabum's question, Dr Walters explained that the previous expenses system in the House of Lords, where Peers were not salaried, had been different to that in the Commons. There had been generous allowances for overnight stays in London and an overall ceiling, but some people had seen it as a system of allowances, rather than expenses, and Peers had not been required to produce evidence or receipts for their claims. On the recommendation of the Senior Salaries Review Body, the system had recently been changed, and receipts were now required for overnight stays in London, as was proof that the claimant's main residence was outside London.

Lord Tyler addressed the first two questions together. He had recently used a Library briefing to help him to prepare for a debate, but he felt that there was a general misunderstanding about the role of parliamentarians. Their role was not to be experts on individual subjects, but to inform themselves and to exercise good judgment. Even those with expertise in particular areas were ex-experts, as things had moved on since they had worked in those areas. The Opposition had a responsibility to listen to the arguments and evidence put forward by others and then to exercise good judgment when voting.

Deputy Montfort Tadier (Jersey) said that it was good to have an unelected Second Chamber because otherwise it might be a carbon copy of the first, and asked what the speakers thought of both elected and unelected systems.

Hon. Simon Oyet, MP (Uganda) asked to whom the House of Lords was accountable and who could disqualify Peers.

Mr Syed Zafar Ali Shah (Pakistan) asked about Lord Tyler's comment that no MP had clear majority support in their constituency and whether there had been any research as to why.

Lord Tyler dealt with Deputy Tadier's question first. The critical issue was whether the Second Chamber would be the same as the House of Commons, but there was no suggestion that the systems should be the same. The Tories had been toying with the idea of a first-past-the-post system, but no one was suggesting that all the Senate's Members should be elected at the same time. One idea was that a third of the House's Members could be elected at a time. Also, Members would not represent constituency areas as MPs did. The propositions that had been voted on were for an 80% or 100%-elected House, but neither system would mirror that in the House of Commons.

On Mr Oyet's question about to whom the House of Lords was accountable, Lord Tyler replied that he wished he knew, but that he was accountable to his own conscience and that if Peers were elected, they would be accountable to the public. The issue of disqualification was being reconsidered. The House of Lords was self-regulatory and did not have professional advisers looking into matters when Peers misbehaved, but the current system in which a group of Peers looked into such matters was not satisfactory.

On Mr Shah's question, Lord Tyler noted that because so many parties now stood in elections, an MP could get a majority of votes over the other candidates for that constituency, but never the majority of votes of those who could vote. It was curious that the UK was so proud of its parliamentary democracy but that not a single MP could claim to have the majority support in his or her constituency.

Mr Rogers said that he could not offer a personal opinion on Deputy Tadier's question, because of his role in the House of Commons. However, things to consider with an elected Second Chamber would be: whether the election process would be the same as for the Lower Chamber; how elections would be phased; and, if they were phased differently, whether Members of the Second Chamber who had been elected more recently could claim to have a fresher mandate than Members of the Commons. The position would be different if Members of the Lords also had constituencies. There would undoubtedly be a wish to revisit the settlement in the Parliament Act 1911 that restricted the powers of the House of Lords to deal with money resolutions, and that would be a major constitutional issue. Currently, the work of the Houses, in Select Committees for example, were complementary, with Commons Committees looking particularly at Government Departments and Lords Committees considering particular subjects, but that system might be questioned if other changes came into being.

Dr Walters was agnostic about whether there should be an elected or nominated system in the House of Lords. An elected system was easier to defend but harder to administer, while a nominated system was harder to defend but easier to administer. It was clear, however, that the non-statutory quango that was the House of Lords Appointments Commission did not cover itself in glory.

Mr Pradeep Kumar Dubey (India, Uttar Pradesh), asked about information technology and to what extent technology could be introduced without creating problems.

Hon. Dr Margaret Ng (Hong Kong) asked the speakers to expand on the complications of a hung Parliament.

Hon. Charlie Parker (Canada, Nova Scotia) stated that all 10 of Canada's Provinces had done away with their Second Chambers and wondered whether there was any chance of the UK doing the same. Mr Parker also asked what a Cross-Bench Member was in the Lords.

Dr Walters said that an expensive IT service provided IT equipment and support to both Houses. Peers could also have IT equipment in their homes facilitated, and they were assisted with blogs and other such matters. Some Lords' Committees had played around with e-consultations but had found that they did not work very well.

As a hung Parliament would not be a problem for the Lords, Dr Walters decided to "duck" that question.

The idea of abolishing the House of Lords had been mooted in the past but had then been dropped and it was not talked about now. If it were abolished, someone else would have to do its work, including its full legislative programme. Many big Bills were introduced in the Lords and then revised by the House of

Commons, so if the workload were not shared in that way, Governments' legislative programmes might not be fulfilled.

Mr Rogers said that much outreach work was being done on the Parliament website www.parliament.uk to engage with the public and to help to fix Parliament's reputation. For Members, the use of e-mails created terrific expectations from the public, such as immediate responses to their queries. Some Members would not deal with matters by e-mail precisely because of those expectations, because matters could not always be dealt with straight away. The IT system of the Houses of Parliament was being reconfigured, and staff were trying to be as ambitious as possible in making changes.

If there were a hung Parliament, there would be already be a toolkit available in the Standing Orders, so there would be no need to create new powers. The last hung Parliament was in 1974 and lasted only a matter of months. In a hung Parliament, votes would be more unpredictable, so there would be more focus and media interest on the proceedings of the Chamber. People might attend debates more and might try to change others' minds through debate—a novel idea! Done deals would come to an end, and sittings would last longer.

On the abolition of the Second House, Mr Rogers did not consider the powers of the Houses to be a zero-sum game. Rather than taking away from the powers of the House of Commons, the Lords' powers added to the aggregate of parliamentary power against the Executive.

Lord Tyler said that being interactive was the key challenge of the 21st century, particularly getting information back from people. He blogged on the Lords' blog at <http://lordsoftheblog.net>, along with other Peers. He had promoted the idea that instead of having a virtual tour of the building on the parliamentary website, there could be a virtual tour of "Billy the Bill", showing which parts of the process the public could have the most influence over.

If people wanted an example of how a hung Parliament might function, they could look to the House of Lords, which had no majority. In the House of Lords, people listened to others and tried to persuade each other of their views.

Lord Tyler noted that MPs had voted firmly against abolishing the House of Lords a few years ago, so that idea was probably dead. The Scottish, Welsh and Northern Irish Assemblies did not have Second Chambers, but there was still a need for one in the national Parliament.

Mr Keetch added that a Cross Bencher was someone who did not follow a party Whip. He thanked all the delegates for attending, adding that he hoped that all delegates could learn equally from each other's systems.

POLITICAL UPDATE

Speakers: Mr Nigel Evans MP, and
Mr Andrew Stunell MP

Chairman: Mr Andrew Tuggey, Secretary, Commonwealth Parliamentary Association (UK branch)

Mr Andrew Tuggey welcomed the speakers and introduced them to the delegates.

Mr Andrew Stunell MP said that he was a Liberal Democrat Member of Parliament for the constituency of Hazel Grove, near Manchester. The Liberal Democrats were the UK's third largest party with 63 MPs. The party had MPs in each region of the country and in both conurbations and rural areas.

Mr Stunell served on the International Development Committee which scrutinised the work of the Department for International Development (DfID). The Committee had carried out important work during the last year, not least its inquiries into the impact of climate change on developing countries and the effect of the global recession on aid and development.

The current political scene at Westminster was dominated by the imminent general election. The elections in 2001 and 2005 had been predictable in that few people had expected the Government to change. In contrast, the next election, which was likely to take place on 6 May, was likely to result in a change in Government.

The Labour Government had become unpopular for a number of reasons. The party had been in office for thirteen years and many people were now desperate for a change. During its time in Government, Labour had made some disastrous decisions which had contributed to its unpopularity. The invasion of Iraq in 2003, which many voters now considered to have been an illegal act, had weighed down Labour's popularity ever since.

Voters also blamed the Government for its handling of the economy. Although there had been a global economic downturn, the UK had entered recession before most other countries and had taken longer to return to growth. The Government had been at fault because its fiscal policies had resulted in large budget deficits and it had not adequately regulated the UK's financial institutions. As a consequence, the UK had built up a massive amount of public and private debt.

Although it seemed likely that the worst of the recession had passed, the number of people unemployed would continue to grow throughout 2010. The welfare state had provided support to the unemployed, but there were many people in work who faced the future with growing uncertainty. There were currently over one million young people aged between 16 and 24 who were not in employment, education or training. That statistic was a grave concern as research had shown that experience of unemployment at a young age could scar a person for life.

The forthcoming general election would be dominated by arguments about how best to stimulate growth in the UK. Other issues would include taxation policy, education and civil liberties. The parties' green policies for protecting both the UK's and world's environment would also be debated vigorously during the campaign.

In the light of the scandal involving MPs' expenses which had dominated much of 2009, constitutional reform would also be a prominent issue in the campaign. The scandal had been a big shock to the political classes which had previously held the UK to be an example of clean politics. A significant number of MPs had announced that they would not stand at the next general election as a direct result of difficulties they experienced regarding their expenses. The electorate's trust in politicians had been weakened.

To help restore trust to the political system, the Liberal Democrats had argued that the House of Commons must become more open and transparent to the electorate. In addition, the House of Lords must be reformed and made more democratic.

Hon Mohammed Asfia Nassar MLA (Malaysia) asked whether the UK's welfare safety net was more generous than that found in the United States.

Mr Russell Grove, (Clerk, New South Wales, Australia) asked which of the main parties the Liberal Democrats would support in the event of a hung parliament.

Mr Stunell commented that he was thankful that the UK had, unlike the USA, a welfare state that supported people when they were ill, when they needed medical attention or when they had lost their jobs. During the recession, the welfare state had provided support to many people who, despite having lost their job, could remain in their homes.

The Liberal Democrats would do their utmost to gain as many seats as possible in the next election. It would be presumptuous to declare which, if any, of the two larger parties the Liberal Democrats would support in the event of no party gaining an overall majority. Whatever the result, the party would seek to promote its policies.

Mr Nigel Evans MP explained that his arrival at the seminar had been delayed because he had been speaking in a Westminster Hall debate on motoring. The previous evening, Mr Evans had been at a seminar hosted by the respected opinion pollster, Bob Worcester. Mr Worcester had predicted that at the next election there would be a turnout of 60% of voters and that the Conservatives would win with a small majority. Mr Evans had thought for a long time that his party would win the election but acknowledged that there was a significant possibility of a hung parliament.

For the first time in a UK general election, there would be televised debates between the three main party leaders. Some commentators had argued that the debates, which would take place at weekly intervals during the campaign, would be pivotal in deciding the outcome of the election.

The impact of the expenses scandal on the outcome of the election was unpredictable. It was likely that there would be many more than the usual number of independent candidates who would stand for election. Independent candidates should not be dismissed lightly. At the last federal election in Australia, a popular independent candidate had defeated the then Prime Minister, John Howard.

Mr Junia Regrello MP (Trinidad and Tobago) wondered whether the Conservatives, if they won the election, would repeal the proposal to raise income tax on those people who earned over £150,000 per year.

Mr Richard Sawle MLA (Falkland Islands) asked how parliamentarians planned to restore trust in the political process.

Hon Ignatius J. Karl Hood MP (Grenada) asked whether, in a multi-party system like the UK, the first past the post electoral system was fair.

Mr Evans responded that the Conservative Party believed instinctively in low taxation. However, he argued that, in the light of the economic situation that the current government had created, a Conservative Government would reluctantly keep the tax in place until the debt had been paid off.

Mr Evans argued that it was incumbent on all politicians to restore trust in the political system. The recent difficulties with expenses had been caused by the failure, over decades, to ensure that MPs' pay was maintained at a realistic level. The establishment of an independent body, with a remit to set MPs' salaries,

was welcome. However, that body's recent announcement that the pay of MPs should be increased by 1.5% had been met by public and media outrage.

Mr Stunell MP agreed that respect for MPs would take a long time to return. One way of bringing greater legitimacy and increasing voter turnout would be to reform the electoral system. In 2005, the first past the post system had resulted in only 27% of those people who were eligible to vote, voting for the Labour Government that was formed subsequently. A new electoral system, that introduced a better reflection of seats in relation to votes cast, would benefit the body politic.

Hon Alyssa Hayden MLC (Western Australia) asked what experience the UK had of coalition government and wondered whether compulsory voting should be introduced.

Hon Richard Frederick MP (St Lucia) noted that in the recent general election in St Lucia, the opposition parties had blamed Ministers for the economic downturn even though the whole world was in recession. However, Mr Frederick noted that the electorate had instead accepted the Government's argument that they were not to blame for the downturn and returned Ministers for another term in office.

Hon Robert Kashaija MP (Uganda) wondered whether the level of youth unemployment would be an important election issue.

Mr Stunell said that the UK did not have any recent experience of coalition government at a national level. However, since 1997, there had been coalition governments in both Wales and Scotland and, in his view, they had worked relatively well. Despite press speculation, it was doubtful that the next general election would result in a hung parliament.

It was true that there had been a global recession, but the Labour government had exacerbated the country's problems because of its reckless economic policies. The Prime Minister, Gordon Brown MP, had promised an end to recessions but that claim had been subsequently exposed as baseless.

Many people were concerned about the scale of unemployment among young people. It was certain to be an important issue in the election.

Mr Evans said that the country needed a strong Conservative Government, not a coalition arrangement. Mr Evans argued that in a free society, people should not be forced to vote.

The electorate would not be persuaded into believing that the UK's economic woes were entirely due to the global recession. Labour had created the current economic mess and they would be held accountable at the ballot box.

Andrew Tuggey thanked the speakers for setting the current political scene, as they viewed it, so clearly. He also thanked the delegates for asking such thoughtful questions.

BICAMERALISM AND THE WORK OF THE SECOND CHAMBER

Speaker: Rt Hon Baroness Hayman, Lord Speaker

Chair: Lord Harrison

Lord Harrison welcomed the delegates and explained that the session would principally serve as a forum for the exchange of views and information on second chambers. He explained that he had been a Member of the European Parliament, which functioned as a democratically elected second chamber overseeing the work of the European Commission and the European Council.

He invited delegates from countries with a unicameral system to raise their hands; about a quarter did so.

Hon. John Mickel MP (Australia, Queensland) said that the abolition of the second chamber had been an extremely successful decision.

Lord Harrison introduced Baroness Hayman, the Lord Speaker. He explained that the role of Lord Speaker encompassed some functions previously carried out by the Lord Chancellor, and noted that Baroness Hayman was the first woman to perform that role. He invited her to describe her role and to set out some of the advantages of a second chamber.

Baroness Hayman told delegates that the year that had just passed had been a horrible one for Parliament, and that all Parliamentarians shared a collective responsibility for a collective failure. Work undertaken to address the problems of a discredited expenses system had begun to call into question the principle of self-regulation. She noted the problem of maintaining a Parliament in which not only the rich could function in the context of a public loss of confidence in politicians.

She said that the Constitutional Renewal Bill, introduced in 2004, had presented the House of Lords with a dilemma. The role of Lord Chancellor had been antithetical to the separation of powers, combining a role in overseeing the judiciary with membership of the Cabinet and the role of Lord Speaker. The Constitutional Renewal Bill had established the Supreme Court, removing the Lord Chancellor's role in relation to the judiciary. There then followed the question of the Lord Chancellor's role as Lord Speaker. It had seemed strange that a member of the Executive, appointed by the Prime Minister, should oversee proceedings in the House of Lords. The Lord Speaker was now elected by members of the House of Lords.

Baroness Hayman explained that, on a range of issues, the House of Lords could claim to have made a difference to legislation and to policy. The nature of the timetabling of the consideration of legislation in the House of Commons meant that line by line scrutiny of legislation predominantly took place in the House of Lords. She said that civil society recognised that changes to legislation were often made in the House of Lords, not least because it had no government majority. She explained that there was a rough balance between members of the governing party, who were slightly more numerous than members of the Opposition party, and crossbench peers, who had no party affiliation. She noted that the large number of crossbench peers, combined with the fact that there were 78 Liberal Democrat members, meant that no party would have a majority in the Lords.

She noted that members of the House of Lords were mostly quite elderly, and past the age of ambition: the party whips were, as a result, less powerful than their counterparts in the House of Commons. The chance of defeating the Government, or of persuading it to change its position, was therefore greater. The vast majority of changes to legislation made in the House of Lords were made on a cross-party basis. She said that, in the past ten years, the House of Lords had made dramatic interventions on issues of civil liberties.

She said that second chambers were a product of political history and political geography. Many countries had managed without them, some had abandoned them, and some countries with unicameral systems were considering the establishment of a second chamber. She explained that second chambers often responded to complex questions of representation. In the UK, for example, the second chamber was historically a function of social class. It had evolved into a means of representing the non-political classes. In the developing world, second chambers responded to the problems of representing different tribes and ethnic groups, and often acted as a bulwark against elected dictatorships.

Ninety-nine years had passed since the passing of the 1911 Parliament Act. There was an ongoing debate about the composition of the House of Lords. Debate about whether members of the House of Lords should be appointed or elected centred on questions of legitimacy and accountability. She described a number of the advantages of the present system. Members of the House of Lords were able to take a long-term view of ongoing debates surrounding issues such as the ageing population, energy security and scientific advances. The House of Lords also prided itself on the expertise of its members, who – not being party politicians – had had 20 or 30 years to develop careers in the arts, in academia, in science or in business. Reports of its scrutiny committees, especially those concerned with EU legislation, were highly respected and often translated into other languages of the EU.

The question of legitimacy was often used as an argument for the election of members of the House of Lords. At the present time, the powers of the House of Lords were limited by the Parliament Acts. The chamber was unable to overturn legislation from the House of Commons and could only delay it. It was the proportion of members elected to the House of Commons that determined which party was to form a government. Where the House of Lords had repeatedly failed to persuade the House Commons that changes should be made to legislation, the second chamber stood aside in order to avoid constitutional conflict.

Some countries had two elected chambers, but it was often difficult to achieve a balance between the two. If the House of Lords were to be elected, a means of resolving differences between the two Houses of Parliament would have to be found.

Dr Muhammad Ashraf Chohan MPA (Pakistan, Punjab) said that, because an unelected upper House was not accountable to the electorate, it became simply a debating club.

Hon. Wellars Gasamagera MP (Rwanda) explained that Rwanda's second chamber had been established eight years ago. It had been introduced to improve the quality of laws, to oversee the principles of the constitution introduced in 2003, and to investigate the causes of the genocide. The Senate had 26 members, of whom 18 were elected, 4 co-opted and 8 appointed by the President. It was therefore accountable to the whole country.

Hon. Simon Oyet MP (Uganda) explained that Uganda had a unicameral system. He asked how a second chamber would interact with the country's membership of the East African Federation.

Baroness Hayman explained that the House of Lords concentrated on relations with international parliamentary bodies, with a particular role to play in scrutinising EU legislation. She explained that members of the House of Lords, who did not have the constituency responsibilities of MPs, were better able to work with bodies such as the NATO Parliamentary Assembly. The House of Lords also had a particular role to play in the scrutiny of treaties.

She said that she had been very interested in the genesis of the Rwandan Senate as an example of the recent birth of a second chamber to fulfil a particular need. In a complex legislative environment, a second chamber could offer checks and balances or play the role of constitutional backstop. In the UK, the House of Lords had the power to block the extension of the life of a Parliament.

On the question of accountability, she said that a non-elected Chamber had the responsibility of making itself accountable. She acknowledged that unelected members did not have direct links to constituents. She explained that different countries had different processes for appointments to public positions: in some countries, judges were elected, while in others the head of the health authority might be elected. If the powers of a second chamber were curtailed, as those of the House of Lords were, the case for an unelected second chamber could be made. Such chambers could show that they were not simply debating clubs by demonstrating the quality of the work that they carried out.

She acknowledged that public understanding of the work of the House of Lords was a problem. Research undertaken by University College, London, had shown that 85% of respondents were in favour of an elected second chamber. The same research had shown that 85% of respondents wanted that chamber to be filled by experts rather than career politicians.

Ms Yasmeen Rehman MNA (Pakistan) noted that, in Pakistan, the second chamber could not vote on any Finance Bill and had no Public Accounts Committee. She also said that the Prime Minister decided on the source of Cabinet members, and asked about members of the Cabinet sitting in the House of Lords.

Mr Karamat Hussain Niazi (Pakistan) asked about the processes for the scrutiny of delegated legislation. In particular, he asked what would happen if a committee of the House of Lords determined that a statutory instrument was ultra vires.

He explained the processes put in place in Pakistan to resolve differences between the two chambers. If a Bill was not passed by either House within 90 days, it was considered by a mediation committee consisting of 8 members of the Senate and 8 members of the National Assembly.

Deputy Montfort Tadier (Jersey) explained that Jersey had a unicameral system, but that there were three types of member in the chamber. He noted the problems of legitimacy and accountability of second chambers, and said that experts were needed if an upper House was to conduct detailed scrutiny. It was the selection process that should be legitimate. He suggested that broader communities, such as universities, should be asked to appoint a number of members, or that a system of electoral colleges could be established.

Baroness Hayman discussed the question of representation in the House of Lords. She noted that there were twice as many members of ethnic minorities in the House of Lords as there were in the House of Commons; that participation rates among women were very high, with women occupying many senior positions – including those of Leader of the House and Lord Speaker; that people with disabilities were well represented; and that there was great religious diversity within the House, with 26 Bishops sitting alongside Muslims, Jews, Zoroastrians, Buddhists and humanists. She noted that diversity and representation of minorities were easier to achieve through appointment than through election. She added that the balance of party membership was a closer reflection of the votes cast in the last General Election than was the membership of the House of Commons.

She noted that the two committees tasked with the scrutiny of delegated legislation were very powerful. The committees could not throw out statutory instruments, but an adverse committee report was extremely influential.

She said that taxation was a matter for the House of Commons, and that the House of Lords had only a formal responsibility in respect of Finance Bills. The House of Lords did, however, have an Economic Affairs Committee, on which many former Chancellors of the Exchequer and expert economists sat.

On the question of the Cabinet, she noted that it had been traditional for the Leader of the House of Lords and the Lord Chancellor to be Cabinet members. At the present time, two Secretaries of State were Members of the House of Lords: the Secretary of State for Business, Innovation and Skills and the Secretary of State for Transport. Both Houses were giving consideration to the mechanisms by which these Secretaries of State were held accountable to Parliament. A new Question Time had been introduced in the House of Lords, while the House Commons was still trying to find a device – beyond the departmental select committees – by which MPs could hold these Secretaries of State to account.

Hon. Cyril Ikechukwu Dennis Maduabum MP (Nigeria) asked about the procedure under which the Lord Speaker was elected, and the length of her tenure.

Mr Pradeep Kumar Dubey (India, Uttar Pradesh) asked whether presiding officers should be drawn only from the Opposition party, and whether there should be a greater role for presiding officers.

Senator Ngomyayona Gamedze (Swaziland) said that Swaziland had had two chambers since gaining its independence in 1968. Where there was disagreement between the two Houses on a Bill, a joint committee was established: some members were nominated by MPs and some by the King.

Baroness Hayman said that the contributions from delegates had revealed the diversity of upper houses and the fact that processes for reconciling differences between chambers existed.

She explained that the role of Lord Speaker had had to be invented from scratch. All Members of the House of Lords could vote in the election, which was conducted under the AV system. The Lord Speaker had a 5 year tenure, with the possibility of a second term. On the question of whether the presiding officer should be drawn from the Opposition party, she noted the importance of the independence of the Lord Speaker. In both the House of Commons and the House of Lords, the Speaker renounced his or her party allegiance. This was a permanent renunciation: once her tenure as Lord Speaker was over, she would become a cross-bench peer. Her impartiality was particularly important because the Lord Speaker needed to command confidence across all the parties. The nature of the balance of parties in the Lords meant that cross-party support was necessary in order for a candidate to be elected as Lord Speaker.

TUESDAY 9 MAY 2010

ROLE OF THE OPPOSITION

Speakers: Adam Price MP, Plaid Cymru (Chair)
John Barrett MP Liberal Democrat
Mark Pritchard MP, Conservative

Adam Price MP opened the session and remarked that while MPs from the majority party were necessary for Government, Opposition MPs were necessary for democracy. He introduced the first speaker, John Barnett MP.

John Barrett MP said that under the British electoral system the Opposition normally represented the majority of electors. The first past the post system led to Governments being formed on the basis of approximately 35% of the popular vote. He believed that this undermined the authority of the Government and made Opposition support morally necessary for a Government looking to take major decision, such as the declaration of war.

He questioned whether it was possible for the Opposition to effectively hold a Government to account when it had a large majority. During the last five years the British Government had only been defeated on in a vote. Governments with large majority tended to fear the media more than Opposition parties.

A hung parliament could radically change the role of the opposition, especially if it resulted in a minority, rather than a coalition Government. The Scottish Parliament had a track record of minority and coalition Governments which had affected the Scottish political culture. Parties were much more willing to work together than was the case in Westminster.

The first two Scottish Government contained members of more than one party which entered into a “programme of Government” which set out agreed policies for a four year period. This would not be possible in Westminster because there would be a lack of certainty about the length of the Parliament due to the Prime Minister’s power to call a snap election. British Prime Ministers who had led minority Governments tended to use this power to attempt to get an overall majority rather than embark on a sustained period of cooperation.

It was much more likely for MPs of different parties to work together on non-controversial issues. He gave the example of a disability rights campaign he was involved in. The public wanted solutions to their problems not opposition for opposition’s sake.

Governing parties should prepare for opposition; doing so could act to reduce the tendency amongst Governments that had been in power for extended periods of time to feel that they had a “right” to govern. Awareness amongst Government parties that they would one day become the Opposition might affect the way they interacted with Opposition MPs.

Adam Price MP thanked Mr Barnett for his comments. He noted that some commentators believed that a period of opposition was good for a party because it allowed them to renew their beliefs and identity. Mr Mark Pritchard MP was introduced.

Mark Pritchard MP said that the UK Parliament did not have all the answers and was still learning how to make the Opposition as effective as possible. There was a tendency for politicians to want to “take the politics out of politics”. However, while there were areas where cooperative working could be productive it was not surprising that MPs elected on party tickets would have different views. These difference should be properly articulated in a constructive and respectful way. This was something that the rules surrounding parliamentary language were designed to promote.

The role of the Speaker was important in enabling the Opposition to conduct their role effectively. He acknowledged that in some countries the Speaker was appointed by the Government, but did not believe that arrangement would work in Britain.

The select committee system was another excellent way for the opposition to engage in detailed policy debate and hold the Government to account. He advocated that countries that did not currently have such a system, should consider adopting one.

There were times when the Opposition should be more pro-active in putting country before party, such as war or the current financial crisis. During these times it was important to work closely with Government and act in a responsible way. For example during debate on the war in Afghanistan it was important to ask questions about the UK’s presence and military equipment in a way that did not undermine the mission or damage the troops morale.

He concluded that Opposition was a worthy role, but it was what you made it. He also believed in was a noble role as you were acting as the Government in waiting.

Adam Price MP thanked the speakers and opened the floor to questions.

Hon Jaha Ahmed Usman MP (Nigeria) commented that in his country the Speaker was always from the Government party and the Committee of Selection, which was dominated by the Government, ensured that

opposition members were never nominated as Chairs of influential committees. He asked whether the situation in the UK was similar.

Hon Robert Kashaia MP (Uganda) asked how it was possible for the opposition to get their views considered when it was not possible to win a vote on those issues in Parliament.

Mr Paul Anthony Grant (Australia) highlighted the importance of information in enabling the opposition to perform their role effectively. One way of accessing information was through freedom of information (FoI) legislation. Australia was currently in the process of reviewing its FoI legislation to reduce the number of exemptions. He asked what could be learnt from the UK's experience in this area.

Mark Pritchard MP agreed that access to information was important, as was access to a free media. Only weak Government without faith in their own policies and arguments denied their opponents access to the media to express contrary views.

John Barrett MP believed that if the Government thought more often about the fact that they would one day return to opposition this might affect how they dealt with the Opposition. However this is a two way process and sometimes the Opposition were unwilling to increase their own power as they did not want to face a strong Opposition when it was their turn to govern.

Adam Price MP argued that the smaller a political party was the more of a nuisance it had to make of itself.

Mr Pradeep Kuma Dubey (India) asked how opposition MPs should balance the need to represent their party with the need to represent the views of their constituents.

Mrs Yasmeen Rehman MNA (Pakistan) asked how it was possible for political parties to survive if they had been out of power for extended periods of time. She also commented that sometimes when opposition parliamentarians became chairs of Committee they did not also respect the neutrality of the positions. They should conduct their role responsibly and not just continually undermine the Government.

Hon Victor Marcelin James MLC (Montserrat) highlighted the importance of the opposition having access to the media.

John Barrett MP commented that opposition MPs had a range of roles, including importance functions outside Westminster—such as representing their constituents. It was possible to survive as a political party without being in Government; the Liberal Democrats had not been in Government in Westminster for a hundred years. Media access was hugely important, as it was how electors access their information. The UK was embarking on a new experiment with televised debates, but smaller parties were not being allowed to participate which was causing some controversy.

Adam Price MP said that having a strong and distinctive ideology helped parties weather extended periods in the political wilderness.

Deputy Montfort Tadier (Jersey) questioned whether it was possible for two or three opposition parties to reflect the totality of public opinion. He suggested that a PR electoral system would allow a great number of parties, and therefore view points, to be represented in Parliament.

Mr Roy Harrigan MHA (British Virgin Islands) noted that opposition MPs often had more difficulty responding to constituents' demands because it was more difficult for them to work with Government to find solutions to their problems.

Hon Mohamed Asfia Awang Nassar MLA (Malaysia) asked how opposition parties were affected by a federal system, where they might be in power at a regional level but still form part of the national opposition.

Adam Price MP said that Britain was still learning lessons about the federal system through its experiences of devolution.

John Barrett MP agreed with the questioner that the current electoral system was unfair and undermined democracy.

Mark Pritchard MP said that one of the most important skills an opposition MP needed was people management skills, so they could work effectively with a range of individuals and organisations to take forward their agenda and represent their constituents.

Adam Price MP concluded the session by noting that there were advantages to be an opposition MP. It was usually easier for them to get re-elected because they could agree with their constituents' grievances rather than having to defend the Government's record.

DEBATES

Chairman: Mr Eric Illsey MP

Speaker: Peter Bottomley MP

Mr Eric Illsey stated that the purpose of debates was to agree and accept ideas, propositions, statements and facts. In the House these debates were manifested most commonly around Parliamentary Bills, but within Parliament there were other types of debates, such as:

- Adjournment Debates: where a Member raised any issue with the relevant Government Minister;
- Westminster Hall debates: a "secondary chamber" which was often the site of debates over Select Committee Reports;
- Topical debates and "Topical day debates": examples had been the debate on International Women's Day, or the debate on Welsh Affairs on St. David's Day; and
- Opposition day debates where a motion chosen by the Opposition was debated.

Debates also possessed a second purpose – they allowed the raising of an issue into the public consciousness and the sharing of information and discussion of new ideas.

The House of Commons had adversarial debates. According to **Eric Illsey** this gave the debate greater "vibrancy". The Speaker played a role in maintaining the standard of the debate and ensuring that every position was able to be heard. As such, debating time was split along party and geographical region lines with the Speaker responsible for giving each region, party and policy position a "fair time".

Recently, the House had passed a measure creating a Backbench Business Committee. This would give the House more power over Parliamentary time and decreased the control the Government could exert over Parliament's agenda.

Peter Bottomley said that the scope and effectiveness of debates was often limited. Many debates took place away from the Chamber and occurred in the media, and areas of common agreement were not discussed at all. Debates could sometimes, but not often, focus popular will, but what was debated today would often have more resonance in the future. While debates were a method for holding the Government to account, unless they captured an issue at a relevant time they rarely had popular impact. Their greatest use was in shaping policy discussions in the future.

Hon. Dr Margaret NG (Hong Kong) asked how long debates could last.

Eric Illsey said that the length of the various debates were set out in the Standing Orders governing procedure. All debates, with the exception of finance bills, continued for a fixed time. On important debates such as the second reading of Bills it was not unusual for party Whips' to arrange extra time from that already scheduled. In every debate the Speaker or Chair had some discretion in accepting a closure motion and curtailing the debate. Closure motions could be proposed and accepted once everyone had their say – if someone still intended to speak a closure motion was not usually accepted by the Speaker or Chair.

Hon. Victor James MLC (Montserrat) requested clarification on the Adjournment debate process. Specifically whether the Speaker had to be presented with a copy of the Members' speech in advance.

Eric Illsey confirmed that the Speaker chose a debate from a list of debate titles presented to him by interested Members, except on some occasions when a ballot was held. **Peter Bottomley** reminded delegates that set speeches were officially not used in the House.

Hon Alyssa Hayden MLC (Western Australia) asked if there was a time limit on speakers. In Australia the practice was for party leaders to be allowed to speak indefinitely and back-benchers to be granted an hour, debates of 24 hours were not uncommon!

Peter Bottomley said that each debate had different time limits for speeches, and that the time allotted to backbench speeches could change during a debate. Party Spokesmen generally received unlimited time. Generally the amount of time granted by the Speaker for backbench speeches was dependent on the time programmed for the debate and the number of indications of interest from people wishing to speak. The time limit was often enforced through informal peer pressure from Members rather than more formal procedures.

Mr Syed Zafar Ali Shah MNA (Pakistan) asked what roles Party Whips played in controlling the debate, who was called to speak and what they said. **Hon Simon Oyet MP** (Uganda) asked how the party position on a particular debate was reached and whether this was decided unilaterally by the party leader.

Eric Illsey confirmed that the Whips played little role in the actual debate – it was the Speakers decision on who to call and when, and he was advised by his own officials, not Party Whips. **Peter Bottomley** stated that in Parliament no-one was forced to speak or vote in a particular direction; the Whips could not insist a Member made a particular speech or supported a particular motion.

WEDNESDAY 10 MARCH 2010

QUESTIONS

Speakers: Mr Andrew Kennon, Clerk of the Table Office, House of Commons

Chairman: Rt Hon Kevin Barron MP (Labour)

Mr Andrew Tuggey DL, Secretary, CPA UK Branch, welcomed the Chairman. Rt Hon Kevin Barron was a Labour Member of Parliament, a member of the CPA Executive Committee and the chair of the Health Select Committee. Mr Barron had been involved in a study into the post war deportation of child migrants from Britain, an issue which had been in the headlines recently.

Rt Hon Kevin Barron MP explained that after World War II poor children were sent from Britain to parts of the Commonwealth, including Canada, New Zealand, Australia and Zimbabwe. The Child Migrant Programme had been endorsed by various governments through to the 1960s. It was a very harsh scheme. Children as young as four or five were sent abroad, in many cases without their parents' consent. Most of the children were already in care homes and the main justification for the programme was to save the British government money. Many children lost contact with their parents and siblings. Some were told that their parents had died.

Last November Australian Prime Minister Kevin Rudd had apologised for abuse and neglect of children in Australian state care, including British children. Delegates were now in the room in which Gordon Brown had, two weeks ago, finally offered an apology to the child migrants. This followed years of discussions about who was responsible for any abuse - Britain or the countries who accepted the children. In 1998 the Health Select Committee had carried out an investigation into the welfare of former British child migrants. The Committee's report made harrowing reading. It recommended that the Government should fund programmes to assist reconciliations. There were cases of individuals who had been told as children that they were orphans only to discover in their sixties that their parents had died a few years ago. Mr Barron also knew a case of an 80 year old reunited with her 98 year old mother – at six years old the daughter had been told her mother had died.

The Child Migrant Programme was a dire chapter in UK history, which had been exposed by a parliamentary committee. The establishment had known about it. Civil servants had received letters about former child migrants, but very little had been done. When Mr Barron visited Australia three years ago, the High Commission had even been unhappy with his request that the issue be put on his agenda.

Mr Barron introduced Andrew Kennon, a very senior clerk in the Table Office of the House of Commons who was going to talk to delegates about questions. The session would hopefully provoke delegates and be lively. He had thought the UK's Prime Minister's Question Time, which delegates were going to watch later, was heated until he had seen Prime Minister's Questions in Australia.

Mr Andrew Kennon said that when he had first worked in the Table Office in 1983 his grandfather, who had been posted to Whitehall as a naval officer, had told him that whenever a parliamentary question was tabled, Whitehall would drop everything to respond. Things had certainly changed since then.

There were a number of different types of question. Oral questions at Westminster were on a five week rota, with three days notice period. A random shuffle was then carried out for the top 25, which was the maximum number of questions that could be reached in the time available. A significant recent development were topical questions, which were allocated to the last quarter of the time available. The advantage of topical questions was that Members did not have to specify the question in advance. It was possible for a Member to be successful in the substantive and the topical question shuffle, giving them a good opportunity for follow up.

Questions lasted for about 55 minutes at the start of each sitting day. About 15 to 20 questions would usually be reached, but about 30 supplementary questions would also be asked. The new Speaker was strongly encouraging brevity in questions and answers. Oral questions tended to press for action rather than information. They were like a series of mini debates or a political knockabout. Parties often syndicated questions leading to some very similar questions being tabled. The opposition frontbench was rationed with six questions.

Written questions were now generated in massive volumes. Websites like theyworkforyou.com were encouraging Members to table lots of questions, and he suspected that some of these were tabled by research assistants. There were two time frames for written questions. Members could insist on a reply within three days – known as a named day question, although they were limited to five such questions. Or Members could ask an ordinary question, with five working days for a reply. There was a lot of frustration in the Commons at the moment about poor and late replies, although these problems were linked to the volume of questions being asked.

Prime Minister's Questions had changed since 1997. Without consultation, the then Prime Minister had moved Prime Minister's Questions from two 15 minute sessions on Tuesday and Thursday to a half hour session on a Wednesday. Most questions were notional to allow Members to ask the questions they liked, although sometimes substantive questions emerged from the shuffle. The Leader of the Opposition was allocated up to six questions, which he could take either together or separately. The Liberal Democrat leader had an allocation of two questions. This meant that the first 16 or 17 minutes of questions were dominated by frontbench exchanges. Prime Minister's Questions could be very crowded and it was often very difficult for the Speaker and the Clerks at the Table to hear Members. This caused problems, for example, when unparliamentary language was used. A detailed record of Members called at Prime Minister's Questions was kept, which helped the Speaker in distribution of questions. The Speaker would also usually call Members from one side of the House and then the other irrespective of the shuffle.

Urgent questions were another type of question. These were entirely at the discretion of the Speaker. Often a decision on whether to allow an urgent question depended on whether the Government was intending to make a statement. Sometimes a Government department would volunteer a statement if they knew an urgent question had been tabled.

Questions were also used in Grand Committees for particular regions of the UK.

Questions could be tabled in person, by post or by e-tabling. About 56,000 questions were tabled a year, about 410 per sitting day. These statistics only included questions which were actually accepted, and not ones ruled out of order by the clerks or the Speaker. There were about 4,000 oral questions a year, of which 1300 were reached. 200 questions were tabled for Prime Minister's Questions for ten slots.

382 Members had an e-tabling account. This was a very high proportion of Members, given that there were about 100 Government members. 280 were active users, tabling about 27 questions each on average. Mr Kennon had been surprised when he returned to work in the Table Office a year ago that these questions were still processed on paper, but this was because they required a lot of editing. The top 20 Members who used the system tabled over half of the questions tabled in this way. The authentication system for e-tabling was not very strong and he suspected that some of the questions had not been seen by the Members themselves because they were so poorly drafted. It was very helpful if there could be personal contact between Members tabling questions and the Clerks, as Clerks could then assist Members in getting questions into order.

However, this could also sometimes lead to problems. Mr Kennon had dealt with an incident the day before in which a Member had been rude to a member of staff.

There was a system for checking which replies were outstanding, as in practice there could be severe delays. This tracking system had been upgraded recently, at the Speaker's request.

Mr Kennon's view of the effect of the Freedom of Information Act on parliamentary questions was based on anecdote rather than substance. Members were using the Freedom of Information Act to obtain information from Government departments and his impression was that departments were taking such requests more seriously than parliamentary questions. This was because freedom of information was a statutory requirement and because there was an appeals process. There had been allegations that more information was being given in response to Freedom of Information requests. However, Parliament was now in a world of information and it had to accept that the importance of questions might be diminished as a result. The Constitution Unit at University College London was currently carrying out a study into the impact of Freedom of Information on Parliament.

The Treasury estimated that the cost of answering was £425 for an oral question and £154 for a written. The Government could refuse to answer a question on the basis of disproportionate cost if a reply would cost more than £800. The total annual cost was £10.4 million and £76,000 a day.

A Procedure Committee report on written questions a year ago had decided not to recommend substantive changes. The Government's reply had indicated disappointment – Jack Straw had worked quite hard to try to persuade the Committee that increases in the number of questions was affecting the speed, quality and accuracy of replies.

The Table Office had five Clerks and five administrative staff. Its function also included dealing with the Order Paper and Early Day Motions. It was arguable whether the House should be providing staff to edit questions, as this function assisted government departments but did not represent much added value to the House.

Parliamentary questions used to be the jewel in the crown of the Westminster system, but in an age where more government data was published, where google made it more accessible, and in the world of freedom of information, a parliamentary question was no longer a unique way of seeking information. Quantity was now defeating quality and the currency had been devalued. As a result an individual MP wanting to table a few questions to pursue a particular issue could be caught up in huge flows of questions and answers.

Mr Khushdil Khan MPA (Pakistan – NWFP, Deputy Speaker) said that Members often tabled questions to try to establish if something had gone wrong in a Government department. He asked if there was any mechanism to pursue a department if it did not provide a full response.

Ms. Yasmeen Rehman Mna (Pakistan) commented that the process Mr Kennon had described suggested a very distant procedure for questions and answers, which was much better than the process in Pakistan. In Pakistan Members of Parliament could only table questions if the House was prorogued, at which point there was a big rush to do so. Departments had 15 days to reply. Senior Members in Pakistan thought asking questions was the job of new Members and backbenchers, and raised questions in points of order instead. She asked for more information on urgent questions. In Pakistan there was no specific Prime Minister's Question Time. Instead the Prime Minister could attend the question hour and answer any question he saw fit.

Deputy Montfort Tadier (Jersey) asked if any tricks were played, in particular whether Members were encouraged to put down friendly questions or the same question to ensure it came up, and if so, whether there were any safeguards against this.

Rt Hon Kevin Barron MP said that he was frequently offered questions in the tea room, but he never accepted such offers. Opposition parties did this too. Often three identical questions did come up in the shuffle. Labour Members were encouraged to put down questions for Prime Minister's Questions, but he did not do so, because this reduced the chances of him being called by the Speaker. He often asked questions in his capacity as Chair of the Health Select Committee.

Mr Andrew Kennon explained that to apply for an urgent question a Member had to write to the Speaker in the morning. In making his decision, the Speaker would take into account how busy the parliamentary day was. One of the best indications that he should accept an urgent question was a Minister calling to try to dissuade him from doing so.

E-tabling was an in-House electronic system, not linked to Government departments.

The convention was that a tabled question should be answered within seven days, but there were no penalties if a department failed to meet this. It was rare for departments to answer a question early.

Some Members used questions to keep focusing a Minister's attention on an issue.

The Procedure Committee had struggled with quality of answers. As a temporary measure it had suggested that Members unhappy with the quality of a reply could refer it to the Committee. The Speaker had also encouraged Members to use other means of raising the issue, such as an adjournment debate.

Mr Allan Peachey (New Zealand) said that oral questions also provided an opportunity to test the mettle of a Minister. Supplementary questions, in particular, were a chance to test the extent to which a Minister was on top of his brief.

Mr Pradeep Kumar Dubey (India – Uttar Pradesh) asked whether questions could be asked on matters which were before the courts or on statements about to be made by the Government.

Mr Chang Khim Teng MLA (Malaysia – Selangor) asked about the extent to which Members now preferred to use the Freedom of Information Act to obtain information.

Mr Andrew Kennon said that it was quite common for Members to write to Minister directly, although this did of course mean that the information was not in the public domain. On the extent to which the Freedom of Information Act was being used, he was awaiting the results of the academic study.

The point about testing a Minister's mettle was a very good one. This had been one of the reasons that topical questions had been such a success. Substantive questions would be divided up between five and six Ministers in advance, but they had no warning of topical questions so had to decide who would answer on the day. He had often been impressed by how well briefed Ministers were.

If a case was sub judice the House was not meant to refer to it, although with questions this could be difficult as an issue could be raised suddenly without warning and the Speaker and the clerks might not know about the case before the courts.

In an ideal world if a Minister did not want to say something on an issue, he would be forced to do so, but in practice they could not be forced. His impression was that Ministers were more embarrassed by media rather than parliamentary scrutiny.

Rt Hon Kevin Barron MP added that twenty years ago he would have put questions down to obtain information that was now always publicly available. The Freedom of Information Act was being used – journalists, in particular, were putting it to good effect. Questions did test the mettle of Ministers – this is what they were about. As the Chair of the Health Select Committee he often asked supplementary questions about recommendations the Committee had made a number of years ago in an attempt to catch Ministers off guard. This often led to Ministers raising issues with their civil servants. The Health Select Committee also had a public expenditure questionnaire which it used to ask its namesake department about how its large health budget was spent.

Dr Saif Al Ramahdani (Oman) asked about the level of technical drafting support available to Members.

Deputy Rhoderick Matthews (Guernsey) asked whether supplementary questions were allowed for statements. In Guernsey they were not and this might also be a weakness of the Westminster system.

Hon. Nicholas Prea Mna (Seychelles) said that in the Seychelles an assurance committee had been established to consider the quality of ministerial answers. The Seychelles was also trying to bring in Prime Minister's Questions on urgent issues. Previously Prime Minister's Questions had worked well in the Seychelles, with lots of supplementary questions, but the Speaker had now brought in a rule making supplementary questions the subject of his discretion and limiting the number a Member could ask to two. He asked whether there were any limits on supplementary questions in Westminster.

Mr Andrew Kennon told delegates that the House of Common Library provided an excellent research service. However, Members were now relying on their researchers more and more. The Table Office clerks often had to tell Members that the information they were seeking was already available and he had thought about whether it might be worth moving Library resources into the Table Office.

Supplementary questions were allowed for statements, which lasted for about an hour. Urgent questions had twenty minutes.

The idea of an assurance committee was very interesting. The Procedure Committee had said it would be willing to consider the quality of answers on a temporary basis. However, often the quality of an answer was a matter of political debate. For example, there was a debate going on in Westminster at the moment about the accuracy of statistics on educational attainment.

If the Leader of the Oppositions asked an urgent question it would be allowed, although this had not happened for a long time. The majority of requests for urgent questions came from frontbench spokesmen.

Rt Hon Kevin Barron MP commented that he did sometimes put down questions drafted by health charities. He pointed out that Mr Kennon himself was another source of technical support. Clerks were independent of politicians and of Whitehall.

Hon. Mohamed Asfia Nassar MLA (Mayaysia – Sarawak, Speaker) asked about the rule of not permitting questions that had already been answered. He wanted to know whether in Westminster the relevant period for the rule was the lifetime of a session or a Parliament.

Hon. George Boniface Simbachawene MP (Tanzania) asked about the minimum time periods from the submission of a question to an answer.

Mr Andrew Kennon told delegates that the relevant period in which questions could not be repeated was a parliamentary session, which lasted from the Queen's speech to prorogation. Questions were also not allowed if the information was publicly available. If a Minister refused to answer a question on the basis of security, this question would also not be allowed again in the same session. The earliest a question tabled on a Monday could receive an answer would be Thursday, although this date might not be met and there were no penalties if it was not.

Mr Russell Grove (Australia – New South Wales) asked whether questions which could be answered by another source, such as the Library, would be ruled out of order. Members' advisers might be taking easy ways out. He also asked whether the Speaker was taking issue with poor answers. This had become a problem in New South Wales. Ministers quite often got things wrong.

Hon. Charlie Parker (Canada – Nova Scotia, Speaker) asked about the type of questions not allowed by the Speaker.

Mr Andrew Kennon explained that questions seeking information publicly available were out of order. If one of the five Clerks in the Table Office thought a question had already been answered, they would send it to the upper office for checking. Questions were frequently rejected on this basis, but this process did depend on staff, who worked long hours, recognising the repetition. There was a question about why parliamentary rather than government resources were being used to vet questions.

The Speaker often received complaints about poor answers. His standard reply was that this was not something for the chair. Mr Kennon believed this was the right approach, as the chair had to be protected from what was very often a matter of political controversy. Ministers had to take responsibility for their answers.

There was a system of appeal in the office – if a clerk ruled a question out of order, a Member could appeal to Mr Kennon, and finally to the Speaker. A Speaker's ruling on a question was a relatively rare event. The Speaker had not had to rule on any questions so far this session, although he had had to rule on a motion.

To be in order questions had to be something Ministers were actually responsible for and not, for example, about the weather. There also had to be grounds for a question; they could not be sub judice; they could not offer (rather than seek) information; and they could not be argumentative or ironic. In applying these rules, the Table Office was trying to preserve the brand of questions. Ultimately many of the rules were matters of subjective judgement.

Rt Hon Kevin Barron MP said that Members often tried to use questions to embarrass the opposition and delegates would see that Prime Minister's Questions did get into party politics. However, the Speaker would very quickly rule a Member out of order if he or she tried to ask the Prime Minister about the quality of the policies of the Leader of the Opposition, as this was not a matter for which the Prime Minister was responsible.

Mr Barron added that he had been passed a note asking him to explain the shuffle of questions, but admitted that he still did not know how this operated.

Mr Andrew Kennon joked that the shuffle was not a type of dance. It was called a shuffle because years ago questions had been shuffled like packs of cards. However, the shuffle was now operated by a computer which randomly generated the top 25 numbers. This sometimes threw out interesting results – for example the other day the first 15 to 20 questions had been opposition (although they had in fact also tabled about twice as many). Members used to come and watch the shuffle, but no longer did so now it was computerised.

Rt Hon Kevin Barron MP joked that it might be like watching the lottery, but without the prizes involved.

Mr Russell Grove (Australia – New South Wales) asked how the Speaker was able to go from one side of the House to the other if the order was decided by a shuffle.

Mr Andrew Kennon explained that the Speaker would refer to his own list.

Mr Karamat Hussain Niazi (Pakistan) said that in Pakistan there was a problem with Members called to ask supplementaries making long speeches and then Ministers giving long replies. He asked how this was controlled at Westminster.

Hon. Tara L. Thomas MEC (St Helena) asked about the recent questions in the House of Commons on Lord Ashcroft, which appeared to be about an individual's private tax affairs.

Ms Mary Harris (New Zealand) asked whether the questions themselves were shuffled or simply applications for the opportunity to ask a question.

Mr Andrew Kennon said that the Speaker would try to cut people off if they took too much time – for example he might tell the House that a Member had in fact asked three questions and that the Minister should only provide one response. Lord Ashcroft was a Member of the House of Lords. Members of the House of Commons could mention a Member of the other place, but not denigrate them. Lord Ashcroft's tax status was a major political issue, so questions on this issue had to be permissible.

Questions tabled were all given a unique number and it was these numbers which were shuffled.

Hon. Victor James MLC (Montserrat) asked whether it was possible to ask a supplementary to someone else's question and whether anyone other than a Minister could be questioned.

Rt Hon Kevin Barron MP replied that Members did reply as Church Commissioners and also on behalf of the House of Commons Commission, but he could not think of any other examples. If the Speaker called a Member from one side of the House he would then call a Member from the other side to ensure a balance. If

there was time he might call one or two Members from the same side, but usually he would go from one side to the other.

Ms Yasmeen Rehman MNA (Pakistan) said that sometimes in Pakistan answers were brief and Members were told that details had been put in the Library.

Rt Hon Kevin Barron MP commented that the Library did often seem like a mysterious place, particularly when he first arrived in the Commons about 20 years ago. It was now easier to get information online.

Mr Syed Zafar Ali Shah Mna (Pakistan) asked about the House of Commons business statement.

Rt Hon Kevin Barron MP explained that the Leader of the House made a business statement to the House every Thursday. This was an opportunity for Members to ask why certain issues, for example ones affecting their constituency, were not scheduled for debate.

Closing the session, he thanked delegates for their interesting questions.

PUBLIC EXPENDITURE AND THE ROLE OF PARLIAMENT

Speakers: Mr Richard Bacon MP (Conservative), member of the Public Accounts Committee

Mr Austin Mitchell MP (Labour), member of the Public Accounts Committee

Mr John Benger, Clerk of Delegated Legislation

Chair: Jacqui Lait MP (Conservative)

Jacqui Lait welcomed the delegates and introduced the session's speakers.

Richard Bacon introduced his role as a member of the House of Commons Public Accounts Committee (PAC), a Committee which had equivalents in many Commonwealth countries, and outlined the responsibility of Parliament for scrutinising public expenditure. Parliament had a unique role in giving the executive authority to raise taxes, approving spending plans, and holding the executive to account for its spending. The power which Parliament had over the public purse, and the principle of the Government not being able to levy taxes without democratic representation, had great historical, political and cultural resonance. However, the Government normally got exactly what and how much it wanted, reflecting the fact that the UK Parliament had very weak powers of oversight of spending plans; other countries had little to learn from the UK in terms of parliamentary scrutiny of taxation and budgetary control. Parliament was much better equipped for ex-post scrutiny and performance audit.

The UK's supreme audit institution, the National Audit Office (NAO), had been set up in 1983. It was wholly independent, and its head was appointed by both Houses of Parliament. The NAO employed around 800 staff, of which three-quarters worked on financial audit, with the remainder working on performance audit and value for money. The NAO had been a pioneer in value for money assessments of Government spending, and compared to supreme audit institutions in other countries, was one of the best for the breadth and depth of this work. The NAO produced between 50 and 60 detailed value for money reports each year, which formed the

basis of the Public Accounts Committee's work. The PAC then took oral evidence on these reports from the legally accountable officer in the relevant Government department.

Most Members of Parliament would have difficulty explaining how the supply process worked, even though failure to secure supply would result in the immediate collapse of the Government. Although parliamentary time was set aside for 'Estimates Days', these were now used as a mechanism for debating Select Committee reports, and the link between the debate and the request for supply was generally tenuous.

Hon. Nicholas Prea MNA (Seychelles) asked how much advance scrutiny of the Budget was possible in the UK, and who chaired the Public Accounts Committee.

Richard Bacon said that, by convention, the PAC was chaired by a member of the Opposition. The PAC was not, however, a finance committee—this function was fulfilled by the Treasury Select Committee. The Pre-Budget Report gave some indication of the contents of the Budget, and the Budget itself was generally well trailed in the media, but Parliament did not have an opportunity to examine it in advance and this was not part of the PAC's role. The OECD had recommended advance submission of the Budget for scrutiny.

Hon. Jaha Ahmed Usman MP (Nigeria – Borno) asked about membership of the Public Accounts Committee. He explained that in Nigeria, the Chief Executive Officer appeared before Parliament to answer for past performance and future plans. The Budget was referred to an all-House Appropriation Committee, which would then make a report on it to the floor of the House.

Richard Bacon explained that, although chaired by an Opposition MP, the PAC's membership was in proportion to each party's strength in the House, so that at the moment it had a Government majority. However, as everyone was in favour of good value for money, efficiency and effectiveness in spending, the Committee did not tend to divide on party lines. The Budget was presented in the House by the responsible minister, the Chancellor, and MPs knew very little about it in advance. There was an accounting officer for each department, but the post-holder in the Treasury did not have direct contact with Parliament. Appropriation and supply were very murky areas to most MPs.

Hon Victor James MLC (Montserrat) asked how often the Public Accounts Committee reports.

Richard Bacon replied that the Committee met twice a week, to consider between 50 and 60 National Audit Office reports each year. This resulted in around 50 PAC reports being published each year, many more than published by departmental Select Committees.

Ms Yasmeen Rehman MNA (Pakistan) asked how many of the recommendations made by the Public Accounts Committee were complied with by the Government. Analysis of the equivalent committee's work in Pakistan showed that 52% of their directives had been complied with. She expressed the view that a Budget should be subject to advance approval.

Richard Bacon noted that the Treasury is obliged to make a written response to every PAC recommendation, but that framing a response and actually doing what the Committee recommended were different things. The PAC was examining how it could better track Government actions in response to recommendations, and how periodic follow-up of reports could help this. Preventing poor expenditure in advance was the purview of departmental Select Committees rather than budgetary scrutiny in the UK. The PAC's scrutiny was *ex-post* rather than *ex-ante*, but this did allow consideration of how improvements could be made in the future.

John Benger, Clerk of Delegated Legislation, began his presentation by pointing out that today was one of the three annual Estimates Days in the Commons, which are designated for consideration of the Main Estimates, the Winter Supplementary Estimates and the Spring Supplementary Estimates.

Approximately £514 billion of expenditure went through Parliament every year. Voting the supply was a key function of Parliament and had in the past been at times almost its sole function; in the reign of Elizabeth I, only 13 Parliaments had been held, called when the monarch needed authority to raise money. Nevertheless, most MPs were ignorant of the supply procedure. Three Supply Bills each year authorised the overall expenditure of the Government and allocated it to particular functions through ‘requests for resources’. However, it was difficult to over-emphasise how little Parliamentary debate took place on the Estimates. The Spring Supplementary Estimate which would be approved in today’s debate would barely be mentioned, with the time spent instead debating two Select Committee reports.

The flimsy nature of direct Parliamentary scrutiny of supply was illustrated by the fact that the last time an MP had tabled an amendment to a supply motion had been in 2003, and even then it had been withdrawn.

However, Parliament did scrutinise departmental expenditure, this being one of the three core tasks of departmental Select Committees. Staff from the Scrutiny Unit—18 economists, accountants and lawyers employed in the Department for Chamber and Committee Services—prepared briefings for the Committees on Estimates.

There was no advance scrutiny of the Budget, but the Treasury Committee conducted intense short-term inquiries into both the Pre-Budget Report and the Budget. The Finance Bill which put the Budget into law was scrutinised both by a Public Bill Committee and a Committee of the Whole House.

Austin Mitchell said that MPs’ lack of comprehension of Parliament’s task of holding the purse strings was a problem. In general, Parliament performed its basic functions poorly because of the control the executive asserted over the legislature. The role of MPs could be described as shouting directions to the Prime Minister as he drove a steamroller.

The structures Parliament had for financial scrutiny had been improved in recent years, however. Comprehensive Spending Reviews allowed MPs to see projected spending for three years in advance, although these projections were always liable to change because of unforeseen events such as a recession. Select Committees had been a great success story—one of the joys of Parliamentary life—and an effective means of restoring power to MPs. Their effectiveness in financial scrutiny did vary, however, and members needed to devote time to the task and take advantage of expert advice.

It had been announced that the next Budget would be delivered on 24 March. The Treasury Committee’s report on the Budget helped to educate MPs, but the sums involved were so large that members could struggle to understand. Better efforts were now being made to align and trace back Estimates through departmental budgets, but in 2008-09 spending of £129 billion was in departmental budgets that had not been in the Estimates.

The Public Accounts Committee had an important role to play, but could only scrutinise expenditure after the fact. Often the officials who appeared before the Committee were not those who had been in charge at the time

mistakes were made. Where there had been overspending, the Committee could only really recommend that the Government should not do it again.

Hon. Asser Kapere MP (Namibia) asked why the Estimates were regarded as close to unchangeable once they were tabled, and MPs did not feel able to make amendments. The system of after the fact scrutiny seemed an inadequate method of financial control.

John Benger explained that, as a constitutional principle, it was for the Crown to make requests for supply, and Estimates motions could not therefore be tabled by backbenchers. Amendments could only ask for reductions rather than increases in expenditure, and such amendments would be politically tricky. However, the main reason was simply that there was very limited debate on any of the detail.

Austin Mitchell contrasted the situation of UK MPs to that of Senators in the United States, who were able to add items of expenditure to supply bills.

Hon. Richard Frederick MP (St Lucia) asked whether the Public Accounts Committee should be chaired by a member who had been a member of the Government responsible for the expenditure under examination.

Austin Mitchell replied that it was to avoid this situation that the PAC Chair was chosen from the opposition. Furthermore, the research for the PAC was conducted by the impartial staff of the National Audit Office.

Deputy Rhoderick Matthews (Guernsey) asked whether the Public Accounts Committee had considered ways to refine and improve the processes of financial scrutiny.

John Benger replied that the PAC had not looked at this issue, but the Conservative Party had made proposals for an Office of Budget Responsibility.

Hon. Jaha Ahmed Usman MP (Nigeria—Borno) asked to what extent MPs were satisfied that the Budget had been implemented as planned.

John Benger contrasted the Budget process, which was about taxation and broad economic forecasting, with the Estimates process, which was about the detail of spending. The two processes were not at present aligned, but the House of Commons Liaison Committee had made a recommendation that they should be; the alignment project would be implemented in 2012.

Austin Mitchell pointed out that change in the economy affected all Budgets and spending plans.

Mr Chang Khim Teng MLA (Malaysia—Selangor) asked whether the Finance Bill should be considered by a committee before being considered by the House.

Austin Mitchell replied that individual MPs rarely had the expertise or the research backing to analyse the Finance Bill themselves. Select Committees were better equipped to examine spending relating to the policy areas of different Government departments.

Jacqui Lait considered that the Treasury Committee could make suggestions for what they would like to see in the Budget, but as the Budget raised money for the Crown, the Government's plans took precedence.

Hon. Dr Margaret Ng (Hong Kong) suggested that financial scrutiny was fraught with inherent difficulties, and hampered by both too much and too little information at different times in the process. She asked who staffed the Scrutiny Unit.

John Benger explained that the Scrutiny Unit staff were officials of the House of Commons, selected by application, and often included staff on secondments from other organisations. The Scrutiny Unit was a relatively recent innovation, and its staff also co-ordinated Public Bill Committees and briefed Committees on pre-legislative scrutiny.

Austin Mitchell said that the Scrutiny Unit staff provided financial expertise to complement the policy expertise of Select Committee staff. They were not involved in briefing individual MPs.

Hon. Cyril Ikechukwu Dennis Maduabum MP (Nigeria) asked whether the Government could refuse to spend money that had been agreed for a particular project, and whether items in the Estimates could move from one line to another either before or after the Budget was passed.

John Benger explained that the allocation of monies to particular items of expenditure was not a Budget matter. Money had to be spent in the same financial year for which it had been agreed (the principle of annuality in supply). Resources and cash could be transferred between departments, but only in limited circumstances, of which the most common were changes to the machinery of Government (in other words changes to the remits of departments). Expenditure had to be used for purpose for which it was agreed.

THE LEGISLATIVE PROCESS

Speakers: Mr Tom Mohan, Clerk of Public and Private Bills, House of Lords
Mr Alan Sandal, Clerk of Grand Committees, House of Commons

Chairman: Lord Navnit Dolakia OBE

Lord Navnit Dolakia welcomed the delegates to the afternoon session. He explained that Mrs Christine Russell MP (Labour) had been scheduled to speak but was unfortunately unable to attend. He welcomed the two speakers.

Lord Dolakia said that parliaments existed primarily to make legislation, and noted that legislative procedure could be complex. He explained that the process for passing legislation in the House of Commons and the House of Lords was not necessarily the same, and that some bills originated in the Commons, others in the Lords.

Mr Tom Mohan, Clerk of Public and Private Bills in the House of Lords, introduced his talk by saying that he intended to speak about public legislation introduced into Parliament by the Government.

In order to become law, any public bill had to pass through both Houses of Parliament and then receive Royal Assent. In exceptional circumstances it was possible for a bill to be passed without the approval of the Lords. The Parliament Act (pass in 1911, amended in 1949) allowed this when a bill had been rejected twice by the Lords. This procedure had last been used in 2004 to pass the Hunting Act.

Under usual procedure, government bills were drafted by the Office of the Parliamentary Counsel (OPC). OPC consisted of around 60 lawyers who took instruction from Ministers, but were independent from them. It acted as a buffer between Parliament and Government departments, and explained parliamentary procedure to Bill teams in Government departments.

OPC showed initial drafts of any legislation to the parliamentary bill offices (the Public Bill Office and Private Bill Office), seeking advice from their parliamentary clerks over any anticipated problems with procedure.

Once the final text of a bill had been agreed between the OPC and the Government department, it was introduced into Parliament, either in the Commons or in the Lords. It was becoming more usual to stagger the introduction of bills throughout the parliamentary session, so that they were not all introduced at once.

Bills introduced in either House went through the same stages. These were: First Reading (the formal introduction of the bill), Second Reading (a general debate on the subject of the bill), Committee Stage (where the bill was considered line by line and amendments made), Report, and Third Reading. Report and Third Reading were combined in the Commons, whereas they were separate stages in the Lords. Once a bill was agreed in one House, it was sent to the other House to pass through the same stages.

Certain difficulties could arise in the process. The Government had no overall majority in the House of Lords, there was no equivalent of the Commons Speaker in the Lords, and the Government did not control the allocation of time in the Lords. This meant that there could be insufficient time allowed to consider the detail of individual legislation in the Lords.

All amendments made in the Lords had to be called for debate, although they were grouped for discussion. Until recently the Lords had considered all amendments on the floor of the Chamber (called a Committee of the Whole House), but a change had been made to allow amendments to be taken in a Grand Committee, away from the Chamber. Having only these two options limited the speed at which bills could clear their Committee stage in the Lords, and could create log jams.

Technology had changed procedure. All bills were now sent from the OPC, and dealt with by parliamentary clerks, in electronic form. This enabled Bills to be published on the internet more quickly.

Any member of the Lords was able to introduce a Private Members' Bill, although there was an overall limit of twenty per parliamentary session. In practice there were only a few such Bills introduced in the Lords. The Government had a policy of not opposing any Private Members' Bills introduced in the Lords, which meant that bills could pass through their Lords stages more easily. They were, however, likely to face difficulties on reaching the Commons, particularly in securing parliamentary time.

Mr Alan Sandal, Clerk of Grand Committees in the House of Commons, gave a brief overview of the Committee stage of a bill in the Commons. He noted that the Commons only sat as a Committee of the Whole House for urgent bills (those which were required to pass through all their stages in a single day), and constitutionally important bills. In most cases a bill was referred to a Public Bill Committee (PBC) for consideration.

The Commons frequently had PBCs running simultaneously on different Bills—at the height of the session it was not uncommon to have five or six PBCs sitting at the same time. Each PBC had 18 members, appointed by the Committee of Selection in proportion to the political make-up of the House. Committees sat on two

days each week (Tuesday morning and afternoon, and Thursday morning and afternoon). Each was chaired by a senior member of the Chairman's Panel, a group of some 35 senior backbench Members.

Before line-by-line consideration of a bill, a Public Bill Committee sat in public to take evidence from external organisations and Government Ministers. The Committee Chair had the power to select amendments in Committee, and group them for debate. Chairs tended to select generously. By contrast, in a Committee of the Whole House, the Chair (the Speaker) selected amendments more sparingly. The Speaker tended not to select for debate at Report Stage those amendments which had been debated at length in Committee.

Pressure on parliamentary time had led to the programming of legislation by the Government. Once a bill was introduced, the Government published a programme setting out the timing of the remaining stages of the bill. A similar procedure operated in Public Bill Committees, where a 'programming sub-committee' met at the outset to agree the timetable for the Committee's consideration of the bill. If the time allotted to discussion of amendments in Committee ran out, the remaining amendments were decided en masse. Mr Sandal noted that, although the process could seem 'brutal', it ensured that time was managed effectively.

At Report Stage of a bill the Speaker selected groups of amendments for debate. On an average day four to five groups would be debated before the time ran out. If time ran out, Government amendments were agreed en masse.

Some 13 Fridays were allocated in each parliamentary session for Private Members' Bills. Seven of these were set aside for Second Reading, and six for the remaining stages of a Bill. The 13 sessions were allocated by ballot, which was presided over by the Chairman of Ways and Means (the Speaker's deputy). Around 400 backbenchers applied to each ballot, of which 20 names were drawn. The first seven were allocated a Friday debate. The Government and external lobbying organisations frequently approached backbenchers who had been successful in the ballot with their suggestions for bills. To have the best chance of proceeding, a bill would be relatively short and unlikely to raise serious opposition. The one subject a Private Members' Bill could not be concerned with was money.

The first hurdle a Private Members' Bill needed to pass was Second Reading. For a Second Reading to be agreed on a vote there needed to be 40 Members present in the Chamber. In practice this could be difficult to sustain on a Friday, when many Members returned to their constituencies. Opponents could 'talk out' a Bill by making long speeches to exhaust the time allotted to the Second Reading debate, thereby returning the Bill to the back of the queue of legislation vying for parliamentary time. The Committee Stage of a Private Members' Bill was usually unproblematic. Report stage had to be completed in one sitting, otherwise the bill was returned to the back of the queue. At Report stage, opponents tended to table multiple amendments to a bill in order to prevent it from being passed in the allotted day.

In addition to this ballot, Private Members' Bills could be introduced under the 'Ten Minute Rule'. In order to bring a bill under this rule a Member had to be first into the Public Bill Office on the Tuesday or Wednesday morning fifteen working days prior to the date they wished to introduce a bill. After question time in the Commons most Tuesdays and Wednesdays the introduction of bills under the rule was heard. The Member who had secured the slot could present their bill and speak for ten minutes in its favour. Another Member could then speak for ten minutes in opposition. If necessary the Speaker then called a vote to determine whether the bill should be introduced. As it was very unusual for a bill introduced in this way to be passed by the House, the main purpose of introducing a bill under the 'Ten Minute Rule' was to gain some publicity for its subject.

Each year around 90 to 100 Private Members' Bills were introduced, of which around half were printed. About 15 were debated, and only around 3 to 4 achieved Royal Assent.

Lord Navnit Dolakia thanked the speakers and invited questions from the delegates.

Mr Paul Anthony Grant (Australia - Western Australia) explained that in Australia, until recently, Parliamentary Counsel only drafted bills for the Government. Any Member introducing a private bill was supported by an external law firm which was privately contracted by the Parliament. Committees had no help in drafting legislation, unless a Minister granted them access to Parliamentary Counsel. However, the contract with the private law firm had been recently terminated, and arrangements revised so that Parliamentary Counsel offered drafting support to all three types of bill. He sought the speakers' views on this arrangement.

Mr Syed Zafar Ali Shah MNA (Pakistan) asked who determined whether a Private Members' Bill was constitutional and within the legislative competence of the House. He asked whether there were any restrictions on the legislative power of the Lords, as they were an unelected body.

Hon. Jaha Ahmed Usman MP (Nigeria – Borno) asked how public opinion was sought on legislation introduced in Parliament.

Mr Tom Mohan responded that there was no specialist legal support for Private Members' Bills in Westminster. Parliamentary clerks helped Members draft bills, with the aim of producing a workable initial draft. If a Private Member's Bill was adopted by the government, it would be redrafted by government lawyers. In other parts of the UK there were different arrangements: for instance, in Scotland Members were able to instruct solicitors to draft bills.

Mr Alan Sandal said that there was no constitutional bar to a bill being introduced and debated in Parliament. The Lords had a Committee on the Constitution, which examined all public bills for constitutional implications and published a report on these bills to inform the House. In practice the Committee did not present a bar to proceedings, but rather offered commentary on legislation. The powers of the Lords were restricted by the Parliament Act, passed in 1911 and amended in 1949. Under the Act the Lords had a general power to delay a bill for a maximum of a year. The exception to this was that they could not delay a bill primarily concerned with money for more than one month.

He explained that the Government conducted a public consultation process prior to the introduction of a bill. It typically produced a Green Paper (a preliminary document setting out Government proposals intended to stimulate public discussion) and often a White Paper (a further document detailing Government policy and setting out concrete proposals for legislative change). Both types of paper were used to stimulate public debate and consultation. Under recently revised procedures, bills in the Commons were referred to a Public Bill Committee between Second and Third Reading. These committees had the power to take written and oral evidence from external experts, sitting in public.

Mr Mohammad Javid Abbasi MPA (Pakistan – North West Frontier Province) said that in Pakistan in certain situations temporary powers could be granted to the Executive to pass legislation, and asked what the situation was in the UK. He asked whether the Crown had the power to refuse to give Royal Assent to a Bill.

Mr Pradeep Kumar Dubey (India – Uttar Pradesh) asked about constitutional restrictions on bills which might affect the Crown.

Hon. Midiavhathu Prince Kennedy Tshivhase MPL (South Africa) asked how time was allocated in Parliament.

Mr Alan Sandal responded that since Parliament, at least in theory, sat in almost continual session, there was no need to grant temporary powers to allow the Executive to pass laws. Parliament did however regularly grant provision in a bill for the Executive to make secondary legislation to enact that bill. He explained that the Crown had the theoretical right to refuse to give Royal Assent, but that in practice a refusal had not been made for three hundred years. He said that the Government could amend its own bills, both at Committee and Report stages, and in practice frequently did.

Mr Tom Mohan said that Government lawyers and Parliamentary Counsel drafting a bill might seek the advice of parliamentary clerks on whether the bill affected the Queen's prerogative before it was introduced to Parliament.

Mr Alan Sandal explained that Parliament had complete legislative competence, and the Speaker of the Commons had no power to rule something outside the competence of the House. It was up to the Government to determine how it wished to allocate time in Parliament and what its legislative priorities were. It did this through its business advisers, who drew up the Parliamentary timetable at the start of a legislative session.

Hon. Cyril Ikechukwu Dennis Maduabum MP (Nigeria) asked whether a Private Members' Bill could be introduced in both Houses simultaneously.

Hon. Charlie Parker (Canada) asked when bills came into force.

Ms Lily Broomes (Trinidad and Tobago) asked what happened if a bill was timed out, and whether it could be carried over into the next session.

Mr Tom Mohan said that, under normal procedure, Private Members' Bills went first through one House, and then through the other. However, under exceptional circumstances (such as during the banking crisis in 2009), a bill could be passed almost simultaneously through both Houses.

He explained that there was no proclamation setting out when a bill would come into effect. Instead, bills contained commencement provisions which allowed the Government to bring clauses into effect at different times.

He said that a bill could be suspended at the end of one parliamentary session and reintroduced in the new session, but could not be carried over from one Parliament to the next.

Ms Yasmeen Rehman MNA (Pakistan) asked whether a Private Members' Bill that had been opposed and defeated could be reintroduced.

Hon. Robert Kashaija MP (Uganda) asked what happened if a bill did not receive Royal Assent within the Parliamentary session.

Hon. Mohamed Asfia Nassar MLA (Malaysia – Sarawak) questioned how transferable parliamentary practices were between countries with different constitutions. In particular, what lessons could be learnt by, and from, countries such as Malaysia in which the Parliament was not sovereign.

Hon. Midiavhathu Prince Kennedy Tshivhase MPL (South Africa) asked about the Westminster system of committees for scrutinising the Executive.

Mr Sandal responded that if a Private Members' Bill was defeated, it fell. However, there was no rule prohibiting its reintroduction in the next parliamentary session.

He said that if Royal Assent was not given to a bill in one parliamentary session, the Government could put down a motion to carry the bill over into the next parliamentary session, but could not carry a Bill into another Parliament.

He highlighted a recent constitutional reform in Westminster that had removed High Court Judges from the House of Lords, and established them sitting as a Supreme Court in their own building.

He explained that the Commons had a well-developed system of Departmental Select Committees, each of which shadowed one Government department. Each committee was formed of between 11 and 14 members, drawn from all the political parties in proportion to the representation of those parties in the House. These committees were responsible for scrutinising the policy, administration and expenditure of the relevant Government department.

Lord Navnit Dolakia thanked the speakers and delegates for their contributions.

OPEN FORUM 1: EFFECTIVE LEGISLATION

Mr Peter Bottomley invited the **Hon. Dr Margaret Ng (Hong Kong)** and **Mr Mohammad Javid Abbasi MPA (Pakistan, North West Frontier Province)** to join him and Chair the session. He explained that the purpose of the open forum would be to consider the challenges posed by drafting and passing effective legislation, and to share experiences between delegates.

Mr Pradeep Kumar Dubey (India, Uttar Pradesh) said that draft legislation had to both be meaningful and succinct if it was to be interpreted correctly by the courts.

Hon. Tara Louise Thomas MEC (St Helena) said that in St Helena, legislators had difficulty engaging with the public, and asked if delegates had any recommendations for how best to communicate with their electorate.

Deputy Montfort Tadier (Jersey) said that in Jersey, backbenchers were able to introduce legislation, and as in the UK Parliament, the relevant Minister was required to make a statement in relation to the compliance of the legislation with the European Convention on Human Rights.

Hon. Mohamed Asfia Awang Nassar MLA (Malaysia, Sarawak) said that in order to draft legislation effectively, one needed to be very good with words and phrases, as precise meanings could have significant effects on how a law was implemented. A key difference between Malaysia and the United Kingdom was that in Malaysia, the constitution was supreme, whereas in the United Kingdom, Parliament was. Legislating in a

federal system was more complicated, as there were several ‘layers’ of legislation to consider. It was necessary to decide whether an issue fell within federal or state jurisdiction, or whether it was a ‘concurrent’ matter.

Hon. Jaha Ahmed Usman (Nigeria, Borno) said that the three principal aspects in need of consideration when introducing legislation were the environmental impact, social issues, and the political dimension. It was always necessary to give thought to how the introduction of an Act would change anything.

Mr Chang Khim Teng MLA (Malaysia, Selangor) said that he had experience of drafting two pieces of legislation, one of which had been of particular relevance to parliamentary matters. In Malaysia, the role of the Speaker was much less important than in the UK, and he had introduced a Bill to set up a Commission, along the lines of the House of Commons Commission, but it had been opposed by the Executive.

Hon. Richard Frederick MP (St Lucia) said that MPs were ‘policy directors’, whose role was not to draft legislation but rather to give instruction to parliamentary draftsmen whose job it was to give legal form to their intentions. In St Lucia, the constitution was supreme and any legislation deemed anti-constitutional was declared null and void.

Hon. Cyril Ikechukwu Dennis Maduabum MP (Nigeria) remarked upon the influence of time limits on the legislative process, and the power of the Executive in determining the progress made by a Bill.

Hon. Ignatius J. Karl Hood MP (Grenada) said that as Minister for Health, he had been assisted by the Attorney General in drafting legislation.

Mr Syed Zafar Ali Shah MLA (Pakistan) said that he remembered Mr Bottomley from his days as a Minister. He said that although the intention had been for Pakistan to be a secular state, this had not proven possible and the country had not been truly democratic since the 1950s, when it had been decided that Islam would play a role in the constitution. However, it had not been clear which form of Islam would have influence, which had led to some confusion. Any legislation deemed ‘repugnant to Islam’ was declared null and void.

Hon. Dharmajaye Rucktooa MP (Mauritius) said that in Mauritius, the State Law Office drafted laws, and were required to listen to all the relevant debates. This was particularly necessary when difficult legal questions, such as organ donation, were being considered.

Mr Mohammad Javid Abbasi MPA (Pakistan, North West Frontier Province) invited delegates with experience of drafting legislation to give examples of difficulties that they had encountered.

Hon. John Mickel MP (Australia, Queensland) said that while politicians could have good intentions in their policy proposals and legislation, the interpretation of Acts by the Courts was often problematic.

Mr Pradeep Kumar Dubey (India, Uttar Pradesh) said that whilst he was not an expert draftsman, as a parliamentarian he had contributed to the creation of legislation.

Hon. Jaha Ahmed Usman (Nigeria, Borno) said that parliamentarians who had previously been lawyers had an advantage over those who had no legal background. He recalled an occasion when a law had been introduced to set basic standards for the driving of motor vehicles in Nigeria which, although good in theory,

had proven difficult to implement. The involvement of stakeholders from an early stage was essential, and could not be avoided.

Mrs Yasmeen Rehman MNA (Pakistan) agreed that compliance was a real problem. She had introduced a Bill in 2003 to set certain standards in relation to the quality of infant formula milk, but had encountered difficulties in finding a Government department that would take responsibility for it.

Mr Russell Grove (Australia, New South Wales) said that Parliamentary counsel only drafted on the instruction of politicians. Lawyers within the House were not able to interpret the intentions of politicians. He echoed the point made earlier about the difficulties of legislating in a federal system, recalling that a Bill that outlawed the Communist Party of Australia had itself been ruled as unconstitutional.

Mr Peter Bottomley MP said that it was testament to the variety of views that so many delegates had been able to speak in the debate. He noted the remark made about assessing the political, economic and social effects of legislation, stating that the law could do three things: to give people rights, to help reconcile disputes, and to create a crime. On the question of how legislators approached subjects, he said that it was often as simple as “if it’s good, spend money on it, if it’s bad, tax it”. He encouraged delegates to be persistent in their approach, just as William Wilberforce and the Abolitionists had pursued a course of action they strongly believed to be right.

On the question of enforcement, he recalled that the Icelandic Parliament had sat for over 1,000 years, and used to meet each year when one of its members would recite one-third of the laws. This was undoubtedly a spectacle, but since there was no compulsion to obey the laws, the only influence was societal pressure. This had proven to be a great influence on drink-drive policy in the United Kingdom. Deaths from drink-related driving accidents had formerly been around 12,000 each year, but had more than halved through a policy not of increased deterrence, but rather of public information and pressure to have a designated driver and to drink *or* drive.

The last example of the potential of societal pressure and expectations he gave was of the calling of Arthur Scargill to give evidence to a select committee during the Miners’ Strike in the 1980s. Having refused to attend on several occasions, he eventually relented when met on his doorstep by the assistant to the Serjeant at Arms, who had politely explained that he was expected to come along and give evidence to the Committee.

THE COMMITTEE SYSTEM

Speakers: Mr Mike Gapes MP, Chair, Foreign Affairs Committee, House of Commons
Mr Tim Yeo MP, Chair, Environmental Audit Committee, House of Commons
Mr Robert Wilson, Deputy Clerk of Committees, House of Commons

Chair: Mr John Grogan MP,

In the absence of the Chair, Mr Andrew Tuggey, Secretary and Regional Secretary to the CPA UK, welcomed the speakers and introduced them to the delegates.

Mr Robert Wilson, Deputy Clerk of Committees opened the session by introducing examples of accountability in Parliament, and explained that select committees were a mechanism for holding the government to account. The Prime Minister gave evidence before the Liaison Committee twice a year, for two and a half hours each session. There were 19 select committees, one for each government department, as well as the Public Accounts Committee, which would investigate how public money was spent, and also the

Environmental Audit Committee and Public Administration Committee. In addition, there was also the Joint Committee on Human Rights, containing Members from both Houses of Parliament.

The select committee structure had been in existence for 30 years and had increasingly developed in scale and activity. The chair of each select committee was always a back-bench MP and not a Minister, and could be from either the government or opposition party, the numbers of chairs by party based on House proportions. The chair was paid an allowance of £15,000 per annum, and could serve no more than two parliamentary terms. From the next Parliament the membership of select committees would be decided by the House as a whole, and the maximum number of Members serving on a committee would be 11, a change from the current 14.

The staffing of each select committee had significantly increased in recent years. Committees were supported by 200 staff, and between 5 to 8 staff would service one committee. The Committee Office was also supported by the Scrutiny Unit which looked at financial and legal dimensions, and also received assistance from the National Audit Office (NAO).

Committees' terms of reference were to scrutinise expenditure, administration and policy of the relevant department and also to hold pre-appointment hearings. Committees had the power to send for persons, papers and records, although this excluded Members of both Houses. Witnesses and Members were given freedom of speech when speaking within the select committee. Where difficulties might exist, the Leader of the House negotiated between the committee and the department, and where necessary, the Liaison Committee pursued matters further.

Mr Wilson explained that a committee met 25 to 40 times a year. This could include public evidence sessions and/or private deliberative meetings. Each committee could bid for a study visit overseas. Informal meetings with visitors to the UK Parliament were an additional task for select committees. Committees were also able to take evidence away from Westminster. Most of the information relating to select committees, including their timetables, was published on the internet. There could be as many as 12 to 30 different subjects covered in evidence during the year. The format of a typical inquiry would be to: send out a call for evidence; hold from 1 to 6 oral evidence sessions; draft a report; and release a copy of the report under embargo just before the report publication. An advantage of releasing an embargoed copy was that it would allow interested parties time to read it before its actual publication. By convention the government was required to provide a response to a committee report within two months of the report publication. Following this publication, the committee might then be able to secure a Westminster Hall debate, where the report could be debated, with the presence of the relevant Minister and members of the committee.

Committees had a political impact. The government had to reply to a select committee report, but did not have to act on their recommendations. The reports could attract a lot of media coverage and be challenging for the government. It was for the government to decide whether to change policy in light of a recommendation by a committee. In the next Parliament committees might decide to do more with the outreach team and might publish their reports on the Parliamentary twitter site. The site had been proven to give greater recognition to the work of Parliament. It was important that the public understood that the committees were part of the UK Parliament and not the government.

Mr Mike Gapes MP, Chair of the Foreign Affairs Committee, House of Commons, explained that the Committee had not only a scrutiny role, but also a slightly different relationship with the outside world. Mr Gapes provided an example of the Foreign Affairs Committee report on Global Security: Non-proliferation, with recommendations and conclusions, and evidence containing over 300 pages. He explained that the Government response was received in August 2009 and that a debate in Westminster Hall had taken place in the last week, where the Committee were able to highlight and debate the main issues in the report.

The Foreign Affairs Committee, published around seven or eight detailed reports each session. The reports covered both thematic and regional issues, as well as being country focussed. Some of the topics of reports

included: Global Security; East Asia; Russia; South Asia; Japan and Korea; and Iran. In 2006, it had been the first Committee to visit Guantánamo Bay. Two years ago the Committee published its report on Britain's Overseas Territories. In response to its report the government intervened to look at issues of corruption and bad government. It was not until the Committee had visited the Turks and Caicos that any action had been taken, but following publication of the Committee's unanimous report, the government took action. It should be noted that the government did not always have to take action.

Mr Gapes explained that the Foreign Affairs Committee also produced reports with other Committees. Previously this had been through the Quadripartite Committee on Arms Exports, now consisting of just three Committees (Business, Innovations and Skills, International Development and Foreign Affairs), and therefore renamed the Committee on Arms Export Controls (CAEC). He announced that the Committee had just agreed its report on Arms Exports which would be published in a few weeks' time.

Mr Gapes was also *ex-officio* on the National Security Strategy Committee. This Committee was a new innovation and was due to meet shortly. He was also a Member of the Liaison Committee, which consisted of all the Chairs of Committees. As well as holding two annual sessions with the Prime Minister, the Liaison Committee met to discuss the sharing of money for visits and also met with the Whips to discuss problems surrounding the attendance of Members on committee visits. He explained that the Whips would rather that Members remained in Westminster, which often caused tension between the role of the committee to hold the government to account and the Members' roles as Parliamentarians. From time to time there could also be tensions if the government did not like the Committees' recommendations. Mr Gapes gave the example of his Committee's Report on the Lisbon Treaty, when foreign policy aspects were going through on the floor of the House.

It had been a busy period for the Foreign Affairs Committee. The Committee had recently visited Madrid, Cyprus, Lisbon and Malta. During some of the Committee's visits it was necessary to divide the Committee because of its large membership and this often made for a more productive visit. Issues covered during the visit had included migration and refugees, in particular, how to cope with migration in the EU. In the previous week, the Committee had visited Brussels. A report would be published shortly highlighting two main issues – financial pressures on the FCO and what was happening to the future structure and organisation of the EU. Last year the Committee had produced a report on Afghanistan and it was looking to produce a major report on UK-US relations, which would be the third report update on this issue. Due to the changes in the selection of members to committees in the new Parliament, there was uncertainty as to who would chair, or even be a Member, of the Foreign Affairs Committee in the new Parliament.

Mr Tim Yeo MP, Chair of the Environmental Audit Committee, House of Commons, explained that the Environmental Audit Committee had a cross-cutting departmental role. He said that the staff helped to make committees more effective, and that the Committee could use NAO resources. For example, the NAO could provide a report as a valuable starting point to an inquiry. It was the practice of the Environmental Audit Committee to decide its own agenda, making it different from other committees. It was important to prioritise work due to time constraints, and at the beginning of the Parliament the Committee decided to focus its work on climate change. The Committee was very appreciative of the work the CPA had done in this area.

A consequence of deciding a particular theme was that it provided the opportunity for Members to build up an expertise in that area. It would seem that when few Members were present for an evidence session, for example the Committee's meeting that afternoon with the responsible Minister when five Members had been present, it could be a good session with Members who had developed a great deal of expertise in the area.

Mr Yeo said that the Environmental Audit Committee commanded real respect and that people paid attention to what the Committee said. The Chair was often the focal point for the Committee's work, and would be the person to receive invitations on behalf of the Committee. Last year the Committee had produced a critical

report on the shipping industry, which was particularly critical about climate change, and following its publication, the Chair was surprised to receive a lunch invitation, as a direct result of the report.

There were often a variety of responses to Committee reports and, because environment issues were handled at EU level, this also meant speaking with Brussels officials.

Mr Yeo stated that the Committee was made up of Members of three different political parties, and there had only been one occasion where a Committee report did not have unanimous agreement. The Committee's reports were influential, but they did not have any power. It was however clear that government policy could change as a result of a select committee report. An example of this was the Committee's report on Carbon capture and storage (Session 2007-08, HC 654). The Committee had received the government's response to the report, thought it unacceptable and returned it to the Department stating their disappointment. The Department then decided to change their response and sent a much more satisfactory report which agreed to change existing policy.

Mr Yeo spoke about the election of a chair to a select committee. Chairs were often elected in post on the basis of their views, and there were occasions where this could result in a slant on the work of the committee. It would be interesting to see the effect of the change in procedure.

In the 27 years Mr Yeo had been in Parliament – as a back-bench opposition Member, a Member of the shadow cabinet, and on a select committee – he had found it most effective to be chair of a select committee.

Mr Grogan thanked the speakers and invited questions from delegates.

Ms Yasmeen Rehman Mna (Pakistan) asked if committees' recommendations were binding on the Government. Was it mandatory for the Government to give a response to the committees' reports? How many committees could a Member serve on?

Hon. Cyril Ikechukwu Dennis Maduabum MP (Nigeria) asked whether the reports were submitted to the Government or to the House.

Mr Yeo said that it was very difficult to define the powers of a select committee. The committee would publish its report to the House and the relevant government department would publish a reply to the committee. It didn't have to be a positive reply, and if this were the case, the committee had no powers to take the matter further since the powers of the committee were very limited.

Mr Gapes said that it was difficult to be effective if you were a Member on more than one committee. Mr Gapes was a Member of the: Liaison Committee; Committee on Arms Export Controls (CAEC); Foreign Affairs Committee; and *ex-officio* Member of the National Security Strategy Committee. The Liaison Committee did not specify any rules that prevented a Member joining more than one committee, and there were some Members in the House who were on more than one committee, which could cause difficulties where the demands of the two committees clashed.

Mr Wilson said that 30 years ago there were around 275 places on select committees, compared to over 550 last year. In the next Parliament, one of the changes would be to bring down the number of Members serving on select committees. A larger membership on the committee did not work as well.

Hon. Alyssa Hayden MLC (Australia) asked about the cost for running each of the inquiries.

A question was asked about the Environmental Audit Committee's inquiry into Climate Change, whether it had been a success or not.

Mr Richard Sawle MLA (Falkland Islands) said that the Committee structure seemed quite large and complicated. He asked if the Committee Office was subject to scrutiny, value for money, and performance objectives.

Mr Gapes said that the figures for what each committee had spent on overseas travel were publicly available, and the Liaison Committee had recently cut back on the cost of visits.

Mr Gapes responded to a question about the committee structure. Once a committee had reported its conclusions and published its report, and the Government responded, if the committee was not satisfied with the response it could write back to the Government Department expressing disappointment and asking for a further response which could then be published. Mr Gapes said that in the last Parliament he had been a Member on the Defence Committee, and subsequently Chair of the Foreign Affairs Committee. He had had to be approved by the parliamentary Whips and back-benchers in a full parliamentary Labour meeting. The process for electing a Chair in the next Parliament would be different. Members on a committee would not decide their Chair, the decision would be taken by Members in the House.

Mr Yeo said that the Environmental Audit Committee's inquiry into Climate Change – relating to reducing green house gases – had been a disappointment, and hopes had not been fulfilled. The general feeling within the committee had been that climate change discussions in future should be conducted in a different way.

Mr Yeo noted that there had been more engagement with the public over the recent years, especially with school age pupils upwards, though more work could be done perhaps through using social media. With the help of the Media Officers, the profile of committees had gradually been increasing.

Mr Wilson emphasised that it was for a committee to chase the government department to ensure that committee recommendations which it agreed to take forward were acted upon.

Mr Wilson said that the Chair of the Liaison Committee, Rt Hon Alan Williams MP, was also a Member of the Public Accounts Committee, and had arranged for a review of committee resources through the NAO. The results were comparable with other similar organisations – a cost of about £10 million a year.

Senator Ngomyayona Gamedze (Swaziland) asked at what stage the House adopted the report from a committee?

Hon. Mohamed Asfia Nassar MLA (Malaysia) asked a question concerning reports on the invasion of Iraq whether Saddam Hussein had weapons of mass destruction.

A question was asked about how the committees used their powers to call for persons, papers and records, and how the process was managed.

Hon. Jaha Ahmed Usman MP (Nigeria) asked how the selection of committee chairmen was made.

Hon. Charlie Parker (Canada) asked when Members got any time to do Constituency work?

A question was asked about how committees were created, and whether this was done through a motion of the House, or whether specific Committees were created for a particular purpose?

Deputy Montfort Tadier (Jersey) asked a question relating to the Turks and Caicos: On what grounds, and what was the scope for the grounds, the Committee looked at the corruption and breakdown of government?

A question was asked about committee Members accepting invitations, and whether this had an effect on their work, following acceptance.

Mr Karamat Hussain Niazi (Pakistan) asked what would happen if a committee summonsed a witness to give evidence and they failed to attend, and whether there were particular procedures in place for dealing with this. This was a current problem in Pakistan.

Mr Yeo responded to the question on hospitality. He said that all interests held by Members were disclosed, as well as overseas visits. He also said that invitations were all openly disclosed. He reiterated that the Committee was easier to manage and also more effective when as few as 6 or 7 Members were in attendance during a session. When there were many witnesses to see, it was also easier to divide the session and have one or two panels. He explained that Members on the committee were provided with a brief containing questions related to an inquiry, which was written by committee staff in conjunction with the chair.

Mr Wilson explained that the committee reports were made to the House, although the House would not adopt them, it would be for the government to respond to them. Following the publication of a committee report and also the government's response, the committee might be able to take part in a debate on the report with the relevant Minister also in attendance.

Mr Wilson also noted that although the committee had the power to summons witnesses, it couldn't enforce the summons. The matter would have to go before the House to be enforced. He gave a recent example of when a committee had delivered a summons for papers to a firm of Solicitors. Following the summons, the Solicitors had actually handed over the documents that were requested. He also explained that the power to summons witnesses did not extend to Members of the House, including Ministers, although they usually made themselves available. The Standing Orders set out the committees for the Parliament, and the House had recently agreed that the parties would in future elect the members of select committees in a secret ballot.

Mr Gapes also described some of the problems securing witnesses to give evidence. He explained that generally when a request was given to a government department for an official to give evidence, it would normally be the official carrying out the role at that time, not their predecessor. Furthermore, he added that the Committee had no powers to summons Members of the House of Lords.

He explained that during the Foreign Affairs Committee inquiry into Overseas Territories, it had received a large amount of anonymous evidence from the Turks and Caicos residents in which they had noted their problems. As part of the Committee's visit to the Caribbean, they decided to visit the Turks and Caicos. There, the Committee discovered a theme of fear, intimidation and corruption, and people did not wish to be seen speaking with them. The Committee was very concerned that this was a hugely neglected area, that needed to be looked at.

Mr Gapes also responded to the earlier question on Iraq. He noted that in 2003, he had been a Member on the Defence Committee during its big inquiry into Lessons of Iraq (Session 2003-04 (HC 57-I) in the run up to the conflict and its subsequent report. He also noted that the Foreign Affairs Committee had also produced a report on foreign policy issues relating to this area. He confirmed that none of the Committees had said that there were weapons of mass destruction, although they had said it was thought Saddam had them. There had been many inquiries undertaken on this issue, including Butler, Hutton, and now the recent Chilcot inquiry. Parliament had tried to look at this area in detail, although Butler, Hutton and Chilcot would get more information than select committees had. In addition, the Intelligence and Security Committee also looked at these issues.

Mr Grogan thanked the speakers.

THURSDAY 11 MARCH 2010

PARLIAMENTARY STANDARDS

Speaker: Mr John Lyon CB, Parliamentary Commissioner for Standards, House of Commons

Chairman: Mr Chris Mullin MP (Labour)

Mr Chris Mullin MP welcomed the delegates and explained that he was a Member of the Committee on Standards and Privileges. He introduced the main speaker, Mr John Lyon CB, Parliamentary Commissioner for Standards.

Mr John Lyon CB, Parliamentary Commissioner for Standards, House of Commons, provided delegates with an overview of his role and the importance of standards in the House of Commons. Standards in the House of Commons were not a modern invention. Bribery in the House had been forbidden more than 300 years ago. 30 years ago Members of Parliament began to be required to declare interests. The Committee on Standards in Public Life created the modern system of standards 15 years ago: Mr Lyon was the fourth Commissioner since the so-called “Nolan principles” were drawn up in 1995.

The standards system in the House of Commons was based on three main precedents. The first related to self-regulation. The House regulated itself because Parliament was sovereign, a precedent originating from the 1689 Bill of Rights. The second precedent related to independence. The Commissioner was an independent officer of the House. Nobody could instruct him to investigate a complaint against an MP. Third, the framework for standards was non-statutory. The Commissioner answered to the House, not the courts. Last year, however, Parliament had introduced a statutory element to regulate the pay and allowances of MPs, although this would not apply to the Code of Conduct for Members.

In terms of the Office of the Commissioner, the Commissioner was appointed for a five-year period. Mr Lyon had been appointed to the role on 1 January 2008. The post was non-renewable, which was important to ensure independence. His work related only to the House of Commons, not the House of Lords. He had nine staff and a budget of £600,000.

The Parliamentary Commissioner for Standards had five main tasks. The first was to monitor the operation of the Code of Conduct for Members. The Code was reviewed once in each Parliament, and part of his role involved providing guidance to Members on the Code. Second, the Commissioner oversaw the maintenance and monitored the operation of the registration of financial interests. Not all financial interests were wrong but they should be transparent. There were four registers: for Members, their staff, journalists, and all-party groups.

The Commissioner’s third key role was to advise Members. This was to help prevent Members unwittingly breaking the rules. He wrote personally to each new Member at the start of a Parliament and sent them a copy of the Code, provided confidential advice to Members, and gave briefings to groups of Members and their staff. Fourth, the Commissioner advised the Committee on Standards and Privileges on individual complaints, the rules of the House, and on the standards framework. However, he had no role in the Committee’s decision-making.

Finally, the Commissioner considered complaints. He had the power to inquire into a complaint that a Member had breached the Code of Conduct. He only did so if provided with sufficient evidence: complaints were not accepted if based on innuendo. Complaints were also not accepted if outside his remit: from 1 April this year,

responsibility for complaints about the alleged misuse of expenses would be transferred to a new independent statutory body. Complaints against an MP could affect their reputation and even their whole career. This meant the work was never routine, because an individual's reputation was at stake. The Commissioner's findings needed to be based on the evidence received. The Committee on Standards and Privileges could not prevent the publication of his findings as he saw them, and he did not discuss his findings with the Committee in advance of publication.

There were three possible outcomes following a complaint. First, the Commissioner could dismiss the complaint. Second, the Member could accept a breach of rules and agree to pay. Third, the Commissioner could submit a report to the Committee on Standards and Privileges. The Committee then had to come to its own conclusions: it published a report and, where appropriate, recommended disciplinary action to the House of Commons, such as a formal apology to the House, suspension, or even expulsion. The Commissioner did not decide the disciplinary action although he did comment on the seriousness of the offence.

Mr Lyon talked briefly about the Independent Parliamentary Standards Authority (IPSA). IPSA had been created by the Parliamentary Standards Act 2009. It meant there would be an independent external system for payment of MPs' salaries and expenses. A compliance officer in IPSA would deal with complaints about payments, although the officer could still refer cases to the Commissioner where Members' behaviour was alleged to have breached the Code of Conduct.

The standards system had been subject to considerable scrutiny in the past year. Many lessons had been learned from recent experiences and would stay with the House for some time. They would act as a constant reminder about the importance of standards for Members of Parliament.

Mr Mullin said that the British Parliament had undergone a real traumatic experience in the last year or two. The crisis had arisen from the Freedom of Information Act, which Parliament passed six or seven years ago. This meant that—rightly—the House had been obliged to publish details of Members' expenses and allowances. This resulted in much uproar and a certain amount of scandal.

These events had greatly increased the workload of both the Parliamentary Commissioner for Standards and the Committee of Standards and Privileges. Accusations were made, for example, that Members were employing relatives who were not properly doing the work for which they were paid. The use of allowances by Members generated enormous interest, and subsequently led to a nervous breakdown in the political system.

Fairly dramatic changes had subsequently taken place. Allowances were now properly audited and tighter rules were in place. IPSA, an independent body, had been created. Everything would now be transparent. It had been a traumatic experience, but a positive one in terms of the outcome. Everybody had learned many lessons from these events.

Mr Mullin invited questions from the delegates.

Hon. Asser Kapere MP (Namibia) asked Mr Lyon whether he received assistance or advice from others during his investigations. He also asked whether Members had the right of appeal against his decisions.

Mr Lyon said that he did not receive assistance for his inquiries. His staff supported him but, ultimately, he was responsible for the conduct of his inquiries. Sometimes, however, he might seek legal advice. Regarding

the right of appeal, Mr Lyon explained that the Committee of Standards and Privileges acted as a source of appeal in those cases where he reported to the Committee. The Committee would take evidence from the Member concerned and come to its own decision.

Mr Khushdil Khan MPA (Pakistan) asked how the House dealt with breaches of privilege. He also asked how disciplinary action was implemented and whether anybody could formally complain against a Member.

Mr Lyon explained that he dealt with conduct, not privilege. In cases of a breach of privilege, the House itself decided on a motion whether to refer the matter to the Committee on Standards and Privileges. The Commissioner played no part in this process. In relation to disciplinary action, the Commissioner submitted a memorandum to the Committee but did not suggest a penalty. If the Committee decided on a penalty, it had to be approved by the House. Anybody could complain against a Member: provided they had the evidence, the Commissioner could investigate the complaint. The complainant did not have to be a constituent of the Member.

Ms Yasmeen Rehman MNA (Pakistan) asked Mr Lyon about the qualifications required for his post. She also asked whether he investigated complaints about Cabinet Members, and what happened when one Member complained about another.

Mr Lyon said that he had been appointed through an open and competitive process, undertaken by a recruitment firm. The post had been advertised in a newspaper. No legal qualifications were necessary for the post. The initial interview panel had recommended candidates to the House of Commons Commission. The Commission then interviewed candidates and made the appointment. In relation to complaints about Cabinet Members, he could investigate such complaints and had done so in the past two years. However, he could not conduct inquiries into their performance as a government minister or, for example, the use of ministerial cars. In such cases, the Prime Minister decided whether the Code of Conduct for Ministers had been breached, which was a different code. But the Commissioner could inquire into complaints about their role as a Member of Parliament.

Mr Junia Regrello MP (Trinidad and Tobago) asked who the members of the House of Commons Commission were. He also asked about the accreditation process for journalists and about journalists' declaration of financial interests.

Mr Lyon said that the Speaker chaired the House of Commons Commission. It also included the Leader of the House, the Shadow Leader of the House and three other senior Members. In terms of the media, journalists needed to be accredited to become part of the lobby. Once accredited, the journalists were required to register any additional employment. Journalists alleged to have reported inaccurately were a matter for the Press Complaints Commission or the courts, not him.

Hon. Simon Oyet MP (Uganda) asked whether the Standards and Privileges Committee might protect Members when making decisions. He also noted that the Parliamentary Commissioner for Standards in Uganda was an MP, and asked Mr Lyon about the most appropriate system.

Mr Mullin said that the Committee was sometimes accused of protecting Members, and this may have occurred in the past. Now, however, the Committee handed out fairly stiff penalties. For example, the Committee had found that a Member had been falsely employing relatives. The Member was subsequently suspended from his party and was now standing down at the election. Some complaints were relatively minor,

some cases inadvertent, but prosecutions could be made in serious cases. The Committee did not deal with criminal cases because the police investigated these first. The Committee was not soft on Members although accusations of this kind were still made. The Committee did not divide on party lines: all reports in the last four years had been agreed unanimously. They were currently considering the case for including “outsiders”, non-MPs, on the Committee.

Mr Lyon declined to give advice on procedure in Uganda because any arrangements depended on the specific context. One advantage of the British system, however, was that the independence of the Commissioner helped to ensure they were seen as fair.

Mr Chang Khim Teng MLA (Malaysia) pointed out that, if non-MPs were allowed to sit on the Committee for Standards and Privileges, it might open the floodgates for other “outsiders” to sit on parliamentary committees, including select committees.

Mr Mullin did not agree. He was not proposing the Committee be composed solely, or even by a majority, of outsiders. But Members lived in an enclosed world and he believed some non-Members should sit on the Committee. This would demonstrate to the outside world that Parliament was not simply a small club dealing with its own affairs.

Mr Lyon explained that other committees in the House were tasked with holding other organisations to account. The Committee on Standards and Privileges was different because it held Members to account. This was an important difference.

Deputy Rhoderick Matthews (Guernsey) asked whether the creation of IPSA would necessarily result in complete transparency. It had been the Daily Telegraph, not the the information released under the Freedom of Information Act, that had disclosed the full details of Members’ expenses. The official information released under FOI had, in fact, been heavily redacted.

Mr Mullin agreed but said that everybody was on a learning curve. Members’ security could be at risk if home addresses were published. He had been followed home on occasion before. One of his colleagues had been seriously attacked in their office. Under the new system, the expenditure of public money would be in the public domain and there would be higher accountability.

Mr Lyon said that the answer to the delegate’s question would ultimately come from IPSA. IPSA would decide how transparent to be, when to release the information, and so on. The message IPSA had been conveying to date was that it intended to be extremely transparent.

Mr Pradeep Kumar Dubey (India) asked whether the Commissioner dealt with allegations of bribery.

Mr Lyon said that he did not investigate complaints of bribery. Instead, he would suspend the inquiry and hand the matter to the police. MPs were subject to the criminal law like anyone else.

Hon. Dr Margaret NG (Hong Kong) asked both speakers for further information about how they carried out their investigations, for example their formal powers and whether witnesses could be summoned for cross-examination.

Mr Lyon said that his inquiries were civil, not criminal. Initially he would inform the Member of the allegation because the Member was there to co-operate and help with the inquiry. The Commissioner may ask for further clarification or corroboration of evidence, although it was rare for a complainant to have any additional evidence to that provided with the initial complaint. Witnesses were sometimes identified and interviews conducted. In serious cases, he would usually call the Member at the end of the inquiry to give them full opportunity to set out their case. The Commissioner would then summarise the Members' viewpoint, which was approved by the Member before being sent to the Committee. The Committee then decided if further enquiries were necessary.

Mr Mullin said that Members were invited to give oral evidence to the Committee.

Hon. Cyril Ikechukwu Dennis Maduabum MP (Nigeria) asked whether there was a risk of the Commissioner abusing their power. He also asked whether the Commissioner would still investigate a complaint if they had a close personal relationship with the Member in question.

Mr Lyon said that both situations were hypothetical. In relation to abusing power, the Commissioner's processes and ways of working were not secret. His decisions were publicly known, and could be scrutinised by the media and others. In terms of the second scenario, Mr Lyon said that he had been a public servant for many years and inevitably knew many MPs. If so, he always declared it to the Chair of the Committee and said whether he could continue fairly. If unable to do so, another person would conduct the inquiry in his place.

Hon. Kayee Griffin MLC (Australia) said that there was an Independent Commission Against Corruption in New South Wales. A protocol had been agreed about search warrants, and several had been issued against MPs. The Independent Commission did not agree with tests for privilege, and so resorted to judicial opinion. Ms Griffin asked who should be the arbiter in such cases.

Mr Mullin believed the House should make the final decision. His Committee received very few cases on privilege. There had been an incident regarding the searching of a Member's office in recent years.

Mr Lyon could not comment because this was not part of his remit.

Hon. Jaha Ahmed Usman MP (Nigeria) asked whether the Commissioner and the Committee dealt with cases when a Member had been abusive in the House. He also asked whether any Member had immunity.

Mr Mullin said that abuses of that nature were a matter for the Speaker. The Speaker could ask the Member concerned to withdraw; if they refused, the Member could be evicted. Members had immunity so that they could represent their constituents effectively, but not for their own behaviour.

HANSARD SEMINAR

Speakers Mr Richard Purnell, Sub-Editor, Hansard, House of Commons
Ms Lorraine Sutherland, Editor, Hansard, House of Commons

Chairman Mr Andrew Tuggey DL, Secretary to the CPA UK Branch

Mr Tuggey welcomed the delegates. He said that as part of the House's programmes of building capacity in other parliaments they sent clerks to other parliaments for a needs assessment. The staff would often report back that what the other parliament needed most was a Hansard, even parliaments that had very limited resources. Hansards had a valuable contribution to make.

Mr Purnell said that he represented Hansard, which was also known as the Official Report. He explained that Hansard was important for obvious reasons; in a democracy politicians should be held accountable for what they had said. All parties must have an account that they agreed was accurate. In addition UK case law included the *Pepper v Hart* doctrine. This was a legal case that had focused on a dispute about a complicated section of a Finance Act. However it had not been clear what the clause meant from the act itself. The court had gone back to the Committee stage of the Bill and looked at what the Minister had said to the House as recorded in Hansard. This had given a context to the clause and made the meaning clearer. This had meant that Hansard was a legal document in the UK, and so it needed to be an accurate and authoritative document for decades or centuries.

A sitting of the House could have lasted for eight hours or more. Hansard was published as a "daily part", (the version Members used on a daily basis), a weekly volume, and a monthly bound volume for the long term. In addition speeches were available on the internet three hours after they were given. Sophisticated tagging allowed the online version to be searchable in a variety of ways, including by Member's name.

In the eighteenth century it had been a "high indignity and notorious breach of privilege" to report what was said in the House. After 1771 various versions of what had happened in the House were published, William Cobbett had produced one of the most famous ones. He had faced financial problems and had sold it to Thomas Hansard. In 1829 it was renamed Hansard as everyone already referred to it as such. In 1889 the Mr Hansard who was then running it wished to retire and Hansard was put out to tender. Between then and 1909 the quality of Hansard was not very satisfactory. In 1907 a Select Committee had considered the House producing Hansard itself, they decided it should do so and in 1909 the first recognisably modern Hansard was published, although changes had been made since then.

Many other parliaments around the world had called their Official Report Hansard. These include South Africa, Australia, Malaysia Brunei, Isle of Man, Pakistan, Jersey and many others.

He explained that the terms of reference for Hansard were very important. Hansard had to adapt things but remain faithful to what was said. Erskine May (which sets out parliamentary procedure) said Hansard should be a full report of all speakers "which, though not strictly verbatim, is substantially the verbatim report with repetitions and redundancies omitted and with obvious mistakes corrected, but which, on the other hand, leaves out nothing that adds to the meaning of the speech or illustrates the argument".

There were five important aspects to Hansard. The first was editing. If Hansard was transcribed verbatim it would be chaotic. Members could be nervous or confused or playing for time. Redundancy had to be taken out, and Hansard had to say what was meant. Grammar was very important, and Hansard had a consistent style, for example it always said "the Government *are*" rather than "the Government *is*". However character was still important. A member who was a former coal miner was not reported in the same style as an aristocrat, Hansard did not seek to neutralise that. Flow was also important, changing the word order could often improve flow and make it easier to read.

The second important aspect was procedure. If a reporter had to cover procedure it could be complicated and involved. Reporting of words was an art, but reporting of procedure was a science, there was a right way and a wrong way and it had to be right.

The third was identification. This could be difficult. Some Members did not come to the Chamber very often and some had photos which had different facial hair. This would become more difficult after the elections when there were new members, Hansard had heard that there could be as many as 300.

The fourth was easy reference, text was divided in columns and dates were put on every page to make it easy to use. The fifth was objectivity. In the 19th Century it had been fairly easy for members to re-write reports, if they had got things wrong, or just changed their minds. Hansard did not allow members to do that, Hansard was a record of what was said, however potentially embarrassing.

Mr Purnell explained some of the key elements of a Hansard page. It was in two columns, with column numbers for easy reference. The Member's name was given at the start of a speech, on the first occasion in a debate it was the name of the Member with the party and the constituency, subsequently there was only the party affiliation. Procedural elements were gone over very carefully; it had to be very precise and the style had to be right. Covering procedure was not a the favourite part of a reporter's job!

Hansard covered the House, Public Bill Committees (which examined proposed legislation line by line and clause by clause), certain Select Committees (investigatory committees which often shadowed government departments) Delegated Legislation Committees (legislation consequent on an Act) Regional Select Committees and Regional Grand Committees (which discussed issues affecting those regions) European Committees (which oversaw the incorporation of EU law into domestic law) and written answers (there was not time for Members to ask all the questions they wanted to in the House so they could submit written questions for written answers).

Hansard organised its staff using "the list". It listed the name of the reporter, and the times of the "turns" (the periods they had to cover). The reporter's next turn was an absolute deadline for finishing writing up the last turn. The reporter could not be late. Sometimes this was easy, with a clear speaker who had detailed notes. However completing on time could very difficult when there was a Member explaining a complicated point badly. Hansard reporters sat in the press gallery above the Speaker's chair. The good views were needed to allow reporters to absorb the House. Reporters had to ensure that sedentary interventions were correctly attributed.

During the turn they had a "check note", a second pair of eyes and ears. They also asked the Members speaking for copies of their notes or quotes they had used. All quotes in Hansard were checked and were correct, including having the original punctuation. When Members were quoting letters from constituents this information had to come from the Member, as private letters were not available online. Sometimes listening to a Member it sounded as if they were reading a long quote, but when it was checked it turned out that it was a short quote, then some of the Member's own words, then more of a quote. Notes were sent to Members to confirm names, organisations, and to check that a Member meant what they actually said.

Reporters then went back to their office, where they put on headphones and listened to a recording of the turn while typing up their notes. The text was then sent to the sub in an adjacent office. It was read with "hawks eyes". There was also the Hansard report system. This was the most developed database in the House, it tagged names so people could search online.

Mr Purnell then went through some examples of how Hansard changed the style and grammar of Members' speeches. He also stressed the difference between oral and written English. Those Members who had been listening to a debate for hours understood the issues. They also had non-verbal clues such as body language. Hansard used the speaker's original words where possible, but made it readable and clear.

Deputy Monfort Tadier (Jersey) said that Jersey had a verbatim report, it was "warts and all". He thought what he had heard from Hansard smacked of "1984", changing what had been said. He suggested that if there were members who did not know the meanings of words, or could not put a coherent sentence together, the report should reflect that.

Mr Paul Grant (Western Australia) said that in Australia it was a criminal offence to lie to a Committee. Their prosecutor was seeking to prosecute two members for lying to a Committee but had said that Hansard could not be used because they needed the actual words spoken. It had been difficult to find tapes. He asked what happened in the UK about recordings.

Mr Richard Sawle (Falklands Island) asked how Hansard reporters untangled the "babble" at PMQs. He questioned whether there was a danger that pertinent comments be missed.

Ms Sutherland said that she had been involved in setting up Hansard in Jersey, they had had one for only two years. She said that she took issue with what he had said. She thought that as long as there was objectivity and clear rules, and there was "gentle editing", the system worked. She did understand his point about showing up incompetence but the role of Hansard was to produce a readable debate, a "window into parliament".

She said that she had heard about the Western Australian case. Original broadcasts of the UK parliament were archived with the British Film Library. Audio recordings were kept for a certain amount of time but were not archived. In the UK the Speaker had ruled that Hansard is the official version, though that could change in future.

Mr Purnell said that reporting on PMQs could be difficult, if everyone was shouting at once there would be over 600 voices. Hansard did not report interventions from a sedentary position unless the person speaking acknowledged them. In the past they had reported more interventions but it had encouraged people to interrupt just to get their comment in Hansard. Reporters did their best and sent notes for clarification but it could be a stressful situation. However at the same time reporting on PMQs could actually be less work as with all the interruptions and shouting by the Speaker there was less speaking than normal.

Mr Pradeep Kumar Dubey (India) asked if sections of debate could be left out of the report at the request of the Speaker.

Senator Ngomyayona Gamedze (Swaziland) was concerned about Hansard not being verbatim. He asked what changes were made during editing and questioned whether the result was still the Member speaking.

Mr Syed Zafar Ali Shah (Pakistan) asked how Hansard managed to get turns on the internet within three hours. In Pakistan it took months as it had to be sent to the person speaking.

Ms Sutherland said that Hansard would delete sections of the debate at the Speaker's request because the Speaker was their boss. However they had never been asked. There were questions about "unparliamentary

language” and whether this should be included. On occasion Hansard had printed swear words with asterisks, but it was still clear what the Member had said. There had been a case in the Lords where a peer named someone as being involved in a criminal case. The woman had contacted Hansard and asked for it to be removed in case it prejudiced a future trial. Hansard had refused on the grounds that the report had already been produced and it was too late.

She understood the point that the member from Swaziland was making but sometimes what was said was incomprehensible. One member called John Prescott was always understood in the chamber, but he could get very passionate and on occasions got his words confused or in the wrong order. The job of Hansard was to make him easy to comprehend.

Members had an opportunity to make corrections to Hansard, but they only had two hours. The version that was put on line after three hours could still be corrected, but it was 99% correct. Hansard also did not have the problem that Pakistani Hansard had of multiple languages.

Hon Karl Hood (Grenada) said that he was confused about the issue of privilege. He asked how could Hansard be used in court if Hansard was privileged.

Dr Margaret NG(Hong Kong) said that she was convinced of the importance of Hansard being speedy, especially as newspapers no longer published debates of any length. However she asked whether there was any discussion with the House about the level of “gentle editing”.

Deputy Rhoderick Matthews (Guernsey) said that his Island did not have a Hansard and he felt they were diminished by that. He asked what more he could do to help introduce one.

Cyril Ikechukwu Dennis Maduabum (Nigeria) asked how Hansard could be treated as a proceeding of parliament when it was never formally adopted.

Ms Mary Harris (New Zealand) Introduced herself as the clerk of the New Zealand parliament. She said that privilege meant that proceedings in parliament could not be questioned in court, not that they could not be used. “Pepper v Hart” used Hansard without questioning it.

Ms Sutherland said that Hansard had not had discussions with the House about the level of gentle editing. Hansard followed the rules as set out in Erskine May. Hansard had had interactions with certain members who were unhappy with the level of editing, however the House was content with how the system worked.

She said that a transcription service did not have to be expensive. Hansard had a hundred staff but other countries did not have to use this model. Jersey had recently set up a system using a commercial transcribing service. It did not have to be expensive and the parliament could decide how much editing they wanted.

She said that the Votes and Proceedings were formally adopted. Hansard however was produced on the delegated authority of the Speaker. The version placed online after three hours came with the qualification that, while it was not a draft, it was an initial version. The final version was produced the next day.

PARTY DISCIPLINE IN PARLIAMENT

Speakers: Mr James Duddridge MP, Opposition Whip

Lord Shutt of Greetland, Liberal Democrat Chief Whip
 Rt Hon. John Spellar MP, Comptroller of Her Majesty's Household
Chairman: Ben Chapman MP

Ben Chapman MP welcomed the speakers and introduced them to the delegates, noting that this was the first session for parliamentarians only.

Mr James Duddridge MP, Opposition Whip, said that his first experience of the Whips Office had been as a backbencher when he had needed paternity leave. Some days after the birth of his child he was asked to join the Office and, over the course of his leave, spoke individually to each of the Opposition whips. In each case, he received a different explanation of what the role entailed. He had believed initially that there should be a manual for the work of a whip, though now as an experienced whip, he acknowledged there were too many subtleties to the role for them to be explained in a handbook.

He said Opposition whips performed three main roles. First, each had responsibility for a group of 14-15 Members, referred to as their “flock”. His flock were located in south west England, despite his own constituency being in Essex. His responsibility was to listen to the concerns of these Members; gauge their voting intentions and views on party policy; and also to undertake a pastoral role.

Second, he had responsibility for monitoring a Government department—in this case HM Treasury. This involved covering all business that involved the Shadow Chancellor and Shadow Chief Secretary of the Treasury, including the Opposition's role in considering the Budget. The work also involved ensuring Opposition attendance for Treasury-related delegated legislation committees.

Third, he explained that he had responsibility for ‘floor management’. This meant ensuring that frontbench Members were in the main Chamber at the right time if they were required to speak. It also involved monitoring the reaction of Members to debates in the Chamber that would not be possible to gauge from the Official Report. Each Opposition whip would do a two-hour session in the Chamber and take notes on proceedings.

The Whips Office provided an effective training ground for Members to learn about how the House worked, and that it was possible to discern which Ministers had previously been whips because of the way they dealt with Members.

Lord Shutt of Greetland, Liberal Democrat Chief Whip, addressed four key questions in explaining the work of whips in the House of Lords. First, on how whipping is organised, he explained that there were 72 Liberal Democrat peers, constituting 10% of the upper chamber. As for all non-Government whips offices in the House of Lords, state funding was available to provide staffing support, which was known as “Cranbourn money”. He said there was usually a whip on duty each day in the House and that his own duties as Chief Whip included the allocation of peers to committees and finding replacements when peers that had been due to attend were absent.

Second, on how the Government and Opposition parties interact to deliver the House's business, Lord Shutt explained that this was organised through weekly meetings. A notice of the forthcoming business was produced each week setting out the proposed business for the following week and providing an indication for the week after that. On Tuesdays there would be a series of meetings between the whips to discuss the

Government's proposed scheduling and agree any changes that would be mutually beneficial. On Wednesdays he would meet the convener of the cross-benchers to determine where their interests lay. Accordingly, over the course of the week there would be various discussions on the timing of the business before the Government's official announcement. Although there would often be frustrations in trying to reach agreement, Lord Shutt noted it was important for the whips to remain cordial in their relations with other parties because of the requirement to work continuously with them.

Third, on the maintenance of party discipline he explained that there were no sanctions in the House of Lords if peers voted against their party or misbehaved in other ways. His only means of dealing with such behaviour would be to appeal directly to the individual involved. He noted that a vital way of avoiding conflicts was to provide peers with as much advance information as possible of the forthcoming business so they could plan their time accordingly. This was particularly important as members of the House of Lords were unpaid volunteers who might have other work commitments.

Fourth, Lord Shutt explained that the whips provided a means of communication between the front and back benches. An important part of this was the weekly party meeting at which there would usually be between 30 and 40 attendees out of 72 Liberal Democrat peers. Because of the number of government departments to cover, a relatively large proportion of Liberal Democrat peers sat of the front bench.

Rt Hon. John Spellar MP, Comptroller of Her Majesty's Household, explained that there were contrasting perceptions of Members of Parliament as being independently minded and able to exercise their own judgement in determining how to vote, versus the power of the whip in ensuring they vote in line with their party. He noted that because of the range of different issues Members were required to vote on, they often sought guidance from the whips. The process of whipping helped ensure the Government was able to bring together a programme of policies that was coherent to the general public. As such, Mr Spellar argued that the whips provided the "glue" between Members that enabled the public to differentiate between political parties.

He explained that Members would have varying interests in different issues, for example, those with coal mines in their constituencies would be more likely to take a greater interest in energy policy matters. One role of the whips was to provide a channel of communication between Members and Ministers on issues of policy. This was a two-way process with views being fed up to Ministers, but also through Ministers seeking Members' support.

Mr Spellar emphasised the important role of the whipping system in ensuring the House was able to reach a decision on matters. This involved practices such as pairing, whereby Members on opposing parties would agree not to vote thus allowing both of them to spend time away from the House. This was particularly important for Government Ministers who often need to travel. He said the practice was a necessary consequence of the executive in the UK being part of the legislature.

He explained that proceedings in the Chamber required careful monitoring on a minute by minute basis. At the same time, however, it was important to take a strategic view of the House's work over the course of the whole parliamentary session. This required the careful management of Ministers' expectations as there would often not be time to take forward all of the legislation that was desired. In conclusion, he said the whips were essential in ensuring the effective running of Parliament.

Ms Yasmeen Rehman MNA (Pakistan) noted that in her Parliament there was only one whip for each party. She asked where the word “whip” originated from, and how training for Members and how to be a whip was provided.

Hon. Sydney Chisanga MP (Zambia) asked who appointed the chief whip and their deputies, and how many deputies there were.

Deputy Montfort Tadier (Jersey) asked about the history and evolution of the whips system, and for clarification on the relationship between the whips and their parties.

Mr James Duddridge MP said that the word “whip” originated from fox hunting, and that on the wall of the Opposition Whips Office there was an actual whip used for hunting. He explained that Members were provided with an informal induction when they were elected, but that most of their training was through learning-by-doing. He said the Opposition Chief Whip was appointed by the Leader of the Opposition, but that deputy and assistant whips were chosen by the Chief Whip in consultation with the Leader.

Rt Hon. John Spellar MP said that the whips system had evolved since the early nineteenth century alongside the emergence of political parties. He explained the importance of Members representing the views of the party they had stood for election under otherwise they risked having the whip withdrawn. He noted that in the modern age the term “herding cats” seemed more appropriate than “whipping”. On the issue of training there had been a big increase in the level of provision in recent years with a greater focus on induction. Finally, he highlighted the fact that the whips are also responsible for the allocation of accommodation to Members within the House.

Lord Shutt of Greetland explained that for whips most of their training was carried out on-the-job. For new peers there was also a system of “buddying” where they would be paired with an established peer. He explained that for the Liberal Democrats the party elected its Chief Whip in the House of Commons. In the House of Lords the party leader appointed the Chief Whip with the rest of the team determined through discussion between the leader and himself.

Hon. Matiullah Agha Syed MP (Pakistan-Balochistan) noted that the system in Pakistan differed in that if a member did not vote in accordance with their party then they automatically lost their seat.

Mr Ellio Solomon MLA (Cayman Islands) asked how the Opposition parties’ whips offices were funded.

Hon. Karl Hood MP (Grenada) asked what the relationship was between the whips and the party leaders, and what determined the choice of whips.

Hon. Robert Kashaija MP (Uganda) asked how the whips maintained discipline with those Members that were not following the party line.

Mr James Duddridge MP answered that when Members failed to follow the party line it was possible they could have the whip withdrawn, although this could have a detrimental effect on the party if, for example, they held a small majority in the House as had been the case during the 1990s. There were also other methods of maintaining party discipline such as through gentle threats; explaining the long-term consequences of voting against the party in terms of their ministerial ambitions; or simply by engaging them on a common interest

such as football. He explained that the Opposition Chief Whip was paid by the Government. Finally, he noted that whips were chosen to reflect the diversity of Members and views held across the party.

Rt Hon. John Spellar MP said that because Members were elected to represent a constituency they remained in place for the duration of the Parliament even if they had the whip withdrawn. However, he noted that few Members who did leave their party were subsequently re-elected as independent MPs. He emphasised the role of the whips as conduits between the front and back benchers, thus allowing Ministers to receive feedback on their policies. He explained too that there would be some areas requiring a vote that were on the fringes of Government policy, or where there was a particular moral or ethical dimension. In these instances Members were allowed a “conscience clause” that allowed them to vote as they wished on such matters. Finally, Mr Spellar pointed out that some Members would often be simply seeking attention for a particular issue that they were campaigning on, and so would be placated by an acknowledgement from Ministers even if it did not entail a change of policy.

Lord Shutt of Greetland explained that in the House of Lords Opposition party whips received state funding, known as “Cranbourn money”. In the House of Commons, the funding was known as “Short money”. The level of monies varied in each Parliament and was dependent on the number of Members and peers in each party and the national percentage of the vote received by each party. He noted that there was currently a wider debate about whether political parties should receive more state funding to conduct their activities. On disciplining other peers, he said that for the Liberal Democrats, generally there were few problems of peers voting against the party. However, sensitivity was required when this did happen. For example, he highlighted a case where he had written to a peer who had voted against the party who subsequently decided to join the cross-benchers.

Hon. Mohamed Asfia Nassar MLA asked whether the Prime Minister would be forced to call a General Election in the event of his sacking a large number of Cabinet Ministers, such as in the ‘Night of the long knives’.

Hon. Victor James MLC (Montserrat) asked whether the independent Members and peers had their own whips.

Hon. Charlie Parker (Canada, Nova Scotia) asked about the time requirement and level of remuneration for being a whip.

Deputy Rhoderick Matthews (Guernsey) noted that there were no political parties in Guernsey, and that there was an ethical dimension to the relationship between whips and parliamentarians.

Mr Junia Regrello MP (Trinidad and Tobago) explained that in the Trinidad and Tobago parliament there were 26 government and 15 opposition members and noted the importance of the whipping system for maintaining party discipline.

Mr Chang Khiam Teng MLA (Malaysia, Selangor) asked whether the enforcement of party discipline undermined the value of debate.

Mr James Duddridge MP answered that a change in the Cabinet membership need not precipitate a General Election so long as the leader still commanded the confidence of the House. He said that groups of independents did work together and that this was the case for his local council. He noted too that his work as a

whip required around 30 hours a week when the House was sitting, and that this could have a detrimental impact on other areas of work and life. He explained that whips did not receive any benefits such as their own vehicle, and emphasised that their role did not make Parliament superfluous. Rather, the whips encourage a two-way debate between Members and Ministers, therefore refining instead of replacing debate.

Rt Hon. John Spellar MP emphasised that debate was important in determining Members' decisions on how to vote. Debate also had the potential to influence public opinion and Government policy. He agreed that changes to ministerial and Cabinet posts had no bearing on the Prime Minister's position so long as they still held a majority in the House, although large and frequent changes could have a negative impact on the functioning of Government and increase the likelihood of it losing votes in the future. On maintaining party discipline he said that most Members viewed themselves as part of a "family" in relation to their party, and that they would not usually want to be seen to be damaging the cohesiveness of the group.

Lord Shutt of Greetland said that if the Government lacked a majority such as in 1974 and at times in the 1960s then this increased the likelihood of an early General Election. He noted though that those who brought about the election by defeating the Government would have to answer to the electorate for their actions. Elections were expensive to hold and hence it was desirable to avoid having them unnecessarily. He said his role as Chief Whip entailed working from 2 pm until 11 pm on Monday and from 9 am until midnight most days when the House was sitting. He emphasised that debate was important in influencing votes, especially for cross benchers. He said he had a duty of care for his party group and, for example, had spoken to each member individually during the expenses scandal last year.

Ben Chapman MP thanked the speakers for their contributions.

OPEN FORUM 2: RUNNING PARLIAMENT

Chair: Sir Nicholas Winterton MP

Sir Nicholas Winterton MP welcomed the delegates back and said that he hoped that seminars of this kind would bind the Commonwealth family even more closely together. He explained that the subject for discussion in this forum was how to run effective, democratic parliaments that ensured good governance. He invited contributions from the delegates.

Hon. Dr Margaret Ng (Hong Kong) considered that the best way to facilitate an effective parliament was to invest in an efficient office of the clerk. Parliamentarians came and went; they needed to have access to consistent, high-quality guidance from officials.

Sir Nicholas agreed that good support from clerks was important.

Hon. John Mickel MP (Australia – Queensland) said that he thought that Prime Minister's Questions in the House of Commons on the previous day had been inefficient, as it had attempted to do three things at once: pay tribute to former Labour leader Michael Foot, pay tribute to fallen servicemen, as well as its primary purpose of holding the Prime Minister to account. He queried why the first two pieces of business were not dealt with in separate sessions as it meant that there was very little time for the third. He was in any case critical of the fact that MPs had only 30 minutes each week in which to question the Prime Minister.

Sir Nicholas agreed that tributes to fallen servicemen, which were repeated by the other party leaders, was a misuse of Prime Minister's Questions. In his view, this should be done by the Speaker at the beginning of the parliamentary day. Paying tribute to Michael Foot was technically out of order, but the Speaker had allowed it.

Hon. Simon Oyet MP (Uganda) considered that to ensure an effective parliament, Members should be exposed to regular training, interacting with knowledgeable and experienced colleagues. Events such as CPA seminars were very helpful in advancing the learning of parliamentarians.

Sir Nicholas noted that the UK Parliament now held induction sessions for new MPs. In his view, parliamentarians should be drawn from all walks of life and they should enter parliament with three priorities: first, the interests of their country; second, the interests of their constituents; and third, loyalty to their party.

Ms Yasmeen Rehman MNA (Pakistan) argued that the lack of a sustainable democratic system in Pakistan prevented the parliament from operating efficiently. Time and time again progress had been set back by military intervention. In Pakistan the President had more powers (stemming from military support rather than the constitution) than was usual for the executive. In her view, the powers of legislatures should extend beyond the ability to make recommendations to the executive.

Sir Nicholas agreed that a state could only be stable if its parliamentary system was stable and sustainable. Governments must accept that there might come a time when the public would reject them. He considered that it was absolutely essential that the Commonwealth understood that member states were at different stages of democratic development, and was supportive and tolerant of countries experiencing democratic difficulties. It was unlikely that a state was able to move immediately from dictatorship to pluralist democracy.

Hon. Ignatius J. Karl Hood MP (Grenada) was interested in the point raised by Dr Ng. In his opinion, it was important to ensure that parliamentarians were properly overseen by officials to prevent corruption and expenses scandals. Parliamentarians were often afraid to take decisions about their pay and conditions themselves for fear of vexing the public. He considered that the UK had been wise to appoint an independent body to monitor MPs' expenses.

Sir Nicholas noted that this was an issue that had troubled the UK Parliament over the past 18 months. An independent pay award body was in existence, but successive governments had not properly implemented their recommendations, which had contributed to the current situation. The decision about MPs' salaries should be taken by a fully independent body. He also noted that it was important for parliamentarians not to confuse an allowance with an expense.

Deputy Montford Tadier (Jersey) said that this was also an issue facing his own parliament. He drew a distinction between effectiveness and efficiency: effectiveness related to how well elected representatives were able to translate their constituents' views into the political context, whereas efficiency related to the mechanics of parliamentary processes. He questioned how effective the UK parliament was, against this criterion.

Sir Nicholas said that this related to the power of the political party, which exerted greater and greater control over its members. The views of the people and of the government of the day often conflicted, and in any case there were often a diverging range of views amongst members of the public. He believed that increasing numbers of people were not voting because they did not think it would make any difference to their lives.

Hon. Alyssa Hayden MLC (Australia - Western Australia) considered that her Parliament did not use its time efficiently when passing legislation. It had recently taken them almost nine months to pass two bills.

Sir Nicholas said that parliaments had become constipated with too much legislation. In his view, there should be less legislation and more time for debate. The House of Commons was passing legislation to the House of Lords with huge sections unscrutinised. It was unsurprising that so much ineffective legislation was passed.

Hon. Tara L. Thomas MEC (St Helena) considered that the CPA was a key arena for sharing best practice and identifying improvements. She considered that parliaments should do more to move with the times, making better use of technology and minimising bureaucracy. Parliamentarians should engage more with their constituents to encourage them to believe that voting did make a difference.

Hon. Victor James MLC (Montserrat) endorsed this point about the CPA but wanted to be able to continue to network with colleagues once he had returned home: he believed that technology should be put in place to facilitate this. He considered that the behaviour at Prime Minister's Questions the previous day was understandable in light of the forthcoming election.

Sir Nicholas agreed that politicians had been using Prime Minister's Questions as a campaigning tool. He consulted with CPA officials who clarified that email addresses would be provided so that delegates could stay in touch with each other and that there was also a section in the back of the delegates' pack for business cards.

Mr Pradeep Kumar Dubey (India – Uttar Pradesh) said that like other states, India was going through a developmental process. He criticised the opposition parties for seeking to disrupt proceedings in the chamber. These parliamentarians had been attempting to demonstrate to their constituents that they were fighting Government policy, but it was becoming a real problem. The Government had reduced the number of parliamentary sittings because of these disruptions.

Sir Nicholas believed that it was necessary to have a strong clerks department to ensure that procedures were followed correctly so that parliamentarians were not prevented from doing their job.

Hon. Wellars Gasamagera MP (Rwanda) said that it was a pleasure for him to have the privilege to attend this seminar following Rwanda's recent accession to the Commonwealth. His high expectations of the event had been fulfilled. He queried whether MPs would become obsolete should states continue to encourage citizens to make direct representations to governments. He suggested that the role of parliaments might be reduced to antagonising governments in the way that Mr Dubey had described.

Sir Nicholas described the UK system of separation of powers: the executive brought forward legislation, the legislature amended and passed the legislation; and the judiciary interpreted the laws. In some countries, MPs were allocated money to spend in their own area but this did not happen in the UK; MPs had to compete for resources. He said that it was wonderful to welcome Rwanda to the Commonwealth and was proud of the fact that there were countries who wanted to join, demonstrating the value of membership.

Mr Syed Zafar Ali Shah MNA (Pakistan) said that he considered the CPA to be like a family. He described the process by which British rule on the Indian sub-continent had ended and democracy introduced in India and Pakistan. He argued that there had not been sufficient time to grow democracy in these countries. He considered that democracy needed to be seen to be done, in the same way that justice did.

Sir Nicholas noted that there were some people in the Indian sub-continent who had not wanted to wait for democracy to develop. It was perhaps understandable that military rule had happened in the early stages but it was clearly now essential to ensure stable democracy.

Hon. Nicholas Prea MNA (Seychelles) considered that, while these kinds of seminar enabled good learning, the CPA should monitor the state of democracy in member states. What was happening in the Seychelles was not parliamentary democracy and did not meet the CPA standards. He asked if there were any mechanisms for the CPA to monitor parliamentary democracy.

Sir Nicholas said that it would be possible to bring these issues to the attention of CPA officials, who could discuss them informally, but the CPA operated under the clear principle that it did not interfere in the internal affairs of member states.

Mr Richard Sawle MLA (Falkland Islands) said it would be remiss of him not to pass on regards to Sir Nicholas from the Falkland Islanders. The Falkland Islands was the smallest Commonwealth country, with a population of around 2,500. A lot of the procedural issues under discussion were not applicable to them, either because they did not have the resources to implement them or because they were irrelevant given the small size of the parliament. He asked Sir Nicholas for his view on what the Falkland Islands could change to make their system more effective, if they could only change one thing.

Sir Nicholas said he had the greatest respect for the system in the Falklands. He noted there had been a big turnover of members at the last election. His advice would be to build on what they had. They had some good officers. If oil exploration went well, the Falkland Islands would be able to become more self-sufficient with the confidence to develop democratic processes by evolution. He said that the UK was 100% behind the Falkland Islands and their right to self-determination.

Deputy Rhoderick Matthews (Guernsey) said that it was for parliamentarians to run parliaments, but the method of choosing parliamentarians must reflect the interests of the people. He did not consider that the current electoral systems in the UK and Guernsey achieved this as well as he would like. A lot of members did not have as much secretarial support as they would like, particularly to use e-technology.

Sir Nicholas said that his experiences had taught him that personal contact was the most effective means of communication with constituents. He probably disagreed with Deputy Matthews' views about the electoral system: first past the post worked because, once elected, MPs represented everyone in the constituency, regardless of who they had voted for. This, he believed, was the strength of British democracy.

Hon. Roy Harrigan MHA (British Virgin Islands) said that no rules had been established in his parliament to limit the amount of time that members spoke for during debates. Members therefore used debates as a good opportunity to be seen and heard, speaking for an overly long time; he wondered how it was possible to contain this.

Hon. Mohamed Asfia Nassar MLA (Malaysia – Sarawak) said that, in a country with 500 million voters, it was hard for individuals to believe that their country was governed by and for them. He said that outside interests were infiltrating his country: the legislature, executive and judiciary should work together to ensure that parliament continued to function properly. It was also important for states such as his to have brilliant budgetary policies so they were not at the mercy of the IMF: in such circumstances the democratic process

became meaningless. He stated that there was not a single MP in the UK who had been elected by the majority of his constituents; this did not help to further confidence in democracy.

Sir Nicholas was not sure that this was the case, but he queried whether or not it mattered, so long as MPs worked on behalf of all their constituents regardless of how they voted.

Hon. Dharmajaye Rucktooa (Mauritius) urged his fellow parliamentarians to be visible in their work, to work hard and to encourage a responsible opposition.

Sir Nicholas thanked the delegates for their contributions.

THE ROLE OF THE MP IN THE CONSTITUENCY

Speakers: Mr Andy Love MP (*Labour*)
Mr Andrew Rosindell MP (*Conservative*)

Chairman: Mr Paul Clark MP

Mr Paul Clark MP welcomed the speakers. He explained that he would be standing in for Mr Paul Jackson, who had been taken to hospital. He welcomed the speakers and introduced them to the delegates.

Mr Andrew Rosindell MP explained that MPs and the work of MPs was very different from twenty or thirty years ago. In the past, MPs would only visit their constituencies twice a year, but MPs today had to be constituency champions. They held weekly surgeries and visited venues such as schools and hospitals. Those MPs not living in their constituency were viewed with displeasure by their constituencies.

Mr Rosindell stated that it was important that MPs kept in touch with the local community and ‘kept their feet on the ground,’ or the constituency would show their displeasure by voting against the incumbent at an election. He commented that the electoral system of first-past-the-post was an incentive for MPs to work hard on behalf of their constituencies. A different electoral system, such as a regional list, made it harder for MPs to engage with the electorate. Normally, only a small proportion of an MP’s time was engaged with party politics. However, it was not possible to ignore it as, within the constituency, the branch office could choose to de-select a Member at the next election.

An MP had three priorities to balance. For an MP, the needs of the country came first; an MP was elected to the UK Parliament to help pass laws that would be of benefit to the country. Their second loyalty was to the constituents who had voted them into office. Third, was loyalty to the party. Mr Rosindell stated that it was correct for an MP to go against the party view if it was to the detriment of the constituency or the country. It was often a balancing act between an MP’s own principles and the view of the party and the view of the constituencies.

Mr Rosindell explained that he had been born and brought up in his constituency, which was unusual among modern MPs. Usually MPs were parachuted in from other areas. He believed that this was a major factor in gaining his seat in 2001 as the voters knew him locally and saw him on a daily basis. He felt that parties needed more local representatives than those from party list to counteract the feeling amongst the electorate that MPs were out of touch.

Mr Rosindell stated that politics had to change, with politicians needing to be more engaged with voters and active with local issues. There was a need to better explain their role to constituents who were often unclear about an MP's role and could not distinguish between it and the role of a councillor, Mayor or MEP.

Mr Andy Love MP commented that while the public had a negative view of MPs as a group, this was often not the case when they were asked about their constituent MP. Constituents had a better appreciation of their local MP, and thought that they worked hard and took up local causes. He cited research which showed that MPs received a 40% recognition in their constituency.

He agreed with Mr Rosindell that the role of MPs had changed significantly. In the 1960s he explained that MPs spent the majority of their time in Parliament, attending a constituency surgery about once a month, with usually no other activity in the constituency. Their main role was in the national parliament deciding national issues. This had now changed dramatically. There was no longer a strong party affiliation amongst voters as in the past, and with a multi party system it was not as clear who people would vote for. It was therefore now more important than ever to get as much support as possible across the board within the constituency. At the same time, constituents were becoming more aware of what an MP did and were asking them to take up causes on their behalf, although it was still common for people to direct their queries to the incorrect tier of government.

Mr Love explained the geographical issues that affected an MP's work. The UK Parliament met on a Monday to Thursday, and most MPs (when not in Parliament due to Parliamentary business) spent Friday and weekends in their constituency. He commented that the closer an MP's constituency was to Parliament, the stronger connection they could have with their constituents as they were around more often. Conversely, this did mean that sometimes an MP felt it unnecessary to have an office in their constituency, and would do the majority of their work from their Parliamentary office. Those that lived further away could not spend as much time there but would have a base, such as an office, in the constituency. There was therefore a varied picture as to how MPs engaged with their constituency.

Mr Love highlighted the important job that staff did in the office. He commented that over 2,500 people attended his surgeries yearly, and it would be impossible to see everyone. He therefore explained that his staff saw a great majority of those in his surgery. He maintained an oversight role, but become personally involved when an important case or important principle was involved.

Mr Love outlined the different functions an MP carried out in his constituency, which varied according to how focused an MP was on a Government career or how focused he was on his constituency work. He stated that his primary tasks as an MP included: taking up individual cases of constituents; ensuring that the diverse population in his constituency melded into a community, and spending time building up good relationships with organisations that reflected these communities; taking on a quasi-diplomatic role in the constituency and visiting diverse venues so that all were accorded the respect they deserved; and using the experiences of his constituency to inform his work at Parliament.

Mr Love stated that it was important that an electoral system was constituency-based as this meant that an MP represented a body of people. Issues in London varied significantly from those in North Wales or the industrial North, and it was important to get a broad range of views.

Mr Paul Clark MP thanked the speakers and invited questions from the delegates.

Ms Filomena Rotiroti MNA (Canada - Quebec) asked what was done between election times to increase the number of party members in a constituency.

Mr Andrew Rosindell MP commented that people no longer joined political parties in the same way as they had done 10-20 years ago. It was easier to get them to help with tasks such as delivering leaflets or helping at events. There was an increasing trend to try and get people involved in choosing the local candidate, for example, by holding an open primary and allowing anyone on the electoral register to vote. He emphasised the importance of ensuring that all political parties engaged with local constituents.

Hon. George Boniface Simbachawene MP (Tanzania) asked about the required qualifications for staff working in an MP's office.

Mr Andy Love MP explained that all Members' staff were paid for by the House of Commons. The House of Commons had gradually begun to encroach on the terms and conditions under which staff were employed and he could see this continuing, with the development of more of a career structure for staff. The location at which staff worked was at the behest of the MP, whether in the constituency or in Parliament.

He commented that the most important qualification for a staff member was to have sympathy with the political view of the MP. Some staff were employed due to their connection with the Members e.g. having assisted a Member during the election campaign. Others were hired on leaving university, as the role was considered good experience, although not well paid, and salaries were not reflective of the length of service. As it was not well paid, many left after a few years.

Hon. Victor James MLC (Montserrat) asked if Opposition Members were treated differently from Government Members.

Mr Andrew Rosindell MP explained that every MP was treated exactly the same way. All MPs received the same amount of allowance, and could use it as they wished. For example, some chose to have a large number of staff and a small office in the constituency, while others preferred a small staff with a higher wage. As a returning Member of Parliament, you received a better office within the Parliamentary estate.

Government Ministers received the support of civil servants and received a government office. Shadow Ministers did not receive any extra financial support and had to use the same limited resources as other backbench MPs.

Hon. Nicholas Prea MNA (Seychelles) asked if Members of Parliament received an allowance to help particular people in their constituency. He inquired if such assistance was classed as bribery or corruption.

Mr Andy Love MP commented that an MP had influence within a constituency, but little or no power. The leader of the local government had more power. However, an MP by using his influence, could galvanise people and speak on people's behalf. Often the size of this influence would be dictated by the party in power in local government – if it was the same party, the MP would have more influence.

He explained that MPs did not receive any money which they could distribute amongst their constituents. They only received an allowance for staff, offices and communication. He noted that in some countries, such as Sri Lanka, elected representatives were given a sum to distribute, but in the UK this would be seen as unfair and unequal in terms of an election.

Hon. Charlie Parker (Canada - Nova Scotia) asked how Members kept in touch with their constituents between elections. He also asked what a list MP was.

Mr Andrew Rosindell MP commented that there was less door-to-door activity between elections, but that MPs still kept in touch with their constituents. Most MPs spent time going around their constituencies, and visibility and attendance were important. He pointed out that he attended school fairs, hospitals and activities such as Christmas plays. He had a street stall, which was a table in the town centre, where constituents could come and meet him. Many also knew his home telephone number and came to his door. He explained that the visibility of an MP was important and ensured that they stayed in touch with the electorate.

Mr Andy Love MP explained that List Members were chosen for the Scottish Parliament. They are elected from a party list rather than from a geographical constituency. Their presence in Parliament was therefore owed to the number of votes that their party won, not to votes received by the MP personally. He described them as second class citizens as they did not have constituents.

Hon. Cyril Ikechukwu Dennis Maduabum MP (Nigeria) asked what tools were available to parliamentarians to represent the grievances of their constituents.

Mr Andy Love MP explained that there were a number of options available: making speeches in Parliament; asking an oral or written question; writing to the Minister or the relevant department; gaining the ear of the relevant Government Minister; or meeting the relevant civil servants. If these did not result in a satisfactory conclusion, an MP could continue to take the issue up the Government hierarchy, approaching the Cabinet Minister or the Prime Minister. There were different levels by which an MP could attempt to resolve an issue.

Hon. Frederick Nkayi Mbagadhi MP (Uganda) asked whether an MP should vote against their party where an issue was against their conscience or to the detriment of their constituents.

Mr Andrew Rosindell MP commented that it was essential that MPs had the freedom to vote with their conscience. He acknowledged that there were times when party politics conflicted with the interests of his constituents, and he had sided with his constituents. He stated that his party recognised that an MP must be free to represent their electorate.

Hon. Datuk Tawfiq Haji Abu Bakar Titingan MLA (Malaysia – Sabah) asked how MPs recognised what were the wishes of their constituencies and how they reflected the voice of the majority from their constituency.

Mr Andrew Rosindell MP explained that MPs were not simply sent to Parliament to act as their constituencies wanted them to act. MPs listened to the views of their constituents, but also listened to the debates in Parliament, balancing the views against each other, and making a decision. He gave the example of supporting the ban on smoking in public places, which he had voted for in the national interest but which had not necessarily been supported by the majority of his constituents.

Mr Andy Love MP agreed that MPs were sent Parliament as representatives, and not as delegates. Mr Love listed the three levels of pressure exerted on an MP when he was elected to Parliament: national needs; party needs; and constituency needs. An MP had to balance these interests against each other but in the end, had to make a stand for what he believed was right.

MONDAY 15 MARCH 2010**THE SPEAKER'S ROLE IN PARLIAMENT**

Speakers: The Rt. Hon. John Bercow MP, Speaker of the House of Commons, Dr. Fehmida Mirza, Speaker of the National Assembly, Pakistan.

Chairman: Sir Michael Lord MP, Second Deputy Chairman, Ways and Means and Deputy Speaker of the House of Commons.

Sir Michael Lord MP welcomed the delegates to the session and introduced the speakers, explaining that each would speak for around 15 minutes, with 30 minutes at the end for questions.

The Rt. Hon. John Bercow MP said that it was a pleasure to be addressing the conference and that he thought the exchanges would be fruitful.

He said that he wanted to deal with one minor matter at the outset, one that British people were too polite to mention, namely height. It had been suggested in some of the crueller parts of the newspapers that he was the shortest person ever to be Speaker. He said that he was very relaxed about being short, that he had always been short and that he would remain short, but that, as a matter of historical fact, it was incorrect that he was the shortest Speaker in history. Sir John Bussy, Speaker from 1394 to 1398, Sir John Wenlock, Speaker from 1455 to 1456, and Sir Thomas Tresham, Speaker in 1459 were all believed to have been shorter, although only after being beheaded. Indeed, seven previous Speakers had been executed, while one had been killed in battle and another brutally murdered. Speaker Bercow said that this enabled him to view the present woes of the House of Commons with an appropriate sense of proportion.

Speaker Bercow said that he would address three questions about the Speakership that might be of interest to delegates, the first of which was: how was the Speaker elected? The answer was by secret ballot by all Members of the House of Commons. He was the 157th Speaker, but previously the Speaker had been elected by an open vote for candidates in the Division Lobbies. However, in 2001 the House decided to elect the Speaker by secret ballot, partly because some had felt that voting for someone other than the winner might lead to their being discriminated against. He said that he had not been in favour of moving to a secret ballot.

Speaker Bercow was elected in June 2009 from 10 candidates who published manifestos and answered questions from colleagues and the media at hustings. On the day of the election each candidate made a speech in the House, after which there had been three rounds of secret voting. He said that the three current, outstanding, Deputy Speakers had been appointed after discussions behind the scenes, as was traditional, but that the House had decided that in the next Parliament they would also be elected by secret ballot.

The second question that Speaker Bercow addressed was: was the Speaker a constituency MP as well? He said that in the UK system the Speaker continued to be a constituency MP, and that he remained the MP for Buckingham, to which he had been elected in 1997. Some had said that the Speaker ought not to be a constituency MP, either because doing two jobs is too burdensome or because the Speaker ought to stand aside from constituency issues. However, the House had decreed that the Speaker should continue to be a constituency MP, so that he or she was subject to the same pressures, aware of the same issues and motivated by the same desire to serve a locality as other Members. Despite regularly dealing with correspondence,

Speaker Bercow could not speak in debates or vote, although he had “enhanced opportunities” to represent his constituents, receiving faster replies from Ministers than other Members and finding it easier to see Ministers. For example, he was meeting the Secretary of State for Transport that week to discuss a new rail link that would affect his constituency.

The third question that Speaker Bercow addressed was: did the Speaker remain a party politician? In the UK system, the Speaker renounced party affiliation, because he or she must be, and be seen to be, impartial between one party and another, although the Deputy Speakers stood for re-election as party politicians. Speaker Bercow said that on the night of his election as Speaker, after 12 years of serving as a Conservative Member, his private secretary Angus Sinclair told him that he must write to the chairman of the Conservative party to resign his membership. In the forthcoming election he would be standing as the Speaker seeking re-election. The Conservatives, Labour and the Liberal Democrats would not be standing against him and had all expressed their support for him, but some minority party and independent candidates would be standing against him. He said that in the UK system it was felt that being independent of party enhanced the authority and impartiality of the Speaker, and that fairness was of the essence.

The fourth question was: was there a role for the Speaker outside the House, beyond chairing both debates and the House of Commons Commission? Speaker Bercow said that he strongly believed there was a role for the Speaker in outreach, and that when he was elected he said that he wanted to get out and about, visiting schools, public institutions, voluntary bodies, faith groups, charitable gatherings and so on, and had spent a lot of time doing that since. He also valued the links between the House and other Parliaments, and wanted to build them within and beyond the Commonwealth, to exchange information, explore ideas and best practice, and, importantly, to keep the best and improve the rest.

Dr. Fehmida Mirza greeted the delegates, expressed her gratitude to the organisers, paid her regards to the Speaker as an excellent host and said that it was a pleasure to join them in the historic buildings of Westminster, an emblem of parliamentary democracy whose walls had seen the birth and evolution of equality, justice and the rule of law through responsible government, and had not only protected and nurtured those concepts, but transformed them into workable realities. Westminster therefore represented not only the seat of the UK Parliament, but a political system invoked on every continent. This had not happened in a day, month, year or even century; rather, it was a long, laborious process, spread over more than eight centuries, since the signing of the Magna Carta in 1215. Times and needs, crises and eventualities, war and peace had influenced the process, the institutions being shaped by individuals and the models becoming everlasting legends.

Dr. Mirza said that the same held true for the institution of the Speaker. Speaker Clifton-Brown had once said that he had to see that the machine ran smoothly, that the Government’s business was not unduly obstructed, that the minorities’ views had a fair hearing, that free speech and fair play for all were his main focus, and that, as Speaker, he was neither the Government’s man nor the Opposition’s man, but the House of Commons’ man. Such an example of neutrality and impartiality, with a well-defined, focused approach, established by the fine individuals who had occupied the Chair down through history, had enabled it not only to command the respect of the House, but to earn the respect of nations.

Today, Speakers could have a role not only within the traditionally defined parameters of the House, but outside it as well. For example, in Sweden, the 1974 Instrument of Government benefited from the ideals of a neutral office, with the transfer of important powers from the monarch to the Speaker, including in negotiations on the formation of a new Government after re-election and in nominating a Prime Minister. She

said that the model of a neutral Speaker was useful in countries where the various state institutions tended to collide with one another in an attempt to grab more and more power, potentially creating a deadlock that could bring down the entire democratic order. Extra-constitutional and non-democratic forces could act only in a vacuum, which could be filled by the office of the Speaker.

In Pakistan, the development of the office of Speaker had been a long and painful process, although vital lessons had been learnt. Although the constitution assigned the Speaker no role outside the House, the ideal of the supremacy of Parliament automatically gave the office a role. Dr. Mirza said that the role of the Speaker in Pakistan was similar to that in western systems, and that although the Speaker was not required to renounce party, to ensure neutrality they did not attend party meetings. The Speaker was also required to stand in for the President or the Chairman of the Senate whenever they were unable to perform their duties. She said that the Speaker ruled on all procedural matters and chaired the Council of the Chairmen of Standing Committees, to ensure that they worked efficiently and effectively.

The rules of business also vested special powers in the office of Speaker to strengthen Parliament's independence. All law enforcement agencies were required to inform the Speaker if any Member was arrested on any charge, and they were unable to arrest any Member on the precincts or serve notice on any without the Speaker's permission. She said that the Speaker was authorised to ensure a "production order" for any Member accused of a non-bailable offence to attend the House.

However, Dr. Mirza admitted that it was not only rules that strengthened the office of the Speaker; what was also important was the Speaker's conduct. If the rules were used to encourage nepotism, the Chair would lose its moral crown. The February 2008 elections in Pakistan—the result of geopolitical upheavals and long periods of non-representation—had resulted in a divided mandate. Long decades of military rule had left the country divided on issues such as the autonomy of Kashmir, terrorism and the distribution of power within the state.

Dr. Mirza said that she had been nominated as Speaker, the first female Speaker in the entire Muslim world. Taking inspiration from Benazir Bhutto, she said that understanding and fair play were her guiding principles. As a result, the most diverse assembly in Pakistan's history was being smoothly run, through consensus and consultation, with an all-party Business Committee meeting under her chairmanship to decide the business for each Session, with mandatory sitting days being completed and important Bills passing unanimously.

Dr. Mirza said that there was a joint strategy on fighting terrorism, reached after the longest in camera session ever, with the military top brass briefing Members. The issue was debated for a month, with the Speaker authorised to task a core Committee to frame a road map for the Government, the first time that the Speaker had been authorised in such a manner. She said that the Committee had succeeded in producing a unanimous document that was now state policy in the fight against terrorism. Dr. Mirza said that she had also formed a Committee on constitutional reform and creating a proper balance of power, doing away with amendments to the constitution made by the military dictators.

Dr. Mirza said that another vital aspect of the Speaker's office was its independence. All Members were entitled to catch the Speaker's eye, regardless of caste, creed or gender, while the representation of ethnic and religious minorities was protected by the Chair, who ensured that their voice was heard on all issues. The February 2008 elections in Pakistan showed overwhelming support for an all-inclusive and moderate democracy, with 22 per cent. of Members being women, many of whom were attending debates in the Chamber for the first time, and who therefore needed guidance and encouragement. Among the results was the

fact that more than 60 per cent. of questions, motions and private Member's Bills submitted were from those women Members.

Dr. Mirza said that the success of the bipartisan women's caucus in the federal Parliament in Pakistan, formed on her initiative, could serve as a role model for other countries. She said that the Inter-Parliamentary Union had said that the caucus was a success story that others could follow.

Dr. Mirza said that the world was changing, that vibrant democracies must cope with the challenge and that, as torchbearers, they must sustain this progress. Speakers had a crucial role to play outside their Chambers, and could act as neutral umpires in international disputes, by invoking the idea of parliamentary diplomacy. Dr. Mirza said that parliamentarians were the real policy makers, and that if the Chair allowed them to interact, issues could be resolved and crises averted. International exchanges and contact between parliamentarians could help bring them together on the issues, in connection with which Dr. Mirza said that she had proposed the establishment of a regional caucus of female parliamentarians, and had strengthened ties with neighbours, through issues-based contacts. Speakers elsewhere, in Africa, Asia and the Caribbean, could develop similar initiatives, but only if the Chair was given the freedom to do so, making use of the adaptability of the Westminster system.

Sir Michael Lord MP explained that questions would be asked in groups of three.

Hon. Charlie Parker (Canada, Nova Scotia) asked about decorum and whether either Speaker had any special techniques to maintain the correct balance between the Government and the Opposition.

Ms Yasmeen Rehman (Pakistan) asked whether a provision existed in the UK similar to the production order described by Dr. Mirza, under which the Speaker could require the release of any Member detained by the courts. She also asked what happened in the UK if the House of Lords blocked legislation, and said that in Pakistan, any legislation held up by the senate for 90 days automatically lapsed.

Hon. Wellars Gasamagera (Rwanda) asked what the role of the Deputy Speaker was in the UK Parliament.

The Rt. Hon. John Bercow MP explained that there was no magic solution to maintaining decorum in the Chamber, although it was important always to alternate between Government and Opposition speakers. He also said that it was important to maintain a balance of opinion, both between and within parties, in proceedings on contentious issues, giving the example of Foreign and Commonwealth Office questions on Israel-Palestine. He said that women MPs tended to be better behaved and quieter. In cases of disorder, it was best to take a light-touch approach and use humour, although Members who were persistently disorderly needed to be reprimanded or asked to leave the Chamber.

He said that if a Member was arrested, the Speaker would have to be informed and that it could not happen on the precincts while the House was sitting, although he had no power to demand their release.

On ping-pong between the House of Lords and House of Commons, he said that if a piece of legislation would fulfil a manifesto commitment, the Lords did not by convention reject it, although amendments could be offered. However, much legislation did not come from manifestos; therefore, he said, the Lords were free to disagree with it, and sometimes so much that the Government reconsidered their position.

He said that the role of the Deputy Speakers while in the Chair was directly analogous to that of the Speaker. As Speaker, he had to be present in the Chamber for the first two hours of every day other than Fridays, and if he were not able to be present, a motion would have to be passed giving him leave of absence. As an example, that day Sir Alan Haselhurst, a Deputy Speaker, was due to attend Michael Foot's funeral at 2 pm.

Dr. Fehmida Mirza said that the most important thing in maintaining a correct balance in debates was fair play, neutrality and impartiality. Also, the Business Advisory Committee decided the agenda for each Session. She said that her formula was to let the minority have their say and the majority have their way.

Mr Pradeep Kumar Dubey (India) asked how it was possible for the Speaker to be the epitome of impartiality if he or she had served a party previously, and asked whether it might not be better to appoint a non-Member with no party affiliation.

Mr. Teiwaki Areieta (Kiribati) asked how the Speaker would handle any conflict of interest between the House of Lords and the House of Commons, if the former became a wholly elected body.

Hon. Datuk Tawfiq Haji Abu Bakar Titingan (Malaysia, Sabah) asked Dr. Mirza what her greatest challenge was as the first female Speaker and how she had overcome it, and asked Speaker Bercow whether, having renounced his party affiliation, he expected to contest the forthcoming election against his former party.

The Rt. Hon. John Bercow MP said in answer to the first question, about impartiality, that he did not consider there to be a problem, because the fact that the Speaker had to renounce party affiliation and was on public display every day was a sufficient protection; in other words, people would judge whether he was being fair. In answer to whether he personally found being impartial difficult, he said no, and for two reasons: first, he had spent four years on the Chairmen's panel, chairing debates in Committee and Westminster Hall; secondly, although proud to be a Conservative Member, he said that he was fairly independently minded and had worked with Members from other parties on issues such as international development and children's services.

As for tensions with an elected House of Lords, this was an issue on which the Speaker had to be circumspect. Although as an MP he had been in favour of an elected House of Lords, he could not say that now, as the Speaker.

He said that no candidate from his own party or any of the other two main parties would stand against him and that the leader of the Conservative party had said that he should be supported. However, he was being opposed by a number of minority parties.

Dr. Fehmida Mirza said that she had served two terms as an Opposition Member, but now accepted her responsibility as Speaker to be impartial. She knew that she would be scrutinised as the first female Speaker, and felt the responsibility on her shoulder and a watchful gaze on her as Speaker. Fairness and taking everybody along should be visible, and that was how she had formed the constitutional reform Committee and the national security Committee, which she had mentioned in her speech, as well as the women's caucus. Although women had to toe the party line, they also needed a forum to build trust and confidence.

Mr Russell Grove (Australia-New South Wales) asked Speaker Bercow what the way ahead was for the office of Speaker, given the expenses scandal and the resignation of Michael Martin. He also asked whether he would face a secret ballot after the general election or continue as Speaker.

Rhoderick Matthews (Guernsey) asked Dr. Mirza about her daunting and important role in respect of minority parties, and asked Speaker Bercow what his role would be in the event of a hung Parliament.

Hon. Roy Harrigan (British Virgin Islands) asked how the Speaker could control the House when people were shouting, other than by saying, “Order”.

The Rt. Hon. John Bercow MP said that the expenses scandal and the resignation of Michael Martin had done huge damage to the House. His predecessor suffered, but was a decent man who carried the can. Speaker Bercow thought that no permanent damage had been done to the office of the Speaker and that Parliament could recover, although not merely with words, but with action, including ensuring accountability to the taxpayer and increasing the ability of all Back Benchers to hold the Executive to account. He said that he was involved in improving the expenses system and brokering a deal to catapult Back Benchers from the stalls to centre stage.

Speaker Bercow said that after the election, in which he hoped to be elected, the first business would be the election or re-election of the Speaker, not by secret ballot, but on a motion that the House agree to the re-election of the Speaker, which could be decided by a Division if necessary.

Speaker Bercow said that a hung Parliament would be a testing experience. Although the Speaker did not have a role in a brokering a deal, fairness and good relations between the parties would be even more important, which would call on him to deploy all the tact, diplomacy and patience at his command.

Lastly, Speaker Bercow said that saying, “Order” was a critical weapon in controlling the House. It was also important that the Speaker should impress on the House that the public do not approve of excessive noise and name-calling, and that they wanted Members to express themselves with courtesy. He said that he would like to introduce a new culture of respectful disagreement in the next Parliament, because excessive shouting was turning the public off.

Dr. Fehmida Mirza said that in Pakistan the Speaker was chosen by secret ballot.

Dr. Mirza said that when noise was excessive, she reminded Members of the prolonged struggle to restore democracy and of the presence of the press. However, she also had the power to require the Serjeant at Arms to remove Members or strangers.

The office of the Whip was also important in allowing the Opposition to vent their feelings, although actions speak louder than words, so she had to be fair in all her dealings.

THE SERJEANT AT ARMS

Speaker: Mrs. Jill Pay, Serjeant at Arms.

Chairman: Sir Nicholas Winterton DL MP.

Sir Nicholas Winterton DL MP welcomed the speaker and introduced her to the delegates, congratulating her on being the first woman to hold the role of Serjeant of Arms.

Mrs Jill Pay, Serjeant at Arms, began by giving the historical background to her role. In 1415, Henry V had had trouble running the country and a number of serjeants were sent out to recruit people to the army. The House of Commons was also unruly and the Speaker was having problems keeping order and keeping the place secure. One of the serjeants, Nicholas Maudit, was sent to the House of Commons to attend the Speaker – that is, to help keep law and order. There has been a Serjeant at Arms in the House of Commons ever since.

Mrs Pay explained that at that time, the Mace was a weapon of war, about a foot long, used as a club. Over time, it had become more ceremonial and the beautiful UK Mace dated from the 1700s. It was a representation of the monarch in Parliament, so bows to the Speaker's procession were, in fact, bows to the monarch as represented by the Mace. She told the delegates that the House could not sit without the Mace being in its place and, when the Committee of the whole House sat, the Mace was moved to under the table.

Mrs Pay said that when she applied for the job in December 2007, the job description still included the phrase "to attend the Speaker", which was an important link with 1415. The attendance role was mainly filled during the ceremonial occasions on which she worked. She explained that she had three main responsibilities: ceremonial; security, which was the most important; and access. She showed a photo of herself in full state uniform, worn on occasions such as the state opening of Parliament, and holding the Mace. The Mace weighed 10 kg – or 10 bags of sugar – and was weighted mainly in the head, so the main weight was supported by the shoulder of the Serjeant. She also pointed out the collar of "S"s. Her three predecessors, as ex-military men of more than 6 foot, had needed a much longer chain and it had reached her knees, so four links were removed on each side. The main uniform was based on Georgian court dress. As the first female Serjeant, Mrs Pay had a say in the design of her uniform; it was therefore lighter and more comfortable than the men's. The jacket was the same cut, but she had streamlined the uniform and used a lighter fabric. She was keen that the whole team should look like Serjeants and so had kept many of the aesthetic details the same.

She went on to explain the ceremonial role of the Serjeant. It started with the daily Speaker's procession from the Speaker's office which took 3.5 minutes through Central Lobby to the Chamber. The procession was made up of the Doorkeeper, followed by the Serjeant carrying the Mace, then the Speaker, followed by his Trainbearer, his Secretary and his Chaplain. For the public, she said, that was the defining moment when the House changed from a public place, open to tours and visitors, to a place of business. It was an important tradition to keep.

Mrs Pay also explained that in the Chamber she was the executive officer of the Speaker. If there was a major problem, the Speaker would suspend the sitting and she would deal with it. The same would apply if a Member misbehaved. Although she did not personally deal with the problems, she was responsible for ensuring that the appropriate action was carried out and that the Doorkeepers, who supported the Serjeant, would remove the person responsible for the disturbance. In Divisions, the Serjeant would clear the Lobbies if required and during sittings of the House they would keep order in the galleries. As she had told her colleagues from Hong Kong, there were no security officers or police in the Chamber. The police remained outside the doors of the Chamber. Instead, the Doorkeepers were in charge of the security. She explained that they were not all ex-police or military, but that they were trained in restraint techniques and unarmed combat. The main aim was to ensure that there was minimal disruption. Although there was now a glass screen in front of the Public Gallery, there could still be problems from the throwing of leaflets or other items or attempts to disrupt the debate. The Doorkeepers would remove the responsible person.

There were five Serjeants and one was always present in the Chamber – Mrs Pay explained that she always did the first hour of the sitting. Her biggest responsibility was for order and security. She told the delegates that although the ultimate responsibility lay with the Speaker, executive authority was delegated to her, and that the same relationship existed between the Lord Speaker and Black Rod in the House of Lords. The joint responsibility for security lay between the Serjeant at Arms and Black Rod. As there was one parliamentary estate, the two had to work closely together.

Mrs Pay then gave an overview of security arrangements in the UK Parliament.

Sir Nicholas Winterton thanked Mrs Pay for her presentation and stressed the importance of security. He told the delegates that he had been the last MP to talk to Airey Neave, a confidante of Mrs Thatcher and second world war hero. Sir Nicholas had offered him a lift at Members' entrance but he said that he was going to the tailors and would make his own way. He went to the tailors in a taxi and came back to the Palace to pick up his car and make his way to his constituency, Abingdon. A bomb had been placed on his car near his flat in Westminster Gardens on Marsham Street by people who knew that he was close to Mrs Thatcher and to government work on Northern Ireland. The bomb had been planted on a flat road. When he drove down into the car park, the switch was tripped and so the bomb went off when he drove up the ramp. Although he was not instantly killed, if he had lived, he would have been a vegetable. Sir Nicholas paid tribute to him and said that his death had been a tragedy. There had been little or no security then.

Sir Nicholas said that despite the inconvenience of the security checks, they were essential for the safety of the lives not only of Members but of staff - he asked Mrs Pay how many people worked in the Palace, and she told him that there were 3,500 – and of the 1 million visitors a year.

He added that this year's meeting was attended by seven Serjeants at Arms, as well as the parliamentarians and Clerks whose presence was traditional. He welcomed them and opened up the floor to questions.

Yasmeen Rehman MNA (Pakistan) said that it was nice to see a lady as Serjeant of Arms. Noting that Mrs Pay's colleagues were all men, she asked whether she had ever felt threatened by the risks and asked about her feelings about the job in general. She also asked Mrs Pay how many staff she was responsible for.

Mrs Pay replied that although she was the first woman, she had worked in the House service for 15 years. Her predecessors were all from either the military or the police, and she felt that those who had appointed her wanted somebody with experience from inside the House with a different skill set. She had been apprehensive taking on the role, but she had been warmly welcomed by Members from all parties and had not experienced any problems due to her being a woman. In the past, the Serjeant had been a 'policeman' whose job was to say, "No". She saw herself as a facilitator who might have to say no, but who would also offer other suggestions. She felt very comfortable in the role and was privileged to be the Serjeant at Arms.

Mrs Pay also said that she was responsible for 60 staff, mainly Doorkeepers, those in the Pass Office and those in the Admissions Order Office. Taken together with the 500 contracted Metropolitan Police Service police and security staff, that meant that she was responsible for 560 staff.

Sir Nicholas Winterton added that the background of Serjeants, when he first came to the House, had been largely military, whereas Mrs Pay had different attributes. A Serjeant during his early years in the House, Admiral Gordon-Lennox, had dominated the Chamber and Members who got on the wrong side of him had an

uncertain future. He was a dictator, and a man of mood, who liked his port. Mrs Pay used other skills to get her way.

Ms Pauline Ng (Hong Kong) asked how Mrs Pay fitted into the House hierarchy and where the responsibility for security decisions lay.

Mrs Pay replied that her line manager was the Clerk Assistant and that the Clerk was her overall manager. She clarified that on security issues, and if there was a major incident, she answered directly to Mr Speaker.

Mrs Pay also said that she made the decisions on security from day to day but that there was very good joint working on the issue. The responsibility for security was brought together in a Joint Committee made up of the deputy Chief Whips and senior Members of the major parties in both Houses and chaired by the Government deputy Chief Whip. The ultimate aim was to take proposed changes in strategy or policy to that Committee for endorsement. The Speakers of both Houses were advised by the Joint Committee on Security.

Ms Lily Broomes (Trinidad and Tobago) asked, as Mrs Pay was not from a military background, what training she had received in order to do the job.

Mrs Pay explained that she started her career with 10 years in advertising, where she learned the interpersonal skills that she felt had prepared her for her current role. Her training was in business management and she moved on to the private medical sector, working for a private consultant and co-ordinating estate management and data management over a number of sites. She then went on to work with schools and colleges on developing a work-based curriculum, where she learned negotiation skills and working with a large budget. That ended in 1994, when she came to the House as the Head Office Keeper, managing front-line staff, where her duties included operational security. She then went on to work on the Portcullis House project and moving Members into the new building. Her duties included the security strategy. Although she had not been a policeman, she had been a successful senior manager, which she felt had served her well in her role as Serjeant.

Mr Allan Peachey MP (New Zealand) asked whether there were security constraints on the movement of Members and, if so, where that stood constitutionally.

Mrs Pay replied that there were no constraints on access for Members of both Houses. They had 24/7 access to the premises and so, if they wanted to work at 3 am on a Sunday, they could. A limited number of entrances – Carriage Gates and Derby Gate – were always open to pass-holders and policed.

Sir Nicholas Winterton added that the police had a duty to guarantee access to Members at all times, which could be difficult for them. He told the seminar that when the Tamil demonstration was going on in Parliament Square, he had been driving in and, when he was two thirds of the way round, the demonstration broke out of the boundaries and protestors lay in the road. The traffic could not move and he was stuck for well over an hour. The police had to be careful not to touch or injure anybody, so were unable bodily to move people out of the street. He added that he personally doubted whether that should be legal.

Mr Mohamed Mwangi (Tanzania) asked about the role of visitor assistants and to whom they were responsible.

Mrs Pay explained that they were quite a new innovation and that their role was to welcome, inform and help visitors to move around the Estate. They had no security responsibilities; they were there to meet and greet and for visitor management. They worked for the visitor services manager, who was part of the Department of Information Services.

Sir Nicholas Winterton added that they were relatively new; when he came to Parliament, the role had been filled by the Doorkeepers and other staff.

Hon Victor James MLC (Montserrat) said that in the list of responsibilities shown by Mrs Pay, there had been no mention of helping to maintain order in the Chamber and asked for further information on that point.

Mrs Pay replied that yes, that role came under the ceremonial responsibilities of the Serjeant at Arms.

Hon Mohamed Asfia Nassar MLA (Malaysia) asked what happened if an MP was privy to disorder in the outer perimeter as well as being in the Chamber airing their grievances and causing a disturbance there.

Mrs Pay said that the areas outside the perimeter of Parliament did not come under the jurisdiction of the House, and so were dealt with by the relevant police authority. If a disruption happened in the Chamber, Mr Speaker would call that Member to order and then there were a number of processes that could be followed. If a Member did not carry out the wishes of the Speaker, the Speaker would hand over to the Serjeant at Arms, who would have that person removed by Doorkeepers. There were prescribed processes for that.

Sir Nicholas Winterton added that any Member who was excluded from the Chamber would lose their salary, so there was a disincentive to disobey the Speaker. The Serjeant at Arms had no say in what happened, but carried out the Speaker's instructions. He talked about the disturbance during the Bill on hunting with dogs when supporters of hunting got into the House. He added that there was considerable sympathy with their views because of the situation, and that those views had crossed party lines.

Mrs Pay added that measures had been put in place to mitigate against similar disturbances happening again.

Sir Nicholas Winterton thanked Mrs Pay and closed the session.

THE INDUSTRY AND PARLIAMENT TRUST (IPT)

Speakers: Mrs Sally Muggeridge, Chief Executive, IPT
Mr Bill Olnor MP, Chairman of the Board of Trustees, IPT

Chairman: Baroness Harris of Richmond, Vice-Chairman of the Board of Trustees, IPT

Baroness Harris of Richmond, Vice-Chairman of the Board of Trustees, IPT, welcomed the speakers and introduced them to the delegates.

She said that in 2001 she had taken an Industry and Parliament Trust fellowship with a hotel and restaurant chain, as she had wanted to find out how that industry had changed over the past 30 years. She gave a brief outline of the role of the IPT. It was a registered charity, founded in 1977, and an independent, non-lobbying, non-partisan organisation. Its mission was to better inform Parliament and parliamentarians, and the business community, about each other's work.

Mrs Sally Muggeridge, Chief Executive, IPT, thanked Baroness Harris for her resumé of the role of the IPT. She said that the IPT's purpose was to help the economy of the UK, and, for public benefit, to act as a bridge between industry and Parliament—its magazine, copies of which were available in the room, was called “The Bridge”. The IPT gave the necessary knowledge of business to MPs and MEPs who did not have a business background. Through the IPT, they were able to go out and experience the business world.

Many of the UK companies that supported the IPT had interests in many countries in the world, both inside and outside the Commonwealth. It was important for parliamentarians to get knowledge of other economies, for example India and China, and the IPT had organised visits to countries overseas in order to foster such dialogue. It was a two-way process: senior executives could spend four or five days in the Palace of Westminster or European Parliament, and parliamentarians might spend a similar period in a business that was part of the scheme.

In order to become a fellow of the IPT, it was necessary to spend a minimum of 18 days in a company— Bill Olnier, chairman of the board of trustees, had spent a great deal longer than that during his time with the IPT, looking at manufacturing industry from the shop floor to the boardroom. In the current Parliament, 25 per cent. of MPs had completed their stints in industry. They had gained an awareness of the issues that were facing business, and that had enabled them to respond appropriately in the legislation that they put forward. Through the IPT, parliamentarians had spent time not just in manufacturing industry, but in the City, in the financial services industry and in creative industries such as the performing arts, media and design, which were very important to the UK economy.

The main benefit of the IPT was better mutual understanding between Parliament and the worlds of business, industry and commerce. The IPT was a registered charity that took donations from business and charged businesses for its training programmes. As the Speakers of the House of Lords and the House of Commons were joint presidents of the trust, the IPT had the support of both Houses of Parliament on a non-partisan basis.

Mrs Muggeridge said that she had an excellent team working with her who arranged programmes that met Members' needs. For instance, a member of the Health Select Committee, who was a doctor, had wanted to know how the health business operated, so he spent time at Boots, a major UK retail chain, where he learned about all aspects of its shop floor and came to understand what happened at board level.

On the issue of governance, the IPT's board of trustees was a mix of parliamentarians and business people, but it also had an executive committee of business people who advised on, for instance, whether it should be looking at the financial services industry or manufacturing. She noted that one of the delegates in the room, Allan Peachey from New Zealand, had experience in his country of the Business and Parliament Trust, which mirrored the activities of the IPT. The IPT wanted to encourage more such organisations around the world.

Baroness Harris thanked Mrs Muggeridge and said that there would be an opportunity to ask questions after the second presentation from Bill Olnier, Chairman of the Board of Trustees of the IPT, who would be retiring as an MP at the election.

Mr Bill Olnier MP, Chairman of the Board of Trustees, IPT, thanked Baroness Harris for her introduction.

He said that he had been a Labour MP since the 1992 election, and previously had been a councillor and council leader in Nuneaton, which was his constituency. Nuneaton had had coalmines before the Conservative Government closed them, but now had a big auto and aircraft engine industry. He had left school at 15 and taken up an apprenticeship at Armstrong Siddeley, which became Bristol-Siddeley and later part of Rolls Royce. He had been active in the trade union movement and as an MP he wanted to make the world a better place. It had been a great privilege to represent people, but he had now decided to retire.

As a shop steward and trade unionist he had known a lot about what happened at plant level, but very little about strategic decisions at board level or what made boardrooms tick. Learning about those things was his motivation for becoming involved in the IPT. He had first been offered a fellowship at Jaguar Cars, which he had turned down because 400 workers there were members of his union branch, and that would not have been fair to the company. As a result, he had taken a fellowship at GKN, which, for example, had made constant velocity joints for the Mini. On that fellowship he had found out how the company made key strategic decisions. Its strategy was this: if it could make the best constant velocity joints, a company like Ford would stop making them itself and order GKN's.

Delegates would be aware that the world had changed: China and India had achieved amazing things, and it was necessary to know how British companies could benefit. As the UK's manufacturing base had shrunk over the years, the IPT had branched out into the media industry and banking and finance in particular. He had even had contact with the trade body for games companies. That industry had recruited some of the smartest university graduates, and it was hoped that a couple of companies in that industry would become IPT members.

The IPT had built up a strong relationship between industry, MPs and civil servants. One of his biggest personal disappointments was that, coming from the manufacturing industry, after six months as an MP he had made nothing. The election of Betty Boothroyd as Commons Speaker had been the first and only vote he won in five years in opposition. However, since 1997 things had moved at a different pace.

On the international aspects of the IPT's work, he remembered in particular his visit with the IPT to Ghana, which had been his first trip to Africa. Whereas in Accra he had felt that he could have been in any cosmopolitan city in the world, when they moved up country to Bolgatanga, he saw that people were living in a completely different way. International visits with the IPT were a great source of knowledge for parliamentarians.

Baroness Harris thanked Mr Olnier and invited questions from the delegates.

Hon Alyssa Hayden MLC (Australia-Western Australia) asked whether small and medium-sized companies were represented on the IPT.

Mrs Muggeridge said that they were. Although FTSE 100 companies were the IPT's major donors, it was working hard on encouraging SMEs – small and medium-sized enterprises – to become involved. After the election, when it was expected that there would be 350 new MPs, the IPT wanted to increase awareness of the importance to the economy of the 6.5 million SMEs in the UK.

Mr Olnier said that it was more difficult to get small businesses involved, but the IPT wanted to facilitate that.

Mrs Muggeridge pointed out that the Federation of Small Businesses participated in IPT activities.

Baroness Harris noted the great importance to the UK economy of small and medium-sized enterprises.

Ms Yasmeen Rehman MNA (Pakistan) asked whether an IPT fellowship was mandatory for UK parliamentarians. Business and politics were very different, and there was often little understanding between the two. She also asked whether the IPT had links to the agriculture industry.

Mrs Muggeridge said that fellowship was not mandatory among parliamentarians, but it was strongly encouraged. Although there was a lot of business experience among members of the House of Lords, for example, it was always possible to learn more. She said that agriculture was recognised as a very important industry. She gave the example of one MP, a barrister with an agricultural constituency, who had learned about the food supply chain “from farm to fork” on the IPT’s rural fellowship programme.

Mr Olnier said that while fellowship was not mandatory, fellows did have to complete the course. The IPT had done well, and he was grateful to the general secretary of his engineering union for encouraging him to join it. Although there were not many farmers in his constituency, he had met some of them at an NFU meeting in his Labour club in 1992, although he had thought the NFU was the fire brigades union, so it had been a bit of a shock! However, he was very happy to learn about the agriculture industry.

Baroness Harris said that she had become involved in the IPT as a result of receiving the trust’s flyers.

Mrs Muggeridge said that, during dissolution, opportunities would also be provided for Clerks of the House, who made an invaluable, and usually long-term, contribution to the work of Parliament.

Deputy Montfort Tadier (Jersey) asked whether there was a conflict between the interests of the local economy and globalisation, and what the position of the IPT was on that.

Mrs Muggeridge said that the IPT was very conscious of Parliament’s responsibilities, and that it had been successful in improving understanding of globalisation. Getting parliamentarians to spend time in the City had proved extremely important in that regard.

Mr Richard Sawle MLA (Falkland Islands) said that, having spent a lifetime in business, he sympathised with Mr Olnier’s feelings of frustration at not having achieved anything after six months as an Opposition MP. He asked what the achievements of the IPT were.

Mr Olnier said that while the achievements might not be tangible, Members did get feedback from the companies with which they did their fellowships. Members who took part in the IPT were not subject to lobbying; they were just on a learning curve. During his fellowship, GKN had purchased Westland helicopters, and he had talked to shop stewards at Westland about it. Fellowships enabled Members to acquire specialist knowledge, to the extent that even Sir David Lees, chairman of GKN, had quizzed him about what he had seen.

Baroness Harris said that the IPT enabled Members to learn how boardrooms worked and about their tensions and decision-making processes. During her fellowship, the company to which she had been attached had bifurcated, and she had been privy to some behind-the-scenes decisions. Her experience of the IPT, and discussions with the company concerned, had also helped her to understand the impact of the new Licensing Act.

Mr Russell Grove (Australia-New South Wales) asked whether, as companies funded the IPT, their self-interest led them to try to influence decisions in Parliament.

Mr Olnier said that the IPT was not subject to lobbying. GKN had never approached him or put him under any pressure. It was important to note that the IPT had been set up by parliamentarians, not business.

Mrs Muggeridge said that the Australian Government had approached the IPT about setting up a similar body, but the parliamentary system in Australia, unlike in the UK, did not have non-partisan Speakers. Non-partisan status was vital, as the Speakers of the House of Commons and the House of Lords were joint presidents of the IPT. There was also a code of conduct for both sides: industry and parliamentarians.

Hon Mohamed Asfia Nassar MLA (Malaysia) recalled the industrial unrest he had seen when he was a student in the UK, and pointed to the currently proposed strike action by British Airways staff. He asked what the IPT's role was in resolving industrial unrest.

Baroness Harris said that it was interesting that there had been a question in the House of Lords about that.

Mr Olnier said that politicians were better off not getting involved in such matters. It was to be hoped that the general public would make their views known and that staff would consider them, but there was more than one side to every dispute.

Hon Roy Harrigan MHA (British Virgin Islands) noted that politicians and business people were both very busy, and asked how the IPT managed that issue.

Mrs Muggeridge agreed that both sides were very busy, but said that if there was a good match between a Member's interests and those of the company concerned, both sides would gain. Without those common interests, the relationship would not work. In that sense, the IPT was almost like a dating agency.

Mr Olnier said that it was possible for him to do the fellowship with GKN because he was not close to that company. As a member of the British-American Parliamentary Group, of which he became treasurer, he had taken part in a familiarisation programme in 1992, in which he had visited Capitol Hill in Washington and been assigned to spend the weekend with a Congressman. However, the Congressman who had been chosen for him represented North Dakota, a farming area where one big field would have contained all the farmland in his Nuneaton constituency, so it was not a good match. When he met some of that Congressman's constituents, all they wanted to know about was the Queen!

Hon John Mickel (Australia-Queensland) asked how businesses came to know about the IPT, and what the typical financial contribution was.

Mrs Muggeridge said that one important way was through the IPT's magazine, "The Bridge". Not all companies who supported the IPT ran fellowships, and some had breaks from doing so. Many businesses heard about the IPT through word of mouth. Contributions from companies were donations to a registered charity, and so came out of the corporate responsibility budget. The maximum donation was £9,500, and it had previously been £6,500.

Hon John Mickel also asked how many companies made contributions?

Mrs Muggeridge said that about 100 companies were paying contributions at any one time.

Hon Victor James MLC (Montserrat) asked whether chambers of commerce had an active involvement in the work of the IPT?

Mrs Muggeridge said that the CBI, Institute of Directors and British Chambers of Commerce were all good friends of the IPT. Local chambers of commerce also got involved. There were also bilateral organisations such as the Australian British Chamber of Commerce.

Mr Olnier said that it was important to keep up with the regional element, because many MPs did not know enough about the economies of their regions. In that regard, flying visits would be important.

Mr Russell Grove (Australia-New South Wales) asked how many MPs and Lords were IPT fellows.

Mrs Muggeridge said that there were more than 230 who were fellows.

Baroness Harris thanked delegates for their questions, and Bill Olnier and Sally Muggeridge for their presentations, and invited anyone who required further advice or information to contact the IPT.

THE ELECTORAL COMMISSION

Speakers: Mr Peter Wardle, Chief Executive, the Electoral Commission

Chairman: Mr Paul Jackson, Deputy Secretary, CPA UK

Mr Paul Jackson gave apologies for Vera Baird MP, who had been scheduled to Chair the session, but had had to drop out due to unforeseen circumstances. He welcomed the speaker and introduced him to the delegates.

Mr Peter Wardle thanked Mr Jackson. It was often said that the UK had a first past the post electoral system. However, in reality this was only the case for the elections to the UK Parliament. In fact all other elections, to the Scottish Parliament, Welsh and Northern Ireland Assemblies, and the EU Parliament were conducted under a proportional representation system. Using a graph of voter turnout over the last ten years, he explained to delegates that voter turnout had fallen dramatically, from 71.5% in 1997 to 59.4% in 2001. He said that it was hard to overestimate the profound shock that this drop had brought to the UK political system, and that his subsequent comments had to be taken within this context.

He looked in greater detail at the statistics for the 2005 election. As usual, there had been lower turnout among the younger 18 – 25 group than among older generations. However, there had also been significantly lower turnout among the 25 – 34 age group. In previous elections, the tendency had been for many people to start voting in the slightly older age group; this was understandable, as they were likely to have acquired greater responsibility and interest in having a say in how the country was governed than when they were younger. However, this pattern had become noticeably weaker in recent elections.

The Electoral Commission (EC) was quite a young institution in the UK, compared to countries like Canada, India and Australia, and even Albania. It had been established by the UK Parliament in 2000, following the

publications of several reports, including the Fifth Report of the Independent Committee on Standards and Privileges in Public Life and the Independent Commission on the Voting System in 1998. Its remit was to monitor two key issues: funding of political parties, and the running of the election process. It was constituted of six commissioners, appointed by the Crown, and 170 other staff, spread across the UK. The Commission had a £20 million budget, and aimed to promote integrity and public confidence in the UK electoral system. Like the NAO it reported directly to Parliament rather than the Government. Mr Wardle explained that the Speaker's Committee of the House of Commons approved the Commission's budgets and annual reports, the majority of whose members were from opposition parties. Under the rules by which it had been established in 2000, neither staff nor Commissioners could have participated in a political party for the preceding 10 years. However, there was also a Parliamentary Parties Panel, comprising people actively involved in party politics. Mr Wardle thought that this had not worked particularly well, as it tended to attract political activists or party officials, rather than politicians, and therefore didn't necessarily reflect the views of the party as a whole. Recent changes under the Political Parties and Elections Act 2009 had reduced the 10 year ban to five years and had established four more Commissioners, who would not be subject to the ban, to be nominated by party leaders.

Mr Wardle explained that the core function of the EC was not actually to run elections. This was done by officials on a local level. Instead, its tasks included managing the registration of political parties; publishing details of party finances; setting the standards for running elections; responsibility for the electoral register and informing the public about how to vote; and temporary responsibility for constituency borders. He said that the Commission often worked with organisations such as the CPA, as well as other nations - commonwealth countries in particular.

In terms of regulating political parties' income, Mr Wardle told delegates that there was no cap on donations that could be made to political parties, but that donations above £500 had to come from within the UK. Donations above £7,500 to national parties, and £1,500 for local parties had to be reported to the EC four times a year. In the run up to an election, parties had to report donations weekly and loans also now had to be reported. Since 2001, £580 million in donations had been reported. Parties did get some public funding. £2 million went to opposition parties, to support the development of public policy and was not for use in election campaigning. Prior to an election, candidates were allowed free postage for publicising themselves, and free party political messages were also broadcast on television. Paid-for advertisements had to be funded by the party.

In terms of spending, the maximum permitted spend for an election campaign was £20 million for a national party. In reality, the main parties had spent around £15 – 16 million in the last election. Parties had to submit detailed accounts, which were published on the EC website. Mr Wardle noted that these accounts tended to be scoured over by the media, looking to see what money was spent on. In between elections, parties had to submit annual reports. Individual candidates had separate limits, and tended to spend between £10,000 – £12,000 on average.

Mr Wardle explained that in relation to compliance, the EC prioritised giving advice and guidance to parties, which were not generally run by experts in finance. It took a risk based approach, and focused on mitigating what it considered to be higher risks. Possible sanctions included both civil (financial) and criminal penalties.

The electoral register contained 46 million registered voters in the UK. This was approximately a 91% success rate. However, 3 – 3.5 million people were still not registered. At present, Mr Wardle explained, registration

was done by household. He thought that changes were likely to come, heading towards greater personal identification, however, this was a matter for Government and Parliament to decide.

The Commission had a statutory responsibility to report on the conduct of elections. It was working with local police and the postal service to increase awareness of the risks – particularly in relation to postal voting, which had been opened up to try to increase voter turnout, but which was by nature less secure than voting in person. 15% of voters were now opting to vote by post.

The Electoral Commission also had responsibility for running referenda, and would comment on the appropriateness of any question to be put to a referendum and enforce rules on party spending, as with elections.

Hon Nicholas Prea Mna (Seychelles) asked for how long the electoral register was open prior to an election.

Peter Wardle replied that register was permanently open, and was used for all elections – EU, local, regional assemblies, and so on. It closed 11 days before an election, which meant that it remained open for a few days following the announcement of an election. He explained that one of the EC's biggest problems was that the annual canvass for voter registration was undertaken in August and September. However, the election was likely to be held in May, leaving a six month gap, in which people may move house and fail to correct their address on the register.

Mr Karamat Hussain Niazi (Pakistan) noted that electoral fraud was a continual problem in Pakistan, and thought that the electoral system and mechanism was as much responsible as the actual offender. He asked how to guard against unfairness and ensure the neutrality of EC staff members and commissioners, as well as the local returning officers and officials involved in running an election. He also asked how local officers were appointed and by whom they were formally employed.

Peter Wardle replied that he thought the likelihood of electoral fraud depended on the prevailing political culture and that there was a limit to what the EC could do if there was a general acceptance of fraud within the political culture. He noted that it was actually relatively difficult to challenge the outcome of an election, as it was a highly political issue. If the courts were involved in ruling over the validity of an election, then this could potentially take a very long time, and coming to a resolution years after the event would be unsatisfactory. In the UK there was therefore only a short period of two months following an election in which the outcome could be challenged. A special election court would be convened to establish whether the result should stand. Then, if a crime had been found to have been committed, this would be pursued in the normal courts. A judge could order an election to be re-run, however, this was not a common outcome, and evidence was often difficult to come by. The EC's main weapon in ensuring free and fair elections was through deterrence, and ensuring that the process was transparent to all parties.

In relation to impartiality, he reiterated that the EC did not run elections; this was the job of local election officers, employed by Local Authorities. He noted that it was rare for their impartiality to be called into question, and that there was a strong tradition of neutrality among returning officers. In fact, the main complaint from local parties tended to be of a lack of communication between them and election officers, who were keen to avoid any unnecessary contact. Mr Wardle noted that different countries had different ideas about the suitability of certain individuals to act as election officers; in the UK a teacher would be considered an entirely suitable, impartial individual. However, in other countries a teacher could be considered as acting on behalf of the government.

In summary, he thought that the solution to electoral fraud had to come from the political classes themselves, rather than through external influence.

Mr Pradeep Kumar Dubey (India – Uttar Pradesh) asked what happened if the expenditure was exceeded, whether commissioners could take decisions on an individual basis, or whether decisions had to be unanimous, and how they could be removed.

Peter Wardle said that the legislation was silent on what the punishment should be for exceeding the maximum expenditure. He thought that if a local candidate overspent, this could be grounds for challenging the result in that constituency. On a national level, the situation would be more complicated. Therefore, he thought that this could be a slight flaw in the legislation, which had yet to be challenged.

In relation to the commissioners, they had worked with unanimity. He wondered if this might change with a larger EC with commissioners from different backgrounds. As Crown appointments, Commissioners were difficult to remove. In the case of gross misconduct, it was expected that a commissioner would resign, but this was self-policing, and commissioners had their own code of behaviour. It was likely that other commissioners would put pressure on the individual, but it would ultimately come down to the choice of that individual.

Hon Kayee Griffin MLC (Australia – New South Wales) asked what the time frame was to submit accounts following the election, and what other sanctions could be made against parties or individuals that did not cooperate.

Peter Wardle said that parties had three months to submit accounts for less than £250,000 and six months for anything greater. Individuals had slightly less. The timeframe for annual accounts ran from January to December, meaning that this occasionally coincided with the deadline for election spending accounts. He said that the nature of the UK system, with no fixed term Parliament, meant that it could be difficult for parties to know when to start counting for election spending. Parties could be punishable with a fine for failure to submit accounts on time.

Hon Robert Kashaija MP (Uganda) asked who sent international observers to oversee elections in countries such as Uganda, and to whom these observers were accountable.

Peter Wardle said that representatives were generally sent from international multilateral organisations such as the UN or the EU. The methods of selection varied, with some organisations approaching suitable individuals – often either experts in the field, politicians, or journalists. A justification for the choice was not usually given, but diversity and a balance of backgrounds was aimed for. Representatives were accountable to the Secretary General of the organisation that sent them, but also to the people of the country that they were observing. He hoped that most felt an obligation to do the right thing. He noted that they were still human, and therefore could possibly be bribed. However, most organisations would have a code of practice that representatives should follow.

Hon Tara L. Thomas MEC (St Helena) asked what could be done to encourage groups with low turnout to vote, and whether phone voting could be an option. She also asked what the criteria for becoming a political party was, given that there were 392 registered parties in the UK.

Peter Wardle stated that the threshold to become a party in the UK was low compared with countries like Canada. He noted that less was required to form a party than to stand as an individual. Parties had to produce a constitution, nominate a leader, and someone responsible for finances and applying the EC's regulations. Party status had to be renewed annually, and quite a few dropped from the register every year – often small, local parties running on single issues. The number of national-level parties was actually between 15 – 20.

In relation to phone or internet voting, Mr Wardle thought that fundamentally the electoral register had to be as secure and reliable as possible. Technology such as the internet could be hard to trace. Postal voting already encountered problems with people turning up in person to vote, only to find that a vote had already been cast for them via post. He thought that the internet was not sufficiently secure at present.

The EC had come to the conclusion that it could not do a great deal about voter turnout. Mr Wardle thought that it came down to politicians to convince the electorate that they should go out and vote. He suggested that in 1997 the whole country had felt that it was time for a change, and that the voting figures reflected this. In 2001, the outcome had been considered certain, so fewer people thought it was necessary to vote.

Ms Pauline Ng (Hong Kong) asked what the rationale behind the reduction in the ban for EC staff working previously for political parties from 10 to 5 years had been, and why the additional commissioners would not be subject to this ban.

Peter Wardle stated that it had been a decision of Parliament, and that the issue had been debated in 2000 when the Commission was initially set up. Different countries had different models – in the USA for example, under the federal system, an equal balance of political parties and unanimity was required, leading to very few decisions being made. The decision had been taken that the UK EC should be wholly independent – the more common model within the Commonwealth. However, the 10 year ban had been strict, and had caused difficulty recruiting staff. He saw a greater danger in relation to commissioners, and thought that the appointment of new commissioners from political backgrounds could change the nature of the Commission; at present, the existing commissioners were very independent. He noted that the Commission could benefit from new members with recent experience of politics.

Deputy Roderick Matthews (Guernsey) asked what methods were used to encourage voters to register, and whether there were legal obligations on Local Authorities and households.

Peter Wardle said that the UK compared well to other countries, partly through a tradition of voter registration and self-interest. The electoral register was the best list of adult citizens available and was used for purposes such as credit references. Advertising campaigns were also run, particularly aimed at groups such as young people, students and ethnic minorities, who tended to be less likely to register. These campaigns were targeted around elections, and the EC worked with schools, unions, and housing associations, and placed adverts on Twitter and Facebook to try reach these audiences. There weren't really any obligations on Local Authorities, although certain steps had to be taken, for example, visiting every house not registered. However, regulations were becoming tougher.

Mr Wajid Ali Khan MPA (Pakistan – NWFP) asked how the Speaker's Committee was appointed, and how its conduct was decided.

Peter Wardle replied that the Committee was composed of a mixture of government ministers and backbenchers appointed by the Speaker, ensuring balance between parties. He explained that the role of the

Committee did not extend to individual complaints and it had no operational involvement in elections, but merely oversaw the accounts and finances of the EC.

TUESDAY 16 MARCH 2010

BROADCASTING PARLIAMENT

Speakers: Mr Peter Knowles (*BBC Parliament*)

Chairman: Rt Hon. Lord McNally

The Rt Hon. Lord McNally welcomed the speaker and introduced him to the delegates.

Mr Peter Knowles explained that BBC Parliament was an organisation which received public funding but not parliamentary funding. He went on to outline how the BBC's coverage of Parliament had begun with radio. The Radio 4 programme *Today in Parliament* had started in 1945. A sister programme, *Yesterday in Parliament*, was added later. He explained that, unlike Hansard, these were programmes of analysis rather than just a record of what was said in Parliament. In terms of their reach, he said one in five radio sets was tuned in to *Today in Parliament* each night, which meant the programme reached 1 million listeners a week. He added that the daily radio programme, *Today*, also included a 5 minute slot devoted to Parliament, which reached an audience of millions. He explained that radio coverage had begun in the House of Lords and that the Lords had often led the House of Commons in terms of broadcast developments.

In terms of television coverage, he explained that he was the channel controller for the BBC Parliament channel. BBC Parliament broadcast 24 hours a day 365 days a year and although the Commons didn't sit all that time it wasn't difficult to fill. Coverage include the Commons, Lords, Select Committees, Westminster Hall, the Northern Ireland Assembly, the Welsh Assembly, the Scottish Parliament and the European Parliament, so there were actually a lot of choices to be made about what to include. BBC Parliament was based in 4 Millbank, next to the Commons, along with the rest of the broadcasters.

He explained that of the parliamentary channels around the world about half were run independently, like BBC Parliament, with the rest run by the respective Parliaments themselves. In his experience, officials in the UK were very happy with the way BBC Parliament was run, with a very few exceptions. He also explained that BBC Parliament was digital, which increased its audience and its web presence was worldwide.

He then gave some background on the Democracy Live web project (<http://news.bbc.co.uk/democracylive>). He explained that it had grown from an ambition to give the public access to all the parliamentary chambers at the same time in order to underline the relationship between Westminster and other parliaments. The Democracy Live web site included eight screens, which could all be live simultaneously. Four of these were devoted to Westminster; one to the Commons chamber, one to the Lords chamber and two to Committees. The remaining four screens covered the parliaments of Scotland, Wales and Northern Ireland and the European Parliament. He explained that Democracy Live thus brought together all of the BBC's politics coverage into one place. It could also tell viewers about their local MP and would soon be linked to information about local authorities as well.

He went on to describe the kind of audience the BBC's parliamentary coverage got. He explained that more women than men listened to Radio 4 and the audience was slightly more wealthy and older. However, BBC

Parliament attracted three men for every one woman, with fifty percent of its audience in the over-65 age range. Democracy Live got 45,000 users a week, including many younger people. He said he expected this audience to grow.

He then asked if delegates had any questions.

The Rt Hon. Lord McNally thanked the speaker and invited questions.

The Hon. Ignatius J Karl Hood MP (Grenada) asked about parliamentary privilege and how that worked within the broadcasting framework in the UK.

Mr Knowles explained that Parliamentarians had an absolute privilege to say what they wanted, immune from libel laws, while broadcasters had privilege as long as they broadcast exactly what was said, with no commentary. Privilege would thus stop for broadcasters at the point at which they began to interpret comments made in the House. He added that the use of super injunctions, which was increasing in the UK, had complicated the issue as they prevented even the existence of the injunction being reported. There had been a test case recently where an MP had talked about a super injunction in the House and the BBC had taken the decision to broadcast it.

The Rt Hon. Lord McNally added that both Houses had quite strict rules with regard to Members speaking about legal cases anyway.

Mr Richard Sawle MLA (Falkland Islands) asked about copyright. Were users of the BBC web site allowed to rebroadcast what was said?

Mr Knowles told him to write to him on this matter as he would need to check.

The Hon John Mickel MP (from Queensland, Australia) asked about the right to reply. What compulsion was there for the BBC to be balanced in terms of who an MP was talking about in terms of giving their point of view. He also asked if Peter Knowles thought the media focused too much on the adversarial nature of Prime Minister's Questions, which risked lowering the public's perception of Parliament.

Mr Knowles replied that in terms of balance, if they received a reply the same day, then they might include it for the sake of fairness, but any later and he wouldn't feel under any obligation. With regard to Prime Minister's Questions he said that although the public often complained about the adversarial nature of it, they still watched it so it was as popular as it was disliked in his view. He added that coverage of Parliament was wider than just PMQs. For example the BBC News Channel had the day before broadcast an urgent statement on the British Airways strike live. The BBC also regularly showed the Liaison Committee's session with the Prime Minister. The fact that the system in Westminster comprised the two opposing parties facing each other also meant that, unlike in a number of parliaments in Europe, British MPs had to debate and engage with each other and could not just read out a speech. He thought this made for more interesting viewing.

Ms Yasmeen Rehman MNA (Pakistan) asked how the BBC picked which committees to broadcast and about the nature of the relationship between public and private media in the UK.

Mr Knowles said that with regard to choosing committees he applied the same instinct he would to any other story. He added that it was sometimes a difficult choice as the BBC could only show about five committees a

week. Sometimes it was very clear cut, for example if a senior minister was giving evidence on a very controversial topic. He also cited a Treasury Committee meeting happening that day looking at the future of cheques. The BBC had decided to broadcast that because it would be of interest to their older audience.

With regard to the relationship between private and public media, he said that the UK had quite a stable political and broadcasting culture. It was not just the BBC which was obliged to be fair and impartial but all the broadcasters. Different broadcasters sometimes interpreted that in different ways, for example Channel 4, often included more extreme points of view. He added that the communications regulator, Ofcom, also regulated all the broadcasters except the BBC, which was regulated by the BBC Trust, so there was quite a lot of regulation.

Mr Bernard Bashoga (Rwanda) asked about improving access for the poor to Parliament through different media. He also asked what the speaker's advice would be on private versus public broadcasters?

Mr Knowles replied that all BBC Parliament's services were freely accessible via the web. With regard to the second question, he that about half the broadcasters of parliament worldwide were independent and half under the control of the parliaments themselves. He added that his instinct was that it was preferable for broadcasters to be independent, providing that was genuinely the case, as it added credibility in terms of impartiality.

The Hon. Dr Margeret NG (Hong Kong) asked about the broadcast services provided by parliament themselves. Were they listened to?

The Hon. Midiavhathu Prince Kennedy Tshivhase MP (South Africa) asked about how far parliamentary privilege extended in terms of interviews.

Deputy Montfort Tadier (Jersey) asked if the behaviour of MPs had changed at all since the televising of Parliament?

The Hon Charlie Parker (Canada) asked if parliamentarians were involved in defining broadcast regulations.

Mr Knowles replied, in response to the first question about whether parliaments who run their own broadcasting services get wide audiences, that he thought in the majority of cases the answer was no. He added that, in his view, the point of broadcasting Parliament should be to improve access not just record proceedings. He asked Lord McNally to answer the second question about whether behaviour in the chamber had been affected by the addition of cameras.

The Rt Hon. Lord McNally that he thought the chamber had become less well attended since becoming televised as members were now able watch debates remotely rather than having to go to them. However, he did not think there was too much grandstanding as in the chamber you were not conscious of the camera.

Mr Knowles responded to the final question regarding the regulations for broadcasting, saying that they were designed by Parliament. He added that ideally the BBC would like the restrictions around filming reaction shots to be relaxed. The BBC understood that they were expected to deliver a service which was respectful of Members.

The Rt Hon. Lord McNally thanked the speaker.

ENGAGING WITH THE MEDIA

Speakers: Mr Derek Wyatt MP (Labour)

Chair: Rt. Hon. The Lord Steel of Aikwood KT KBE DL (Liberal Democrat)

Lord Steel welcomed the delegates to the morning session. He introduced Derek Wyatt, Labour Member of Parliament for Sittingbourne and Sheppey.

Mr Derek Wyatt MP explained that he intended to outline how he liaised with his constituents, especially through the use of his website. His seat was a marginal one: he had won the 2005 general election by only 79 votes.

His website was www.derekwyattmp.co.uk. Mr Wyatt explained that he had established the site in 1999 setting himself the aim of beating the circulation numbers of his two local weekly newspapers. One had a circulation of 8,000, the other of 11,000. This aim had been achieved, since his website received 14,000 visitors a week and numbers were increasing.

His website contained a dedicated television site, www.derekwyatt.tv. This had six channels, including MP TV, Sittingbourne TV, Sheppey TV, Parliament Live, Parliament Archive and Local News. Mr Wyatt explained that he took a small hand-held video camera with him wherever he went, and filmed one- to two-minute video clips which he then uploaded onto the site. He urged delegates not to be discouraged by the technology involved, or the cost, and explained that there were plenty of free websites around which could host webpages. He said that he had spent a total of around £10,000 over the last seven years on his website and TV site.

Mr Wyatt's website also contained a blog. He noted that the most high-profile political bloggers in the UK were becoming more influential than the newspapers, with their blogs receiving upward of 1 million hits each day. He explained that political parties often leaked news first to bloggers, in order to get speedy coverage and to promote their own interpretation of a story. This allowed more instant media coverage than was possible through issuing a press notice to journalists. In the UK blogs existed on all sides of the political spectrum.

Mr Wyatt's blog recorded what he had done over the course of each week, but was updated on a daily basis. He said that around 2,000 people in his constituency read the blog each week, and explained that each week he emailed a number of readers to highlight stories which might be of interest to them.

He described one particular campaign which had been organised through his website, 'Stripped of our Pensions', in 2002. Mr Wyatt had organised the campaign in conjunction with steelworkers in his constituency who had lost their jobs and pensions during the financial crisis. In addition to his 350 constituents, he discovered that 156,000 other workers in the UK were in a similar position, experiencing a severe shortfall in their pensions. Following a seven year campaign, the Government granted £2 billion to cover the pensions shortfall.

The website contained maps, which Mr Wyatt had downloaded from Google. These maps showed the different towns and areas in his constituency, and were linked to all the news stories listed on his website, so that constituents could click on their local area and see what he had been doing. The maps were also linked to local media coverage of these events.

Other activities listed on the website included Mr Wyatt's Committee work in the Commons, and national and international campaigns. The site also contained his daily diary, so that press and constituents could easily find out what he was doing, and where.

The site contained a voting function, where visitors could vote on a topical question of local or national interest. Mr Wyatt found this a useful tool for gauging public opinion on key issues.

Mr Wyatt explained that his aim was to maintain over time the number of people accessing the site. He advised that it was important to update a website daily to ensure that there were continually new and topical stories. In the previous week 67,833 pages on his website had been accessed, and 13,844 people had visited the site.

Mr Wyatt's website was linked to his 'Flickr' online photograph pages, on which visitors could access all his photographs. This was particularly useful when the press wanted a photograph of him, as he could just direct them to the site.

Mr Wyatt had been amongst the first MPs to have his own application on iPhone, via the 'My MP' application. He considered this medium to be particularly important in engaging younger voters aged 18-30 who did not tend to use his website. There were ten policy discussions taking place via the application, on such topics as diverse as 'bankers' bonuses', 'electoral reform' and 'broadband for rural villages'. Through the application he had managed to access a new audience, and had received hundreds of emails from constituents using the application.

Lord Steel thanked Derek Wyatt MP for his talk, which he said he had found fascinating. He noted that, in the current age of media and technology, parliamentarians had to be able to respond instantly to communications. He asked for a show of hands from the delegates as to how many had their own websites – the result was around 10-20%. He invited questions from the delegates.

Mr Richard Sawle MLA (Falkland Islands) observed that he had set up a website on first being elected, but had found it to be very labour-intensive and to have attracted only a small audience.

Derek Wyatt MP responded that when he had first been elected in 1997, he had received about 500 letters a day and only a few emails, whereas in 2010 this ratio had reversed. He had imposed a rule on himself to respond to every email within an hour, even if that meant sending a holding answer until he could respond fully. He observed that people tended to write to their MP when they were frustrated about an issue, and that they generally just wanted to be heard and answered. Receiving a prompt reply was often very important to them.

Deputy Rhoderick Matthews (Guernsey) asked what equipment Mr Wyatt used to maintain his website.

Derek Wyatt MP replied that he had a very small 'Flik' video camera, which had only a USB port and no hard disk. He used this, as well as the video camera on his iPhone, to take videos for his website.

Hon. Richard Frederick MP (St Lucia) asked whether there was any mechanism to determine which of those accessing the website were constituents, and which were not.

Derek Wyatt MP said that the iPhone application required people to type in their postcode, which would record who was and was not a constituent. His website allowed data to be collected about who accessed it from inside, and who from outside, his constituency. Around two thirds of those visiting his website were constituents, and one third were not.

Deputy Montford Tadier (Jersey) observed that the worst situation would be to have a website or blog which was not regularly updated, since this would put people off. He asked about the time it took for Mr Wyatt to keep his website up-to-date.

Derek Wyatt MP replied that he spent around 30 minutes each day maintaining his site, and his staff spent another 30 minutes each day.

Hon. Alyssa Hayden MLC (Australia – Western Australia) noted that in Australia many MPs had websites, but that direct media such as Facebook and Twitter were already becoming more popular forms of communication. These types of media were particularly important in reaching young people.

Derek Wyatt MP agreed and explained that he also used direct media. There were links at the top of his webpage directly to all the social networking and other media sites, including Twitter, Facebook, Bebo, MySpace, YouTube and Wikipedia.

Mr Ellio Solomon MLA (Cayman Islands) asked whether there was a function on the website to allow readers to email articles directly from the site to other people.

Derek Wyatt MP replied that it was not possible to email an article to someone through his website, but it was possible to post emails and comments directly onto the site. There was a twenty minute delay between when someone posted a comment and when it appeared on the site, in order for it to be checked in case it contained confidential information. Mr Wyatt also had an online advice surgery on the site, through which constituents could seek advice.

Mr Syed Zafar Ali Shah MNA (Pakistan) explained that, in Pakistan, parliamentarians tended to use letters, telephone calls and personal visits more frequently than websites. He noted that lots of his constituents could not access the internet.

Mrs Yasmeen Rehman MNA (Pakistan) emphasised that there was a very low literacy rate amongst many of her constituents, especially in rural areas. A website for the national assembly had only been launched the previous year. Parliamentarians also lacked the resources to maintain a website, as they did not have any support staff.

Derek Wyatt MP said that almost everyone had mobile phones, even in countries with large rural populations such as Bangladesh. He urged delegates to utilise mobile phone applications rather than websites in places where access to phones was more prevalent than access to the internet.

Senator Wellars Gasamagera (Rwanda) said that Rwanda also had low literacy rates, similar to that of Pakistan. He highlighted an innovative media project in Rwanda, *One Laptop Per Child*, run by a U.S. non-profit organisation. The project aimed to give every primary school age child a small laptop. He said that people were using these laptops to communicate with one another, and that parliamentarians were trying to utilise this as a communication tool.

Derek Wyatt MP explained that there was an application on his website which read the website out loud. He said that this tool meant the website could be used even by those with low literacy levels. He also noted a Google application which translated English into different languages, which could make websites more accessible.

Deputy Montford Tadier (Jersey) asked how the younger generation could be engaged and encouraged to vote.

Derek Wyatt MP said that lots of young people were using ‘My MP’ iPhone application. Since they had to give their postcode to use the application, it was possible to check whether they were registered to vote.

Ms Filomena Rotiroti MNA (Canada – Québec) asked whether Mr Wyatt screened or moderated posts to his website, in case people posted abusive messages.

Derek Wyatt MP replied that he had only ever received a handful of really nasty emails. He did not screen posts to the website. The exception was the online advice surgery, where the twenty minute delay allowed him and his staff to check whether any confidential information had been given before posting the message.

Mr Chang Khim Teng MLA (Malaysia – Selangor) noted that as many as 90% of those who emailed him were from outside his constituency.

Derek Wyatt MP said that, in the UK, parliamentarians who received enquiries from people outside their constituency automatically passed the enquiry on to the enquirer’s MP.

Mrs Yasmeen Rehman MNA (Pakistan) said that a former Pakistani political leader in exile had used the internet to co-ordinate campaigns.

Derek Wyatt MP noted that Barack Obama had used the internet very successfully in the U.S. election campaign. He had been third in the polls, behind Hillary Clinton and John Edwards, at the start of campaigning for the Democratic primaries. The success of his online campaign, which asked people to donate small amounts of \$10 or \$25 each, had raised over \$500 million and won him the nomination.

Mr Syed Zafar Ali Shah MNA (Pakistan) asked whether it was very time-consuming to deal with emails and maintain the website.

Derek Wyatt MP said that the point of email was to be instant and constituents wanted a speedy response. It did not take him a great deal of time on a daily basis to respond to emails and maintain his website.

Hon. Alyssa Hayden MLC (Australia – Western Australia) questioned whether the fact that parliamentarians were now more accessible to the public as a result of communications technology risked ‘opening the floodgate’ to abusive or demanding individuals.

Derek Wyatt MP said that, on the few occasions when he had received an abusive message, he had thanked the sender for their email and not responded in any further detail.

Lord Steel thanked Derek Wyatt MP on behalf of the delegates and closed the session.

TRANSPARENCY IN PUBLIC ACCOUNTS

Speakers: Mr Edward Leigh MP, Chairman, Public Accounts Committee (UK)
Mr David Goldsworthy, International Operations Manager, National Audit Office (UK)

Chairman: Mr Paul Jackson, Deputy Secretary, CPA (UK)

Mr Paul Jackson welcomed the speakers and introduced them to the delegates.

Mr Edward Leigh MP (UK), Chairman, Public Accounts Committee, explained the role of the Westminster Parliament Public Accounts Committee (PAC) and how it operated. The Westminster PAC was the oldest PAC in the Commonwealth, established by William Gladstone in 1861. It investigated the economy and efficiency of government departments but not political decisions. Various rules had been devised to ensure that it remained non-political:

- The Chair was always a member of the Opposition, never a party spokesperson, and could serve for no more than two terms.
- The PAC did not set its own agenda – this was determined by the National Audit Office (NAO) which selected topics to investigate. PAC members did not vote on reports, which avoided divisions on party lines but did give individual members a potential veto.
- The PAC did not interview government ministers, only officials.
- It was dependent on the Comptroller and Auditor General and the 800 staff of the NAO, 400 of whom worked on value for money studies which fed the PAC.

Mr Leigh continued that he was enthusiastic about the role and effectiveness of the PAC which had investigated issues such as the procurement of aircraft carriers, the treatment of dementia by the National Health Service and spending on the London 2012 Olympics. The Government was obliged to respond to each of its recommendations and PAC reports achieved substantial media interest. He said that, as ministers changed, Whitehall repeated mistakes and, therefore, needed the PAC. The NAO estimated that for every £1 it spent on value for money studies, it saved the taxpayer £10. Under Mr Leigh's chairmanship, that had amounted to savings of £4 billion.

Mr Leigh said that there were PACs in every Commonwealth country, unlike in the US Congress and EU which had finance committees. Transparency in accounts was very important but this was not achieved in all countries.

Mr David Goldsworthy (UK), International Operations Manager, National Audit Office, said that, if the PAC were not so effective, the NAO reports would not have the same impact. He went on to describe how the NAO had expanded its territory in the UK but how audit offices in other Commonwealth countries sometimes struggled to operate effectively. Encouraged by the PAC, the NAO was engaged in partnership working abroad. For example, the NAO had developed a long-term relationship with Uganda where the management of public finances and accounts had come a long way over the past ten years, resulting in legislation two years ago. The Ugandan Government had sought training from the UK for its parliamentary committee staff and a consortium had been developed, including the NAO and Reuters, to assist. Small details sometimes created major problems: for example, all reports were supposed to be debated in parliament but this had resulted in major delays and, consequently, the Government was not responding to the reports. The NAO was also engaging with India over value for money audits and with Ghana.

Mr Goldsworthy concluded that the NAO was committed to building partnerships, sharing, learning and openness. He said that it took time but that progress was possible and greater transparency could be achieved.

Mr Paul Jackson (UK) thanked the speakers and invited members of the audience to ask questions and to contribute their experiences.

Hon. Richard Frederick MP (St Lucia) said that there were only 17 constituencies in St Lucia and that the 16 of these were held by the Government. There had been a period when the PAC had not sat for ten years. The ex-PM was now the Chairman of the PAC which raised questions of conflicts of interest as it was now auditing projects for which he was formerly responsible, such as a road project which was seriously overspent. Mr Frederick asked what should be done.

Mr Leigh responded that he recognised the issues and that, if the Conservatives won the next election in the UK, a Labour Chair would be scrutinising expenditure initiated by the current Labour Government. The UK PAC worked because it was non-political. It focused not on “Was the decision correct?” but on “Was it well procured?”

Mr Goldsworthy added that some parliaments, especially small ones such as the Falkland Islands, co-opted external experts to their PACs.

Ms Yasmeen Rehman MNA, Deputy Chair of PAC (Pakistan) said that the Pakistan PAC was the only Commonwealth PAC to be required by constitution. It was currently chaired by the leader of the opposition, which worried the Government, although he was behaving well so far. She asked if the PAC should be able to set its own agenda, and whether it should have powers to force people to appear before it and full access to all documents.

Mr Leigh replied that the NAO had access to all documents except those pertaining to the Royal Family, the Bank of England and the BBC – all of which might soon change. To avoid accusations of bias it was better that the PAC did not set the agenda and that its chairs were not too senior. The PAC had no powers to impose its recommendations, other than influence. It if became too powerful it might be slapped down by the government.

Hon. Simon Oyet MP (Uganda) said that there had been reform of the Uganda PAC but there was frustration at the lack of Government response to PAC recommendations.

Mr Goldsworthy said that it was a slow process but that the quality of reports was improving and that Uganda’s strategy was right. He emphasised that PACs were not about undermining the government of the day, although members still feared that criticism would be seen as disloyal.

Mr Leigh suggested using the media to back up PAC reports.

Hon. Wilson Mwatiny Litole MP (Kenya) asked what happened if the NAO discovered fraud or scandal?

Mr Goldsworthy said that, if the NAO suspected fraud, it reported it to the police. If it were a minor matter, it would report it to the Department. The NAO might follow up with a report on process failures.

Hon. Dr Margaret NG (Hong Kong) said that the PAC was well-established in Hong Kong. She asked how to avoid PAC inquiries becoming routine and losing vitality.

Mr Goldsworthy recommended investing in skills development, secondments and external recruitment at all levels. Monitoring of other bodies and feedback from the NAO were also helpful.

Mr Leigh added that the PAC was perhaps too close to the NAO and should be more critical. It was also important to have ‘churn’ in the membership of the PAC.

Hon. George Boniface Simbachawene MP (Tanzania) asked how the Comptroller and Auditor General for England was appointed and if the post-holder an employee of the Government or Parliament.

Mr Leigh replied that the Comptroller and Auditor General was an Officer of the House of Commons, not the government. The appointment procedure had been made more open and rigorous, involving recruitment consultants and specially-convened PAC Appointment Board. The Prime Minister approved the PAC’s recommendation. The current Comptroller and Auditor General, Mr Amyas Morse, had been appointed from the private sector.

Mr Ellio Solomon MLA (Cayman Islands) raised concerns about the PAC and the media. He asked how the PAC could justify not auditing the BBC, in the light of a BBC programme about the Cayman Islands, which he said had been inaccurate. He was also concerned that the Cayman Islands Auditor General had appeared on a TV talk show and given his opinions about an audit that had yet to start.

Mr Leigh said that the NAO issued measured press statements in relation to its reports. The Comptroller and Auditor General had a rule to avoid the media. With respect to the BBC, the PAC did investigate costs but was very careful to respect its editorial independence. Complaints about editorial matters, such as accuracy, should be made to the BBC. The NAO did, however, audit the BBC World Service.

Mr Goldsworthy added that the Assistant Comptrollers and Auditors General spoke to the press, but on limited terms. The NAO spent much effort disseminating its findings through various channels, such as events.

Deputy Rhoderick Matthews (Guernsey) said that the Guernsey Crown Lawyers, who advised both the Government and the PAC, had told the PAC it could not have access to contracts as this might prejudice a possible court case. He was also not convinced of the NAO’s claim that it saved £10 for every £1 it spent.

Ms Yasmeen Rehman MNA (Pakistan) asked who audited the auditors.

Mr Goldsworthy replied that the NAO had not hit problems with access to documents and did not have its own lawyers. He could not comment on the Guernsey case. The NAO sought to verify the claimed savings by agreeing the sums with the sponsoring body. The NAO’s auditors, appointed by the PAC, also checked the claims.

Mr Leigh thanked everyone for their participation and closed the meeting

YOUNG PEOPLE IN PARLIAMENT – ENGAGING THE NEXT GENERATION

Speakers: Peter Stidwell, Senior Web Producer for Education, Houses of Parliament; Alex Sergent, Company Manager, Catch21

Chairman: Andrew Tuggey

Andrew Tuggey welcomed the speakers and introduced them to the delegates. He commented that there had been a recent notable increase in visits by children to the UK Parliament. However, involving young people in the parliamentary process presented challenges to all Commonwealth countries.

Peter Stidwell, Senior Web Producer for Education, Houses of Parliament, used slides (attached) to illustrate the work of Parliament's Education Service. It was a bi-cameral service, working with schools and Members of both Houses to support young people's understanding of Parliament and democracy. The Education Service had existed for many years. Its staff had expanded from three staff to 23 staff, in line with the growing awareness in Parliament of the need to engage more with the public. Plans had been approved for a new Education Centre, to be open by 2013. The Service aimed to *inform* young people about the role, work and history of Parliament, through educational visits, tours and publications. It also ran 'outreach' workshops in schools. He explained that the Service aimed to *engage* young people to understand the relevance of Parliament and democracy through active learning, and *empower* young people to get involved by equipping them with knowledge and skills, such as how the voting system works and how to contact their MP.

He noted that voter turnout of 18-24 year olds had declined – in 2001, it was 39%; in 2005, 37%. There was little agreement among experts about the causes of this decline in youth participation. Young people might be reluctant to turn out and vote in elections because they felt disengaged from Parliament. But he believed that young people were still interested and passionate in political issues that affected their lives, and keen to learn more.

He outlined a number of ways in which the Education Service was engaging with young people. Schools were invited to bring students to Westminster to find out about the work of Parliament for free. These visits included a tour around the Palace, and a Question and Answer session with the school's MP. Visits were very popular – since 2005/06, numbers had grown from 11,000 visitors a year to 38,000 visitors, and were massively over-subscribed. The new Education Centre would provide extra capacity for visits. The quality of the learning was also central, and the Service was reviewing all its current taught content. The Service provided teacher training, and offered education practitioners some ideas, activities and resources with which to teach young people about the work and role of Parliament.

Peter Stidwell said that new technology, such as mobile devices and digital learning resources, had impacted on the way learning worked in the classroom. The Education Service had therefore adapted their output to match the requirement to put their messages across in innovative ways (such as providing i-phone applications). Publications from the Education Service also reflected that young people used modern technology such as e-book readers. Parliament's Education Website used interactive games, films, and lesson plans to communicate a range of topics – such as a game called *Race against Chime*, where players were challenged to clean Big Ben's clock face. He also demonstrated the multi-level online game *MP for a week* which was suitable for a variety of age ranges, and had received a large amount of media coverage. The game used real images from within Parliament, and was developed with the cooperation of both MPs and children. Game players were able to choose to take part in debates, vote on new laws, and choose witnesses for committee inquiries.

He noted other, more traditional activities also used by the Education Service, including a film competition for young people to show what laws they would like to pass, and the Speaker's School Council Awards, which recognised the work of young people in schools. Over 2,000 schools were registered for the awards scheme. The Education Service had also developed working partnerships with a number of organisations, such as The Women's Library, the Citizenship Foundation, and Catch21.

[Parliament Education Service website address: www.parliament.uk/education]

Alex Sergent, Company Manager, Catch21, described how he became involved in politics. For ten years, since the age of 16, he had felt concerned by the decline in voter turnout by young people, and had followed this closely. Catch21 productions was a charitable organisation – a political internet television channel based at Westminster, run by young people for young people, and working with organisations such as the UK Youth Parliament and the British Youth Council. The team was very small, with three members of staff, but it had lots of volunteers. Although the company could not provide the solution to political disillusionment, it helped to provide a platform for young people to air their comments and views to those in power. He described his company's series of *Uni-Q Minutes*, where politicians, such as Clare Short, were interviewed. Episodes were presented and filmed in a way that would appeal to young people, and the work of *Uni-Q* had been supported by politicians who recognised its value. He believed that regular, consistent programmes were key to engagement, and not just occasional one-off specials such as a BBC Question Time for young voters. Young people were interested in politics, but did not necessarily demonstrate this interest through formal channels such as voting and party membership.

He said that the issues that affected the UK Parliament concerning youth involvement affected all Commonwealth legislatures. He emphasised again the importance of regular and strategic collaborations between parliamentarians and young people.

[Catch21 website address: <http://www.catch21.co.uk/>]

Mr Mohammad Javid Abbasi MPA (Pakistan NWFP) asked if more young people were coming to visit the UK Parliament because of the forthcoming election.

Deputy Monfort Tadier MP (Jersey) believed that young people did not vote because parliaments seemed out of touch and out of date to them, and that they did not think voting changed anything. He asked about the challenges of reversing these trends and beliefs.

Hon Alyssa Hayden MLC (Western Australia) asked how Catch21 was funded.

Peter Stidwell emphasised the importance of young people getting their voices heard, so that politicians were made aware of youth concerns, such as parliamentary reform. It was impossible to measure the impact of the work of the Education Service in precise terms of how many more young people it had encouraged to vote, but it did support young people in becoming active citizens.

Alex Sergent discussed the use by Catch21 of social networking sites, such as Facebook and Twitter, in engaging young people, and keeping them updated. He explained how Catch21 was funded. A small organisation, it was originally funded by trusts and grants for its project based work. It later began to apply to limited trusts for support, developed its range of projects and services, and became more like a social enterprise.

Mr Mohammad Javid Abbasi MPA (Pakistan NWFP) asked if the political parties encouraged young people to become parliamentarians.

Peter Stidwell expected there to be a large turnover of MPs after the next General Election, and noted that the parties had encouraged young people to become parliamentary candidates. The UK Youth Parliament was a good example of successfully involving young people in parliament. An event in the House of Commons last year had allowed members of the Youth Parliament to sit in the Chamber itself, for the first time.

Hon Robert Kashaia MP (Uganda) congratulated the UK for recognising the role of young people in politics, and emphasised the need to involve the young as much as possible so they understood how laws were made. This could help overcome any negative impressions of parliament they might hold.

Hon Tara L Thomas MEC (St Helena) asked about the role of the Electoral Commission, and why the Commission did not take responsibility for encouraging people to vote in elections.

Ms Pauline Ng (Hong Kong) asked how young people could be better equipped to participate in politics.

Ms Yasmeen Rehman MNA (Pakistan) asked about the reaction of the children who visited the UK Parliament and met MPs, and also asked about the role of the media in engaging young people in politics.

Hon Midiavhathu Prince Kennedy Tshivhase MP (South Africa - Limpopo) asked to what extent the UK Parliament liaised with the relevant Government Departments when being visited by young people.

Peter Stidwell commented that the Education Service at Parliament was independent and usually kept its distance from Government Departments, except when there were special events or projects. He believed the Question and Answer sessions between children and MPs were inspiring for the young people involved. As a bi-cameral service, members of the House of Lords were also invited to participate. He thought that active learning and an understanding of citizenship helped to equip young people with the tools necessary to take part in politics, and to understand the viewpoints of others.

Alex Sergent said that although media channels such as the BBC and Channel 4 were cutting back on political programmes, Catch21 tried to provide regular and informative editions. Whilst the Electoral Commission made people aware of voting and elections, Alex thought it was the role of politicians, particularly the Government, to encourage voting itself and provide the necessary resources and knowledge.

Hon Roy Harrigan MHA (British Virgin Islands) asked to what extent politics was taught in schools, and what assistance was in place for students to help them study this subject.

Deputy Rhoderick Matthews (Guernsey) asked if lowering the voting age from 18 to 16 would engage more young people in politics.

Hon Datuk Tawfiq Haji Abu Baker Titingan MLA (Malaysia-Sabah) asked how often UK parliamentarians went out in their constituencies to talk to young people.

Peter Stidwell explained that the subjects of politics and political literacy were statutory on the curriculum in UK secondary schools, and politics was also an A level option. However, the competency of the teaching

varied, as many teachers did not fully understand the subject themselves. On lowering the voting age to 16, he commented that many young people themselves were divided over this subject.

Alex Sergent believed that MPs needed to devote regular periods to interacting with a young audience, and that consistent and frequent dialogue between MPs and young people was vital. He also noted that his dissertation had been on lowering the voting age – although he began his work in favour of lowering the age, he changed his mind during the course of his project, convinced by evidence that it was better to keep the voting age at 18 and above.

Andrew Tuggey believed that it was the responsibility of all MPs to go out and encourage young people to participate, and noted that many Commonwealth Parliaments were better at doing this than the UK Parliament. However, the expected high turnover of Members in the forthcoming UK election would bring a huge number of young MPs into Parliament, and would lead to a significant change in culture, regardless which party formed the Government.

Hon Alyssa Hayden MLC (Western Australia) noted that the Australian electoral system made it compulsory for all to vote. She believed this was an effective way of involving young people in politics, and that, as typically swinging voters, this gave young people an enormous say in how the country was run.

Andrew Tuggey thanked the speakers.

- **OPEN FORUM 3: SCRUTINY AND ACCOUNTABILITY**

The Chair, Hugh Bayley MP (United Kingdom) introduced the session on scrutiny and accountability and said that he was a former Chair of the UK CPA branch. He had just been attending questions to the Finance Minister in the House, which was one form of scrutiny. He invited delegates to compare their experience of scrutiny and accountability in their countries.

Ms Yasmeen Rehman MNA (Pakistan) said that the main opportunity in Pakistan was Question Hour. This was when questions could be asked of the executive on any subject, although backbenchers in the government party were reluctant to undertake real scrutiny and it was mainly thought of as time for the opposition. There was a more bi-partisan approach in select committees, which were able to scrutinise the executive effectively. However, the tools for scrutiny in Pakistan were not strong and it often came down to an analysis of information provided by the government.

The Chair wondered how willing government backbenchers in different countries were to ask difficult questions of the executive.

Hon. Victor James MLC (Montserrat) thought that Question Time was a good opportunity for scrutiny.

Hon. Kayee Griffin MLC (New South Wales, Australia) was a representative in an upper house, in which the Government did not have a majority. There was a procedure to call for papers which then had to be provided by the Government within 14 or 21 days. This was normally exercised in relation to projects where costs had been higher than expected. However, there had been complaints about the amount of time being spent by public servants collating and copying all these papers. Nevertheless, she thought it was a useful option for the Opposition if the issue could not be pursued in any other way. It was possible for the

Government to claim privilege in relation to its papers, but this had to be certified by an independent arbitrator – a former judge who was generally respected by all parties.

Ms Mary Harris (New Zealand) had heard about the procedure for calling for papers in New South Wales, Australia, and that it was controversial. She asked how members used the large amounts of information obtained through this procedure and how it led on to further inquiries.

Hon. Kayee Griffin MLC (New South Wales, Australia) replied that the person calling for papers might only be interested in one or two documents amongst a mass of information. This was why the Government argued that it was a waste of staff resources. The procedure had been used so frequently that staff were sometimes preparing the papers in advance, expecting them to be called for. Issues identified in this way could be raised during Question Time or during the budget estimates debates. There was also a General Purposes Standing Committee, which did not have a government majority, and could pursue these matters.

The Chair asked how the mechanism for summoning papers related to legislation on freedom of information.

Mr Russell Grove (New South Wales, Australia) said that freedom of information legislation could be used to the same effect, but the New South Wales Senate had a separate procedure for calling for papers. It had previously been challenged in the high court and had proved successful so the Government normally complied with such orders. The process was sometimes used by members who had received leaked papers to check whether the information in them was correct.

Mr Pradeep Kumar Dubey (Uttar Pradesh, India) thought that information was only part of scrutiny – it was important for parliamentarians to take action based on the information they received.

Hon. Tara L. Thomas MEC (St Helena) saw the media as the greatest scrutiny force. It normally took the view that the Government was always hiding something. She had previously supported the introduction of freedom of information legislation, but now thought that many of its aims could be satisfied if the Government were simply more open about its information and published more documents.

Hon. Alyssa Hayden MLC (Western Australia) cautioned against freedom of information legislation that could be used by the Opposition to ask pointless questions which were a waste of time.

Deputy Montfort Tadier (Jersey) reported that Jersey was in the process of introducing freedom of information legislation. He was broadly in favour, but noted that the costs would be high for a small administration such as his. There was already a code of conduct on these matters. Freedom of information had never been intended to govern the provision of documents to parliaments, it had been intended for use by the public. Members of Parliament were supposed to have access to information already.

Hon. Dr Margaret Ng (Hong Kong) said that in her country, some parties were in perpetual opposition. The only tool available to them was scrutiny. The legislative committee had all the normal powers, including the ability to call for papers and witnesses, but this had to be based on a motion agreed by both parties, which was a real difficulty. Opposition parties had to work with civil society, the general public and young people to generate pressure. A recent example had been a high speed rail project. The work would have demolished a village, and this possibility sparked public interest. The project had been debated for sixteen hours and although it had eventually gone through, the details had been exposed to the public and the importance of scrutiny had been demonstrated.

The Chair asked what the objective of scrutiny was and who could be partners in holding governments to account. For example, parliamentarians were representing people who wanted their questions to be answered.

Mr Chang Khim Teng MLA (Selangor, Malaysia) thought that a tactical approach was needed. Scrutiny should not interfere with the legitimate aims of a democratically elected executive. When he had become Speaker, he had established more select committees and opportunities for scrutiny, but the executive was not happy with the extent of this.

Hon. Wilson Mwatiny Litole MP (Kenya) reported that in Kenya, the Government could only appoint senior officials with the consent of Parliament. A new constitution would shortly be ratified which would mean that ministerial appointments would also be subject to scrutiny. The budget was scrutinised, although some details (such as military and intelligence matters) could be kept secret.

Mr Ellio Solomon MLA (Cayman Islands) thought that the media always portrayed the negative side of government and did not explain issues properly. It distorted information so that the Government always appeared to be wrong. Recently, more talk shows had appeared which gave a more balanced view by inviting both sides to comment.

Hon. Mohamed Asfia Nassar MLA (Sarawak, Malaysia) said that a clever government would always be able to hide things, even when there was proper scrutiny. One form of scrutiny was the introduction of performance indicators for ministers which could be monitored by committees. Poverty had reduced significantly in his state over the past twenty-five years and it was progressing from a third to a second world country. This had been brought about in part by setting targets and monitoring them. It was in the interests of governments to monitor their own ministers. Ultimately, governments were held to account by the people at an election.

Ms Yasmeen Rehman MNA (Pakistan) asked whether other delegates had been able to achieve a change of policy on the part of the executive through scrutiny. She wondered how powerful parliaments around the world were.

Hon. Midiavhathu Prince Kennedy Tshivhase MP (Limpopo, South Africa) thought that the role of parliaments in auditing expenditure was vital. The Government had to account for money that was not spent in the way envisaged.

The Chair invited examples of change that had been brought about through scrutiny.

Hon. Dr Margaret Ng (Hong Kong) gave the example of a reclaimed area in west Kowloon. The Government had announced that it would be turned into a cultural development area, but the tendering process implied it was for commercial and residential purposes. It also favoured one or two large consortia. There was an outcry in the legislative committee, which was supported by other, smaller developers. A cross-party sub-committee was set up to ask questions and hear deputations from the public. The outcome was a unanimous report which forced the Government to re-start its consultation process.

Hon. Ignatius J. Karl Hood MP (Grenada) suggested that accountability required a benchmark and that this could be the governing party's manifesto. It was in the Government's interest to be open and accountable and to demonstrate what it was doing. He asked what benchmarks others used.

The Chair said that the scrutiniser would set their own benchmark and the public would decide whether it was reasonable or partisan.

Senator Ngomyayona Gamedze (Swaziland) thought that the head of government should scrutinise their own ministers and set requirements. This was accountability.

Hon. John Mickel MP (Queensland, Australia) gave his view that a balance was needed. Freedom of information legislation had meant that in some cases people were reluctant to give written advice to ministers in case it was disclosed later on. For example, in Australia the briefs for incoming ministers and for Question Time had been disclosed. This endangered the whole process of government.

The Chair agreed that advice to ministers should be exempt from freedom of information legislation and this was the case in the United Kingdom. Honest and accurate advice could only be obtained on this basis.

Mr Russell Grove (New South Wales, Australia) noted that a recent Premier had introduced more opportunities for scrutiny, including requiring government responses to petitions with over 500 signatures. This had been initiated by a government party, even though it might not necessarily have been in its own interests.

Deputy Rhoderick Matthews (Guernsey) explained that Guernsey did not have a party political system and that scrutiny was a relatively new and challenging innovation. There were not yet enough resources to make it work. However, one recent success concerned the dairy industry where a proposal which might have resulted in the loss of doorstep deliveries and an increase in outside competition had been stopped by a scrutiny committee.

The Chair commented that debates in committees allowed more information to be clear to the public, which made it harder for the executive to pursue a particular policy in the face of opposition.

Hon. Mohamed Asfia Nassar MLA (Sarawak, Malaysia) thought that scrutiny could get caught up in political arguments rather than the actual issues.

Mr Chang Khim Teng MLA (Selangor, Malaysia) did not think that the Government should set its own benchmarks.

Hon. Mohamed Asfia Nassar MLA (Sarawak, Malaysia) argued that there were problems in imposing external benchmarks on countries. Governments had to be judged by their own promises and ultimately by their own people.

Deputy Montfort Tadier (Jersey) said that parliamentarians did not have to wait for the publication of reports after long scrutiny inquiries to get results. For example, a committee in Jersey had said that it intended to look at student fees for higher education. The Government had pre-empted the inquiry by initiating a review.

Hon. Dr Margaret Ng (Hong Kong) agreed that caution was needed in imposing external standards on countries, but said that some standards were universal.

Hon. Ignatius J. Karl Hood MP (Grenada) cited the example of George Bush's invasion of Iraq as an attempt to impose external standards which had resulted in a catastrophe. For scrutiny to work, governments had to be aware of expectations beforehand, otherwise the whole exercise was reduced to point-scoring.

Hon. Richard Frederick MP (St Lucia) thought that each country had its own cultural norms. For example, many countries had written constitutions, but the United Kingdom did not. Countries had to be judged by the standards that their own people wished to impose. He was no supporter of Saddam Hussein, but did not think that he had received a fair trial, despite the imposition of supposedly universal standards of human rights.

The Chair reminded delegates that these issues had been discussed in the United States Congress and that the Republican Party had ultimately been accountable to the electorate.

Hon. Alyssa Hayden MLC (Western Australia) concluded that scrutiny should enable an elected government to fulfil its manifesto commitments, but should make sure that it did this in a proper and non-corrupt manner. She thought that scrutiny mechanisms had sometimes been abused and exploited to fetter governments.

Mr Pradeep Kumar Dubey (Uttar Pradesh, India) suggested that some issues were not suitable for public scrutiny, for example the appointment of judges. In addition, internal cabinet decisions should not be questioned.

Mr Russell Grove (New South Wales, Australia) said that some principles were shared by all democracies, including respect, honesty, accountability and non-corruption. Work had recently been undertaken by the CPA, the IPU and the World Bank to establish benchmarks for modern legislatures and he suggested that delegates with an interest in this area should examine their output. Organisations such as the CPA enabled countries to help one another to meet these undeniable democratic principles.

The Chair concluded that the purpose of the Commonwealth was to uphold minimum standards. Benchmarks had to be adapted to fit the needs of individual countries, but some standards were universal. All parliamentarians had to be able to ask questions of the executive and get responses.

HOW IS PARLIAMENT RUN?

Speakers: Mr Shailesh Vara MP, Conservative, Shadow Deputy Leader of the House
Dr Malcolm Jack, Clerk of the House of Commons
Mr Michael Pownall, Clerk of the Parliaments

Chairman: Mrs Claire Curtis-Thomas MP, Labour

Mrs Curtis-Thomas welcomed delegates to the final session of the day. She introduced Malcolm Jack, Clerk of the House of Commons and Chief Executive, and suggested that although other speakers were not yet present the session should begin.

Dr Malcolm Jack, Clerk of the House of Commons, said that the House of Commons Commission was the overall supervisory body of the House of Commons administration. Made up of MPs, it was a statutory body, established through the House of Commons Administration Act 1978. The Commission was the formal employer of all staff, with the exception of the Clerk of the House and the Serjeant-at-Arms. It had

responsibility, amongst other things, for preparing and laying the Estimates for expenditure for the House Service and ensuring that the pay and conditions of staff of the House were broadly in line with those of the Civil Service.

The Commission was advised in its work by a number of committees. The Finance and Services Committee, whose Chairman was a member of the Commission, provided advice on the annual Estimates and on detailed financial matters. The Administration Committee's role was to represent to the Commission, and others, the views of Members across the House. The Committee had a wide remit, having been established in July 2005 to incorporate the work of five former domestic committees: Accommodation and Works, Administration, Broadcasting, Catering and Information.

Dr Jack explained that, as Clerk of the House and Chief Executive, he chaired the House of Commons Management Board. The Director-General of each of the House Services four departments were members of the Management Board, together with the Director of PICT, the joint House ICT service, and an external member. The Commission had delegated to the Management Board most of its statutory functions in relation to the employment of staff, and the Management Board provided advice on the House's services to the Commission and the Finance and Services Committee. A member of the Management Board also attended a meeting of the Administration Committee each month to discuss services in his or her responsibility.

In recent years delivery of services to Members had become the top priority for the Management Board and the House Service. In the not too distant past there had been little for the House Service to administer. Up to the late 1970s finance had been taken care of by the Treasury and the building had been the responsibility of what was then the Department of Environment. The House had not actually run itself until 1978, when the House of Commons (Administration) Act had come in to force. The Commission was not bound by Government in what it wished to spend on the services of the House. Nevertheless the Commission did, of course, have to be aware of general economic climate and public spending when making such decisions.

Dr Jack said that the Management Board was currently concerned with planning for the upcoming General Election. It was estimated that as many as half of the House might be new Members, and the House Service was putting in an enormous effort into planning for them, without forgetting the needs of returning Members. Such efforts were made much easier by the changes introduced two years previously to the organisation and management of the departments of the House in order to unify service delivery. These changes had flowed from the Tebbit Report, a report on the management and service of the House undertaken by Sir Kevin Tebbit KCB CMG, former Permanent Secretary of the Ministry of Defence, for the Commission in 2007. As a result the Commission had agreed to the formation of a new Management Board, organised on functional lines, and the creation of four new departments of the House (Chamber and Committee Services; Information Services; Resources; and Facilities) in place of the seven previous departments.

Prior to the reorganisation each department of the House had had a healthy tradition of independence and sometimes co-operation between them had perhaps not been as good as it might have been. This had now all completely changed. The Management Board was a strategic body, focused on delivery. The Management Board was concerned with managing and mitigating risk, for instance the possibility of disruption to House due to terrorist attack, or IT failure. It produced an annual corporate plan which set out the high-level objectives of the House Service. The Management Board also had to make decisions with regard to running what was a Grade One listed world heritage building. For instance an extremely expensive project to modernise and update the mechanics and engineering of the entire Palace of Westminster was about to get underway. In all such decisions the Board was aware of the need to satisfy Members and the public, but also to ensure value for money of what was public expenditure. There was also now a greater interest in environmental matters, and this was also a Management Board priority.

Dr Jack said that the staff of the House Service were seen as its most important resource to achieve its objectives. In cash terms there was a £170m budget for the administration of the House. There was also a separate vote for Members' expenditure. Compared to a Government department the budget of the House

Service was very small. However, the House was very much under scrutiny, by the media and the public, and the Freedom of Information Act applied to Parliament.

Dr Jack concluded by saying that he believed that the House Service was ready for the new Parliament, and that its tremendous human resources would provide a first class service.

Mrs Curtis-Thomas thanked Dr Jack and welcomed Mr Shaliesh Vara MP, who would speak next.

Mr Shailesh Vara MP, Conservative, Shadow Deputy Leader of the House, apologised to delegates for arriving slightly late. He said that he was Indian by origin and had been born in Uganda. He believed that he was the only Ugandan born MP in the House of Commons. In his contribution he would give a Member's perspective on the House.

All the staff of the House were there to help Members to do their job properly. One of biggest challenges for MPs was to know which Committee dealt with which aspect of governance of the House. The Speaker had a key role as chair of the House of Commons Commission. Other members of the Commission included the Leader of the House of Commons, Rt Hon Harriet Harman QC MP, who was also a Cabinet minister, and Rt Hon Sir George Young Bt MP, the Shadow Leader of the House. All members of the Commission were involved in a dialogue on management of services at Westminster.

Mr Vara said that the role of Speaker should not be underestimated. The Speaker had a role in setting up committees, such as the recent Speaker's Conference on Parliamentary Representation. The Speaker's Conference had been given the remit of considering and making recommendations for rectifying "the disparity between the representation of women, ethnic minorities and disabled people in the House of Commons and their representation in the UK population at large", and had recently reported. It had been one of only five Speaker's Conferences held in the previous 150 years. Mr Vara suggested that discussion of such issues in Parliament was important, as a House which was not representative of the public as a whole could not claim to effectively represent them.

Mr Vara explained that Members were keen to open Westminster to the public. There were plans for a new visitors centre, which would enable more schools to visit Westminster. The Commission had also recently agreed subsidies for school visits by those schools outside London.

There were a number of other key committees which were involved in the running of Westminster. The Procedure Committee considered the practice and procedure of the House. It had recently produced a report aimed at ensuring that the Government gave effective answers to MPs questions. It had also produced a report into the procedure for electing the Speaker which had resulted in the Speaker being elected by secret ballot for the first time. Mr Vara commented that these were both key issues of importance to MPs. The Modernisation Committee had not met for the previous two years, but had considered important issues relating to the modernisation of the House, such as whether there should be regional select committees. The Members Estimate Committee was a parallel body to the Commission and had the same membership. It considered matters related to MPs' pay and allowances.

The recommendations of the Committee on Reform of the House of Commons, popularly known as the Wright Committee, after its Chair Dr Tony Wright MP, had recently been discussed in a debate on the Floor of the House. The Committee had produced proposals aimed at reforming the way Parliament itself worked, and making it more effective.

Mr Vara highlighted current issues relating to the administration of the House on which there had been discussion. Firstly the level of work needed to maintain the Palace of Westminster and preserve it for future generations was high – should there be summer recess works for the next 30 years or should Members and staff move out of the building for three to four years to allow work to take place? If so where would Parliament meet and could the cost be justified? Secondly, should MPs' meetings have tap water rather than the current mineral water? Mr Vara commented that while delegates might think that this would be an easy

change to make, the MP for the constituency where the mineral water was produced held a different view. Thirdly, should one of the dining areas be turned in to a crèche? Questions had been raised about the proposed location for the crèche and whether it was appropriate that Parliament should have one at all.

There were a number of ways for Members to get their views on these matters heard and influence decision makers. They could ask written questions of the House of Commons Commission, or raise issues during the Commission's oral questions slot or during Business Questions. They could discuss matters within their own party: the Parliamentary Labour Party represented the views of Labour colleagues, and the 1922 Committee performed a similar role for Conservatives Members. Committees would also themselves sometimes ask for Members' views. The problem with that was that Members were often too busy to see and respond to such consultations.

Mr Vara concluded by commenting that the aim of everyone was to ensure that the House was run as effectively as possible so that MPs could do their job properly. He said that the contribution of the security service to that aim should not be underestimated; they did a great job.

Mrs Curtis-Thomas thanked Mr Vara and introduced Mr Michael Pownell.

Mr Michael Pownell, Clerk of the Parliaments, said that he was sorry to have been late arriving for the session. As Clerk of the Parliaments he was the Senior Clerk in House of Lords, Accounting Officer and employer of all staff. Although separate, the two Houses increasingly worked closely together at an official, and to some extent political, level. He said that all Malcolm Jack's comments on his Management Board's preoccupation with the environment, the building etc applied equally to its equivalent in the House of Lords. Shared services had grown – e.g. maintenance of Parliament's buildings was undertaken by staff working on behalf of both Houses and the cost attributed 40% to the Lords and 60% to the Commons. IT was also provided as a shared service for both Houses.

In regards to governance of the House of Lords Mr Pownall said that it was a very different institution from the House of Commons and from other Commonwealth Parliaments. Its 700 Members were unelected. The number of members was likely to increase after general election. It was not a full-time House, many Members had interests and experience outside. The House of Lords had a Speaker, the Lord Speaker, who had taken over the role from the Lord Chancellor. But in the Chamber the Lord Speaker had no effective power or control over order and debate. Traditionally there had been light-touch governance – the House Committee, approved business and financial plans, and there were a number of other domestic committees, Administration and Works Committee, Catering Committee and Works of Art Committee, whose titles made their roles obvious. There was also a Procedure Committee and a Privileges Committee, but there was no equivalent to the House of Commons Commission.

The system of domestic committees had been set up 10 years previously, and it had been hoped that the committees would act as user groups. This had not in practice worked well and the House was trying to improve the situation. Light-touch governance had also been found wanting in two respects. Firstly, in the House of Lords there were no salaries for Members, therefore the expenses system was important to ensure that Members were not out of pocket, but it was widely accepted that the current system was no longer fit-for-purpose. An independent review of the system had taken place and it was planned to implement changes later in 2010. Secondly, the Code of Conduct had been found to be inadequate. Mr Pownall explained that in the House of Lords Chamber that day the final pieces of detail had been put in place for a new Conduct Code. There would be an Independent Standards Commissioner, as there was in the Commons, who would consider Members' conduct if it were questioned.

Mrs Curtis-Thomas thanked the speakers and opened the debate to the floor for questions and discussion.

Hon. Dr Margaret Ng (Hong Kong) asked about the relationship between the Clerk, the Speaker and Members. Was it the same in the Commons and the Lords?

Dr Jack said that in the Commons the relationship between the Clerk and the Speaker was very close, with a meeting each day which was also attended by other senior Table colleagues. It was essential that the Clerk and the Speaker should understand each other, clearly and urgently so in the case of Points of Order where the Speaker needed proper and accurate advice on procedural matters. Regarding Members' personal visits to the Clerk himself, they were always very welcome. Members also had daily contact with other clerks, such as when tabling questions in the Table Office.

Mr Pownall said that he met with the Lord Speaker every day, but he also had a direct relationship with the Leader of House, who still retained a role looking after the whole House not just her own party.

Mr Vara said that all MPs knew that they had to operate within the rules, and would have private meetings with the clerks to discuss this. A Member could even ask a question to a Clerk at the Table during a debate. A recent example where he had done so was when he had sought advice on whether it was permissible for more than one front bench shadow MP to speak on grouped amendments. Having been advised that it was not Mr Vara and his boss, the Shadow Leader of the House had flipped a coin to decide who would speak in the debate.

Mr Karamat Hussain Niazi (Pakistan) asked whether Parliament's expenditure was audited by the National Audit Office (NAO) and whether such reports were sent to the Public Accounts Committee (PAC) for examination?

Dr Jack said that in the Commons there was an Audit Committee composed of Members of the House and external expert members who ensured that there was an independent element. This Committee was advised by the NAO. It was possible for matters relating to the administration of the House to be considered by the PAC, but it was not usual as the Audit Committee normally dealt with such issues and reported to the Commission and to the House itself through the House of Commons Commission Annual Report, which was laid before the House.

Mr Vara said that the Commission's Annual Report was discussed annually in Westminster Hall, and any Member could participate in the debate.

Mr Pownall confirmed that the NAO audited and certified the accounts of both Houses.

Mr Russell Grove (Australia, New South Wales) asked Dr Jack whether any of the committees which advised the Commission had decision making powers, and what governance changes needed to take place to improve arrangements. He also asked where the Standards Committee stood in relation to IPSA.

Dr Jack said that the committees did not have decision making powers. They advised and the Commission decided. However Parliament was a political place, and advice could greatly influence decision. Regarding the scope for further improvements Dr Jack suggested that the key was good communication between staff and the committees. If committees were informed properly then one could have a much more fruitful dialogue. If they were not well informed then this could lead to conspiracy theories. He had done much personally on that but there was more which needed to be done.

Regarding the Standards and Privileges Committee, it had been at the side of the IPSA changes. The Parliamentary Commissioner for Standards was an Officer of House who investigated complaints independently and reported to the Committee. As the allowances regime would in future be administered by an independent authority, IPSA, it remained to be seen whether there would be any difficulties.

A delegate asked how Parliament's budget was arrived at, whether it was a separate process from setting the budgets in Government and who tabled the budget.

Dr Jack said that the Commons had a separate and independent Estimate but it was enacted in the Government bill.

Dr Pownall said that the situation was different in the Lords. The Lords was not responsible for its own money and so the Management Board had to submit an Estimate for approval to the Treasury.

A delegate from India asked what the parameters were to evolve procedure if there was a situation with no precedent, or if a precedent was obscure and old and could not be followed.

Dr Jack said that the Speaker was the guardian and custodian of the procedure of the House. Ultimate authority rested with him. The system was a mixture of precedent and practice and it was for the Chair to determine practice so long as the Standing Orders were not restrictive or imperative. The Procedure Committee also looked at changes and the Wright Committee had also recently done so. Procedure was not frozen.

Mr Pownall said that matters were very much the same in the Lords except that it was the Leader of House, not the Lord Speaker, who would suggest a way forward. The Procedure Committee also suggested changes.

Dr Jack added that procedural changes often came from political origin, not usually academic developments.

Mrs Curtis-Thomas commented that such change was not always seen as good by back-benchers.

A delegate asked how Members could get involved in Parliament, what feedback there was on consultation and what were the best bodies to be on.

Mr Vara said that the response rate depended on the subject. Sometimes a Member might not want to put their name to something so might respond through a party channel, such as the PLP, instead. His personal view was that as he would have to live with what was decided it was best to respond to such consultations. The best committee to be on depended on a Member's individual experience – if someone had been a Member of the House for 15 years then the Procedure Committee would be likely to suit them, whereas for the Modernisation Committee IT skills might be more important than Parliamentary experience. There were still some MPs who did not use e-mail.

Mrs Curtis-Thomas said that in her view the PAC was a very good committee to be a member of, as it was the principal committee for all parliaments. She herself had spent three years as a member of the Home Affairs Committee during which time she had visited a number of prisons. She had doubted her choice when a colleague on the Culture, Media and Sport Committee had told her they had been to the Wimbledon tennis tournament.

A delegate (Harrod?) asked what assistance Parliament gave to foreign countries.

Dr Jack said that there was an Overseas Office in both the Commons and the Lords, and a network of connections with numerous Commonwealth parliaments and European institutions, especially those in Eastern Europe. Mark Hutton, Clerk of Overseas Office, presided over an energetic programme of engagement.

Mr Vara said that there was also an organisation called the Westminster Foundation for Democracy, which was funded by the Government and facilitated members from both political sides to talk to sister parties in other countries to promote democracy.

Ms Mary Harris (New Zealand) asked why there were differences between the employment of staff in the Commons, where the Commission was the employer, and in the Lords, where the Clerk of the Parliaments employed his staff. In New Zealand Members had been removed from all employment decisions.

Dr Jack said that in the Commons the Commission was the statutory employer but the Clerk of the House was the head of the House Service so the effect was the same as in the Lords. The Commission as the statutory employer took its role very seriously.

Mr Vara said that when he had first been elected the tax office had wanted to know who his employer was. He had been surprised that the House did not employ him, and that, as historically an MP was not paid, he was technically a public servant.

A delegate asked whether the possibility of a hung Parliament in the Commons would make the Lords more superior in every way.

Mr Vara said that at end of the day money was the be all and end all. All power related to money belonged to the Commons; the Lords could not interfere. Historically the Lords had been more powerful, but now only the symbols of that, such as Black Rod banging on door of the Commons at the start of a new session, remained. But if there was an elected upper house the whole balance of power might change.

Mr Pownall said that in 1999 nine-tenths of hereditary peers had left the House of Lords. Since then the Lords had gained more confidence and become more work-man-like. There was a healthy movement of bills between the two Houses and he felt that there was more give and take than used to be.

A delegate (from New Zealand or Australia) asked what sort of push for change the panel thought there would be, given the enormous change predicted in the membership of the House of Commons?

Mr Vara said that he thought the most likely pressure for change would be related to the hours which MPs worked. Members worked large number of hours, many of them at anti-social times. More women and young MPs might see a move to working “9 to 5” hours. Other challenges would be the media, internet interaction, and considering the costs and rules for the introduction of e-petitions. He felt it likely that there would be a trend for better communication, reflecting public disaffection with the current process of politics and with politicians.

Mrs Curtis-Thomas thanked all the speakers and the delegates for their attention.

WEDNESDAY 17 MARCH 2010

PAYING FOR PARLIAMENT

Speakers: Mr Andrew Walker, Director General of Resources
Mr Dorian Gerhold, Secretary of the House of Commons Commission and Clerk of Domestic Committees

Chairman: Mr Paul Jackson, Deputy Secretary CPA UK

The Chairman welcomed the speakers and introduced them to the delegates.

Mr Andrew Walker, Director General of Resources, explained that the House of Commons was funded via two distinct budgets, known as the Administration Estimate and the Members Estimate. Both of these were set by the House, independently from Government. The Administration Estimate, about £300 million per annum, was used for the House's running costs including building maintenance, staff, security and policing, computers and the travel costs of Members on House business, such as Select Committee visits. Each year the budget was approved by the Commission, and laid by Mr Speaker. The budget for the coming year was about the same as that for the current year, but subsequent years would reduce by about 9% in view of the current economic conditions. Although these cuts mirrored similar ones throughout Government, they had been decided voluntarily by the House, and had not been directed by Government. The Members Estimate was laid by HM Treasury as part of the main Government supply, but the amount, currently about £183 million, was determined by the House, usually without challenge from the Treasury. It was primarily for costs incurred by Members acting as individually elected representatives, and included salaries and expenses.

Audits of the Estimates were carried out by the Administration Estimate Audit Committee, the Members Estimate Audit Committee, the internal audit service and the National Audit Office, which provided the external audit service. The membership of each Audit Committee comprised three MPs and three external members; House officials attended but were not members. The National Audit Office was currently conducting a particularly intensive audit of expense claims. Mr Walker commented on CPA advice that Governments should not fund Parliaments. Some of the principles set out by the CPA were that Parliament should have control to set out their own budget, unconstrained by Government; that MPs remuneration should be determined by an independent process; and that the Corporate Body should ensure that an effective accountability framework was in place. Although the House of Commons had abided by the first and third principle, and was currently implementing the second, the recent intensive media coverage of expenses had highlighted some weaknesses of the Parliamentary self-funding model.

Mr Walker explained that the implementation of Freedom of Information legislation had led to greater media interest in the details of MPs' expense claims. The House had already decided that changes to the expenses system were necessary, and had published a new rule book ("The Green Book") in April 2009. However, a major leak of data which was being prepared for publication had brought a lot of new information into the public domain and had led to critical comments on the expenses system. Since then, the House had tightened up the criteria for some allowances, and suspended others. A review of all second home claims, led by Sir Thomas Legg KCB QC, had requested repayment of claims considered to be out-with the spirit of the rules. The Parliamentary Standards Act had created the Independent Parliamentary Standards Authority (IPSA) which would be responsible for a new independent system for the payment of salaries and allowances for MPs after the forthcoming General Election. The Committee on Standards in Public Life had also made recommendations on how the new system should operate.

Mr Dorian Gerhold, Secretary of the House of Commons Commission and Clerk of Domestic Committees, explained that the governance arrangements were based on a mixture of statute, resolutions of the House and custom and practice. The Administration Estimate was laid by the House of Commons Commission, the House's statutory Corporate Body, which had been established in 1998. The Commission was chaired by Mr Speaker and the other members were the Leader of the House, a member nominated by the Leader of the

Opposition, and three back bench members approved by the House (currently one from each of the three main parties). Decisions were by consensus, there was no system of divisions and the Speaker had great authority within the Commission. The Administration Estimate was laid by the Commission; although it was quite separate from Government, a Government Minister was always one of the members of the Commission and the House itself had to agree to the Estimate. Other Commission members might be influenced by their party leaders, and in turn influence Commission decisions.

The current environment was one of tight financial control and cuts, and there was no disagreement over the need to reduce the House's expenditure. The Commission's role was to approve spending plans in principle and to endorse the strategic view rather than getting involved in the detailed implementation of projects which was largely delegated to the Board of Management. Other Committees supported the work of the Commission. The Finance and Services Committee reviewed the House's three year business plan and made recommendations to the Commission, but did not have the authority to make decisions. The Administration Committee was formed entirely of backbenchers, and acted as a sounding board to get a wider range of opinions.

Mr Gerhold said that the Members Estimate Committee was responsible for the operation of the members allowances system. The membership of this Committee was the same as that for the Commission. Details of the allowances system were set by resolutions of the House; the Members Estimate Committee had the power to modify them, but not to create any new allowances or to increase the rates payable. Some quite harsh allowances cuts had been agreed by the Prime Minister and other party leaders immediately after the first newspaper publications, and these had subsequently been modified by the Members Estimate Committee to address anomalies. The Members Allowances Committee acted as an advisory body and was largely formed of backbenchers, but with three party whips. It had been given the authority to hear appeals regarding expense claims which had been turned down, but this power had been abolished in the wake of the media publication, without ever having been used.

Mr Gerhold explained that IPSA would take over the whole of the allowances system, and that in due course it would probably also take on Members' pay and pensions. It remained to be seen what sort of working relationship it would have with Members. In conclusion, he suggested that one of the lessons learned was that Parliament did respond when things went wrong.

The Chairman thanked the speakers and invited questions from the delegates.

Miss Cheryl Gibson (Jamaica) asked whether Parliament funded itself entirely independently from Government.

Mr Andrew Walker explained that the process for approving estimates was independent from Government, but that because the House had to vote on the estimate, the Government could in practice stop Parliament from agreeing to the estimate.

Hon Charlie Parker MP (Canada – Nova Scotia) asked what had been the consequences of the cuts in Members allowances agreed by the party leaders, and whether there had been debate about Members' pensions.

Mr Dorian Gerhold explained that claims for items such as cleaning, gardening and furniture had been capped or disallowed altogether, but it had been difficult to apply these new rules consistently. For example

parking charges at second homes were not normally allowed, but some Members were able to claim it because the charges were included with the second home rent. Pensions had not been subject to review, but the rules for resettlement grants (essentially redundancy payments for Members losing a seat) were likely to be changed.

Mr Richard Sawle MLA (Falkland Islands) commented that Mr Walker had appeared to use the words allowance and expense interchangeably and asked whether the new regime would make a clearer distinction.

Mr Andrew Walker said that the terms had originally been used separately to refer to different arrangements. Public perception seemed to be that allowance meant entitlement and so the Members Estimate Committee now preferred to use the term expense.

Hon John Mickel MP (Australia - Queensland) asked how many civil servants had been sacked because of the expenses revelations; why the House had not introduced a system of employing Members staff directly; and why it had not introduced a simpler system which treated allowances as taxable income.

Mr Andrew Walker replied that there had been no sackings to date, but the House had not yet reached the end of the process. In his view there had been a failure of governance by Members, and the staff administering the system had acted as instructed by Members. Many of the staff would be moving to the new IPSA organisation, but would be under new management there. He explained that all but one of the allowances were taxable, and that most qualified for tax relief.

Mr Dorian Gerhold added that the Commission had considered a proposal from the Prime Minister that Members' staff should be employed by the House rather than by individual Members. It had consulted widely, highlighted some consequences of such a change, and concluded that it would not be an effective system. One difficulty was that UK and European law would make it difficult to dismiss staff at an Election. Another Members' staff issue under consideration was the employment of family members which many Members wished to be able to continue with, because of the dedication and longer hours often worked by them.

Hon Dr Margaret Ng MP (Hong Kong) suggested that the Hong Kong system was effective because of complete transparency about payments made. On a separate point she asked how many staff were employed by the House of Commons.

Mr Dorian Gerhold agreed that if the House had had a fully transparent system, it would not have run into the difficulties of the previous year. He said that the House employed around 1700 staff, and that the Commission had to ensure that staff salaries were broadly in line with those in the civil service. Another big cost was the maintenance of buildings, and in particular the historic Palace of Westminster which would probably have to be vacated for refurbishment at some point in the next 20 years or so.

Deputy Rhoderick Matthews (Guernsey) suggested that the House's auditors should be given a hard time, given that they had not picked up the weaknesses in the expenses system. He also noted that the information released by the House in response to FOI had been heavily redacted and asked whether there would be real transparency from now on.

Mr Dorian Gerhold agreed that there had been a failure in auditing, but explained that the National Audit Office had not previously been allowed to conduct a full scope audit: it had had no authority to go behind a Member's signature and for example seek documentation substantiating claims for less than £250 which did

not require a receipt. With regard to information released under FOI, the House was entitled to redact certain personal information before publication, but that it had applied this rather too enthusiastically. IPSA had promised to be totally open in the future.

Hon Mohamed Asfia Nassar MLA (Malaysia - Sarawak) pointed out that the Singaporean Prime Minister was highest paid in the world and suggested that MPs should be paid high salaries in line with business leaders, in order to secure the best candidates.

Mr Dorian Gerhold replied that UK public opinion was less interested in international comparisons than with the average wage, which was much lower. There was a danger that the new, stricter allowances regime might mean that only single people with no children, or individuals with private wealth would stand for election.

Shaikh Abdul Wohab (Bangladesh) asked about the Prime Minister's residence and allowances for the Queen.

Mr Dorian Gerhold replied that 10 Downing Street was a large residence and that the Prime Minister received other benefits. The Queen's pay was provided through the Civil List.

FACILITIES OF THE HOUSE

Speaker: Mr John Borley, Director General Facilities, House of Commons

Mr John Borley, Director General Facilities, House of Commons, said that the work of the Facilities Department was hugely important. The cleaners, cooks, stewards, and others in his department played a fundamental role in our parliamentary democracy: without them, parliamentarians would not be able to do their job properly.

In total, 7,500 people worked on the Parliamentary Estate. In addition, many visitors came to the estate. All these people were supported in some way by his department.

The Facilities Department had three main roles. First, it was responsible for the physical infrastructure of both the Commons and the Lords. This work was important because everybody was inspired by the built environment in some way. Joint projects between the Commons and the Lords were sometimes undertaken: in such cases, the Lords contributed 40% of the project costs.

Physical infrastructure work was not solely undertaken in the Palace. The Parliamentary Estate consisted of other buildings north of the Palace, such as Portcullis House. The estate had grown considerably over recent decades; Members now often had two staff each and these additional people required accommodation. Mr Borley believed the size of the estate was probably big enough now. A range of technologies were required to look after the physical infrastructure of the estate because it comprised both new and old buildings. Expertise was required on both heritage issues and modern buildings.

Portcullis House was now 10 years old. 260 Members had offices in the building; some of these would be refurbished during the election period.

Mr Borley described two current works projects on the estate. The Cast Iron Roofs Project was a major refurbishment project for 150-year old infrastructure at the top of the Palace. The cost of the project was £9

million. The Mechanical and Electrical Plant project, on the other hand, involved work in the basement to update mechanical and electrical services. This work would take place during the summer.

Maintenance services were provided for buildings, utilities, gardens, car and bicycle parking areas and the access system. The work of maintenance employees could be varied, for example removing people chained to railings or repairing a policeman's helmet. Their work was co-ordinated by Helpdesk, a telephone operator available 24 hours, seven days a week.

The Facilities Department's second main role was to provide accommodation services: essentially to look after MPs in their offices. This involved providing correct equipment in Members' offices and helping Members move things around. It also included the cleaning service. MPs' offices were cleaned by House staff, although some cleaning staff on the premises were contractors. Accommodation services also provided support for committee meetings, post and parcel services and reception services.

The third main role of the Facilities Department was to provide catering services. There were 15 different catering outlets on the premises. Catering managers were required to manage the ebb and flow of parliamentary business: a reduced service was necessary in recesses, for example. The backbone of this operation was the chefs. The chefs were excellent and had recently won a catering competition in the UK.

The culture of Parliament had changed over recent decades. Much business now took place informally in the catering areas of the premises, such as Bellamy's. In the future, more catering areas would be provided in the Palace rather than in Portcullis House.

The department also included a hairdressers and the Members' Centre. The Members' Centre was a one-stop-shop, located in Portcullis House, where Members could ask about anything from travel claims to IT problems.

Mr Borley invited questions from the delegates.

Deputy Rhoderick Matthews (Guernsey) asked to what extent energy efficiency and recycling figured in the operations of the Facilities Department.

Mr Borley said that a new post in the department, the Head of Environment, had been created a year ago. So far, the post-holder had done a fantastic job. The recycling performance in the House was quite good. Food waste was separated. However, Parliament performed very badly in relation to carbon emissions and energy efficiency. Electricity consumption had increased over the years due to an increase in both the number of employees and the use of IT on the estate. Mr Borley wanted to improve the carbon footprint of Parliament but there was still a long way to go.

Deputy Montford Tadier (Jersey) asked to what extent insulation measures were considered as part of works in the House.

Mr Borley said that the Palace of Westminster had an Energy Certificate. More could be done on the estate culturally to improve energy efficiency, for example encouraging people to close doors and turn lights off.

Hon. Victor James MLC (Montserrat) asked whether every Member had an office on the premises, and whether Members also had constituency offices.

Mr Borley said that every Member had an office on the premises. Some Members had their own offices with one or two staff in a separate room. Other Members still shared offices. At the bottom of the scale, some Members had offices at the top of the Palace with no windows. Providing decent accommodation to Members and their staff was one of the key reasons why the estate had grown in recent years. Members also had constituency offices. In recent years, Members seemed to be spending more time in their constituency offices than those on the estate.

Mr Richard Sawle MLA (Falkland Islands) commented that he did not have an office in his own parliament.

Hon. Charlie Parker (Canada) asked about the location of the Gift Shop, and what it sold.

Mr Borley said that the Gift Shop was located in the entrance to St Stephen's Hall. It was not an ideal place because it could be cold and draughty. He wanted to find a better place for it. It sold a range of items, including whisky, mugs, and ties. There was another shop outside the Terrace Cafeteria.

Ms Mary Harris (New Zealand) asked whether he was under pressure to out-source more services.

Mr Borley said that he was under no pressure to out-source. He had previously worked for the Navy, and he had outsourced many services in that role. In the case of Parliament he would recommend out-sourcing if it was the right thing to do. It might be politically difficult, however, to out-source certain services, such as catering, because Members could object. A contracting company might decide to remove 10%–20% of the chefs; Mr Borley's inclination was to keep the work of the chefs in-house. Some work was already out-sourced. For example, some £30 million was being spent on capital projects, which was all out-sourced. 620 people were directly employed in his Department, including three or four dozen craftsmen.

Deputy Montford Tadier (Jersey) asked whether Parliament funded restoration work itself, or whether funding was provided by a different body.

Mr Borley said that Parliament funded this work. 20 years ago Parliament had been financially supported by the Government. Today, Parliament voted the money required to run the House of Commons.

RESEARCH AND INFORMATION SERVICES FOR MEMBERS

Mr Andrew Tuggey DL introduced the session and explained the absence of Dr Blackman-Woods, who was fighting a close election campaign in her constituency. He introduced John Pullinger and Elizabeth Hallam-Smith, the respective heads of libraries in the two Houses.

Mr John Pullinger said that he was lucky to have such a rewarding job. He was the fourteenth librarian of the House of Commons. The first had been appointed in 1818, when it had been thought of as a congenial occupation. In his opinion, the quality of the library most valued by Members of the House was the depth of knowledge within the Library. The size of the turnover expected in the forthcoming election meant that this would be more valuable than ever.

Of all the previous librarians, his hero was Thomas Vardon, the second librarian, from 1831-1867. He had been librarian in 1834, when in October the old buildings caught fire and burned down. Only Westminster Hall had been saved. When the time came to make plans for the new library, a decision had to be made about

how best to arrange the new Parliament for the benefit of the Members. It was no accident that the best rooms in both Houses belonged to the libraries. The enlightened Victorians had removed any excuse that Members may have had not to be informed and spend time in the libraries. They were moments from both Chambers, and he suggested that the closer the work of the Commons library was aligned to the work of the Chamber, the better it was. In the 1920s and 1930s, the library fell into disrepute and in 1945, the House appointed a Select Committee on the Library, which in a Report had laid the foundations of the modern library service.

In 1946, the modern research services and subject experts were introduced. The library was organised so that its functions would evolve with the Members it served. Today, the majority of the library's work actually took place in the Derby Gate buildings near Portcullis House. Members could still enjoy the splendour of the principal floor rooms adjacent to the river. As well as supporting the work of the Chamber through briefings for debates and general subject briefings, the library supported the work of the back-bench Member through its bespoke research services.

In addition to his role as Librarian, he was also the Director of Information Services. Part of this role was outward-facing, and he demonstrated the recent 'MP for a week' game created by the Education Service for the benefit of schoolchildren.

In conclusion, he said that although the new Parliament would bring many challenges, the library had demonstrated its ability to change with the times.

Elizabeth Hallam-Smith agreed that being the Librarian was indeed an enjoyable job. The House of Lords library had been established in 1826, but had also burned down in 1834. The library had been rebuilt in 1848 and during the 19th and 20th centuries had built up its stock. In the 1980s, the library had created a research service.

The House of Lords was very different to the Commons. The majority of its Members were now appointed, although there was a rump of 92 hereditary peers. The life peers comprised such well-known figures as the film-maker David Puttnam, the athlete Sebastian Coe and the author Ruth Rendell. The House was also fortunate enough to have the benefit of the combined experience of former heads of the Civil Service, Armed Forces and Intelligence Agencies.

As in the Commons, public engagement was something that Members of the Lords took a great interest in. The 'Lords of the Blog' website was a cross-party website on which several peers wrote about their work in the Upper House. The House of Lords library was definitely a 21st century service in a 19th century setting. 430 of 730 peers were regular users of the library, and most did not have their own research staff. The library was working to meet the changing needs of the Members it served through effective use of more sophisticated technology, and would continue to do so. She said that she would be interested to hear how delegates used the research services available in the libraries in their own Parliaments.

Mr Allan Peachey MP (New Zealand) said that he valued the library as a place of refuge from the bustle of everyday Parliamentary life.

Hon. Tara Louise Thomas MEC (St Helena) said that in St Helena, they did not have independent research facilities, and asked delegates what they thought the minimum requirements for a library service would be.

Mr Richard Sawle MLA (Falkland Islands) said that the Falklands did not have a parliamentary library, and

as such was unable to consult a 'corporate memory'. He wondered if online services could form the basis of such a function.

Mr Andrew Tuggey DL said that he could well understand the importance of the previous questions to small legislatures.

Elizabeth Hallam-Smith said that one of the most important features of the library was that it was a parliamentary, rather than governmental library. Online services were an answer to problems of a lack of physical capacity, but did however bring their own challenges.

Mr Richard Sawle MLA (Falkland Islands) said that although the Falklands had a good fibre-optic network, the connection to the outside world was fairly poor.

Mr John Pullinger said that this was a universal problem, but clearly worse in small territories. The bottom line was that people were more important than machines. In tighter financial conditions, it was necessary to do more with less. The greatest IT challenge was not in generating new material, but organising it and searching it in such a way that it saved time.

Mr Andrew Tuggey DL said that both the House of Commons library and the Foreign and Commonwealth Office provided briefing before the CPA went on visits abroad. The briefing provided by the library was invariably more useful.

Mr Luc Fortin (Canada) asked how many clerks there were in the House of Commons, and how much technical briefing was provided for members.

Hon. Dr. Margaret Ng (Hong Kong) asked how big the collection was, and whether Members had any input on the acquisition process.

Mr John Pullinger said that all briefings were available online and available to members of the public. The library produced around 50 reports every week. There were two advisory services, one internal service for members of the House and another, smaller, service for external inquiries. The library was a member of two international networks, which enabled some sharing of information between allied libraries. He noted that in Canada, the library supported the work of the select committees. In Westminster, briefing for committees was provided by the staff of the Committee Office, although there was much joint work and crossover between the library and the Committee Office.

Hon. Richard Frederick MP (St Lucia) asked how much of the libraries' stocks were available online.

Elizabeth Hallam-Smith said that the Commons library had around 300,000 books, the majority of which were on policy matters and European affairs. The Lords library had 65,000 books, many of which were of a legal nature. A general understanding existed between the library to avoid duplication in their acquisitions. Both libraries had significant 'historical' collections, which were open to public inspection in cases where the books were not available elsewhere.

Mr John Pullinger said that Members were specifically consulted with regard to subscriptions to periodicals. On top of the resources already outlined, the library also held "deposited papers" laid by Ministers.

Elizabeth Hallam-Smith said that if delegates were interested, they should consult the libraries' websites, where the information was readily available.

Hon. Victor Marcelin James MLC (Montserrat) said that when he had first become a member of Parliament, he had been advised to sit down with a copy of Erskine May.

Hon. Mohamed Asfia Awang Nassar MLA (Malaysia, Sarawak) asked if either library held any books on the art of government. He said that both Ministers and members of select committees had room for improvement.

Elizabeth Hallam-Smith said that the National School of Government provided some training courses for new Ministers, and trained civil servants. There were certainly books on 'being a good Minister', though, and a list could certainly be made available.

Mr Andrew Tuggey DL said that a list would be placed on the CPA website after the conference. A visit would also be arranged for those delegates who were interested but did not wish to take part in the visit to the Supreme Court.

OPEN FORUM: REPRESENTING DIVERSITY

Chairman: John Austin MP (Labour)

John Austin MP wished all the delegates a happy St Patrick's Day.

The previous week he had opened a seminar on International Women's Day. Sadly the UK Parliament did not reflect gender balance in the wider community. He had first been elected in 1992, when there were more Johns than women in Parliament. He did not wish to make a party-political point but noted that in David Cameron's first shadow cabinet there were more Davids than there were women MPs.

The lack of women in politics was not just a UK problem. Apart from some Scandinavian countries and Rwanda, which were notable exceptions, women were under-represented in democracies across the globe.

The UK was very ethnically diverse. Those of the delegates that had visited his constituency would have seen how true this was in South East London.

John Austin asked whether achieving representative democracy should be left to chance or whether positive action was needed instead. His own personal feeling was that waiting for a more enlightened society to do its own work could take more than 17 or 18 years.

He wanted to share what his party, the Labour party, had been doing to improve the representation of women and ethnic minorities in Parliament. Since it was elected to government in 1997 the proportion of MPs who were women had dramatically increased. This had partly been due to an improvement in the calibre of female candidates but had also resulted from the fact that the party had actively selected female candidates in winnable seats.

John Austin noted that historically ethnic minority groups were under-represented in the UK Parliament. Again, the Labour party had been taking steps to address this. Previously each branch of the party could only

make one nomination of a candidate. Under new rules, each branch could make an additional nomination if it was for a minority ethnic candidate. This should increase their chances of being selected, although no change had yet been seen.

White men had been in ascendancy for hundreds of years. They needed to let go and let Parliament become more representative. He was keen to hear the views of the delegates on whether their own parliaments were representative, and whether or not positive action was a good thing.

Hon. Victor James MLC, Montserrat, asked whether or not parties would limit themselves by using all-women shortlists. He wanted to know what would be the outcome if the better candidate was actually a man. He believed that women should be included but that men should not be excluded.

Hon. Midiavhathu Prince Kennedy Tshivhase MP, Limpopo, South Africa, noted that in his party, women comprised 50 per cent of the candidates. There was also a Youth Women's League. Some well-qualified people had been excluded because of the policy of increased gender equality and this was a problem.

Hon. Nicholas Prea MNA, Seychelles, said that the Seychelles was a small island with a very diverse population. Out of a total of eight Government Ministers, two were women. Out of 33 MPs, nine were women, which was nearly a third and quite a good proportion.

He felt that all social classes were well represented in the Seychelles. MPs started out as lawyers and doctors but also as housewives, nurses and teachers. The youngest MP was 25 years old.

Hon. Dharmajaye Rucktooa, Mauritius, noted that Mauritius had a unique electoral system. There were 20 constituencies and each produced three MPs. This meant that there were 60 constituency MPs, all elected on a first-past-the-post system. The fact that there were many ethnic groups meant that Mauritius had instituted a "best loser" system, whereby ten additional MPs were chosen from those who had not won their elections. A candidate's ethnicity was put on the ballot paper but he hoped that one day all candidates would see themselves as Mauritian. He wanted to know how it could be possible to ensure that all ethnic minority groups were represented without needing to specify the ethnicity of candidates.

Hon. Kayee Griffin MLC, New South Wales, Australia, said that candidates in her assembly were selected through the various party systems. In the Labour party policy was loaded towards the selection of women. Six out of 19 Labour members in the upper House were women. In the 1990s a greater proportion of the people elected to local government positions were women than had been the case before.

The upper house in New South Wales had its first Muslim MP who had replaced a prominent member of the Chinese community. Diversity was slowly trickling through. In most cases local councils reflected ethnicity but not gender balance. Positive discrimination was not popular in Australia.

Hon. Charlie Parker, Nova Scotia, Canada, noted that Canada was also struggling with these issues. In Nova Scotia no aboriginal people were yet represented and the proportion of women MPs was just over 20 per cent. He wanted to know whether or not there was an affirmative action programme for the recruitment of staff at Westminster.

Mr Nadeem Afzal Chan MNA, Pakistan, said that every party had its own methods of selecting candidates. He noted that in the UK young people were not interested in politics and wondered whether UK political parties encouraged newcomers with little experience to become involved.

Mr Allan Peachey MP, New Zealand, said that in the House of Representatives there were 122 members. 60 seats were constituency seats, seven of which were “Maori seats”. Each member of the electorate had to choose whether to go onto the European or the Maori electoral roll. The number of Maori seats was determined on a proportional basis to the number of people on the Maori electoral roll.

A further 60 candidates were chosen from party lists and each party could arrange its own list as it saw fit. The governing party had a significant representation from ethnic minority groups.

The remaining two candidates were called an “electoral overhand”.

Deputy Montford Tadier, Jersey, noted that all the security staff in Westminster seemed to be white. He wondered if one had to be British to stand for election to Westminster.

Deputy Tadier did not believe that achieving proportional representation of all groups was necessary to achieving adequate representation. One could represent builders without being a builder. He himself hoped that he represented all his constituents, regardless of their background.

Dr Muhammad Ashraf Chohan MPA, Punjab, Pakistan, said that he had been an active member of the Conservative party in England for years. He had wanted to stand for election but had been told that there were no seats available to him. He had gone back to Pakistan in order to fulfil his political ambitions.

He noted that most Commonwealth countries felt that, because Britain was the oldest parliamentary democracy, it was also the most ideal. Nonetheless, not all problems had been resolved in the UK and no ethnic minority community was adequately represented. He believed that the election processes in the UK were more discriminatory than the people on the streets, who were very accepting of multiculturalism.

Mr Richard Sawle MLA, Falkland Islands, noted that, in the Falkland Islands, half the candidates at the last election had been women. The Chilean community was not represented at all but no Chilean candidate could be persuaded to stand. He did not think that it would be appropriate to force candidates to stand.

Hon. Dr Margaret Ng, Hong Kong, believed that if a parliament was truly democratic one could not dictate as to its sampling. If a parliament was not representative, the problem lay in the wider community, not in the methods of selection.

Dr Ng did not consider herself to have been democratically elected because she was a representative of a “functional constituency” comprised only of lawyers. The purpose of such constituencies was to ensure specific expertise on the Legislative Council. However, representatives of functional constituencies were also expected to represent the people in that community. She herself had no intention of representing lawyers and tried instead to represent the entire community. It was a duty to ensure that every voice was heard, irrespective of sampling.

Sampling raised questions of how the community should be divided up: by age, gender, ethnicity or some other criteria. The possibilities were endless but did not necessarily achieve better representation in the end. If one felt that certain groups were under-represented there needed to be an analysis about why that was.

In Hong Kong people from South East Asia tended not to become members of the Legislative Council but nonetheless needed to be included. There was also a language barrier in the Council. If someone did not write and speak Chinese in practice they would struggle. These practical barriers needed to be overcome, but no more than this needed to be done.

Hon. Mohamed Asfia Nassar MLA, Sarawak, Malaysia, said that his parliament operated under a constituency system. The predominant ethnic group in each constituency tended to be the one which ended up supplying a candidate. The parliament was the only one where not only Malay and English could be spoken, but any native language could be used. Interpreters were found when necessary. His parliament cherished the multi-racial nature of society in Sarawak and tried to prevent divisions along racial lines in various ways.

Mr Ellio Solomon MLA, Cayman Islands, said that he agreed with his colleague from Hong Kong. Out of 15 elected representatives in the Cayman Islands only one of them was a woman. Nonetheless, women held very prominent positions in the rest of society. Traditionally the men had gone out to sea and the women had remained behind to run things. For this reason women were still very active in business and held some of the most prominent positions. It was not that women were denied political opportunities: more that they did not choose to run for public office. This problem could only be solved by working out what was putting them off. People chose and voted for candidates for their own reasons and this was what needed to be understood.

John Austin MP noted that there was no single model that worked perfectly and no country that was identical in the way that it approached these issues to another.

An interesting point had been raised about the security staff at Westminster but he was not certain of the answer. Equalities legislation in the UK as a whole had made employment more representative. For example, the London police force was more ethnically diverse than any other police force in the country, although there were few high-ranking officers from ethnic minority backgrounds. This was due to a historical lag and the situation would change in time.

John Austin noted that the Council of Europe elected judges to the European Court of Human Rights. The Council had a long-running problem with Malta because it never put forward any female candidates. Malta had argued that no qualified women existed in Malta. He did not believe that this could be the case.

In the UK, gender equality legislation was gender neutral, which meant that positive discrimination was illegal.

On the issue of quotas, he noted that Lebanon was a good example of a country which operated a quota system for sound historical reasons. In time he was sure that there would no longer be a need for the quota system, but it was a first step towards a more representative democracy.

He declared the session closed.

MPs AND THE INTERNET; MODERN OUTREACH AND E-DEMOCRACY

Speaker: Dr Andy Williamson, Director, e-Democracy Programme, Hansard Society.

Dr Williamson began by explaining the role of the Hansard Society which was an education and research body. His role within the organisation was to coordinate “digital” issues within that remit, including the use of the internet and new technologies. He said that the benefits of “Digital Democracy” to politicians were obvious – it made it much easier to contact constituents and inform them of your actions, while both voters and MPs could use it to inform themselves of debates and issues.

However, there was danger in over-emphasising the “Internet-element” of e-Democracy; there remained no global access to web, and great infrastructure barriers existed to hinder this development. Even in developed Commonwealth states such as the UK, Australia and New Zealand, only around 66% of the population had regular internet access and this figure dropped to 20% in developing countries. Mobile phones provided greater levels of penetration and allowed greater access for politicians and voters in developing countries, for example, in Belarus only 20% of the population possessed internet access, but 70% owned a mobile phone. He stated that there were interesting developments in the use of mobile phones to encourage communication between voters and politicians in both Kenya and Tanzania.

The internet’s main value was in providing information: Dr Williamson cited the UK Parliament’s website as a good example of this but even then its role was limited; 50% of visitors to the websites of the UK Parliament worked in London, mostly within Westminster. This pattern is repeated in Australia where most viewers of the Federal Government’s website were from Canberra. It would therefore be a mistake to view an excellent website as a “silver bullet” in terms of public engagement.

Dr Williamson explained the “Lord’s blog” concept which was being managed by the Hansard society. In contrast to the Parliamentary website, this site received 1,000 unique visitors per day and a typical post generated 100-150 comments. It was a much better tool for public engagement. He suggested that part of the success of the blog was that it was seen as “arms length” from House authorities and therefore was not an “official” production and contributors could be freer to comment.

He told the seminar that only 11% of UK MPs blog-ged, while three times as many used “Facebook” or “Twitter”. He believed that collective blogs, such as the New Zealand Labour party’s “Red Alert” might be a step forward as it made it easier to maintain the site with regular posts. However, the use of political blogs had two main problems; it was vital, yet time-consuming, to moderate comments left by users, and it was difficult to “target” readers so that certain demographics and voters read it – it was a somewhat “scattergun” approach to communication. He noted that the more popular political blogs were those which were critical of developments, perhaps this is why blogs run by Opposition politicians or supporters tended to be more successful.

Dr Williamson stated that when using the internet to communicate with voters politicians must bear two things in mind. Firstly, the internet was a communication, not a broadcasting medium, voters did not want to be lectured, but valued conversations. Secondly, Facebook et al. should only be used if there was value to be gained. There was no benefit in using it passively, it must add value. He suggested that it was necessary to follow the voters: politicians should consider using pressure groups websites to meet voters “on their own terms” rather than expecting voters to track them down.

He criticised the false logic employed by some politicians that the internet was a “dangerous” mode of communication and might cause problems. In his opinion it was no different from other forms of

communication and an inappropriate comment would be inappropriate regardless of the medium. The only difference was that an inappropriate comment placed on the internet could be circulated much further and faster than a comment delivered elsewhere; it was vital to stop and think before posting something on-line.

He confirmed that the increased use of digital technology would increase the workload of Members and Members staff and suggested that staff might require greater resources to deal with this workload.

Hon. Alyssa Hayden MLC (Western Australia) doubted that e-mail and digital technology was a truly transformative development – she viewed it as a tool like any other and felt that it should be only be used where it adds definite value. She commented that complicated, advanced websites, “twitter feeds” and blogs took up too much time to maintain and run.

Dr Williamson agreed that the maintenance of a good website and other electronic media requires disciplined business practices.

Deputy Montfort Tadier (Jersey) raised concerns over anonymously-posted, abusive comments which impacted on the running of personal websites and hindered engagement in internet discussions etc.

Dr Williamson stated that engagement should be selective, since people had a tendency not to self-moderate on internet sites. On personal websites and blogs he suggested that very clear posting rules were needed and administrators should not be worried about removing those who did not follow the rules. He reminded delegates that personal websites and blogs were “theirs”; they should feel free to take ownership of them.

Deputy Roderick Matthews (Guernsey) doubted that the market for digital communication was large enough for it to supersede other forms of communication. He did not think that a threshold had been reached which would make digital-only communication viable.

Dr Williamson stressed that digital communication would not, and should not, be used instead of more traditional methods. He felt that digital communication should only be used in addition to other voter interaction.

Hon. John Mickel MP (Queensland) asked whether defamation laws should be introduced to prevent abusive posts on forums and blogs. He stated that in Queensland it was illegal to post anonymously on political websites during an election campaign, which in his view had helped to prevent abusive posts of the type experienced by Deputy Tadier.

Dr Williamson doubted whether there was any value in such a law. In his experience the states that had introduced such measures had found them not to work – he cited the examples of France, New Zealand and Japan. He noted that ultimately nothing was truly anonymous on-line as the poster could always be traced if needed, current laws on defamation were strong enough and could be applied to internet postings. Currently the Internet Service Provider and the host of the site were held responsible for abusive postings and could be held responsible for defamation under existing case and statute law.

Hon. John Mickel then asked, despite the praise that had been lavished on Barack Obama’s Presidential Campaign’s use of the internet, what difference it had actually made to the outcome and if figures existed on the influence that campaign had on the result.

Dr Williamson said that the influence of the Obama campaign tended to be overstated – it had a limited reach, was very centrally-driven and was not particularly original as he copied most of the ideas from Howard Dean’s campaign four years earlier. Barack Obama’s campaign benefited more from timing than a wonderful, innovative use of the internet. **Dr Williamson** then suggested that a more interesting use of digital communication in a political campaign was by Segolene Royal in her campaign for the French Presidency. Ms Royal was estranged from her party (the Socialists) and did not benefit from their money and organisation. She therefore linked up with the writers of blogs who shared her views and gave them an input into policy in return for their help organising her campaign. The result was that the Royal campaign was much more voter-driven and “bottom-up” than that of Obama. However, **Dr Williamson** stated that despite her innovative use of the internet, Royal lost her campaign partly because by letting others have so much visible input into her policies she was perceived to be a weak leader without strong convictions, which showed the limit of digital engagement at present.

Dr Williamson also doubted whether either “personality driven” campaign would transfer to the Westminster model since it was hard to target such campaigns onto particular constituencies.

Mr Pradeep Kumar Dubey asked whether the Electoral Commission, or similar body, should force candidates to be fully computer-literate. He felt that such a measure would bring candidates closer to their voters.

Dr Williamson doubted that such a measure would be necessary, natural attrition would eventually require those politicians who do not currently engage with voters electronically to do so or risk losing their seat. He viewed the current situation as an educational challenge rather than a problem requiring compulsion as the solution.

Deputy Montfort Tadier (Jersey) discussed personal sites such as Facebook pages and Twitter feeds. He wondered what balance was needed between the posting of personal information and political statements.

Dr Williamson again stressed that the internet must be used to start a conversation and not be used as a broadcast tool. It was vital to humanise any site and give a human face to any communication. There was not an ideal proportion to be reached but it was vital to connect with users and voters on a human level rather than talk at them.

THURSDAY 18 MARCH 2010

PARLIAMENTARY DEMOCRACY: STRENGTHENING AND SUPPORTING

Speakers: Mr Ken Courtenay, General Secretary, British Group Interparliamentary Union
Mr Andrew Tuggey, Secretary, Commonwealth Parliamentary Association, UK Branch

Mr Andrew Tuggey welcomed everyone to the last day of the CPA conference and said that parliamentary democracy was a growth area of interest. Currently at Westminster, international parliamentary relations and outreach were a bit disjointed. He and Mr Courtenay were representatives of two different parliamentary groups involved in international parliamentary relations. Both groups were funded by grants in aid from Parliament. Mr Mark Hutton—who had been due to give a presentation in this session but who had unfortunately been delayed—was the Clerk of the Overseas Office in the House of Commons. There was a Clerk with similar responsibilities in the House of Lords. In addition, there were all sorts of other people and

organisations involved in international parliamentary relations, including the Speaker's Office, and the Serjeant at Arms. The system worked, but more by good luck than necessarily by good judgment.

Earlier in the week, the House of Commons Commission decided in principle to set up an International Relations Directorate—a body which most national Parliaments already had. Lots of people from all over the world came to Westminster seeking to work with the UK Parliament. The new directorate would make international work much more focused.

Mr Ken Courtenay said that it was a pleasure to be at the conference. His speech would be in two halves: he would explain the work of the Interparliamentary Union (IPU), and then of the British Group of the IPU.

The IPU had its origins in June 1888, when there was correspondence about the possibility of holding a meeting between English and French parliamentarians to discuss arbitration and peace questions. On 31 October 1888, there was a meeting in Paris. It was described by Gladstone as “historic”. A second conference was held the following year. Some 94 parliamentarians attended. As well as French and British parliamentarians, there were representatives from Italy, Belgium, Spain, Denmark, Hungary, the United States and Liberia. It was decided to make such conferences a permanent feature.

The IPU was an organisation of Parliaments of sovereign states. The CPA, on the other hand, was an organisation of state legislatures. For example, the federal Parliament of Australia was a member of the IPU, whereas the Parliaments of Queensland and New South Wales were not. The IPU was the focal point of worldwide parliamentary dialogue. It fostered contacts, co-ordination and the exchange of experience. Questions of international interest and concern were considered, and human rights were defended.

Democracy was promoted through projects and activities. In 1997, there was an IPU universal declaration on democracy. In 1994, the IPU produced a study on free and fair elections. It had also produced guidelines on the role and duties of the Opposition in Parliament. The IPU recently hosted a delegation from Albania: one of the major issues was the role of the Opposition and the delegation was able to talk this issue through. The IPU had published *Parliament and democracy in the twenty-first century: a guide to good practice*, which was available on its website and which described the values of a democratic Parliament and gave examples of good practice.

The IPU operated a technical co-operation programme. Advice was provided on subjects such as gender and human rights, and promoting peace and democracy. The IPU had a Committee on the Human Rights of Parliamentarians, which reported twice a year on current cases. Twenty countries and 141 cases were mentioned in the most recent report. Those were just the visible cases.

Another area of activity was the programme on the partnership between men and women. Women accounted for less than 20 per cent. of the world's parliamentarians.

The IPU also promoted knowledge of Parliaments by undertaking original research.

The IPU convened two assemblies a year, on subjects such as peace and security; sustainable development, finance and trade; and democracy and human rights. There were also specialist meetings: 27 took place in 2009.

The British Group of the IPU was a voluntary association of parliamentarians from both Houses. It was governed by an elected Committee, had a directly employed General Secretary, a staff of seven, and an independent budget funded by both Houses. The group represented the UK in the IPU's activities. It organised a programme of bilateral parliamentary exchanges to demonstrate the practices and procedures of the UK Parliament and to give UK parliamentarians the chance to visit their counterparts abroad.

There had been a crisis of confidence in Parliament and what Parliament did with public money. Travel was part of that issue. If parliamentarians travelled to a destination with beaches and palm trees, there was a danger that the press would say that they had been on holiday, even when they had spent their days in meetings. The battle was about public perception.

The group held seminars on subjects of concern, such as human trafficking, to reinforce the message of handbooks on such subjects published by the IPU. The IPU's website was www.ipu.org and the website of the British Group was www.bgipu.org.

Over the past year, the British Group had been involved in outward bilateral visits to countries including Bolivia, Nepal and Montenegro, and had hosted inward bilateral visits from countries including Peru, Georgia, Iraq and Vietnam. Regional seminars had been held in London on subjects including the rights of persons with disabilities. The British Group had also participated in specialist conferences, including one on the status of women. The British Group published the *IPU Review*, in which members wrote about their experiences. This publication was available on the British Group's website.

Mr Tuggey explained that because Mr Hutton was unable to be present, he would set out the work of the Overseas Office in the House of Commons. The UK Parliament had permanent delegations—made up of MPs and peers—at the Parliamentary Assembly of the Organisation for Security and Co-operation in Europe, the Nato Parliamentary Assembly, the Western European Union, and the Council of Europe. The Overseas Office provided support to these delegations and the Clerk of the Overseas Office liaised with other clerks in the commonwealth and dealt with overseas visits. The Clerk of the Overseas Office was, *ex officio*, the Clerk of the Commonwealth Society of Clerks, which was concerned with best practice and the exchange of views. The House of Lords had a Clerk with a similar role to the Clerk of the Overseas Office in the Commons.

Mr Tuggey said that he would now talk in more detail about the role of the UK branch of the CPA. It had a secretariat of 13 people and hired additional temporary staff in busy periods. The branch had a budget of £1.948 million and 800 members.

The UK branch undertook international parliamentary outreach work on behalf of the wider CPA. It was involved in parliamentary diplomacy—that is to say, the successful maintenance of international parliamentary relations—and the strengthening of democracy. Annually, it hosted seminars such as this one. The seminars had expanded over the years. Initially, there had been only about 30 parliamentarians. Recently, the decision had been made to include clerks as well as parliamentarians, because there was a huge synergy and potential for clerks and parliamentarians to learn from one another. This year, Serjeants at Arms had also been included.

In November, there had been a two-week seminar on governance. This had involved visiting the European Parliament in Brussels. The European Parliament was a model for the Pan-African Parliament. Australian parliamentarians also found visits to the European Parliament interesting because Europe was one of Australia's largest trading blocs.

The strengthening of Parliament was a growth area. Subjects of interest were: how Committees work, the role of the Speaker, and the role of the Whips. There had been partnership programmes with countries including Bangladesh, Kenya and South Africa. Such programmes were a two-way street. Parliamentarians were members of the same club, in the sense that they had all been elected. When they got together, they talked about the issues that really concerned them. The CPA was also involved in parliamentary strengthening work with non-governmental organisations, the National Audit Office and the Westminster Consortium.

The turnover at the next general election in the UK might be as high as 50%. Exchange programmes would be particularly beneficial to MPs in the new Parliament.

The UK branch of the CPA was also involved in running conferences. In July, there was a conference on climate change—the third such conference. Next year, the conference would be on peace-building in fragile states.

Parliamentary diplomacy involved lots of different countries. There were hundreds of visitors to the UK parliament who had to be looked after. Such visits often led to parliamentary strengthening programmes. The establishment of an International Relations Directorate would mean that it was possible to do even more in the field of parliamentary diplomacy. It would be mutually beneficial and of particular benefit to new MPs.

Hon Dr Margaret Ng (Hong Kong) commented that parliamentarians were mainly focused on the short term and on the burning issues of the day, whereas, when strengthening Parliament, one had to take a long-term view. She said that she applauded the inclusion of clerks in the seminar.

Mr Tuggey thanked her for her interesting remarks. He described a visit to Sierra Leone, where there were six clerks, there was one committee, and there was very little IT. The infrastructure in the country was also pretty awful. MPs had to travel on public transport and it took them a very long time to reach their constituencies. Now another 20 clerks had been recruited.

Deputy Rhoderick Matthews (Guernsey) asked what had been achieved by the IPU's recent contact with Afghanistan and about the outcomes of the three CPA conferences on climate change.

Mr Courtenay said that this was the first time that there had been contact with Afghanistan, other than meetings in the margins. The delegation had been led by the Speaker and coincided with the governmental conference. In terms of what had been achieved, it had provided an opportunity to hear at first hand, from parliamentarians, what was happening in Afghanistan, including details of the war and the election of the President. It was interesting that there were divergent views about the way ahead. The delegation had been to see Ministers at the Ministry of Defence. There had been two women with the delegation. It was very difficult for parliamentarians to travel around Afghanistan: one delegate had missed a weekly helicopter flight to take him to the airport and had been unable to go on the visit.

Mr Tuggey said that there were copies of the communiqués that had resulted from the climate change conference. The purpose of such conferences was to equip parliamentarians better to hold the Executive to account. The need for strong legislation was discussed, as was how such legislation could be achieved, given that there were still some doubters about climate change. The idea was to have a parliamentary toolkit to take away. Bangladesh was one of the countries at greatest threat from the effects of climate change. Huge movements of people could result.

Mr Syed Zafar Ali Shah MNA (Pakistan) asked about how delegates could take away what they had learnt at conferences such as this and make good use of it in their own countries.

Mr Tuggey said that a record was being produced of the different sessions. Powerpoint presentations would also be made available to delegates.

Mr Ellio Solomon MLA (Cayman Islands) asked about how the interests of the Cayman Islands were represented in the IPU. He wanted to know what the UK, as the Cayman Islands' representative at the IPU, did to get feedback from the Cayman Islands.

Mr Courtenay said that perhaps the UK was not doing enough to elicit the views of the Cayman Islands. There were two potential routes for the Cayman Islands to feed into the process. First, the CPA was an observer at the IPU and had the right to attend IPU assemblies, thus views could be expressed via the CPA. Second, the UK did represent the interests of the commonwealth at the IPU and received briefings from the Foreign Office, the Department for International Development and elsewhere. He accepted that the IPU did not have a mechanism to visit particular places such as the Cayman Islands and ask them for their input. He said that perhaps that should happen.

Mr Solomon said that a lot could be gained by the UK reaching out to territories such as the Cayman Islands.

Dr Muhammad Ashraf Chohan MPA (Pakistan) commented that it was up to delegates to go back and spread what they had learnt from the conference. He also commented that the IPU was working hard to stand by democratic institutions.

Mr Khushdil Khan MPA (Pakistan) asked about human rights abuses in countries such as Afghanistan.

Hon Nicholas Prea MNA (Seychelles) asked about the IPU mechanisms when there were suspected violations of human rights.

Mr Courtenay said that the mechanisms were described on the IPU's website. To start with, somebody had to formally put the case. The information was then given to the relevant committee of the IPU, which decided whether it could investigate. The country concerned could be asked to receive a delegation. There would be conversations and debate. On the issue of what the IPU had done to stop the abuse of human rights in Afghanistan and Iraq, the IPU was not an executive body, although it could raise issues and pass resolutions.

Mr Tuggey thanked the delegates for taking part and brought the session to a close.

CLIMATE CHANGE: THE ROLE OF PARLIAMENTARIANS IN INFLUENCING THE DEBATE

Speaker: Mr Colin Challen MP, Environmental Audit Committee

Chairman: Joan Walley MP, Environmental Audit Committee

Joan Walley MP welcomed Mr Challen. She highlighted the important role select committees could play in engaging parliamentarians in climate change issues. She said climate change and football were her two main passions. She believed that if it were possible to make people as passionate about the former as they were about the latter, then they could achieve real change in this area.

She explained that when the Labour Party was in Opposition it had advocated the creation of a new select committee to monitor the Government's performance on environmental issues. Accordingly, in 1997 the Environmental Audit Committee (EAC) was established. The Committee was able to take evidence from all Government departments to track their performance. This was important because matters relating to the environment affected all aspects of government. It was therefore necessary to have a committee that had a cross-cutting remit. She explained that in the current Parliament the EAC had focused solely on climate change for all its inquiries.

She hoped that delegates would return to their respective parliaments and use the EAC's reports to inform their own debates, and to advocate the establishment of similar committees, therefore creating a "family of EACs".

Mr Colin Challen MP welcomed the delegates and highlighted that climate change politics had reached a plateau in recent times. He said two key factors had contributed to this situation. First were the recent controversies relating to the release of emails from the University of East Anglia, and the finding of a mistake in the most recent report of the Intergovernmental Panel on Climate Change (IPCC), both of which had caused embarrassment within the scientific community. They had also provided ammunition to those who did not accept the scientific evidence for climate change.

A second issue was that the public had not yet been convinced by the need to act on climate change. Whilst there was a growing consensus within the scientific community this had not fed through to the general public. He argued that an underlying reason was the widely held concern that it would not be possible to reduce carbon emissions without this impacting adversely on people's well-being.

He believed the current plateau had been reached at last year's Copenhagen conference at which countries had failed to reach an agreement on legally binding emissions reductions. It was apparent that the commitments which countries had made would be unlikely to prevent average global temperatures from rising by more than two degrees, and that now a four degree increase seemed most likely. Furthermore, these commitments were not legally binding. He highlighted the loss of momentum within the Obama administration and that the Democrats' recent loss of one of their seats in the Senate now meant the Republicans could delay action to reduce emissions in the US.

However, Mr Challen highlighted progress in some areas. For example, China and India had engaged with the negotiations for the first time and put forward their own objectives for reducing emissions. He noted, though, that the US's aim to cut emissions by 4% on 1990 levels (equivalent to 17% on 2005 levels) was less ambitious than the previous Kyoto target. It therefore seemed the President's ambitions had been watered down. Furthermore, China's current commitment was for a reduction in emissions per unit of production, rather than overall emissions. He said the overall lack of ambition amongst the largest carbon emitters meant there would need to be a much greater focus on climate change adaptation in the future.

He also highlighted that no countries faced international sanctions if they failed to meet or ignored their targets. He noted that Canada had not met its Kyoto targets, but had faced no penalties. He believed that this meant it was unlikely that even the weak commitments made at Copenhagen by different countries would be respected.

Instead, he argued that there needed to be an inclusive climate change deal that involved a 'cap and trade' system that covered all countries—both developed and developing. This was the only approach that would lead cost-effectively to reduced emissions. With emissions trading systems currently operating around the world, he said that there remained a significant risk of carbon leakage, whereby factories with high emissions would close in countries where they faced a high carbon price, and re-open in areas where carbon controls were weaker. Without a global system in place, Mr Challen believed the only people that would benefit from the current approach would be City traders that dealt in carbon allowances.

Accordingly, parliamentarians had a vital role to play to ensure accountability and transparency, and in lobbying for legislation to act on climate change. He highlighted the recent work of the All Party Parliamentary Group on Climate Change that had conducted two inquiries in the current Parliament. He also said he had visited Bangladesh recently as part of a CPA visit to the corresponding parliamentary group.

Parliamentarians also had an important role in tackling corruption and ensuring that the funds made available by developed countries to help developing nations respond to climate change were spent wisely. He suggested that this could be controlled by the UN Framework Convention on Climate Change (UNCCC), since past experience was that money given to developing countries would often be redirected to Swiss bank accounts.

Finally, he highlighted a project he was working on with the Bangladeshi Parliament to make the Parliament building there zero-carbon. It was important that parliamentarians set a good example to their electorates

through their actions. Working to improve the energy efficiency of buildings would yield cost-savings in the long term and improve energy security, whilst also reducing carbon emissions.

Hon. Richard Frederick MP (St Lucia) said that his Government was trying to reduce the country's reliance on oil imports by investing in alternative energy sources such as wind and geothermal energy. He noted that climate change was a big concern for people in the Caribbean because of the threat posed by rising sea levels for many coastal towns and cities.

Mr Taj Muhammad (Pakistan) said that it was important for all countries to work towards reducing their carbon emissions.

Hon. Nicholas Prea MNA (Seychelles) noted that in his country parliamentarians had campaigned for new developments to be built at least 15 metres above sea level as a climate change adaptation measure.

Joan Walley MP said that educating the public was important in delivering action on climate change, and that she was particularly aware of this because of the large number of energy intensive users in her constituency. She said she was part of the 10/10 campaign which encouraged individuals and organisations to cut their emissions by 10% in 2010. She noted that later in the year there would be an 'Earth Day' for which they hoped the lights on Big Ben would be turned off for an hour. She also emphasised that music and culture provided an important medium for engaging people in climate change issues.

Mr Colin Challen MP said that parliaments across the world could engage the public better by setting a good example. He highlighted the principle of "justice without vengeance"—whilst all countries would need to play a role in reducing their carbon emissions, developed countries needed to make much greater cuts than developing countries so as not to stifle their development.

Mr Richard Sawle MLA (Falkland Islands) noted that the Falklands Islands now sourced 40% of its energy needs from wind power and that this had reduced prices for consumers. The wind turbines were popular because they were not situated in areas that blighted the landscape.

Hon. Victor James MLC (Montserrat) said the Montserrat Government was investigating solar and wind energy options for the future, and that the country had had several wind turbines before they were destroyed by the volcano eruption. He said plans were in train to construct a new parliament building for which they hoped to make use of alternative energy sources.

Deputy Montfort Tadier (Jersey) argued there was an inherent contradiction between the pursuit of economic growth and the desire to reduce carbon emissions. Instead he believed governments should work towards creating a steady-state economy. He noted too that there was insufficient investment in renewable energy because it was not a sufficiently profitable energy source.

Mr Colin Challen MP congratulated the Falkland Islands for increasing its use of wind power, but said there remained a question over the country's oil reserves and how these would be exploited. He highlighted Norway as an example of a state that had used its oil revenues to invest in reducing the country's carbon emissions through investment in alternative technologies. He agreed that economic incentives needed to be sufficient to create a step-change in the level of renewable energy and to encourage greater energy efficiency. This could be achieved through a much higher carbon price in the order of 100 euros. It was also important to develop a

new more sustainable measure of economic growth. On Montserrat he noted geothermal energy seemed the most sensible alternative energy source and that this would reduce the country's exposure to volatile oil prices.

Deputy Rhoderick Matthews (Guernsey) said that climate change was the greatest challenge facing mankind. Guernsey would follow the UK's lead, though he believed it could do more in setting a global example, particularly given the UK's large amount of wind, wave and tidal energy resources. He asked whether the UK would push for a follow-up to the failed Copenhagen conference.

Joan Walley MP said that there was a role to play for all in tackling the challenge of climate change and that the Environmental Audit Committee was currently conducting an inquiry into the outcome of the Copenhagen negotiations and what should happen next.

She thanked Mr Challen and the delegates for their attendance.

THE GLOBAL FINANCIAL CRISIS

Chairman: Deputy Montfort Tadier (Jersey) took the chair and explained that the session would proceed with delegates exchanging their views about how the global financial crisis had affected their respective countries.

Deputy Rhoderick Matthews (Guernsey) said that Guernsey's financial sector contributed significantly to the island's wealth. Unlike many countries and territories, Guernsey had in place an effective regulatory system of its financial institutions. Guernsey was on the G8's list of countries which the organisation believed demonstrated good regulatory practice. Nevertheless, Guernsey had, like most countries, experienced a slowdown in economic activity since 2008. Although effective financial regulation was important, it must be applied to all countries, otherwise Guernsey would be disadvantaged.

Hon Richard Frederick MP (St Lucia) argued that the United Nations (UN) must take the lead in improving the regulation of the world's financial system. It was important that all countries adopted a set of rules which governed how financial institutions should behave. Only through a system regulated with the authority of the UN, would countries and institutions change their behaviour.

Hon Nicholas Prea MNA (Seychelles) said that Seychelles' national debt now totalled more than 100% of its Gross Domestic Product. To deal with debt, the Government had introduced severe cut backs to its public services including its education budget. The Seychelles Parliament had established a committee charged with the oversight of all outstanding loans. However, the system was not working as effectively as it might and progress was slow. The financial crisis would last for many years.

Hon Simon Oyet MP (Uganda) argued that the world crisis was caused by the global economic superpowers including the USA and the UK. Mr Oyet argued that it was the responsibility of those countries and the Euro area to find a way out of the mess that they had created.

Hon Ignatius J. Karl Hood MP (Grenada) said that it was outrageous that former senior bankers, who had nearly brought their countries to financial ruin through their behaviour, received large redundancy payments. The global financial crisis had confirmed that unfettered capitalism, which rewarded failure, was not an effective economic system.

Hon John Mickel MP (Queensland, Australia) commented that, although Australia had experienced a fall in demand and investment since the crisis, the country's finances had not been as damaged as many countries in Europe and Northern America. Mr Mickel argued that the UK Government's policy of continuing to stimulate demand during the recession had meant that a 1930's style depression had been avoided. If nations had instead chosen to reduce their deficits through cuts to services too quickly, a double-dip depression would have occurred.

Hon Alyssa Hayden MLC (Western Australia, Australia) said that her home state of Western Australia had avoided the worst of the recession because it had experienced an economic boom from the mining of minerals. In the long term, economic prosperity would be achieved through low taxation and light regulation.

Hon Kayee Griffin MLC (New South Wales, Australia) argued that low interest rates had benefitted both consumers and businesses during the downturn. However, inflation was currently increasing and twinned with the high level of public and individual private debt, was threatening economic confidence. The Government's handling of the economy would be the main theme during the Australia's next federal election likely to take place in late 2010.

Richard Sawle MLA (Falkland Islands) said that the Falkland Islands had not been badly affected by the downturn. However, the Islands' third biggest generator of income was from its reserves held in UK financial institutions. As a consequence of low interest rates, the Islands had diversified its investments.

Mr Ellio Solomon MLA (Cayman Islands) noted that the Seychelles had few natural resources with which to trade and earn income. The Islands' biggest income generator was its financial services, which constituted the world's fifth largest financial sector.

The global crisis had been caused by the reliance of business and individuals on debt to fund their businesses and their lives. Collectively, the world had lived beyond its means for too long. It was the duty of governments to educate individuals about finance and to regulate effectively businesses and banks. Only once that had been achieved would the debt crisis be addressed.

Hon Dr Margaret NG (Hong Kong) said that, in some respects, Hong Kong had been fortunate during the crisis because it was located so close to China which was the biggest growing economy in the world. Many professional and business people from China visited Hong Kong to shop and buy property. A consequence was increasing property prices to the extent that they were no longer affordable by people on moderate incomes.

Hon Dharmajaye Rucktooa MP (Mauritius) said that Mauritius had no natural resources with which to trade and generate income. However, the country had become more prosperous through its well-regulated financial services which were based there. In addition, the country benefited from a great deal of investment from businesses based in China.

Hon Mohammed Asfia Nassar MLA (Malaysia) said that the global financial crisis had ended some previously supposed economic certainties. The collapse of Communism in the late 1980s had led many Governments to embrace capitalism wholeheartedly. However, the economies of many countries had only been saved by the intervention of the state. As a consequence, it was increasingly accepted that Governments had a vital role to play in financial and industrial policy.

Hon Wellars Gasamagera MP (Rwanda) noted that Rwanda was emerging from a long and terrible genocide which had nearly brought the country to financial ruin. The Government institutions were being developed and Ministers were keen to learn from good practice of other countries. Singapore and Mauritius were good examples to countries such as Rwanda of how to attract inward investment and to promote tourism. The country was gradually becoming economically stronger. The proposed construction of a major airport in Rwanda was an example of how far Rwanda had developed in recent years.

The Chairman thanked delegates for their valuable contributions which had reflected a wide range of views about the cause of the global financial crisis. The crisis had affected most countries in the world, some more than others. However, there was no doubt that the world had changed dramatically and that there was a determination that the mistakes of the past must be avoided.