

House of Commons
Procedure Committee

**MAJOR
INFRASTRUCTURE
PROJECTS: PROPOSED
NEW PARLIAMENTARY
PROCEDURES**

First Special Report of Session 2001–02

*Report, together with
Proceedings of the Committee*

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The Procedure Committee is appointed by the House of Commons to consider the practice and procedure of the House of Commons in the conduct of public business and to make recommendations.

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Sir Nicholas Winterton (*Conservative, Macclesfield*) (Chairman)
Mr John Burnett (*Liberal Democrat, Torridge & West Devon*)
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Mr Eric Illsley (*Labour, Barnsley Central*)
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Ms Meg Munn (*Labour, Sheffield, Heeley*)
Sir Robert Smith (*Liberal Democrat, West Aberdeenshire & Kincardine*)
Mr Desmond Swayne (*Conservative, New Forest West*)
David Wright (*Labour, Telford*)

The following were also members of the Committee during this Parliament:

Alistair Burt (*Conservative, North East Bedfordshire*)
Mr David Drew (*Labour, Stroud*)
Ian Lucas (*Labour, Wrexham*)
Mr John Lyons (*Labour, Strathkelvin & Bearsden*)
Mr David Rendel (*Liberal Democrat, Newbury*)

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The powers of the Committee are set out in Standing Order No 147 made on 16 July 2001. This is available on the Internet at www.parliament.uk.

Publications

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/commons/selcom/prochome.htm.

Contacts

All correspondence should be addressed to The Clerk of the Procedure Committee, Journal Office, House of Commons, London SW1A 0AA. The telephone number for general inquiries is: 020 7219 3318; the Committee's e-mail address is: proccom@parliament.uk.

FIRST SPECIAL REPORT

The Procedure Committee has agreed to the following Special Report:

MAJOR INFRASTRUCTURE PROJECTS: PROPOSED NEW PARLIAMENTARY PROCEDURES

1. The Government proposes new parliamentary procedures in respect of planning approval for major infrastructure projects. At present such projects are subject to approval by a variety of procedures: these include public planning inquiries, hybrid bills, and draft orders under the Transport and Works Act 1992. In December 2001 the Government published consultation papers arguing that present procedures are “lengthy, unwieldy and expensive for all concerned”. They proposed that in future the Secretary of State should have power to designate a major infrastructure project as one to which a new, fast-track parliamentary procedure applied. Examples of projects to which the new procedure could apply include new airports and runways, ports, trunk road, rail schemes, power stations, radioactive waste disposal, and other forms of infrastructure, such as new reservoirs.¹

2. The Government proposes that there should be a three-stage procedure: first, an up-to-date policy statement would be issued, dealing with, for example, national airports policy; second, an individual proposal would be put before Parliament, which would be invited to approve the principle and location of the project; thirdly, a public inquiry would consider the details of the project. The public inquiry would have no power to overturn the parliamentary decision on principle and location, though the Secretary of State would have a reserve power to refuse to allow the project to proceed.

3. The Government commented that “the precise way in which Parliament scrutinised proposals would be for each House to decide.” We announced on 5 February 2002 that we would conduct an inquiry into the Government’s proposals, insofar as they related to parliamentary procedures. We said that we would consider whether the proposed procedures were desirable in principle, and how they might work in practice. The Government’s own consultation period closed on 22 March. Some 16,000 responses to this consultation were received, of which some 400 related to the proposed parliamentary procedures. We asked for, and received, copies of these latter responses. In addition, we have received a number of memoranda in response to our own request for written evidence.

4. On 7 May we took oral evidence from Lord Falconer of Thoroton, the then Minister for Housing, Planning and Regeneration at the Department of Local Government, Transport and the Regions. On 19 June we took oral evidence from two former inspectors at major planning inquiries: Sir Iain Glidewell and Mr Roy Vandermeer QC, who presided over the inquiries into the fourth and fifth terminals at Heathrow respectively. In addition, we collaborated with the Parliamentary Office of Science and Technology in arranging a seminar at Westminster to discuss the Government’s proposals with interested parties; this was held on 24 May.

5. The relevant departmental select committee, the Transport, Local Government and the Regions (TLR) Committee, has conducted an inquiry into the Government’s overall proposals to reform the planning system. We understand that their Report is expected to be published shortly, and that the TLR Committee may comment on the proposed parliamentary procedures. We look forward to the TLR Committee’s Report.

¹ Department for Transport, Local Government and the Regions, *Major Infrastructure Projects: Delivering a Fundamental Change: New Parliamentary Procedures for Processing Major Infrastructure Projects*, December 2001, and *Planning: Delivering a Fundamental Change*, December 2001.

6. The issues our inquiry is examining include the following:

- If the Government's proposals are adopted, how can the public be assured that the parliamentary process is independent and unbiased? Will votes be whipped? Will Members with a direct personal or constituency interest take part in the decision-making?
- Do the proposals provide a desirable balance between the rights of developers and those of objectors? Do they satisfy the provisions of human rights legislation?
- Should Parliament be involved in the initial process of formulating general policy statements?
- Is it right that Parliament should be invited to take an irrevocable decision on the location of a project as well as on the principle?
- Should the two Houses be able to attach conditions to their approval of projects?
- How easy will it be to draw the boundary between matters of detail and of principle?
- How realistic are the Government's timings?
- How can Parliament access the necessary specialist and technical advice?
- What should be the respective involvements of the two Houses?
- If a committee system of scrutiny is adopted, what form of committee would be suitable? How will its members be selected?
- Will committee procedure follow the 'inquisitorial' approach characteristic of select committees, or the quasi-judicial 'adversarial' approach found in private and hybrid bill committees? Will interested parties have a right to appear, to be legally represented or to challenge their opponents' evidence? Will they have to demonstrate *locus standi*?
- Should the nature of any committee's recommendations determine the level of subsequent scrutiny by the House?
- How often is the new procedure likely to be used?

7. It will be seen that the Government's proposals for new parliamentary procedures raise major issues. The fundamental question is whether the proposals, either in their original form or subject to modification, succeed in reconciling the following three principles:

- (i) the desirability of enabling decision-making to proceed expeditiously and not to be subject to undue delay;
- (ii) the need for fairness to all the parties concerned, *i.e.* not only the promoters of a project but those objecting to it or seeking its amendment, especially if their own interests are directly and specially affected; and
- (iii) the need for decisions to be based on informed and expert knowledge.

8. Giving evidence to us on 7 May, Lord Falconer said it would be helpful to the Government if the Procedure Committee could indicate whether or not it supported the principle of new parliamentary procedures, in time for the Government to take account of the Committee's views in preparing a policy announcement to be made in July, with a view to introducing legislation as soon as possible thereafter.

9. We wish to make clear that we do not believe that Lord Falconer's suggested timetable is feasible. The level of public interest is very high and we wish to take a considerable amount of further oral evidence. We note that the last time Parliament was invited to consider changes of comparable magnitude to its own procedures in relation to planning decisions, the whole process took five years from the initial decision to set up a Joint Committee through to Royal Assent to the Transport and Works Act 1992.² The issues raised by the Government's proposals are so important, and complex, as to deserve extended and rigorous scrutiny by the Committee, and this scrutiny is not likely to be completed until the autumn.

10. This being so, it would in our view be unfortunate if the Government were to proceed in the next Session of Parliament with any legislation that is predicated on the assumption that there will be new parliamentary procedures for taking decisions on major infrastructure projects. We should emphasise that we are not seeking in any way to be dilatory or obstructive on this matter. We understand why the Government wishes to improve the quality and speed of decision-making on major projects, and we wish to be of assistance in determining the best way of achieving this aim. However, given the sensitivity and the far-reaching implications of the proposals, we believe that it is essential that this Committee, acting on behalf of Parliament, should be given the time to come to a settled view on this issue before legislation is introduced.

² In June 1986 the House resolved in principle to appoint a Joint Committee on Private Bill Procedure. This was set up in January 1987 and reported in July 1988; a further two years followed before the Government responded, and there was then a further interval of 18 months before the Transport and Works Bill was introduced in November 1991; the bill received royal assent in March 1992.

PROCEEDINGS OF THE COMMITTEE RELATING TO THE REPORT

TUESDAY 2 JULY 2002

Members present:

Sir Nicholas Winterton, in the Chair

Mr John Burnett
Rosemary McKenna

Sir Robert Smith
David Wright

The Committee deliberated.

Draft Special Report [Major Infrastructure Projects: Proposed New Parliamentary procedures], proposed by the Chairman, brought up and read.

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

Paragraphs 1 to 10 read and agreed to.

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

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

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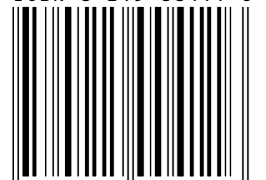
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