



House of Commons
Procedure Committee

Procedures for Debates, Private Members' Bills and the Powers of the Speaker

Fourth Report of Session 2002–03

*Report, together with formal minutes, oral and
written evidence*

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The Procedure Committee

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Summary

With the current rules for debates, including the possibility of a limit on the length of speeches of eight minutes or more, back-benchers cannot be expected to be called, on average, more than four times a year for ordinary full or half-day debates (including second readings and Opposition days, but not committee or report stages and Lords Amendments). To enable more back-benchers to be called, we recommend that front-benchers should aim for no more than twenty minutes of speech material (less for a half-day debate), and recommend the experimental introduction of a period of an hour (half an hour in a half-day debate) which would be shared between those Members who had attended (substantially) the whole debate and wished to speak, subject to a lower limit of three minutes per Member (for details see paragraph 13). This is a development of the current informal (and therefore unenforceable) system of dividing up the time remaining before the wind-up speeches between the remaining Members.

The Speaker has re-issued his letter to all Members on “Conventions and Courtesies of the House” (see page 25), which includes guidance on the factors the Speaker takes into account when choosing whom to call. We welcome this, and suggest that Members should include concise details of relevant experience, etc., when applying to speak, but that the Speaker should continue to retain absolute discretion, including departing from the convention of calling Members from alternate sides of the House where a shortage of Members attending on one side or the other makes this desirable. We recommend that, for selected debates, a list of those who have applied to speak should be posted in the No division lobby (for details see paragraph 23). We are not in favour of printing undelivered speeches in the Official Report; we support the existing conventions on the method of referring in debate to other Members and to speaking from notes rather than reading out a full text.

Since 1995 all private Members' debates have taken place on motions for the adjournment of the House, and the same practice has prevailed in Westminster Hall. We recommend that some Westminster Hall debates should be chosen by reference to Early Day Motions which have attracted a certain number of signatures, with support from Members from a certain number of parties, but that the actual debate should still be on an adjournment motion. It would be possible to use Tuesday or Wednesday evenings for more debates, but this would be dependent on the current experimental earlier sittings being made permanent and sufficient notice being given for appropriate staffing arrangements to be made.

We recommend that the Government should respond favourably to requests for extra time on Opposition days when a lengthy statement is expected (as happened on 9 September), and we propose to return to the subject of a business committee in future.

On private Members' bills, we point out that changing the rules would not necessarily result in a higher success rate—it might simply result in opposition manifesting itself at different stages—but recommend that the Government should be ready to provide drafting help as soon as private Members' bills receive a second reading; also, the drafting allowance of £200 for each of the top ten Members in the ballot (introduced in 1971) should be

updated and become index-linked. Members who wish the Government to support their bills should bear in mind the need to get them printed in enough time before second reading for the Government to take a view on them. We do not recommend carrying-over private Members' bills from one session to the next.

The Speaker should be able to recall the House on his own authority (rather than, as at present, only on request from the Government); we would expect him to take into account the number and source of representations requesting a recall, but do not recommend specifying details in a standing order. The Government should remain responsible for deciding the business to be taken during a recall, but any motion specifying the number of days on which the House should sit after the recall has taken place should be debatable unless it is tabled with the approval of the Speaker.

A list of our conclusions and recommendations appears on p 22.

1 Introduction

1. Last autumn we decided to conduct a wide-ranging inquiry into several of the core areas of the House's work which are of concern to many Members. We have covered:

- procedures for debates, including the pressure on time, the way in which Members are called to speak, some of the conventions of debate; the role of the Opposition and private Members in initiating debates;
- private Members' bills;
- the powers of the Speaker, concentrating on the Speaker's role in recalling the House in an emergency.

2. Members were invited to contribute by an announcement in the All-Party Notices and a letter from our Chairman to all Members first elected in 1997 and later. Many Members wrote to us, and their letters appear among the written evidence; and fifteen gave us oral evidence, including members of the all-party Parliament First Group and the Leader and (then) Shadow Leader of the House (Mr Peter Hain and Mr Eric Forth). We also heard from the Hansard Society, the Clerk of the House and his colleagues and witnesses from the House of Lords. In addition, we had the benefit of private discussions with the Speaker and with Sir Alan Haselhurst, Chairman of Ways and Means.¹ To everyone who helped with this inquiry, we express our thanks.

3. Several witnesses raised matters which were of considerable interest but fell outside the areas on which we have eventually decided to concentrate for this Report. These included the House's scrutiny of the Government's use of powers under the Royal Prerogative.²

2 Debates

4. Parliaments are places dedicated to talking. They take decisions too, and it is sometimes held that the main purpose of debate is to attempt to persuade the other side in the use of their votes. Perhaps, in a party system with an overall majority, this attempt is not often successful, in which case the debate may still serve to challenge, in a public way, the policies and actions of the Government and to put forward alternative suggestions which, in turn, are subject to challenge. Assertions in speeches are liable to contradiction later in the debate, or even by an immediate intervention. This is one of the defining features which distinguishes parliamentary debate from other ways in which political dialogue may be carried on outside Parliament.

5. The forum for this debate does not have to be the House itself; the discussion of a specialised subject may involve only a handful of Members, and a committee is the appropriate venue; in some types of committee, voting is restricted to a named

1 For written evidence from Sir Alan and from Sir Nicolas Bevan, Speaker's Secretary till June 2003, see Ev 136, 138–9.

2 We considered parliamentary scrutiny of treaties in our Second Report of Session 1999–2000 (HC 210). For evidence relating to prerogative powers, see Qq 16–21 (Parliament First group), 256–67 (Mr Dalyell, Dr Richard Taylor, Peter Bradley).

membership but any Member may attend and speak; and since 1999 there has been Westminster Hall,³ a parallel debating chamber for the whole House, but with the tradition of no divisions.⁴ Although we mention the use of Westminster Hall later in our Report (paragraph 32 onwards), our principal concern about debates is that those which take place in the House should use the limited time available to the best advantage, and we have considered several criticisms of the current arrangements.

Debates: the existing arrangements

6. Debates take many forms; often there will be short debates on statutory instruments, or a series of debates on the report stage of a bill or Lords Amendments; but much of the House's time is taken up with full-day debates on topics chosen by the Government, including debates on the second reading of its bills and debates on motions (including adjournment motions, usually intended to allow the House to discuss a subject without voting). Similar debates on motions are held on the twenty Opposition days each session, which are often divided into two debates. The length of a full debate is a theoretical 6½ hours (5½ hours on Thursdays), though this time is often reduced by preliminary business such as a statement (see below, paragraph 40).⁵

7. Apart from the opening and closing speeches by front-bench party spokesmen, those called to speak are chosen by the Speaker and his deputies, normally on the basis of applications made in advance.⁶ If demand to speak is high, the Speaker may impose a time limit on back-bench speeches, usually between 8 and 15 minutes. The minimum limit of 8 minutes is set down by Standing Order,⁷ and limits longer than 15 minutes are usually considered unnecessary. Between 1998 and 2002, the clock was stopped during all interventions, but the Member speaking was allowed no extra time to reply to them; now the clock is stopped during the first two interventions in a speech, and the Member is allowed an extra minute for each of them. Many debates are oversubscribed, but if, towards the end of a debate, only a few extra Members remain to speak, unofficial (and unenforceable) attempts are often made to share out the remaining time among all of them.

8. Under these arrangements, there are unlikely to be more than 25 to 30 back-bench speeches in a debate, and therefore back-benchers cannot expect to be called to speak (in full or half-day debates) more than about four or five times a year. In fact, figures provided by the Speaker's Secretary for Session 2001–02, a session about 30% longer than normal, showed an average number of speeches of 3.5 by a Government back-bencher and 5.6 by an Opposition one.⁸ (This disparity is caused mainly by the “alternate sides” convention, to which we return in paragraph 26.)

3 In this Report “Westminster Hall” refers to the debating room (formerly called the Grand Committee Room) which is adjacent to the north-west corner of Westminster Hall itself.

4 See SO No 10 and paragraph 33 for details.

5 See Q 51 for a suggestion by Peter Riddell of the Hansard Society that full-day debates were not as effective as shorter ones or statements followed by questions.

6 See Appendix to the Report (p 25), and Q 159 (Clerk of the House)

7 SO No 46. Until 1998, the limit, if imposed, was always ten minutes. It is possible for the limit to be imposed between certain hours, but little use is now made of this provision.

8 Ev 139

Criticisms and proposals for change

9. On these figures, it is not surprising that many Members complained that they were not called to speak as often as they would like. The proposed solutions varied: changes in the balance of speakers between parties or between senior and junior members; shorter front-bench speeches; longer sittings; speeches shorter than eight minutes. Members might be less disappointed if they knew, at the start of the debate, that they were not to be called to speak, and could therefore leave the Chamber and undertake other work.

Front-bench speeches

10. There are currently no limits on the length of front-bench speeches, though both the Modernisation Committee⁹ and the Speaker¹⁰ have said that front-benchers should exercise self-restraint when a limit has been applied to back-bench speeches. Sometimes a front-bench speech (particularly a Minister's opening speech) is extended considerably by a large number of interventions; Members may intervene, rather than making a speech, because they may then receive an instant reply rather than a brief mention later in the wind-up speeches; it may also be that they intervene if they doubt that they will be called to make a speech. It was also put to us, however, that ministerial speeches were often over-long because they had been written that way by civil servants.¹¹ If a Minister is introducing a long and complicated bill, it is understandable that a second reading speech will be detailed; but the speech should really be about the principles behind the bill and the political justification for them, rather than a cut-down version of the Explanatory Notes, which Members can read for themselves. The Leader of the House was in favour of limits for front bench speeches if there were some discretion and extra time were allowed for interventions; in a previous post he had cut down speeches which had been drafted for him.¹² The Modernisation Committee has said: "we believe backbenchers would welcome it if the prepared text of a Ministerial speech was not normally in excess of twenty minutes and if the official Opposition spokesman did not feel obliged to match the length of speech of the Minister opening the debate".¹³

11. We do not believe that it is practicable to lay down, by Standing Order, a fixed limit such as 20 or 30 minutes for front bench speeches; but we do recommend that ministers and other front benchers should aim for no more than twenty minutes of speech material, to allow for extra time for interventions. These lengths should be even shorter for half-day debates. We encourage the Speaker to remind Members of this from time to time. However, one of our later recommendations (see paragraph 13) would require a fixed length of time for wind-up speeches.

9 Select Committee on Modernisation of the House of Commons, HC 600 (1987–88), para 22

10 Eg HC Deb, 19 November 2002, c 518

11 Q 241 and footnote

12 Qq 461, 475–6

13 Select Committee on Modernisation of the House of Commons, HC 1168–I (2001–02), para 89

Shorter back-bench speeches

12. When speech limits were introduced (originally of ten minutes), there were criticisms that this would harm debates, and would have made impossible several famous speeches of the past, which (it was claimed) needed to be far longer.¹⁴ However, **we believe that lengthy back-bench speeches are a luxury which the House cannot afford in the face of the current overall demand for speaking time.**

13. We then have to consider whether the current minimum limit of eight minutes should be lowered, for those debates when the number of applicants to speak would justify that. We have to strike a balance between reducing speech lengths to a ridiculously low level, and ignoring the fact that many Members are left out of debates. Although we believe that it would be completely unacceptable to the House to have debates consisting *entirely* of (say) three-minute speeches, that does not mean that *some* of the speeches could not be as short as that. It would require a different style of speech: not a detailed consideration of two or three aspects of a subject, but a single point succinctly expressed, perhaps to draw attention to something not previously mentioned, or to reinforce another Member's remarks. We were therefore interested in Sir Patrick Cormack's proposals for an hour before the wind-up speeches (or half an hour, for a half-day debate) when the Chair would call Members who had been present for a majority of the debate but had not applied beforehand to speak.¹⁵ We recognise that this would reduce the number of speeches from Members who had applied to speak, and therefore believe it would be justified only if the speeches were, in principle, very much shorter. **We therefore suggest the following:**

- a) **The procedure would apply to the hour of a full-day debate immediately before the wind-up speeches (or half an hour for a half-day debate). (This would entail a definite starting time for the wind-up speeches.)**
- b) **Members who had been present for (substantially) the whole debate, and either had not previously applied to speak or had applied but not been called, should notify the Chair, during the debate, that they wished to be called to make a short speech. At the beginning of the hour (or half-hour), the Chair should announce, on the basis of the number of applications received, how many minutes each speaker would have. No extra time would be allowed for interventions during this period. The shortest speech limit allowed during this period should be three minutes, so if more than twenty Members applied (ten, in a half-day debate), some would not be called.**
- c) **The precise details of how this should work would need to be discussed with the Speaker; however, we recommend that speeches made during this time should not normally count against a Member's total for the session.**

14. Although this suggestion may seem revolutionary, it is in a way a development of the practice already mentioned (paragraph 7) of informally dividing up the remaining time between those Members still present who wish to speak. The difference is that this part of the debate would go on for longer, and the time limits would be enforceable. Therefore

14 See Mr Tam Dalyell's example (Ev 55) and also Q 203

15 Ev 56; Qq 203–4

more Members could take part. On occasions when few Members wished to participate, the Chair could simply announce that the eight-minute limit would continue.

15. We recommend that our proposals for the hour or half-hour of short speeches should be implemented for an experimental period.

Priority to speak

16. Although the priority for Privy Councillors was abolished in 1998,¹⁶ many Members believe that senior Members are still called more often,¹⁷ and one Member gave us evidence that during the debates on Iraq on 24 September 2002 and 26 February 2003, only three Labour Members first elected in 1997 had been called to speak (and none of those first elected in 2001).¹⁸ Other Members said that the criteria used by the Speaker were not generally known. **We therefore welcome Mr Speaker's decision to issue to all Members a revised and expanded version of his circular on "Conventions and Courtesies of the House",** which for ease of reference we have appended to this Report. In the circular, the Speaker states that he takes into account "relevant experience or expertise (in or outside the House), Members' expressed interest or constituency involvement" as well as how often Members have previously spoken (or been unsuccessful).¹⁹ An important word here is "expressed". We understand that some applications to speak give no details which the Speaker can take into account in making his choice. The occupants of the Chair cannot reasonably be expected to know, or find out, all about a Member's experience or expertise (especially if it was gained outside the House) in relation to any particular debate, and **we recommend that Members should help themselves by giving concise details of relevant experience, etc., in their application letters.**

17. We also recognise that there are some issues (such as UK involvement in the conflict in Iraq), where *every* Member, regardless of experience or expertise, will have something to say, and calling only those particularly qualified to speak would distort the debate. Accordingly, **we believe that the considerations which the Speaker takes into account in the choice of Members in debates should remain just that, and should not, as a result of their wider dissemination, be elevated to the status of *de facto* rules. The Speaker needs, in the end, to retain absolute discretion.**

Lists of speakers

18. We received several requests for the issuing in advance of a list of those the Speaker intended to call. This would, it was argued, mean that Members would know where they stood and would be able to undertake other work rather than sit in the Chamber all day. Other Members thought this would give *carte blanche* for those listed to—in the words of Mr Tam Dalyell, the Father of the House—"blow in, blow up and blow out";²⁰ although this

16 Select Committee on Modernisation of the House of Commons, Fourth Report, Session 1997–98, *Conduct in the Chamber*, HC 600, paras 25–8, agreed to by the House on 4 June 1998

17 See Ev 130, 132, 133.

18 Ev 53 (Peter Bradley)

19 Details of the statistics kept by the Speaker's Office on Members' previous speeches are given in the letter from the Speaker's Secretary, Ev 138–9.

20 Ev 55; similar points were made by Mr Forth (Q 383)

could be countered by insisting that those on the list adhere to the current conventions, namely that they should be present at least for the opening and wind-up speeches and for the two following their own.

19. The Speaker, in a letter last year to the Modernisation Committee, expressed several reservations about such a scheme. It would, he said, give the Chair less flexibility to rearrange the list in the light of developments; it might expose Members to criticism on occasions when they appeared on the list but had to withdraw; it might result in lower attendances for debate; it might make it more difficult for Members to express views which were minority views within their own parties.²¹

20. Other witnesses drew our attention to the list system in the House of Lords.²² Those wishing to speak apply to the Government Whips' Office, where the list is reordered to allow for an alternation of parties and cross-benchers; the list as issued also states the time available for each speech (assuming, in the case of non-time-limited debates, that the House will want to finish at about 10 pm).²³ There is a "gap" before the wind-up speeches where Lords who have not applied may speak briefly if there is time available. Lords who will be unable to attend the opening and wind-up speeches and the speeches immediately before and after their own are expected to withdraw from the list.

21. Although the Lords' system is interesting and appears to work well, the fundamental difference is the assumption that everyone who applies will be able to speak. In these circumstances the order of speaking is less important.

22. Alternatives to a list of speakers which were suggested to us included an alphabetical list of those who were likely to be called, or of all those who had applied to speak, or a list in order of speaking available to Members but not others.²⁴ Occupants of the Chair are usually willing to indicate to Members, after the opening speeches had taken place, whether they were likely to be called or not.²⁵ This could of course not be predicted exactly (any more than it could be with a published list) and the Speaker has sometimes announced, on occasions when debates had been particularly over-subscribed, that Members should not approach the Chair in this way.²⁶ It is possible that some Members assume that this ruling applies to all occasions.

23. We have considered carefully the conflicting views expressed. We recognise that no recommendation will please everyone. We also hope that our recommendation for an hour of short speeches should reduce considerably those occasions on which Members are disappointed. **We recommend that there should be experiments with issuing of lists of speakers for selected debates, perhaps those where there is greatest demand to speak, with the following arrangements:**

21 Select Committee on Modernisation of the House of Commons, HC 1168-II (2001-02), Appendix 38

22 See Ev 88-91 and Qq 323-80. Since this evidence was given, a website (www.lordswhips.org.uk) has been established containing the lists of speakers and providing facilities for Lords to add their names.

23 This calculation can be made more accurately than in the Commons because interventions in speeches are much rarer (see Qq 369-70).

24 For the last option, see Ev 73 (Ann McKechin).

25 See Appendix (p 25). The Leader of the House perceived differences of approach on this (Q 445).

26 Eg HC Deb, 24 September 2003, c 26.

- a) **the Speaker would choose the debates concerned;**
- b) **a list of those who had applied in writing to speak by a certain time would be posted in the No division lobby;**
- c) **the Members would not be listed in the order in which the Speaker proposed to call them, and it would need to be made clear that the list was provisional, being subject to later additions and removals of names and to the discretion of the Chair in deciding whom to call;**
- d) **as now, Members would be called only if they had attended the opening speeches and on the understanding that they remained in the Chamber for at least the two speeches following their own and returned for the wind-up speeches;**
- e) **to protect spontaneity in debate, if our recommendation in paragraph 13 is in operation, those on the list should not have priority to speak during the period allotted for short speeches.**

24. **We will wish to evaluate the two experiments which we have described (above and in paragraph 13) after an appropriate period.**

25. **We would hope that the occupants of the Chair would continue their current good practice and use their experience to give Members, on request, an estimate of whether there is likely to be enough time available for them to be called. When no list is issued, we suggest that, when announcing speech limits, the Chair should also announce how many Members have applied to speak.**

The “alternate sides” convention

26. It is customary for the Chair to call Members to speak from alternate sides of the House. As has been pointed out to us, and as revealed by the statistics kept by the Speaker's Office (see paragraph 8), this means that a lower proportion of Government back-benchers are called than of back-benchers from the parties in opposition, especially when the Government has a large majority. Many Government back-benchers (in the current Parliament, Labour back-benchers) feel that this puts them at a considerable disadvantage, particularly in comparison with Members from the smaller opposition parties. In opposition to this argument, it is pointed out that this disparity changes with the party in Government, and that opposition parties believe that the system goes some way to redressing the considerable advantages of the party in power.²⁷

27. On occasion, the Chair runs out of Members from one side of the House or the other to call to speak, and calls Members successively from the same side. It is not unknown for Whips from the party whose Members are absent to scour the Palace of Westminster for Members and send them into the Chamber to make speeches. The Chair has often felt obliged to call such Members to maintain a party balance, although in recent times this practice has been relaxed and Members who have just arrived have, at the least, been made to wait.

27 The then Shadow Leader of the House (Mr Eric Forth) described the convention as “one of the few protections afforded to opposition Members” (Ev 102; see also Q 411).

28. We believe that the Chair should continue, in general, to maintain the convention of calling Members from alternate sides of the House; but priority should be given to the convention that Members who are called should have attended a substantial part of the debate. The Chair should be under no obligation to call Members who have been absent for most of the debate merely because there is nobody else on their side of the House.

Undelivered speeches

29. Several Members suggested that Members who have been unsuccessful in speaking in a debate should be allowed to have their speech printed in the Official Report, as happens in the United States Congress and elsewhere.²⁸ This procedure has several disadvantages. The most obvious one is that, as speeches in the House are not supposed to be read out *verbatim* from notes (a matter to which we return in paragraph 31), Members will probably not have a speech in a form suitable for handing to the Official Report at the end of a debate. It would not be acceptable for speeches to be printed without some process of checking to ensure that, had they been delivered in the Chamber, they would not have been the subject of intervention from the Chair on the grounds of irrelevance, unparliamentary language, infringement of the *sub judice* rule or disorderliness in some other respect. For these reasons it would be unlikely that such speeches could be included in the issue of the Official Report containing the relevant debate.²⁹ There are implications for parliamentary privilege and it is questionable whether a speech should be printed in the Official Report which is not open to the same type of challenges from other Members as it would have been if delivered in the Chamber. **We do not recommend the printing of undelivered speeches in the Official Report.**

Parliamentary conventions

30. We received some suggestions that some Parliamentary conventions were unnecessary (and others that the conventions were increasingly being disregarded, either unwittingly or deliberately). The conventions are made readily available to Members in letters from the Speaker and booklets and leaflets provided to new Members, and some of the more complicated ones are dying out.³⁰ The requirement to address the Chair, and therefore the prohibition on calling other Members “you”, is common to most meetings which are sufficiently formal to have a chairman.³¹ In most other meetings, however, it is usual to refer to those present by name, and some Members find it difficult to use the constituency instead. However, the House has only recently decided to retain this convention; constituencies as well as names are displayed on the annunciators; and Members who have forgotten a constituency name can often use some other description such as “the honourable Member opposite” or “the honourable Member who has just sat down”. In

28 See Ev 129, 131, 135 (twice), 138. See also Ev 132.

29 See Ev 34–5 (Clerk of the House)

30 See Ev 33, paras 1–4, and Ev 37–8 (Clerk of the House). The custom of referring to Queen’s Counsel as “honourable and learned” or serving (or retired) officers in the armed forces as “honourable and gallant” was referred to by the Modernisation Committee in 1998 as “largely falling into disuse”: *Conduct in the Chamber*, HC 600 (1999–2000), para 40. The only remaining distinction is between “right honourable Members” (Privy Counsellors) and others.

31 Members of the House of Lords address their speeches to the rest of the Lords in general (Lords SO No 28).

some assemblies references to other Members by name frequently become discourteous.³² **We recommend no change in the way of referring to other Members.**

Reading speeches

31. The Speaker's circular says: "Members may refer to notes but they should not read speeches or questions at length". We understand that Ministers, and, on occasion, the spokesmen of other parties, may have to keep fairly closely to a detailed brief, and that some new Members may be diffident about speaking from mere notes, especially if they have not done so in their previous political activity. But a series of pre-written speeches, read out with no reference to what has already been said, is not a profitable use of debating time—it could be replaced by a set of press releases. **We urge Members to depart from their notes freely and react to what has previously been said in a debate.**

Initiative in choosing subjects for debate

32. Control of the business of the House is largely in the hands of the Government. We have considered the extent to which opportunities for the Opposition and back-bench Members to debate issues of their own choosing could be extended. There are already 20 Opposition days each session, 17 for the largest opposition party and 3 for the next largest. Private Members' opportunities have increased recently because of the four 1½-hour debates available each week in Westminster Hall as well as the six half-hour debates there, supplementing the end-of-day debates in the House. All of these are on the technical motion to adjourn. The practice of the House is that adjournment motions allow the raising of any subject engaging Government responsibility as long as it is not primarily concerned with a call for legislation.³³ In addition, of course, a vote on such a motion does not allow the House to come to a substantive decision (and indeed, no votes are allowed in Westminster Hall anyway). There have been calls for private Members' debates to be held on substantive motions, as used to be allowed on several Private Members' Fridays (and some Mondays until 7 pm) until this procedure was abolished in 1995. A similar point, in relation to debates on select committee reports, was put to us by Dr Ian Gibson, Chairman of the Science and Technology Committee, and has received the support of the Liaison Committee.³⁴ We also received suggestions that Early Day Motions (EDMs), which are very rarely debated unless they refer to a particular Statutory Instrument, should be chosen for debate by ballot or by a system based on the number of signatures that they attract.³⁵

33. From the inception of debates in Westminster Hall, there has been provision (now contained in SO No. 10) for motions other than adjournment motions, but this provision has not so far been used. Such motions cannot be proceeded with if six Members or more rise and object, and any attempt to force a division results in the matter being referred back to the House (where it can be decided without further debate). The Government expressed

32 Ev 34, Qq 145–7 (Clerk of the House)

33 SO No 30 (Debate on motion for adjournment of the House) allows the Chair discretion to allow incidental reference to legislative action.

34 Ev 133; see also Science and Technology Committee, Second Report, HC 260 (2002–03), para 29 and Annex D; Liaison Committee, First Report, HC 558 (2002–03), para 62

35 Eg Mr Tyler (Q 7), Mr Forth (Q 434), Hansard Society (Ev 17 para 9), Mr Wyatt (Ev 129), Mr Salter (Ev 133), Peter Bradley (Q 248); Ann McKechn (Ev 74)

concern that introducing substantive motions into Westminster Hall would “fundamentally change its atmosphere”.³⁶

34. Debates on substantive motions could give rise to two possible outcomes: either the Government would feel obliged to oppose any motion with which it disagreed, and would therefore have to muster enough Members to defeat it; or the Government would not feel under any obligation to do this, but would disregard the consequent resolution of the House.³⁷ And a motion (eg to take note of a Committee report) which was sufficiently anodyne not to attract opposition would not be of much more effect than an adjournment motion.

35. Some witnesses suggested that a debate should be in some way related to an EDM without involving a potential vote on the EDM.³⁸ A method of doing this was proposed by the Select Committee on Sitings of the House in 1992 when recommending adjournment debates on Wednesday mornings: “Members should be permitted to include on the Order Paper a reference to any relevant early day motion”.³⁹

36. We believe that some of the 1½-hour debates in Westminster Hall should be chosen by reference to Early Day Motions with a certain number of signatures (say 200) including some (say at least three) from each of three parties. A reference to the motion (or its full text) would then appear on the Order Paper, but the actual debate would still be on an adjournment motion. Alternatively, the Leader of the House could be asked to arrange for some debates on topics raised by EDMs in Government time.

Tuesday and Wednesday evenings

37. In November 2002 the House decided⁴⁰ to experiment with Tuesday and Wednesday sittings beginning and ending three hours earlier than previously (ie from 11.30 am to about 7.30 pm instead of 2.30 pm to about 10.30 pm, subject as usual to a later finish when required). Some Members have expressed interest in using the time thereby made available in the evening for other business, either private Members' bills (which we consider below) or motions of some form. If such business did not involve divisions, it would not require the attendance of particularly many Members.

38. Such sittings would, however, involve the attendance of staff, and the Clerk of the House pointed out to us that staff whose work is directly related to the Chamber, who prepare for and then attend a sitting of at least seven hours, could not be expected to do the same for a sitting regularly lasting for ten hours; more staff would be needed, so that a shift system could be operated. The House authorities had only seven sitting weeks to prepare for the recent changes in hours, and even then, decisions about hours of work could not be

36 Ev 117 para 18; see also Q 492

37 For example, the House agreed (without a division) to a private Member's motion on 1 July 1994 calling for the establishment of a sub-department for the care and welfare of ex-service people, but no action was taken on this.

38 Eg Peter Bradley (Q 251)

39 Report, HC 20-I (1991–92), para 51. This recommendation was pointed out to us by the Clerk of the House (Ev 37). Wednesday morning sittings were introduced in 1995 (but without the provision for references to EDMs) and transferred to Westminster Hall in 1999.

40 With effect from 7 January 2003 to the end of the current Parliament.

made until, for example, the pattern of committee sittings became established.⁴¹ We understand that overtime arrangements etc. are still being negotiated, nearly a year after the change. Accordingly, the Clerk asked for no further change in sitting hours until the House had had at least twelve months' experience of the new pattern.⁴² The upheavals concerned were foreseen by the Board of Management in its memorandum to the Modernisation Committee.⁴³

39. It is clear from regular questioning of the Leader of the House that many Members are pressing for reconsideration of the changes in hours, so it would be unwise for us to assume, in framing recommendations, that the current sitting hours on Tuesdays and Wednesdays will become permanent. **If, however, they do, it would be possible to consider debating business of a non-contentious business on a Tuesday or a Wednesday evening, but if this is to receive further consideration, it should be introduced only after appropriate staffing arrangements can be made, not before. One possibility would be to hold such evening sittings in Westminster Hall, an operation involving far fewer staff than the Chamber.**

"Injury time" on Opposition Days

40. On one recent occasion (9 September 2003) when a statement needed to be made on an Opposition day, the Government tabled a motion to allow the sitting to continue for an extra hour. We asked the Leader of the House whether he would make this a more general practice, but he pointed out the undesirability of giving extra time on Monday nights, or undermining the House's previous decisions about changing sitting times on other days. He would prefer to keep the matter discretionary.⁴⁴ An alternative would be to distribute a statement in written form and proceed straight to questions on it, but the Leader of the House thought this would "devalue the whole nature of proceedings in the House".⁴⁵ **We do not believe that this proposal should be adopted, but recommend that the Government should respond favourably to requests for extra time on Opposition days when a lengthy statement is expected.**

A business committee

41. The Parliament First group advocated the establishment of a Business Committee to "negotiate business on behalf of Parliament with Government", and suggested that it should consist of back-bench Members. The Hansard Society also advocate a business committee.⁴⁶ Similar proposals have been made in the past, and some committee of this sort (although not often composed entirely of back-benchers) exists in many other Parliaments. We have not taken enough evidence on this subject to make recommendations in this Report, but note that such arrangements cannot in themselves

41 See Qq 185–7

42 Ev 36, para 20

43 Select Committee on Modernisation of the House of Commons, Second Report, HC 1168–II (2001–02), Appendix 41.

44 Qq 463–4, 469–70

45 Q 466

46 Qq 1–2, 73–4

alter the reality of the system where a Government with an overall majority retains control. **We will return to this subject in the future.**

3 Private Members' Bills

The current arrangements

42. We have received several submissions expressing concern about private Members' bills—mainly that too few of them are passed, and that Members who wish to debate or vote on them have to attend on Fridays, when they often have duties in their constituencies.

43. The statistics on the success of private Members' bills are readily available: in the five sessions since the 1997 election, only 32 received Royal Assent out of 542 introduced.⁴⁷ (The figures for the previous Parliament, 1992–97, were 88 out of 583.)⁴⁸

44. The existing procedures (which have not altered substantially since Private Members' Bills were reinstated, following the Second World War, in 1948–49) can be summarised quite briefly:

- thirteen Fridays are available each session for private Members' bills and, subject to the two provisions below, they are dealt with in the order in which they have been put down for these days;
- priority in presenting bills, and therefore for putting them down for second reading, is established by a ballot, at which 20 Members are chosen at random; other private Members' bills may not be presented and set down for second reading until the ballot bills have been;
- on the last six private Members' bill days, bills which have progressed furthest have priority, except that new report stages take priority over those which have already started;⁴⁹
- as on other days of the week, business in progress at the moment of interruption (2.30 pm on Fridays) stands adjourned unless a Member obtains a closure. To be effective, a closure motion which is the subject of a division requires one hundred Members voting in favour, and closure motions also require the assent of the Chair, which is unlikely to be forthcoming on a second reading unless the debate has lasted for most of the Friday concerned;
- bills not reached by 2.30 pm can make progress only if there is no objection.

47 Ev 35

48 Information from Sessional Returns. For successful Private Members' Bills since 1945, see House of Commons Information Office Factsheet L3.

49 The exact order is: Lords Amendments, third readings, report stages not already entered upon, adjourned proceedings on report, bills in progress in committee (of the whole House), bills appointed for committee, and second readings. No distinction is made between new second reading debates and adjourned debates on second reading (this also applies to third readings) (SO No 14(5)).

45. The effect of these provisions is that the first seven ballot bills are usually put down for the first seven Fridays and can therefore, if necessary, be guaranteed a full day's debate and a vote on second reading (if closure is moved and carried). Other bills are unlikely to be granted a closure, and can therefore proceed only if unopposed. Bills then pass through committee stage (normally in standing committee) and return to the floor of the House for report stage. At this stage, unlike second reading, amendments can be moved, and if there is sufficient opposition to the bill, closures will be necessary on each group of amendments. To defeat a bill at this stage, therefore, the opponents need to table enough amendments to form, say, four groups;⁵⁰ with closures, this will take up more than the available time on one Friday and then other bills which have not yet started report stage will take precedence.

46. A further hurdle for private Members' bills involving expenditure of public funds is that they may require a Money Resolution, which can be moved for only by the Government. In practice, however, this is not an obstacle as Mr Douglas Millar, the Clerk Assistant, told us that it has been the practice for many years for the Government to supply a Money Resolution for any private Member's bill which had received a second reading.⁵¹

47. We last examined the subject of private Members' bills in 1995, when we did not recommend any procedural changes, but urged the Government to make its views clear on each private Member's bill at second reading.⁵²

48. The system which we have described appears to produce very few successful private Members' bills. However, some bills which are not themselves successful lead to Government legislation;⁵³ and some of the unsuccessful bills, especially ten-minute rule bills, are envisaged mainly as a vehicle for a short debate rather than as a serious attempt at legislation, a view reinforced by the fact that far from all of them are printed.⁵⁴

49. Similarly, information about how bills are defeated can be misleading. Very few bills are actually defeated in the sense of being negatived at second reading. Most fail because they are either 'talked out' at 2.30 pm on a Friday or are called after that time and are objected to. However, this does not mean that all that is required is more private Members' bill time; many bills are objected to by the Government and it is likely that they would still be opposed if more time were available; if many more bills received a second reading, they might well be talked out at report stage (resulting in more work for standing committees but no greater output). Another point to be borne in mind is that any procedures which made private Members' bills easier to pass could allow the Government to produce more "hand-out" bills; these are usually fairly uncontroversial, but there is the risk that the Government could use private Members' time to pass more contentious bills through the House if this were made easier.

50 Whether this is possible depends on the scope of the bill.

51 Q 167

52 Fifth Report, Session 1994–95, *Private Members' Bills*, HC 38, para 34

53 The High Hedges Bill in the current session has been withdrawn and similar provisions inserted by Government amendments to the Anti-social Behaviour Bill.

54 In session 2001–02, 68 ten-minute rule bills were introduced, of which only 35 were printed.

Drafting assistance

50. Since 1971, the top ten Members in the ballot can claim up to £200 for drafting assistance with their bills.⁵⁵ This figure has not been changed; if it had been uprated,⁵⁶ it should be about £1700 now.⁵⁷ But even this money would not buy much drafting time, and it is not clear what it would achieve. Many Members receive help from outside bodies with their bills, and the Public Bill Office can also draft a bill which states the Member's proposals sufficiently clearly for a second reading debate.⁵⁸ The Government told us that private Members' bills, whatever their origins, frequently require "almost complete rewriting" in committee, and point out that this has a considerable effect on the scarce resource of Parliamentary draftsmen.⁵⁹ We therefore do not recommend that the Government should be obliged to provide drafting help before second reading, as work would be wasted for those bills which do not pass this stage;⁶⁰ bills which are acceptable in principle do not usually fail because of defective drafting. **We do believe, however, that the Government should be ready to provide drafting help for a private Member's bill as soon as it receives a second reading. In addition, to assist Members who wish to employ outside drafting assistance, the £200 grant should be updated and become index-linked.**

Government approach to private Members' bills

51. The Leader told us in his written evidence that the Government spends considerable time considering its policy on private Members' bills, and is sometimes hampered in this if there is only a short interval between printing and second reading.⁶¹ **Members who wish the Government to support their bills should bear in mind the need to get them printed in good time before second reading.**

Carry-over of bills to next session

52. The temporary standing order relating to carry-over, made on 29 October 2002, is not restricted to Government bills, but the necessary motion has to be made by a Minister. Suggestions have been made that private Members' bills should be carried over.⁶² However, the Chairman of Ways and Means pointed out that such bills (assuming that they would be given priority) would pre-empt the time available for the ballot bills,⁶³ and **we therefore do not recommend the use of carry-over motions for private Members' bills.**

55 Resolution, 29 November 1971.

56 Uprating was supported by Mr Forth (Q 425).

57 Figure calculated by the Hansard Society (Ev 143).

58 Qq 180–1 (Clerk of the House)

59 Ev 117; see also Q 180 (Clerk of the House)

60 Qq 480, 483 (Mr Hain)

61 Ev 116–17; see also Q 479

62 Hansard Society (Ev 134)

63 Ev 137

Other times of the week

53. Members raised with us the possibility of transferring the consideration of private Members' bills in the House from Fridays to Tuesday or Wednesday evenings. The Leader of the House pointed out that about 22 Tuesdays or Wednesdays would be required to replace the 13 Fridays.⁶⁴ We referred above (paragraph 38) to problems with holding debates on Tuesday or Wednesday evenings and do not recommend this at the moment.

Proposals for procedural change

54. The Hansard Society and several Members made suggestions for changes in procedure, usually involving the establishment of a Committee to consider the relative merits of Private Members' Bills and allocate time to them (with provision for the questions to be put at the end of that time, as with programming of Government bills).⁶⁵ Such a system exists in the Canadian House of Commons: the Standing Committee on Procedure and House Affairs decides which items of private Members' business (bills or motions) is to be designated as 'votable' and entitled to a vote on second reading after a total of 2¾ hours' debate, or 'non-votable' with an hour's debate and no vote.⁶⁶ The Clerk of the House told us that the system had caused a serious rift in procedural relations between the political parties.⁶⁷

55. Baroness Gardner of Parkes wrote to us⁶⁸ enclosing remarks that she made in the House of Lords on 26 June 2003,⁶⁹ pointing out that Private Members' Bills passed by the House of Lords go to the back of the queue when they reach the House of Commons. Of the 42 such bills passed by the Lords between 1997–98 and 2001–02, five received Royal Assent (and a sixth was taken up by the Government).⁷⁰ There does not appear to be a way to grant higher priority to Lords' bills other than by displacing the ballot bills, though it would, of course, be possible for a Member to reintroduce a Lords' Bill in the Commons as a ballot bill in the following session.

4 Powers of the Speaker

Emergency recall of the House

56. The Crown has had the power to recall Parliament during an adjournment or prorogation since the end of the 18th century.⁷¹ Power to recall the House of Commons during an adjournment was given to the Speaker by individual orders on an occasional

64 Q 484

65 Ev 143–4 (Hansard Society), Ev 71 (Mr Dismore)

66 Parliament of Canada, *Private Members' Business: Practical Guide*, January 2001, from www.parl.gc.ca

67 Ev 36 paras 17–18; Q 172

68 Letter not reported

69 HL Deb c 441

70 Ev 35. The bill taken up by the Government was the Tobacco Advertising and Promotion Bill [*Lords*] in 2001–02. This also received Royal Assent.

71 The Meeting of Parliament Acts 1797 and 1799 confer the power on the Crown to recall Parliament during a prorogation and an adjournment respectively; Parliament is also recalled automatically if the reserve forces are called out, if a state of emergency has been declared (as in 1926), or if the reigning Sovereign dies or abdicates.

basis from the summer of 1920 onwards, and by sessional orders from 1939 to 1946. These were converted into a standing order (now No. 13) in 1947. Between 1920 and 1931,⁷² the order was phrased in such a way as to give the Speaker the initiative, but to act after consulting the Government. From Summer 1932 onwards, the orders assumed their present form, under which the Speaker can recall the House only at the Government's request.⁷³

57. Following the experience in the summer recess of 2002, when pressure for a recall to debate the situation in Iraq grew until the Government requested the Speaker to recall Parliament for 24 September,⁷⁴ there have been calls for the Speaker to be given the power to recall the House independently of the Government.⁷⁵

58. Difficulties could arise in the use of this power. The Government could be unco-operative if Ministers would prefer a recall not to take place; even if the principle were accepted, the Speaker might recall the House on an occasion when the relevant minister (eg the Foreign Secretary) were out of the country. These difficulties could be overcome by negotiations between the Speaker and the Government, as are of course also possible under the present system. The Government pointed out that (on the assumption that the House continues to hold sittings in September,⁷⁶ rather than adjourn from July until October), recalls in summer will become rarer.⁷⁷ The principle is, however, whether in an emergency the ultimate decision on a recall should rest with the Government or with the Speaker. **We believe that the decision should rest with the Speaker.**

59. The question then arises as to whether the Speaker should have unfettered discretion on a recall, or should be required to act if a certain number of Members write requesting one.⁷⁸ Even if there were a requirement for a party balance as well as a numerical threshold, it is not difficult to imagine occasions when party political manoeuvrings might take place to bring about, or prevent, a recall. And in most recesses Members have made calls for recalls, with varying degrees of justification.⁷⁹ **We would expect the Speaker to bear in mind the number and source of representations made to him requesting a recall, but we do not think details should be specified in a standing order. As at present, the Deputy Speakers should have the same powers as the Speaker when the latter is unable to act.**

72 Orders of this type were passed in 1920, 1921, 1922, 1924 (the House was recalled in September) and 1931.

73 The current wording is: "Whenever the House stands adjourned and it is represented to the Speaker by Her Majesty's Ministers that the public interest requires that the House should meet at a time earlier than that to which the House is adjourned, the Speaker, if he is satisfied that the public interest does so require, may give notice that, being so satisfied, he appoints a time for the House to meet ...".

74 The notice of recall was issued on 16 September.

75 A motion in the name of Mr Graham Allen to this effect has appeared on the Remaining Orders of the Day on many days during the current session. It proposes to replace paragraph (1) of SO No 13 with the words "If the Speaker is of the opinion that the public interest requires that the House should meet at a time earlier than that to which it stands adjourned, the House shall meet at such time as the Speaker shall appoint". See also Ev 16 para 3 and Qq 90–4 (Hansard Society); Ev 55 (Mr Dalyell).

76 The House sat on 8–11 and 15–18 September 2003. The Leader of the House has announced proposals for sittings on 7–9 and 13–16 September 2004 (HC Deb, 23 October 2003, c 789).

77 Ev 118 para 19

78 This possibility was mentioned by Sir George Young (Q 30), Mr Forth (Ev 102; Qq 426–31), Julia Drown (Ev 134).

79 The Government told us that it "would be resistant to any change which ... led to recalls in circumstances which did not merit it" (Ev 118 para 19).

Business during a recall

60. The Speaker's only power during a recall is to fix the date and time of the first sitting. The contents of the Order of Business is determined by the Government, and they are also responsible for tabling any sittings or business motions controlling the number and length of sittings. A sittings motion is normally required to provide for the House to rise after the desired number of sittings and adjourn to the original date planned for the end of the recess (or another date); this type of motion is decided without debate.⁸⁰

61. On 24 September 2002, the Government's sittings motion provided for only one day, but the Speaker recalled the House for 11.30 am rather than 2.30 pm, allowing 10½ rather than 7½ hours for the debate, which had to conclude at 10 pm, the time then specified by Standing Order No. 9 for Tuesdays. This extra time meant that 53 Members were able to speak, but we understand that many more were unsuccessful. The previous recall was on 3 April, following the death of Her Majesty Queen Elizabeth the Queen Mother, and the House rose after a debate of nearly two hours on a motion for an address of condolence. Several Members expressed the view that there should also have been a debate on developments in the Middle East at that time.⁸¹ While not agreeing that the Speaker should have the power to determine the length of a recall, the Leader of the House said that the level of demand to speak should be borne in mind in the future.⁸²

62. We have considered whether the Speaker should, exceptionally, be empowered to specify the business of the House during an emergency recall. **We do not believe that this would be appropriate, as it could draw him into matters of party controversy. However, we do believe that the Government's sittings motion specifying the number of days on which the House sits after the recall has taken place should be debatable unless it is tabled with the approval of the Speaker.**

80 SO No 25 (Periodic adjournments)

81 HC Deb, 3 April 2002, c 805, 824

82 Q 488

Conclusions and recommendations

Debates: Speech limits

1. We do not believe that it is practicable to lay down, by Standing Order, a fixed limit such as 20 or 30 minutes for front bench speeches; but we do recommend that ministers and other front benchers should aim for no more than twenty minutes of speech material, to allow for extra time for interventions. These lengths should be even shorter for half-day debates. We encourage the Speaker to remind Members of this from time to time. (Paragraph 11)
2. We believe that lengthy back-bench speeches are a luxury which the House cannot afford in the face of the current overall demand for speaking time. (Paragraph 12)
3. We recommend, for an experimental period, that there should be an opportunity for short speeches towards the end of a full or half-day debate, as follows:
 - The procedure would apply to the hour of a full-day debate immediately before the wind-up speeches (or half an hour for a half-day debate). (This would entail a definite starting time for the wind-up speeches.)
 - Members who had been present for (substantially) the whole debate, and either had not previously applied to speak or had applied but not been called, should notify the Chair, during the debate, that they wished to be called to make a short speech. At the beginning of the hour (or half-hour), the Chair should announce, on the basis of the number of applications received, how many minutes each speaker would have. No extra time would be allowed for interventions during this period. The shortest speech limit allowed during this period should be three minutes, so if more than twenty Members applied (ten, in a half-day debate), some would not be called.
 - The precise details of how this should work would need to be discussed with the Speaker; however, we recommend that speeches made during this time should not normally count against a Member's total for the session. (Paragraphs 13 to 15)

Debates: Calling Members to speak; Conventions

4. We welcome Mr Speaker's decision to issue to all Members a revised and expanded version of his circular on "Conventions and Courtesies of the House". (Paragraph 16)
5. We recommend that Members should help themselves by giving concise details of relevant experience, etc., in their application letters. (Paragraph 16)
6. We believe that the considerations which the Speaker takes into account in the choice of Members in debates should remain just that, and should not, as a result of their wider dissemination, be elevated to the status of *de facto* rules. The Speaker needs, in the end, to retain absolute discretion. (Paragraph 17)

7. We recommend that there should be experiments with issuing of lists of speakers for selected debates, perhaps those where there is greatest demand to speak, with the following arrangements:
 - the Speaker would choose the debates concerned;
 - a list of those who had applied in writing to speak by a certain time would be posted in the No division lobby;
 - the Members would not be listed in the order in which the Speaker proposed to call them, and it would need to be made clear that the list was provisional, being subject to later additions and removals of names and to the discretion of the Chair in deciding whom to call;
 - as now, Members would be called only if they had attended the opening speeches and on the understanding that they remained in the Chamber for at least the two speeches following their own and returned for the wind-up speeches;
 - to protect spontaneity in debate, if our recommendation in paragraph 13 is in operation, those on the list should not have priority to speak during the period allotted for short speeches. (Paragraph 23)
8. We will wish to evaluate the two experiments which we have described (above and in paragraph 13) after an appropriate period. (Paragraph 24)
9. We would hope that the occupants of the Chair would continue their current good practice and use their experience to give Members, on request, an estimate of whether there is likely to be enough time available for them to be called. When no list is issued, we suggest that, when announcing speech limits, the Chair should also announce how many Members have applied to speak. (Paragraph 25)
10. We believe that the Chair should continue, in general, to maintain the convention of calling Members from alternate sides of the House; but priority should be given to the convention that Members who are called should have attended a substantial part of the debate. The Chair should be under no obligation to call Members who have been absent for most of the debate merely because there is nobody else on their side of the House. (Paragraph 28)
11. We do not recommend the printing of undelivered speeches in the Official Report. (Paragraph 29)
12. We recommend no change in the way of referring to other Members. (Paragraph 30)
13. We urge Members to depart from their notes freely and react to what has previously been said in a debate. (Paragraph 31)

Private Members' debates

14. We believe that some of the 1½-hour debates in Westminster Hall should be chosen by reference to Early Day Motions with a certain number of signatures (say 200) including some (say at least three) from each of three parties. A reference to the

motion (or its full text) would then appear on the Order Paper, but the actual debate would still be on an adjournment motion. Alternatively, the Leader of the House could be asked to arrange for some debates on topics raised by EDMs in Government time. (Paragraph 36)

15. If the new sitting hours on Tuesdays and Wednesdays were to become permanent, it would be possible to consider debating business of a non-contentious business on a Tuesday or a Wednesday evening, but if this is to receive further consideration, it should be introduced only after appropriate staffing arrangements can be made, not before. One possibility would be to hold such evening sittings in Westminster Hall, an operation involving far fewer staff than the Chamber. (Paragraph 39)

Debates: other matters

16. We do not believe that oral statements in the Chamber should be replaced by questioning on a written statement distributed in advance, but recommend that the Government should respond favourably to requests for extra time on Opposition days when a lengthy statement is expected. (Paragraph 40)
17. We will return to the subject of a business committee in the future. (Paragraph 41)

Private Members' bills

18. The Government should be ready to provide drafting help for a private Member's bill as soon as it receives a second reading. In addition, to assist Members who wish to employ outside drafting assistance, the £200 grant introduced in 1971 for the top ten Members in the ballot should be updated and become index-linked. (Paragraph 50)
19. Members who wish the Government to support their bills should bear in mind the need to get them printed in good time before second reading. (Paragraph 51)
20. We do not recommend the use of carry-over motions for private Members' bills. (Paragraph 52)

Recall of the House

21. We believe that the decision to recall the House should rest with the Speaker. We would expect the Speaker to bear in mind the number and source of representations made to him requesting a recall, but we do not think details should be specified in a standing order. As at present, the Deputy Speakers should have the same powers as the Speaker when the latter is unable to act. (Paragraphs 58 and 59)
22. We do not believe that the Speaker should be empowered to specify the business of the House during an emergency recall, as it could draw him into matters of party controversy. However, we do believe that the Government's sittings motion specifying the number of days on which the House sits after the recall has taken place should be debatable unless it is tabled with the approval of the Speaker. (Paragraph 62)

Appendix: Conventions and Courtesies of the House

Mr Speaker's letter sent to all Members, 24 February 2003.

At the start of this Parliament I wrote to all Members, new and old, about the conventions and courtesies of the House. I think it would be helpful if I reissued this letter in updated and expanded form.

Members wishing to speak in debates in the Chamber or in 90-minute debates in Westminster Hall should write to me in advance. Members who have not written in may still take part in debates by approaching the Chair or seeking to catch the Chair's eye: but it is likely that preference will be given to those who have written in.

Selection of speakers in debate is at my discretion. My objective at all times is to give all Members a fair opportunity to take part in debate. I will take account of relevant experience or expertise (in or outside the House), Members' expressed interests or constituency involvement and the number of times Members have previously spoken (or have failed to catch my eye) during the parliamentary session. Wherever it seems to me appropriate, I will impose time limits on speeches in order to give as many Members as possible the opportunity to contribute to debate. Members must understand, however, that it will not always be possible for them to be called when they wish to speak. The Chair will generally seek to be as helpful as possible to Members seeking advice on the likelihood of being called.

It is not necessary to apply to speak when the House is in Committee or is considering a Bill at Report stage. It will be sufficient for Members to rise in their places on such occasions.

Prior to Departmental question time or Ministerial statements, Members should only write to me seeking to be called where they wish to draw to my attention a particular fact (eg a constituency connection or personal interest) which they think I should bear in mind. Members who submit generalised requests to be called will be given no preference.

A request to be called at Prime Minister's Questions should be submitted only in the most exceptional circumstances. An example might be where a human tragedy has taken place in the constituency. Generalised requests to be called will be counter productive.

My office keeps comprehensive records of Members' success and failure in being called in debate, following Ministerial statements and at Prime Minister's Questions. These statistics are always taken into account on a subsequent occasion.

The following are the conventions and courtesies of the House to which I attach importance:

- Members must address the House through the Chair. Accordingly, other Members should not be addressed as 'you' but should be referred to as 'the honourable Member

for [constituency]', 'my honourable friend' or 'the honourable Member opposite'. Privy Councillors are 'Right Honourable'. Ministers can be referred to by office or simply as 'the Minister'.

- On entering or leaving the Chamber, Members should give a slight bow to the Chair, as a gesture of respect to the House.
- Members should not cross the line of sight between the Speaker and the Member who has the floor, or at Question time, between a Member who is asking or has asked a Question and the Minister who is responding to him.
- Members must resume their seats whenever the Speaker (or a Deputy) is on his or her feet.
- Members should notify colleagues whenever
 - a) they intend to refer to them in the Chamber
 - b) they table Questions which specifically affect colleagues' constituencies
 - c) they intend to visit colleagues' constituencies (except on purely private visits)
- Members must speak from the place where they are called, which must be within the formal limits of the Chamber (eg not from the cross-benches below the bar).
- Members may intervene briefly in each other's speeches, but only if the Member who has the floor gives way.
- Members speaking in debates should be present for the opening and winding-up speeches, and should remain in the Chamber for at least the two speeches after they have concluded. Members who fail to observe these courtesies will be given a lower priority on the next occasion they seek to speak.
- Members may refer to notes but they should not read speeches or questions at length.
- Members seeking to be called following a Ministerial statement, Private Notice Question or the Business Question must be present for the whole of the opening statement.
- Members with oral Questions should not leave the Chamber until supplementary questions on their Question have ended.
- Half hour adjournment debates in the Chamber or in Westminster Hall are intended to be an exchange between the Member and the Minister, who will respond on behalf of the Government to the issues raised. Other Members may take part in the debate only with the permission of the Member and Minister concerned and, if such permission is granted, the Chair must be so notified. It is inappropriate to criticise other Members for failing to attend an adjournment debate in which they cannot expect to participate.

- Mobile phones should not be used in the Chamber. Pagers may be switched on as long as they are in silent mode. Members should not use electronic devices as an aide memoire or to receive messages when addressing the House.
- Members should bear in mind Erskine May's dictum that "good temper and moderation are the characteristics of Parliamentary language". It is important that exercise of the privilege of freedom of speech is tempered with responsibility.

Formal minutes

Wednesday 19 November 2003

Members present:

Sir Nicholas Winterton, in the Chair

Mr Peter Atkinson
Mr John Burnett
David Hamilton
Huw Irranca-Davies

Mr Iain Luke
Mr Tony McWalter
Sir Robert Smith
David Wright

The Committee deliberated.

Draft Report (Procedures for Debates, Private Members' Bills and the Powers of the Speaker), proposed by the Chairman, brought up and read.

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

Paragraphs 1 to 12 read and agreed to.

Paragraph 13 read, amended and agreed to.

Paragraphs 14 to 22 read and agreed to.

Paragraph 23 read, amended, agreed to and divided (now paragraphs 23 to 25).

Paragraphs 24 to 60 (now 26 to 62) read and agreed to.

Conclusions and Recommendations read, amended and agreed to.

Summary read, amended and agreed to.

Resolved, That the Report, as amended, be the Fourth Report of the Committee to the House.

Ordered, That the Speaker's circular of 24 February 2003 be appended to the Report.

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

Several papers were ordered to be appended to the Minutes of Evidence.

Ordered, That the Appendices to the Minutes of Evidence taken before the Committee be reported to the House.

[The Committee adjourned.]

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MINUTES OF EVIDENCE

TAKEN BEFORE THE PROCEDURE COMMITTEE

WEDNESDAY 22 JANUARY 2003

Members present:

Sir Nicholas Winterton, in the Chair

Mr John Burnett
Mr Eric Illsley
Mr Iain Luke
Rosemary McKenna

Mr Tony McWalter
Mr Desmond Swayne
David Wright

Examination of Witnesses

MR MARK FISHER, a Member of the House, SIR GEORGE YOUNG, a Member of the House, TONY WRIGHT, a Member of the House, MR PAUL TYLER, a Member of the House, and MR ANDREW TYRIE, a Member of the House, Parliament First, examined.

Chairman

1. I welcome to the Procedure Committee representatives of the Parliament First group, who will help us with our inquiry into procedures for debates and for Private Members' Bills and the powers of the Speaker and any other allied and associated matter. For the benefit of colleagues on the Committee and perhaps those taking down the evidence, Parliament First is a group of senior backbenchers in the House of Commons who work with the Hansard Society and others to promote the interests of Parliament. They are disturbed by what they see as Parliament's diminishing role in holding the government of the day to account. In particular they are concerned about the quasi-presidential role of the Prime Minister, the role of the media and the decline in parliamentary debates. Today the group is represented by Mr Andrew Tyrie, Mr Tony Wright, the Member for Cannock Chase, Mark Fisher, who I understand from Sir George Young is the shop steward, Sir George Young himself and Paul Tyler. The group is representative of all major parties in the House of Commons. First, Mark, I shall ask you and your colleagues to outline your concerns, in a minute each, which will help us to put questions to you. You are the first group of witnesses to appear before us in this inquiry.

(*Mr Fisher*) Sir Nicholas, thank you very much for inviting us. It is a privilege to be the first witnesses in this inquiry. I shall not reiterate the material that you have in front of you. You have summed it up extremely well. We publish the paper that goes with those recommendations next month. You have the introduction and the summary of recommendations. As you can see, procedure is at the centre of many of the issues that we are discussing. At the core of what we are talking about is a greater clarity between the responsibilities of Parliament and the responsibilities of government. We are emphasising, in looking at procedure matters, that those matters have distinctly different roles. The Government's role is to tax, spend, act and be the executive and Parliament's role is to monitor, scrutinise, call to account and air grievances. It is never easy for us as back benchers to distinguish between our loyalty to our party and our loyalty to Parliament. It has become a great deal

more difficult in recent years with the greater control that all parties have sought in the selection of candidates and in their behaviour here. That distinction in the minds of many colleagues, and in Parliament as a whole, and certainly in the mind of the media and those outside, between those two roles, has become very blurred. What is central is a distinct sense of the two different identities and an attempt to try to balance those two horses. We think that one of the most important ways to express that would be to create a business committee. Over the past 100 years Parliament has lost control of its business. We no longer set what we debate, when we debate it, or whether or not we vote on substantive motions. Those matters are all decided for us by the Government. When it is a matter of their own business, they have a good interest and a proper role in deciding that. But we estimate that about 50 per cent of parliamentary time is given over to business that is not a matter of fulfilling any government manifesto or putting through its legislative programme. Therefore, we believe that an independent business committee to act, and to negotiate business on behalf of Parliament with Government, would be a distinct procedural improvement, and would clarify, both in the minds of Parliament and in the world outside, that Parliament is distinct from Government. Both are important and both have their roles, but there is a distinct responsibility between the two.

2. Thank you, Mr Fisher. Before I ask Sir George Young to come in, it is interesting to note that both of you have been ministers in government. So that we do not lose the point, you talked about a business committee. Who would comprise that committee? How would that committee be set up?

(*Mr Fisher*) We believe that it should be comprised of non-government Members of the House to reflect the balance of the whole House. The details of its constitution and its method of operation would need to be a matter for greater discussion. At this point we are anxious to establish that that would be a desirable addition to the structure of the House.

22 January 2003] MR MARK FISHER MP, SIR GEORGE YOUNG MP, TONY WRIGHT MP,
MR PAUL TYLER MP AND MR ANDREW TYRIE MP

[Continued]

[Chairman Cont]

3. Thank you. Sir George Young.

(*Sir George Young*) Thank you, Sir Nicholas. Perhaps I can put down three markers. First, on debates: at the moment the Opposition gets all its time in the House by way of time for debates. I am interested in the proposition that we should trade time for debates for the right to demand statements. Statements have become more important, as opposed to debates, over the past 20 years. They are more topical, more Members can get in and the Chamber is fuller when we have statements. I think that there should be a negotiation on the time that we currently have to be traded in, in terms of the right to demand a statement that may last half an hour or an hour. My second point is related to what Mark has just said. How we take decisions about how the House is run should be taken by Select Committees that are chaired by senior back benchers such as yourself. I do not think that the Modernisation Committee, which sets much of the framework, should be chaired by a Cabinet Minister however friendly and sympathetic he may be. There is a clear conflict of interest between him being in charge of getting the Government's programme through the House, and the Modernisation Committee whose job it is to make sure that the executive is held to account. The third point is that we were told that when the hours were brought forward, that that would diminish the need to trail ministerial statements in advance. What has happened today shows that that ambition has not been fulfilled. There is a need for a new settlement between the Government and the House as to exactly what the conventions are because the present system is simply honoured in the breach. Finally, I hope that the Government may be persuaded to revisit the vote on Select Committees. Last year there was a very narrow vote, when I think there was some confusion. It goes to the heart of who controls the appointment of Select Committees. Those are four items that I would put on your agenda.

4. Thank you very much. Tony Wright.

(*Tony Wright*) I thought we had a different batting order but I am happy to speak now.

5. I am trying to be totally unbiased and I am going from Government party to Opposition, back to Government and then to the Liberal Democrat Party and then back again to the Conservative Party.

(*Tony Wright*) You are in charge. First, I bring you greetings from the Public Administration Select Committee, which I have the honour of chairing. In many respects we work on similar fronts, I hope to good effect. Latterly we have managed to achieve things that help your cause too. We have a formal amendment to the ministerial code, notwithstanding what George says, to get announcements made in Parliament. At least Ministers have now signed up to that and have to be held against it. We have an agreement that in answering parliamentary questions, Ministers should cite the relevant exemptions from the code of practice on access to government information. That is quite an important advance too. We played a role in making the first demands for the Prime Minister to appear annually before the Liaison Committee. I hope you think that we are working to your agenda in some respects. I was asked to say a word, by my colleagues, about the

prerogative. Famously it was said once that the procedure is all that the poor Briton has. I think that should be the text for a procedure committee. A Conservative MP, Sir Kenneth Pickthorn, is known only for saying that in the chamber in the 1960s. That is something that should encourage us all, that we may one day say something in the chamber that may become memorable.

6. A university member.

(*Tony Wright*) Indeed. My point, in a nutshell, is that you have to understand the unfinished constitutional business that was left over from the end of the 17th Century. I am sorry to put it in that rather grand way. The fact is that when the rights of Parliament had been asserted, the executive retained the whole battery of prerogative powers. It was a very clever trick. All those powers that used to be held by the Crown, many of them simply transferred lock, stock and barrel, to the modern executive. The modern executive in the age of party and patronage has become ever more powerful. So armed with those historical powers, it has become a formidable force. That is why—again, to abbreviate a long history—we have the most powerful executive in the modern world, at least in the democratic world and the most supine Parliament in the modern, democratic, parliamentary world. That is just a fact. There is the question, how can we reclaim some of that? One thing that we can do is to put in hand a proper review of that bundle of prerogative powers. I do not want to bore you as a constitutional lawyer might. It is possible to explore this in great detail. There is a whole package of such powers. In a publication of which we shall give you the full text eventually, we gave a listing of what the bundle of prerogative powers are. The way to crystallise the matter is to say: how is it that we are about to go to war without Parliament having any right to vote on whether we go to war or not, unlike almost every other system. That is because of prerogative powers. They need to be looked at in some detail. Over the years there has been progress in domesticating some of them; that is making incursions into them. I can give examples of that. One example would be the way in which we sought on the appointments side, in recent years, to put some controls around the abilities of Ministers to appoint whom they want. We are carrying out an inquiry on that as a committee at the moment and hoping to make more progress. One can seek to restrain them, but I think that the time has come for a proper review of the whole bundle of prerogative powers, either through this Committee, our committee or through a special committee of the House. However, I urge you to make that one of your recommendations.

7. I can only say, Mr Wright, that both you and I raised this matter directly with the Prime Minister yesterday. I think we put down a marker. That will be the first of a number. Mr Paul Tyler.

(*Mr Tyler*) Chairman, I want to make three simple summary points. First, I underline the point that colleagues have made about seeking ways in which the House, as a whole, can reclaim some more influence—I do not say power—over its own business management. Chairman, you will be aware as a member of the Modernisation Committee and an active participant in all the discussions that we

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[Continued]

[Chairman Cont]

have had within the Committee and in the House, that on 29 October the House voted for consultation between the parties immediately following the Queen's Speech on the form of the legislative programme for the following year. What we did not do—it would not have been appropriate—was to decide precisely by what mechanisms those consultations should take place. It is well known that there is now a kind of embryo business committee in that the Leader of the House has convened meetings with the Shadow Leader, with myself as shadow, shadow leader and other representatives to look at the form of the legislative year. That is ongoing and 'in the best traditions of Parliament'; it is evolutionary rather than revolutionary. We have a thin end of a very important wedge in there. Secondly, all Members of the Committee will be well aware of the response to your report about questions and particularly about urgent questions and topical questions. There was a very strong vote in the House on 29 October, I believe uniquely, on a proposal to which the Government were opposed. We believe very strongly that we should not let that matter lie. The best way it seems to us, in the best traditions of the House, is to use Urgent Questions as now called rather than Private Notice Questions, and they are a mechanism by which one can be more topical than was being proposed by your Committee. I note with great pleasure that the terms of reference of your current inquiry and the subject of the discussion this afternoon include the powers of the Speaker. We hope in the most tactful way possible that your Committee will emphasise to the Speaker that urgent questions should not just be limited to Front Benches and that they should not be used so sparingly that they cannot put a Minister on the spot when there is a genuine issue of great topicality. That is to reflect your own recommendations. We hope that you will be able to follow that up. Finally, we are very concerned that private Members in this place appear to have been the victims of attrition. There were the Jopling reforms, and more recent reforms, when the opportunities for private Members to initiate debates that result in a motion being voted upon by Members of the House are now very limited. Similarly we hope that the current inquiry that you have in hand on Private Members' Bills will lead to a change of emphasis: less coming out of the ballot onto the short list, but more that those who come out supported by the ballot and supported across the parties will have a better chance of reaching the statute book. We would not presume to put before you solutions, but we believe that that is an extremely important area for your inquiries. On Private Members' Motions, there are a lot of ideas around. As I am sure you, Chairman, and others will know, one such I tentatively put on the table, that those motions that receive so many signatures—200—but also are representative of all parties, in the same way that one has to register an all-party group by rules of the House, perhaps should go into the hat for a ballot in the best traditions of the parliamentary raffle, and perhaps that should be the subject of a debate after 7 pm on a Tuesday or a Wednesday.

8. Thank you very much. You have been provocative in some of what you have said. Finally, with an introductory comment, Andrew Tyrie.

(Mr Tyrie) Thank you, Chairman. I agree with everything that has been said. You would not expect me to say anything else. The task is to put Parliament back nearer the centre of British public and political life. We are playing a bit part at the moment and we should be nearer the centre of things. If we are to do that, we need to scrutinise power where power really lies. In a quasi-presidential age, power lies with the Prime Minister. That is why four years ago I proposed that the Liaison Committee call the Prime Minister once a month for detailed cross-examination. I am very pleased that a first step in that direction has been made. In this report we have agreement that he should be called at least three times a year. I think that kind of detailed cross-examination is what the public want. It is clear that the public take their politics largely through the television. A Select Committee is a much more television-friendly theatre than the floor of the House.

A second major proposal, that I have long supported and which Parliament First supports, is to bring more democracy to the process of appointing Select Committees and in particular Select Committee chairmen. We believe that Select Committee chairmen should be spokesmen for Parliament, on their relevant subject matters. If they were elected by colleagues, they would find themselves buttressed by that democratic legitimacy. How can that be done? Clearly, if the government of the day had any chance to run a vote, even with a secret ballot, they would end up chairing all the committees. So the current horse-trading would still have to take place as to which committee would be chaired by which party, as now. Once completed, I believe that the whole House should vote by secret ballot and anyone could put their names forward in an attempt to become a Select Committee chairman. This is a more general point: virtually every other country has abandoned trying to run its parliamentary scrutiny primarily on the floor of the debating chamber; virtually every one has built up an effective and sophisticated committee system. The Americans started that as early as the 1820s. One of the most effective democracies in the world at the moment is Germany. Parliamentary scrutiny in Germany is extremely powerful, detailed, penetrative. Their committee system is something that we had a hand in creating and is now something from which we could learn. An alternative view is that we should try to restore the floor of the House to its former glory. First, I do not think that there was a golden age, and, secondly, I do not think it is possible. We need a sense of realism about what has happened in the media-driven age. The media have penetrated Whitehall. We are no longer the primary source of information about the way in which the Government operate. The media get most of that directly themselves. Also parliamentary democracy is much weaker than it was. Another major source of the effectiveness of Parliament lay in the functioning of intra-party democracy and that is much weaker. There is much greater centralisation now of decision-making in parties and that is also driven by the media. Splits destroy parties.

9. Thank you very much to all our witnesses for their introductory comments. I shall begin the questioning from the chair. Perhaps I can make a

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[Continued]

[Chairman Cont]

plea for succinct responses. Of the issues included in the title of our inquiry—for instance, procedures for debates, Private Members' Bills and the powers of the Speaker—which should be the first in line to be reformed or addressed in our report? If you all want to speak on that, speak briefly, but I shall be happy for only one or two of you to respond.

(Mr Fisher) My choice, which I think is shared by all my colleagues, is the business committee. That gets to the core of making distinct identities. If we can establish a different way of running the business of the House that separates and distinguishes between Government and the executive on many of those other matters, such as the prerogative powers, where they are particularly sensitive, or not particularly necessary for the Government to hold on public appointments and so on, they would naturally follow. I would put the business committee first.

10. Does anyone else want to comment on that?

(Tony Wright) I would assent to that for this reason: if you look at where it all went wrong, it was over a period in the 1920s when Parliament lost control of itself. It lost the control to the executive. In order to start putting that right, you have to wrest back the control of business. I think that becomes the key that will unlock a lot of other things.

11. You recognise—this came through in some of your opening remarks—that Members have an allegiance not only to Parliament, to which they are sent by their constituents, but also to their political party and that will affect how much Parliament can take control of its own affairs. To what extent, therefore, are your aims dependent on Members' attitudes rather than on changes to procedures?

(Sir George Young) I think for some of our recommendations, for example changing the times for debates and the times for statements, that particular issue does not arise. The more emphasis that one puts on Select Committees, which was part of Andrew Tyrie's thesis, the more it becomes important for colleagues to act in a non-party collegiate way. Over recent years there has been a greater willingness for people on Select Committees to put on one side their party allegiance in the interests of the work of the Select Committees. That is a trend that is under way and probably needs to continue. At the end of the day it depends on independent-minded people on the Government Benches who actually decide how much of this will happen, because it is very much up to them to decide on what issues to make life a little more difficult for the Government than it is for the Opposition. So, yes, a change of attitude, but crucially among Government Members rather than Opposition Members.

12. When you say Government, you mean the government of the day?

(Sir George Young) Yes, the government of the day.

Chairman: I shall now let other colleagues come in as they feel quite strongly about this matter.

Mr McWalter

13. I am interested in what you said about independence of mind. As you may recall, I asked the Prime Minister what weight he gave to it. He said, "As much as any previous Government", to which I did *that*, but the media were looking at him and not at me for some strange reason, so my retort did not get in. Clearly that is an issue. I was struck by your report when in the fifth paragraph you paint a gloomy picture of Parliament. You blame party. You say, "Party is supreme; it is a vicious circle. The back benchers are tamed by loyalty, Parliament's voice is muffled and enfeebled, the media reduce their coverage, the public cease to notice or care, the Government gets on with governing and as its reputation and influence has crumbled, Parliament has at long last realised that it must change." That is a very bleak picture indeed. If you are right to identify the predominance of party over Parliament in the consciousness of MPs, do you think that it is possible for that battle to be joined or is it possible for us to have procedures that will make it possible for Parliament to have more of a voice?

(Tony Wright) I need to be succinct, as you asked the Prime Minister to be yesterday. This goes to the heart of the matter. We are all party people. We are not here—speaking for myself—because we are people of magnificent individual virtue. We are here because we carry a party label. We have to be honest about that. The question is one of balance. It is a balance between doing our duty as Members of Parliament and doing our duty as members of party. That balance has become tilted over recent years in the direction that has dangers attached to it. It means that people think that Parliament has become supine, that people routinely, unthinkingly put party first. I am sure I am not giving away secrets, but those of us here who belong to the Labour Party are currently having letters sent to our constituency parties by the Whips' Office in the context of re-selection saying how many times we have voted against our party over the past two or three years. I am not sure whether it is good to have a large number or no number. We shall discover. It is a kind of brutal reminder of the realities of political life. Bringing this to a sharp conclusion—this comes back to the argument about career structure—what does it mean to be a Member of Parliament? What are you rewarded for? What are you punished for? You are not rewarded for being an assiduous Member of Parliament on the whole; you are rewarded for being an assiduous member of the party. We need to do things—we have some suggestions in our pamphlet—about Select Committees, such as making Select Committee membership and service count for more, controlling the power of patronage, hauling back the number of ministers and for goodness sake hauling back the number of PPSs. Soon we shall have PPSs having PPSs, and we shall have everyone on the payroll. You cannot have an active Parliament if you have that, so there are a number of things that you can do to begin to tilt back the balance. The tension is endemic.

(Mr Tyler) It would be tempting to discuss various electoral systems that give more power to the electorate—to be able to choose between Tony Wright as an individual and Tony Wright as a

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[Continued]

[Mr McWalter Cont]

member of the Labour party—but I shall not do that. I have two points to make. The first is that in a different age our predecessors would have regarded it as a clear breach of privilege contempt if any organisation, including political parties, sought to exert the kind of pressure that could be exerted on someone who is less independent of mind than Tony Wright. Therefore I think that there is a serious issue about the power, the influence and the way in which that is used by the party system. I speak as a former chief whip. There is nothing like a sinner repenting. The second point is that one of my former careers was as an architect. I am struck by the effect that it clearly has when we meet in this way, round a horseshoe, and members of parties are indistinguishable. I know which party people belong to but I expect that most other people, if they came to this room, would have no idea which members of this Committee are members of the Government party and which are members of the Opposition parties. To some extent that is also true of Westminster Hall. I think that is an extremely important part of the discussion that we have just had about the role of Select Committees. If the House of Commons can move out of the rather more confrontational and aggressive chamber atmosphere and into a more considered and collegiate atmosphere—it already happens to an extent in Select Committees and in regard to Bills—then I believe that we could make a huge difference to the balance to which my colleagues have referred.

(Mr Tyrie) The architecture point made there points to a Guy Fawkes option for the floor of the House. I do not think that there would be many takers for that. We are stuck with the chapel arrangement that we inherited from several centuries ago. I want to reinforce a point that I made in response to the question about the power of the media in the 21st Century. It is not that they are some awful, ghastly leviathan doing things that we do not want them to do and at our expense; they are delivering only what their customers want. We have to respond to what their customers may be prepared to look at. Public opinion years ago—certainly 50 years ago—was shaped by tussles between the executive and parliamentarians. Today it is shaped by tussles between the executive and members of the media in TV interviews. We play a very small role. I do not think that that is going to change. The centralisation that has come with media coverage will remain in political life. We used to have independent Members before the war, elected without any party label at all, or they considered their party label to be relatively weak. That has gone for ever.

Chairman

14. With respect, there was one in the last Parliament and there is one in this Parliament.

(Mr Tyrie) One out of 659 is not going to transform the way in which politics is conducted. Although I think that there is a strong anti-politics feeling out there—a groundswell of anti-politics feeling there to be tapped—I think that it is unlikely that we shall be able to construct a reform of this institution that can give independents a greater voice. I would add one note of caution on the idea that

party discipline has become so strong. The de-selection point was well taken. It is true that a party rebellion destroyed the most powerful Prime Minister since the war. Maybe we have an even more powerful one now, but certainly it is between Margaret Thatcher and the Prime Minister. She was destroyed by a rebellion, largely over the poll tax. It is certainly the case that at the moment there is very widespread dissatisfaction over the policy on Iraq in the governing party at the moment. That is beginning to find expression, despite all these powerful constraints on its expression. So all is not lost. What as a group we have been trying to say is, rather than try to press the one button that is all of a sudden going to transform things and put Parliament back at the centre of political life, let us have a go at looking at a series of reforms, trimming away at some of the accretion of power that the executive has come to exert over this institution, procedural issues being very important, changes in the way in which the Select Committees operate, getting the Prime Minister to speak more often and those kinds of things. I think that is probably the only sensible approach for a parliament to take.

Mr Burnett

15. I have an observation first. I have great sympathy for Tony's observation about hauling back the amount of ministers and PPSs and more and more people on the payroll. We must all consider hauling back the amount and the number of Members of Parliament and ensuring that we get fairer and more even representation throughout the United Kingdom. On the proposed business committee, where does the Speaker fit in, if at all, in such a committee?

(Mr Fisher) The Speaker is the guardian of the back bench rights and is of no party. A way to ensure impartiality and balance would be for the business committee to be under his chairmanship, or at least under his aegis, under the chairmanship of one of his speaker colleagues. As I said earlier, I think the details of the precise constitution and make-up of the business committee is a matter to be established once your Committee, as I hope it will, puts its influence behind the idea of the business committee. I have one comment on the first question, on whether it is a matter of attitudes changing or structures. I think the two have to go together—that is a rather boring party political answer. It is a great deal easier for colleagues and Members of Parliament to change their attitudes about the degree of independence that they are prepared to express if the structures are there to encourage them. The points that George has made about the Select Committee prove the point, that Select Committees engender an independence of thinking and often a critical independence of thinking simply because they provide the carapace and structure in which that can happen. I think one will lead to the other.

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[Continued]

Chairman

16. I want to move on to Parliament and the Royal Prerogative, which has already been mentioned. Parliament First recommend that prerogative powers should be listed, a code of practice for their exercise should be developed, and that most of them should be put on a statutory footing, with a Select Committee to examine their use. I have three or four questions to put to you. Only two of you need to respond unless there is a particular matter that others want to draw to our attention. What do you see as the advantage of putting prerogative powers on a statutory basis? Do you envisage the statutes imposing some kind of parliamentary control? What particular prerogative powers are you most concerned about? There has been recent debate on the extent to which the House should be consulted before or after Armed Forces have been committed in some conflict. The Committee would be particularly interested in your views on this subject, which featured strongly in the Liaison Committee yesterday when evidence was taken from the Prime Minister.

(Tony Wright) Just to say, in a rather different way to what I said at the outset, when my party was in opposition we were committed to a review of prerogative powers. Unfortunately that was not a commitment that appeared finally in the 1997 manifesto but it got very close to it. I would simply like Parliament through, now, you to renew that demand for a review. I think it is unrealistic to expect a committee concerned with a broad front to do the job. You have got to find the mechanism to get a proper review. The principle of that review—and it is not difficult and you will find many sources that do this, and we simply cite in our pamphlet one rather old source now where you can bring all these together—is that all these need to be re-visited. They need, as far as possible, to be put on a statutory footing and, therefore, a framework put around them which makes absolutely clear what Parliament can do and what the executive can do. At the moment you have the executive claiming all these, except where we have made particular incursions into them over the years. I think that is the essence of our position.

17. Are you prepared to answer more specifically what particular prerogative powers?

(Tony Wright) I mentioned a key one at the beginning. I mentioned public appointments. Obviously the current one is war making and when we spoke to the Prime Minister yesterday I did say how unusual it was for this prerogative power to exist, whereas in the United States they have a War Powers Act—a War Powers Act which says that the President has to go to Congress either before hostilities or within a specified number of days following hostilities to get authorisation. Now I just think we need a War Powers Act because all you would be doing then is to constitutionalise the prerogative. That is what you do, and you do the same thing in each of the other key areas. I think to have them all reviewed with a view to putting them on a statutory footing is the way to proceed.

Mr Illsley

18. Tony, given the present circumstances that we are in, it is pretty obvious that the prerogative power of taking military action is the one we are all focused on, but perhaps in constitutional terms more important is the right to dissolve Parliament, so that our very existence depends upon the prerogative powers of the executive. In the past it has been used to political advantage, to dissolve Parliament early at a time of electoral advantage. How do you see this in terms of importance? Secondly, how receptive do you think this Government, or any successive government, would be to giving up those powers?

(Tony Wright) It was a foolish omission on my part, because I have produced at least once, if not twice, a ten-minute rule Bill on fixed term Parliaments—precisely to constitutionalise that bit of prerogative powers. It seems to me to be not only an anomaly but constitutionally offensive for something as fundamental to the political system as when an election should take place to be in the hands of a government. This should simply be on a fixed cycle. If we said that we were going to start having local elections when the ruling party decided it was most useful to have it, it would be thought outrageous; yet we do it here and defend it as constitutionally necessary. It is a very good example and, again, it is something that we, as a party, were once committed to doing.

Chairman

19. Can I ask our witnesses whether that view expressed by Tony Wright in answer to the question by Eric Illsley is shared by other witnesses?

(Mr Tyler) Absolutely.

(Sir George Young) No.

20. I must ask you to come in.

(Sir George Young) I think the answer to the question is that where elections have been called early they have not always had the result anticipated by the Prime Minister. I can think of 1974 and, possibly, 1970. So it does not necessarily follow that this power is abused. I think there is a separate debate about whether you have fixed term Parliaments or not. Where I do agree with Tony is that we should have a look at the Royal Prerogative, have a list of what they are and try and put them on a more rational basis. Otherwise, it seems to me, the judiciary just get involved and you get more and more judicial interpretation, whereas I think it is much better for us to get more involved.

(Mr Fisher) Perhaps we should be considering this from a slightly different position and asking ourselves the question: what prerogative powers does a government need to fulfil the mandate that it has been elected on? I think it is absolutely proper that if a government is elected by the people it should be able and have all the powers at its disposal to tax, spend, etc. Therefore, those prerogative powers like the cabinet, the responsibilities, the choice of ministers, the Budget, foreign affairs, it is absolutely proper that the executive should have power over all those things. Other things, public appointments, treaties possibly, certainly war, dissolution of Parliament and the running of the Civil Service—

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crucially (which is not a government department, it is responsible to Parliament)—are not there for the benefit of government; they ought to be answerable to Parliament, not government. It would not inhibit the government's getting on and delivering the manifesto on which it has been elected but it would distinguish between those things of the executive and all the other things which should be answerable to us.

(*Mr Tyrie*) Very quickly, on this fixed term of Parliament issue, just to open up further dissent in what would otherwise be a united Parliament First front. The main argument, as I see it, against fixed term Parliaments is that when a government becomes rudderless, when it loses its sense of authority, then it is time that it should be taken to the polls. Though that is often difficult because they sometimes cling on without a Parliamentary majority.

Mr Illsley

21. I was not really arguing for fixed term Parliaments, it is a question of whether the executive should hold the power of dissolution or whether there should be some other mechanism.

(*Mr Tyrie*) I am much more sympathetic to that view. I am not sure that the power of dissolution needs to lie with the monarch, although there are some very complicated questions that get thrown up about the role of the Speaker, because that is the only other place it could possibly go.

Can I just mention one other point which Mark began to touch on? Actually, the area that I have become quite deeply concerned about, which is a quasi-prerogative power, is the power over the Civil Service. I do think we need a Civil Service Act and I think the Civil Service Act should make the Civil Service answerable to Parliament. They should not be governed by orders in council, as they are at the moment, which is a form of Royal Prerogative. In theory there is a great deal of support out there, even in the executive, for a Civil Service Act but it always seems to slip through the fingers somewhat. There was talk that there would be a Bill in this Parliamentary session, but I have not seen it yet. That would, in turn, address another concern which the prerogative powers, again, indirectly nourish, which is the alleged—and I believe it is true—politicisation of the Civil Service with the excessive use of highly party-political special advisers and their multiplication in Whitehall, and their assumption of roles that should, I think, be more properly performed by neutral civil servants.

(*Tony Wright*) May I add one very quick word on that, because it is a very good example. Fortunately, a recommendation that we made from the Public Administration Select Committee to have what we called a radical, external review of the whole government information service has been accepted, and that is now being put in hand. In fact, I have just come from meeting the person who is going to run that. Then, on the other point, which I again should have mentioned, the Public Administration Committee is actually writing, or at least has got people writing for it, a Civil Service Act, so that we can show how it can be done. I would just append to that the thought that it seems to me to be odd that Select Committees of this House cannot also

sometimes introduce legislation. There is no reason at all why legislation should only come from governments. I think, as we have Select Committees—and it is quite common in other legislatures for this to happen—why can Select Committees not themselves be seen as one of the avenues through which legislation comes?

Chairman

22. Finally, before we move on to the next subject, which is the business of the House, Paul Tyler?

(*Mr Tyler*) A small point, Chairman, but I think it is an important one. A subset of Mr Illsley's point is the issue of when the House actually meets, particularly in crisis situations. It really is an absurd anomaly that it requires the Government to decide when it would be convenient for the House to meet rather than the House itself having the mechanism to decide that it needs to meet. As Members of the Committee will know, a number of senior Members of the House have endorsed a motion which stands still on our Order Paper, giving the Speaker the power, when it is his opinion that the public interest requires the House should meet at a time earlier than that to which it stands adjourned, to arrange for it to meet. I would have thought that was an absolute *de minimis* of the point that Mr Illsley made, and I think my colleagues would probably agree with that.

Chairman: Can I say to our witnesses that we do intend to touch on that if there is time a little bit later in our questioning.

Rosemary McKenna

23. Some of the points that we would raise have been answered. We have had various comments about the rights of backbenchers to initiate debates, and there are, of course, Private Members' Bills, adjournment debates and 10-minute rule motions. Your group is recommending that there should be greater use of PNQs and a procedure for public interest debates. One of the questions was going to be what would you achieve by that, but you have already made it clear that you would expect there to be a vote at the end of a public interest debate. Two questions on that: first of all, could you suggest criteria for a public interest debate, and what weight would be given to the vote, if any would take place?

(*Mr Tyler*) Chairman, I think Rosemary McKenna is hitting on some extremely important points and I cannot pretend that our group have considered them in great detail. Just two things I would say: the first is that any such mechanism—and I suggested one for identifying a suitable subject for debate—would, in our view, need to be House-generated rather than party-generated. If it simply becomes yet another opposition day, I do not think it would have any great value. However, there are cross-party issues which attract a great deal of support, and if we had a mechanism to ensure that there was cross-party support for the motion before it even was considered as a suitable candidate for ballot, then that I think would help. How the world at large, or the government of the day, would view the result of such a debate is, I think, really a matter for both historians and forecasters to consider. After

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all, this was the case; there used to be such debates. Whether they were of much value I do not know as I was not here then, but I think it would be fair to say that the frustrations felt by a large number of backbenchers that they never, at the moment, are ever able to test the support in the House for a proposition that a number of them support is quite considerable. I would have thought finding a safety valve for that in a free Parliament was a rather important objective.

24. The opportunity for the one-and-a-half-hour debates in Westminster Hall is there. I do not particularly see that being used in terms of the big issues that you say have cross-party support.

(Mr Tyler) I think there are mixed results. Perhaps all of us have been involved in debates in Westminster Hall. I have been involved in debates of very considerable national significance—early on with Iraq—and I think that the Speaker's Office is extremely adroit in identifying those issues which only really justify 30 minutes, because they really are a single Member or perhaps a couple of Members' constituency concerns, and then looking at the wider issues. So I would not suggest that Westminster Hall—it is still bedding down—is not providing an extremely useful mechanism. Right at the very outset both the Modernisation Committee and then the House, in identifying the role of those debates, were absolutely adamant that it should not be divisible; the subject that goes to Westminster Hall should be a matter on the adjournment. If there ever was a suggestion of a division, it simply would stop everything in its tracks and have to come back to the floor of the House. I entirely believe that is right. It is not only the practicality of everybody dashing to somewhere else in order to vote, or however that might be arranged. I think that only emphasises the need to have some mechanism by which Members can test the opinion of the House. That is, surely, a pretty basic thing in a Parliamentary democracy. That must mean the opportunity—and it may be only rarely pursued—to actually have a vote and to do so, therefore, in the Chamber.

(Mr Fisher) As Paul Tyler has said, we have not given a great deal of consideration to this, and when our paper comes out you will not see very much more than you have in front of you there. The problem we were trying to address was that it is bizarre that we are not able to put down a motion for debate on a substantive vote in our own House; we have absolutely no control over our own Order Paper. Though you can see that this sort of motion or debate could easily be abused and become a sub-set of opposition days, I think the very simple criterion that would prevent that would be a substantial amount of all-party support. So that would limit these sorts of debates to public interest issues across parties.

(Tony Wright) One thing I would just say is how useless and dismal have become what we used to call supply days—opposition days. They are a complete waste of time. You simply have a day devoted to people saying, on one side, the government is dreadful and, on the other side, the government is wonderful. It is a complete waste of Parliamentary time. Given the acres of Parliamentary time given over to these things, one virtue of having a Business Committee—and I know there are all kinds of

sensitivities here—is we could use the time much better. Just on your actual point, votes do crystallise the activity of the House. It is the one thing which matters to the system. The government is happy to have people debate round the clock about anything. Apart from the demands on ministerial time, it is happy to see people debate every issue under the sun, all day, every day, in every orifice of the Palace of Westminster. What it is worried about is whether anything happens as a result of those debates. That is why the vote becomes important, either on the mechanism that Paul describes or, as I would ask you to consider, whether, again, it would not be possible for Select Committee reports to be voted on. Here are authoritative expressions of opinion by a cross-party committee having done an inquiry into an issue, but the House does not even have an opportunity to say it welcomes the report. At most we get a debate without a vote—probably in Westminster Hall. Just to make the point finally, this place is all about the government getting its business, on the one side, and people trying to prevent the government getting its business on the other side. What we lack is any kind of space in the middle where Parliament, as Parliament, can do any business. I think that is the space we have got to expand.

Mr McWalter

25. Is not the place where that happens the standing committee on a bill? I see you smile, but I was on the Enterprise Bill and we got some significant changes through in a gentle and diplomatic way, but nevertheless managed to achieve some things the government had not thought of, that ended up in the Bill. I think it is possible that then, maybe, you should be giving attention also to the membership and selection of standing committees as a very important part of this process.

(Tony Wright) Can I just say one word on that, then I promise I will be silent for a while? When I first came to this place in 1992 I was put immediately on a Private Members Bill that was Mark Fisher's Bill on the Right to Know—which was a precursor for the Freedom of Information legislation. We had a wonderful time. We had several weeks of wonderful, bipartisan debate; people taking a point from this part of the committee and that part of the committee; it was splendid—"This is Parliament at its best! This is how the consideration of Bills should work". Then, of course, I discovered, when it got back to the real business of the House, it was brutally killed off. Then I started serving on ordinary standing committees and, unlike you, I found them utterly dismal experiences. On the opposition side all I was asked to do was to try and delay things and when I became on the Government side I was told to shut up so that I would not delay things! I just thank God that the people of this country do not know how legislation is supposedly scrutinised line by line.

Chairman: I think Tony Wright has revealed one of the problems of the House of Commons and the Palace of Westminster.

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David Wright

26. It is interesting that I think we sit longer, as a Parliament, than any of our European colleagues, yet we still have an enormous problem with giving enough time to deliver the business of the government and, also, give opportunities for people to speak. There seems to be a real problem here. I think we need, perhaps, to look at how other European Parliaments use their time more effectively, as you have also said. Perhaps you could also reflect on one of the points that I find most bizarre, which is that when there is a request for a Standing Order No. 24 debate the Speaker responds giving no reason as to why he has made a judgment on that debate. We can get into a very interesting argument about whether the Speaker should, but it appears to the public that no attention is being given to important issues. I was amazed, over Iraq, when there was a request for a debate; you cannot get a more important issue than a debate over Iraq, and if there is going to be a Standing Order No. 24 debate, surely, that is a subject that should be debated under that Order. Perhaps reflections on those two points.

(Mr Fisher) I entirely agree with David, on that.

(Sir George Young) I would agree, and I would also agree with how we look at our time. We have just changed all the parameters for standing committees, and I think that over the past 10, 20 years they have become less effective than they were. I wonder if one cannot go back to the previous arrangement whereby an end date was agreed between the usual channels, and there is slightly more flexibility about the time that you spend in between. That may be beyond your parameters, but I think we have slightly over-cooked the very strict guillotining of bills and some very important bills have gone through very recently within a very short space of time. I think if you spoke to the Chairmen's Panel you might find some helpful reflections on that.

(Mr Tyrie) I think standing committees are a lost cause and the only way to improve them is from the other end, by getting pre-legislative scrutiny and by getting select committees to do work which it becomes very difficult for the government to ignore when line-by-line scrutiny begins. That still leaves the other half of your question, which is the time-wasting element. I wasted a huge amount of time and energy on the Financial Services and Markets Bill (as everybody on that committee did); hours and hours and hours just drifted by for the best part of a year. That could have been curtailed in many respects. That Bill, of course, was a Bill that was already subject to pre-legislative scrutiny, and most of the good work that was done on that Bill had already been done beforehand. We have got to look radically at standing committees, but we are up against the full force of the whips, at the moment, if we try to do so.

Mr McWalter

27. I know you are under the cosh here, but I think the business of standing committees being a lost cause really worries me. My colleague Rosemary here has just said that it depends on the minister. I am sure that is right, but then that leaves another avenue which, basically, is if a minister shows himself or herself to be uniquely insensitive to rational

argument, in the context of the committee, maybe we need to think about whether there are procedures by which—I do not know—a vote of no confidence or something might be made available to put some kind of pressure on ministers to actually accommodate reasonable, rational discussion and actually address the points that are raised without dismissing them on the basis that they were time-wasting, or whatever. Mr Chairman, I would be very reluctant indeed if we were to give up standing committees because my colleague is absolutely right, good ministers actually conduct very good, very constructive and very bipartisan, or tri-partisan, committees.

(Mr Fisher) This takes us back to the original point about why is Parliament being weakened and why is the balance so wrong between the executive and the legislature, but we have often been the architect of our own downfall. When we were talking about control of the business, I think the roots of that were in the way that Parnell manipulated and exploited the Order Paper so as to only discuss Irish Home Rule. Understandably, all the other parties got together and said that the government has got to have control and stop this sort of thing. It was a hopeless abuse of the House. Similarly, with standing committees, when I was first in the House standing committees could go on almost indefinitely. I was taken under the wing of my friend and colleague, Mr John Golding, and he was quite capable of speaking for 10 or 11 hours on one motion, and did so on the British Telecoms Bill, which was my first bill in this House. He showed me how to “swiss roll” a debate—how to roll out an argument and then argue against yourself—and even I, as a very inexperienced person, within a few weeks of guidance by John Golding, could speak for three or four hours on one amendment. We were fools. We abused the system, it was childish; it seemed to be obstructing the government, it did nothing for Parliament and, of course, it has led to much greater controls. I think we have to recognise that we are the architects of many of our own problems.

Mr Illsley

28. It depends on what value you place on the time. In that course we have had a time-change. If you timetable a bill, basically you might well use the time available for the bill in standing committee. In the old days, when there was a rough end-date somewhere in the future and no real timetabling, the opposition opposed and the government side sat and shut up. The opposition used the time. But as soon as the guillotine is imposed, the government backbenches will then use the time available. So it depends on your interpretation of the value of the time within the committee.

(Tony Wright) We want to be reasonably positive about some of this, and I agree very much with what Andrew said sometime ago, it is no use looking for Big Bang approaches in this area, unless we change the electoral system. You will not get a Big Bang, what you will get most is what I might call positive incrementalism—gradually chipping away. There is no question that draft bills is an advance. Having had experience of doing draft work on the Freedom of Information Bill, there is no question that that had a

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major impact eventually on what happened to that legislation. So we must hang on to draft bills. We must move to having a bi-annual legislative cycle with bills routinely coming in draft. You will get better legislation. Secondly, and more radically, I think we are very unusual as a Parliament in the way that we separate out the select committees from the standing committees. I think a much more interesting idea would be to have unified committees that sometimes do what you might call select committee work and sometimes examine legislation. What you would have then is a reservoir of people with expertise in those areas. I think that would transform the ability of Parliament to get to grips with a whole range of issues.

(Mr Tyrie) Very briefly, I think that is where we want to go. The problem is that the government whips will never allow one to get there. The government whips, whoever is in power, want to be able to amend a bill as they like in a standing committee, because the standard way of creating legislation is to dump a bill in—it does not matter too much what it looks like—listen to what people have to say about it, particularly outside Parliament rather than in it, and then table a load of amendments to try and knock it into shape. If you have still not got it in shape you can have a second go when it goes down the corridor to the House of Lords, where almost all the executive amendments are also accepted. That is the reality of the situation. Standing committees exist because governments want them to exist. As soon as we attack the fundamentals of the standing committee, which are that the executive will always get their way in there, at that point the executive will find some other way of getting what they want.

(Mr Fisher) Chairman, is it not precisely because of that that what Tony Wright said about the Freedom of Information Bill and the role of his Select Committee is so important? The crucial thing (Tony was over-modest, and perhaps for the benefit of colleagues who are not aware of how that Select Committee operated in advance of that Bill) was that he took a great deal of evidence from the experts. On-the-record evidence made it very difficult for the government simply to ignore the distinguished people from across all parties who gave evidence to his Committee. That is what helped get the legislation which was, at one stage, looking very thin. It made it better than it was. It was not a good Bill, but it is better than it was.

Chairman

29. Can I just make it clear the objectivity we are seeking, to get better legislation through the responsibilities and functions that we have as the Procedure Committee of the House of Commons and any help, Mr Fisher, that you and your colleagues can give this Committee, any recommendations that you might have about people who come and give evidence to us, we would be very pleased indeed to hear from you. If Mr Wright and members of his Committee might like to come and share their ideas with us, where it actually concerns us as the Procedure Committee, again this would be a very useful way of proceeding. We are determined in this

Committee to do something about what is clearly a very unsatisfactory situation. Can we pass on now to Private Members' Bills and Iain Luke.

Mr Luke: This is an issue which, as a new member, has caused me some concern. I had the privilege of helping out on a Private Member's Bill in the last session to do with employee share ownership. Having been to America and visited Congress and seen how the members of Congress actually shape legislation and form legislation, I really feel that the role of the Private Members' Bill, as you rightly point out in your representations, is to be valued I think as legislators, we should have a much more influential role wherever possible in making more legislation out with the party machines, looking at areas that will be represent attire of constituency interests. We have a better chance to advance this if the ruling of only seven places for anyone in the ballot was increased. You make the point you feel your own representations on behalf of backbenchers, members should be able to take Bills through the House more easily. I would really like to know exactly what specific changes you have in mind. Do you feel that the current time devoted to Private Members' Bill is adequate? Should more parliamentary time be found for Private Members' Bills? There was a talk in Modernisation that Wednesday nights would be left to debate. Would it be the case, given that we are now finishing at 7 o'clock, there is a chance to bring them forward during the week, Tuesday and Wednesday, to bring more Private Members' Bills and discuss them? I feel it would give more Bills a chance. Obviously, given the ballot restricts in many cases the number of people who can actually bring these forward, is there some way we can look at how members have performed in the past on Private Members' Bills? I had five Private Members' Bills I could have brought in if I had managed to be successful in the ballot, but I was not successful in the ballot. This is a case to look at how the ballot works and to reform that ballot. The other question I would like to ask, obviously the Government can and does stymie Private Members' Bills that others support. I was very happy to support, last year, as I say, the Employee Share Ownership Bill. It raised the whole issue about John Lewis clauses and how that works in this situation. To get that Bill through the sponsor had to drop that issue. I know there is an issue coming up very soon on a topic to do with fireworks and there have been so many ten minute bills and there have been some Private Members' Bills last session. On this I think there is a general feeling in the House that people would like to see much more control of fireworks which the public demands as do parliamentary members who have given their Bill support. The Bill brought forward by Bill Tynan is bearing on some issues raised by the consent in Scotland. The Scottish Parliament is bringing forward its own representations and recommendations. I do not believe whatever happens—whether it is high up the ballot—that Bill will become law. It will not become law because the Government will pull it, under the pressure of fireworks association, procedures the people who make the fireworks. So really at the end of the day are there ways of asserting the right of Members of Parliament—because I think there is a cross-section of Members of Parliament who support this Private

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Members' Bill. Can we can circumvent the Government pulling the plug on it and despite their opposition allow Private Members' Bills which have a real impact to get through the processes and end up as law.

Chairman: Do you have a corporate group view on that, George and Paul?

(*Sir George Young*) Collective responsibility is not our strong point. There is a prior question that the House has to answer which is, is the proposition that we should have more legislation? In other words, is the proposition that on top of the Government Bills we already have there should be more Private Members' Bills, and I think that raises key issues about the ability of the House at the moment to scrutinise the legislation which is going through. If the proposition is that there should be more Private Members' Bills at the expense of Government Bills—which is an argument you can make—you have to answer the question that for most of the Government Bills there is a mandate, in that people are elected on a platform which says this is what we will do and there is no similar mandate for the Private Member. Where I have a lot of support is that we should get rid of the nugatory time. The time that is wasted on Private Members' Bills, as Tony Wright said, where you know they are going to get murdered on report stage or there simply is not time. That is a total waste of the House's time and I would be interested in a revised strategy which gives fewer Bills a clearer passage with less hurdles rather than more Bills a rather uncertain passage with the pantomime that goes on in Standing Committees of talking it out and getting it in the right order for report stage and then somebody shouts "No" at 11.30, or whenever it is, on a Friday. I think that is a farce.

(*Mr Tyler*) I entirely endorse that argument. I think there is an important trade-off here. If we were to limit the number of serious contenders and then give them serious time in order to ensure those particular proposals are properly scrutinised, then I think that would be a reasonable trade-off and I would hope the Government of the day would accept that. At the moment, as you very clearly indicate, it is a mess. I was number 16 in the ballot a couple of years ago whereupon, of course, my constituents—and those with special interests all over the country—thought: "My goodness, we are about to have a Bill," and I can I think indicate the extent to which that completely ruined my life and other members will have had the same experience. So there is plenty of support out there for having this sort of mechanism. Expectations are raised by that process which are, of course, very quickly shown to be a complete nonsense and it is folly for us to allow them to continue. Whether simply by allocating time on a Wednesday evening or a Tuesday evening we solve this problem, I doubt. Another suggestion I have heard is that the debate should take place on the Monday morning with the votes taking place at the end of that session when most of us are here, which would be much better than the other way round as now on Friday, when most of us are trying to get away. I do not know and I hope perhaps your Committee will look at this. It is not just a question of finding space in the day. As George suggests, I think there is a serious problem about the quality of the product in this place and if we simply reduce the

hurdles over which you have to climb to get serious discussion of an issue, then we may not be doing Parliament a service. What we have to do is to give serious time to a smaller number of serious issues.

Chairman: We have, in fact, received a rather interesting memorandum paper from a colleague in the House, Andrew Dismore—and perhaps if you would care to contact him he might allow you to have a copy of his memorandum—which does put forward some proposals which clearly this Committee is looking at. Can we now move on to the interesting subject—and I am hoping to finish in about a quarter of an hour, but that may be rather more difficult—and Eric Illsley is handling this: the Speaker's role in a recall.

Mr Illsley

30. Again it comes back to what I think is the basis of what we are discussing, the Executive's control of all parliamentary procedures. It is basically to ask your opinions on the role of the Speaker, if he can recall Parliament. At the moment he can only recall Parliament at the request of Government. Do you think that should change? Should the Speaker have the power to recall Parliament independently? How many hours do you think should be given to him in that regard? What are your views say, for example, if the Speaker was to recall Parliament on a day which was inconvenient to Government, where ministers perhaps may not be available to attend? How do you see we can resolve that particular situation? Who would decide the business on a day of a recall, even if the Speaker was given power to recall Parliament on a particular day—because at the moment the Government still has the control of the agenda and the Order Paper—should that remain or should the Speaker be allowed to decide the business of the day or should it be through a petition from a certain group of members on a particular issue?

(*Sir George Young*) The view of Parliament First is that the Speaker of the House of Commons should have the ability to recall Parliament at times of emergency, we have agreed on that. We have said, also, if a majority of MPs sought a recall that should be granted. On your question of having recalled what you do then, I think my initial view is it would be quite difficult for the Speaker to decide the motion, the structure, I think that might begin to draw him into some rather delicate issues. I think his key decision would be Parliament would be recalled. If you had the Business Committee, the Business Committee might have a role to play. My initial instinct would be to be slightly cautious about the Speaker going too much further and putting the parameters around the form of the debate, whether or not there is a vote, whether it is take note.

(*Mr Tyrie*) Could I just add very briefly to that. I agree with everything that has been said there but, of course, with the change in the annual calendar for Parliament the long recess has gone so this is a much less important issue than it was in previous parliaments.

Chairman: Before I ask Iain Luke to come in can I just put a supplementary to what Eric Illsley has asked. You say the Speaker, and I think this Committee would probably on balance agree with

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[Mr Illsley Cont]

that, should have the power to go to government to get a recall of Parliament: what about the length of that recall? I know Iain Luke is going to come in on this through a personal experience but really it is ridiculous on an important issue like Iraq when we were recalled in September. As Andrew Tyrie said it may not arise again but it could arise. Do you think the Speaker should have the authority also to indicate the length of the recall? For instance, there are many who feel that the recall in September of last year should have been for two days not just for one.

Mr Luke: I agree with that point. I have already raised my arguments with this Committee, and indeed through informal channels with the Speaker. What I have heard from the Speaker is that was not his wish. He would have liked a two day recall, in fact, it was the Government which themselves asked for the one day. I would just like to support what the Chair is saying. I believe obviously the topic is somewhat very delicate and that should be the decision of the governments in conjunction with the Speaker. The Speaker, given that he knows the feeling of the House, and the issues to be involved, I believe—and I would like your views on this—that he should be able to say “Look, this is a definite two day debate” and his view should be final.

Chairman: Is it Parliament’s view that the Speaker also should have authority over the length of the recall of Parliament?

Mr McWalter: I think there is a problem here. We had a vote on whether to adjourn or not and as one of the 53 people who voted against the adjournment, a large number of people who complained about it nevertheless voted in favour of the adjournment. Their supine tendencies and not running into trouble with the whips ran ahead of their incandescence of the curtailment of the debate. I think in the end you cannot solve these problems unless Members of Parliament actually occasionally back their judgments about what they want.

Chairman: I have to say I think we should let our witnesses answer rather than Members of the Committee.

Mr Burnett: Maybe there is a letter winging its way to Tony’s constituency.

Chairman

31. There could well be. Can we get Tony Wright to answer.

(Tony Wright) I will be extremely brief. I think we speak with one voice on the principle of this. I think it is for you to work out the details. We are clear about the principle which is that the Speaker has to have a much stronger role than is the case now. At some point—I do not know whether you are going to do it—we do need a general look at the role of the Speaker. If you ask yourself what are the words that the Speaker most often utters in this place, I think they are words that go “That is nothing to do with me”.

(Sir George Young) “Order! Order!”

(Tony Wright) Second only to “Order! Order!”. “Order! Order! That is nothing to do with me”. Now I think as part of this reclaiming of territory we need some more territory where it is something to do with the Speaker and on something as basic as whether

Parliament meets or not, the idea that is a matter for the Executive to decide is outrageous. We can consider the mechanism whether you just have to have a majority of Members. It would have to be a matter of the Speaker’s judgment based upon taking evidence from the number of Members who make direct authentic representations to him, not have slates being signed, that is a waste of time as Tony has said but I think it has to be a role for the Speaker.

Chairman: Could we move on now to another issue which causes concern in the House, a Speaker’s list and also, of course, the calling of Members by Mr or Madam Speaker.

Mr McWalter

32. It is a general question. To what extent do you consider the way in which debates in the House are conducted is relevant to the balance of power between Parliament and the Executive?

(Mr Tyrie) Discuss. That is a sophisticated question. I would much rather answer the easier one supplied from the Chairman so while I am answering that I will be thinking about the tougher one. Yes, I am in favour of the Speaker putting up an indicative list of who he thinks should speak. I think that it would enliven the chamber not kill it, if that is what the chairman is referring to. I think there is something slightly absurd about large numbers of people rising up and hoping to be picked off in the 21st Century as a way of choosing who to speak. I think that by grouping various people together who are all speaking at roughly the same time, many Members, certainly I would, would look to see who was speaking at which time and come in to make sure they had heard them. I noticed that a few people started to drift in when they saw William Hague’s name on the TV screens yesterday. I suggest that if people knew pretty much exactly when he was going to speak, and also a couple of other people—I am not making a party political point—one might well have found the House much fuller than it was yesterday, though already it had quite a number of people there. I think the main argument put against this way—which is normally whispered rather than said loudly—is that if we have a list people will drift away altogether and you will just have people who are only there expecting to speak and no-one else ever turning up. But this is a crazy way to try and pretend that the chamber is more interesting than it really is. The right way to improve that is to make its proceedings more interesting and that is why I support George’s proposals for a better use of parliamentary time. As for the tougher question, I have now thought of a partial answer by referring to George’s reforms. At the point at which parliamentary proceedings become more interesting we will arrive at the point where people are more interested in watching them. I return to the point I made right at the beginning in my introductory remarks, people do not find stylised 19th Century debate appetizing as their meat and drink for understanding or following politics. They understand the kind of exchanges we are having now as much more relevant because it is much more relevant to the way they conduct their own affairs. That is why select committees I think have a huge opportunity, which they are not fully grasping yet,

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[Mr McWalter Cont]

and why I am so strongly in favour of putting the Prime Minister at the centre of the committee system with the Liaison Committee reform.

(Mr Tyler) I think I agree with everything that has just been said. I would just add one other word. I think it is clear already that with the change of hours and the new emphasis for a specific slot allocated for statements more Members are attending statements already. They know there is going to be one, there is more advance notice for it and it is a much more lively exchange of the nature that we are beginning to see as being the norm for a sensible political debate rather than the standardised debate that is now taking place in the chamber where—I did not count the number of minutes—the presentation by the frontbenches, I suspect all three, will have been very extensive. It is quite out of character from the sort of way in which most people now have a conversation and discussion. Going back to the point that was being made just now about the balance in the debate between the Executive and the backbenches I think it is a curious irony that the backbenches are limited to ten minutes and the frontbenches are totally unlimited. Hand up, I am guilty. It is all too often the case that a Minister feels that he has not only got to speak at very considerable length to make his case but to take a huge number of interventions and similarly then the same thing happens on the other two frontbenches. Now I do not think quantity is the same as quality, I am not trying to confuse the two but I think the balance of the standardised debate at the moment has become obsessed with the contributions of the frontbenches and I do not think that is good for Parliament.

Chairman

33. Could you deal with the specific question which was put about whether or not Mr Speaker currently should publish a list, either a list of those who are to be called to speak in the order in which they are to be called to speak or alternatively a list of those who have written in requesting to participate in a particular debate?

Mr Tyler: No, Chairman, I would prefer the latter. Although I certainly think we have got to change from the present, but I endorse what has been said by my colleague.

Mr Burnett: I cannot agree with the latter, forgive me, because nobody at all would know when they are going to come on, otherwise we would be hanging around. I think that is the point to be made here.

Chairman: John, with respect, could we take the views of our witnesses?

Mr Burnett: But we are having the sort of debate we should be having instead of one of these stylised nonsensical things that people—

Chairman: It is amazing what gets people worked up. We will have a long debate within the Committee.

Mr Burnett: Let us hear Andrew again.

Chairman

34. Yes. What about Andrew, Sir George, Mark or Tony, where do you stand on this issue?

(Mr Tyrie) I am in favour of indicative lists. I have just said I think the Speaker should have the power to vary it if he feels during the debate he needs to. I think it is ridiculous not to tell people when they should speak. The House of Lords seems to manage with an indicative list, why can we not. I think it is long overdue. It was one of the proposals I put forward four years ago, I tried to get to see the Speaker to discuss it. I did not get very far, got as far as Nicolas Bevan and the answer I got was the one that I just reported. Can I just make one more quick point? Also, I think that there is a case for an indicative list for supplementaries to questions on the Order Paper. Why cannot the list of people who have put questions down just be sitting there at the back by the Speaker's office and if you want to chip in on question number three you write your name there. Everybody can see that you want to chip in on question number three, and the Speaker knows that four people have chipped in on question number three and is only going to pick one of them. I think we can move further towards transparency on that as well.

(Sir George Young) I think I am more of a dinosaur on lists. There is something to be said for spontaneity for preserving a debate. You will not be on the list if you have not written in, but you might turn up on the day and listen to the opening speeches and want to get involved in the debate, but because you did not write in, you do not get called.

(Mr Tyrie) That is what happens now.

Chairman

35. I have to say, Sir George, that unless you have written in on a major debate and you are on the list at the beginning of the debate, the chance of you getting called is very, very slight.

(Sir George Young) My understanding yesterday—and I may have got this wrong—was that neither William Hague nor Kenneth Clark had actually written in to indicate their interest. That was just tea room chat.

36. Yes. One at a time. The only comment I will make in reply to Sir George is, of course, William Hague was on the committee that actually produced the report that was being debated, so it is likely that he would have been called. He knew when he was going to be called because he told me before the debate. Mark Fisher?

(Mr Fisher) No, I have nothing to add.

37. Finally, Tony Wright because Paul has given a view.

(Tony Wright) I have been in favour of this, I am not resolutely in favour. I have always thought the Lords' system sounded more civilised. There is something entirely bogus about what we do, the pretence of being called when in fact you are not being called at all, you are being pre-ordained because the list exists, I just think you do not know about it. You spent most of yesterday, did you not, sitting around wanting to be called?

(Mr Fisher) Yes.

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[Continued]

[Chairman Cont]

(Tony Wright) What I would like to know is whether I am on the list. No, that is a serious point. I think individuals might be entitled to know whether they are on a list or not.

38. You might be on a list if I may say, Tony, but you may be so far down the list that you will probably not being called.

(Tony Wright) At the moment we have this daft system, do we not, of members trying to find out if they are on the list and they go and whisper to one of the Deputy Speakers, who may or may not decide to tell them. It is a completely unsatisfactory route.

(Mr Tyrie) The Speaker may not know how long you are going to speak for, so you may not know whether you are going to get called.

Chairman: My colleagues do want to put supplementary questions, we will come back to you. Iain Luke.

Mr Luke

39. With all due respect to our senior backbenchers who, compared with people like myself who are junior backbenchers—although I am a Member of Parliament with the equal right to represent my constituents on issues of importance to them—I know, as a matter of fact, areas to do with emergency recalls there is no chance of me being called whereas you have obviously much higher chances of being called during these debates. My issue is to do with the recall debate. Do you not believe on matters of emergency the Speaker should not be able to rank them in a series of privy counsellors or people who hold senior positions or whatever, and there should be a straight ballot of people who have indicated that they are interested in the subject, who have taken the trouble to travel—in my case 500 or 600 miles—to be here, to sit seven hours but not be called, whereas people may waltz in, as you have said, to debates because they have been here, they may have been leaders of the opposition or whatever, and get called automatically and speak for as long as they like? Is there not a case specifically in minister recalls to scrap what is seen as the Speaker's list and to have a straightforward ballot obviously of members wishing to speak?

(Mr Fisher) No, I do not agree with that.

Mr Luke: Because remember on the other side there is a whole constitutional issue where people like myself are disenfranchised because the Speaker's list is based on seniority.

Chairman

40. Let us ask our witnesses. Mark says no.

(Mr Fisher) No. The good Speaker chooses his or her list because of the distinct contribution that somebody can make. If you have just come back from the Middle East, however new a member, you are going to get called or you should be by a good Speaker, because you have something very important to say to the House, and I think it would be wrong to have a random ballot when it is the judgment of the Speaker. It is one of the most crucial roles that the Speaker has to use his or her judgment and detailed knowledge of the skills and relevance of

a member's contribution in shaping the debate and making sure that all views, including the most up to date and possibly controversial views, are heard.

Mr Luke

41. Do you accept the point that on the last emergency debate on Iraq, no member from the 2001 intake or 1997 and actually the 1992 intake was called in that debate because the debate was structured on seniority? As parliamentarians, do you think that is fair?

(Mr Fisher) A rigid seniority is as destructive, to my mind, as a random list. It is the judgment of the Speaker and the good Speaker will use his or her intelligence and knowledge and it should not be used to prejudice any particular group.

(Mr Tyrie) Very briefly, as a relative new boy—I only got here five years ago—that is not the conclusion I have drawn from watching the way the Speaker calls people in debate. If that was how it was chosen yesterday, it was an exception to what I have noticed is the rule over the past five years.

Mr McWalter: Chairman, it was my question some time ago and I never managed to get the answer in. There has been a great emphasis in all your responses on speaking and it is very interesting at least that we are clear Parliament First does not have a settled view yet, but it might be interesting if you come to one. Speaking is the other side of listening. Do you not think that if you publish a list and you know you are going to speak at ten past three or thereabouts, you might wander in a bit before ten past three. Certainly what enrages me—and I think several others of us—is that those senior members who do get called at ten past three in these major debates have vanished from the scene entirely by ten to four when anybody else is speaking. Is there some way in which we can not only get people to be in the chamber to speak but also be in the chamber to listen? In the House of Lords the reason why they are there to listen is because until they are noted, they do not get their money, and once they have their name on the list they have actually attended and been spotted by the Serjeant at Arms, then they are off until it is their turn to speak. It is not a sensible way of managing things, to have speakers and no-one listening.

Mr Burnett: If you are on the list and you do not turn up you are going to be struck off the list and not be called.

Mr McWalter

42. There needs to be some way of handling debates that goes beyond simply the rights of speakers.

(Mr Tyrie) I think payments for listening would not go down well with the wider public.

43. No, I am not suggesting that.

(Mr Tyrie) I really do not think the situation is as bad as you portray it. Clearly people who do not turn up until just before they are due to speak, if an indicative list was published, would just simply not be called, and people who consistently—I am saying this is how an indicative list could run—just shot out of the chamber as soon as they had spoken would not

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[Mr McWalter Cont]

get on to the indicative list, at best, if they did that too often without a good explanation. So I think it is relatively straightforwardly policed.

Chairman: Can I say to Mr McWalter from the Chair, I think what our witnesses have said is absolutely correct. There is an unwritten code of behaviour in respect of speaking. If you are not there for the opening debate, the opening speeches, your chances of being called to speak, even if you are on a list, are very small indeed. Likewise it is the custom of the House to remain for at least the next two speakers after you have actually spoken in a debate and most Members remain longer than that. There are some who behave badly but that is typical, unfortunately, of any walk of life.

Mr Illsley

44. The Deputy Speaker actually sent one of the whips to where I was sitting to check that I had been in the chamber for the opening of the debate before he would allow me to speak.

(Tony Wright) I think the rules and conventions handle your point and they should be enforced strictly. The question is will people come in if they are not on the list or will they just watch in their room or do something else? To which the answer has to be, if it is interesting, if people are not simply parroting the party line, if they are not being told by the whips to fill up the next ten minutes, they will only go in if it is a debate worth listening to with people saying things which are worth hearing. Can I just give you one bit of good news amongst all this gloom which comes from my mother-in-law who lives in deepest west Wales. In the last few weeks she has acquired a set top box for her television and has discovered the parliamentary channel.

Mr Burnett: What is that?

Rosemary McKenna

45. Digital.

(Tony Wright) She tells me, and she is a person to be reckoned with, that it has been a revelation to her how informed, interesting, intelligent, worth listening to are Members of Parliament. I offer you that as a little bit of cheer.

Chairman

46. Cheer does not generally come from mothers-in-law. We are nearly finished. I do apologise, we have gone on far, far longer than I had planned. By the way, very quickly, do you think there are grounds

occasionally for the Speaker not to call people from one side after the other but actually maybe to call, as the Speaker has done from time to time, say two or three from the Opposition side or two from the Government side? Are there any occasions when you think that going from one side of the chamber to the other might not be entirely appropriate?

(Mr Tyler) Yes.

(Sir George Young) Yes.

(Tony Wright) Yes.

47. One thing, because it affects a Member of this Committee, Iain Luke, do you think there might be a different system to be used in debates when the House has been recalled? Do you think it is important, as Iain Luke has indicated, in a critical debate on a subject like Iraq and a war with Iraq, that it is important to get a balanced view of the more experienced Members and those who are equal in the House but perhaps only have very limited service like Mr Luke who came in in 2001?

(Mr Fisher) I think it is important in all debates that should be the case.

48. That would be the view of the other witnesses?

(Tony Wright) I think the answer is yes.

Mr Burnett

49. This should not take long at all, it is a fairly nonsensical suggestion. Printing of undelivered speeches in *Hansard*?

(Mr Tyler) No.

(Tony Wright) No.

(Mr Fisher) No.

(Sir George Young) No.

Mr Burnett: Good.

Chairman

50. Before we lose our quorum can I thank our witnesses who have really given us excellent evidence. As an irregular attender at Parliament First meetings I think the evidence that they have given across all political parties has been vital to our inquiry. I am delighted that they have come as the first witnesses. Can I thank them on behalf of the Committee for spending the time with us this afternoon.

(Mr Fisher) Thank you, Chairman, for inviting us and for a very interesting session.

WEDNESDAY 29 JANUARY 2003

Members present:

Sir Nicholas Winterton, in the Chair

Mr John Burnett
Huw Irranca-Davies
Mr Iain Luke

Mr Tony McWalter
Sir Robert Smith
Mr Desmond Swayne

Memorandum by the Hansard Society

1. The Hansard Society is very pleased to be able to submit evidence to the Procedure Committee inquiry on procedures for debate, Private Members' Bills and the powers of the Speaker in the recall of Parliament. The Hansard Society, as an independent, non-partisan organisation, works to promote effective parliamentary democracy and provides a forum for views and discussion on parliamentary reform. From time to time, the Hansard Society establishes Commissions to look at issues in greater detail and, where appropriate, to make proposals for change. The report of the Commission on Parliamentary Scrutiny, *The Challenge for Parliament, Making Government Accountable*, published in June 2001, considered some of the subjects covered by the Procedure Committee's inquiry, including the Speaker's role in recalling Parliament and the role of opposition and backbenchers in initiating debates. This evidence provides details on the Commission's proposals on these subjects.

PRIVATE MEMBERS' BILLS

2. The Hansard Society will shortly be undertaking a review of some elements of its 1993 Commission on the Legislative Process, *Making The Law*. Although the original Commission did not consider Private Members' Bills (PMBs) in any detail, we intend to look more closely at this subject in the forthcoming review. The paper will look at whether the current system works effectively and consider, among other issues, whether PMBs are too dependent on government support and subject to hijacking by minority opponents and will put forward a range of options for reform. A copy of the paper will be forwarded to the Procedure Committee as soon as it is published which we envisage will be in Spring 2003.

THE SPEAKER'S ROLE IN THE RECALL OF PARLIAMENT

3. The Commission on Parliament Scrutiny believed that Parliament is hamstrung at times of crisis by the fact that only the Government can recall Parliament and believed that Parliament as an institution should be able to respond to issues as they arise. If Parliament is to be an effective forum at times of crisis, and retain its significance to political debate, the Commission believed that there should be an alternative mechanism for the recall of Parliament and proposed that the Speaker of the Commons should have the ability to recall Parliament at times of emergency. The Commission believed that the recall would have to be instigated by a Member of Parliament and the Speaker would adjudicate claims for recall, along similar lines to that for the choice of Urgent Questions. The Speaker would therefore consult with the leaders of the political parties in making the decision and it was envisaged that a recall would occur only when an urgent development affecting the national interest had to be discussed by Parliament.¹

4. The Commission reported before the decision taken by the Commons in October 2002 that the House should return for a short period each September, prior to the party conferences. This change may mean that the issue of Parliament's recall may not be as acute as it has been in the recent past. However, regardless of the practicalities, the Commission believed that there should be provision for Parliament to recall itself

¹ The Challenge for Parliament: Making Government accountable, Report of the Hansard Commission on Parliamentary Scrutiny (June 2001), (paragraph 7.43-7.44).

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without needing government permission or authorisation. An alternative mechanism that has been put forward is that if a majority of MPs (reflecting party balance) sought a recall, this should be granted.

THE RIGHTS OF THE OPPOSITION AND BACKBENCHERS IN INITIATING DEBATES

5. The Commission believed that there should be improvements to the quality and topicality of debates in the chamber and recommended that MPs should have more opportunities for short debates on substantive issues.² It pointed out that a common feature of many European legislatures (for example, Germany, Sweden) is the “interpellation” or “short debate” where an opposition party (or an equivalent number of MPs) can call a debate on a topical issue or a matter of public concern. The system obliges a government minister to attend and provide an official statement. The debates are more substantial than adjournment debates in that they cover important topical issues and generate a high level of attendance. The closest equivalent in the Commons is probably Standing Order No. 24, which allows for emergency debates, but in practice this procedure is rarely used. In Australia the majority of each sitting Monday is reserved for non-governmental Private Members’ Business. This includes Private Members’ Motions which are vehicles for debating issues of concern which do not result in a vote and Members Statements where backbenchers can make a short statement of up to 90 seconds (or three minutes on certain other days). Arrangement of Private Members’ Business is the responsibility of a Selection Committee of 11 Backbench Members.

6. The Commission also acknowledged the recommendation in the Conservative Party report, *Strengthening Parliament*, chaired by Professor the Lord Norton of Louth, that the Commons should experiment with “unstarred questions”, a practice used in the Lords allowing for 90-minute debates, and also 60 minute “emergency debates”.

7. The Commission however considered that debates sometimes have a limited value in holding government to account and that it might be more effective to extend arrangements for questioning ministers and calling for ministerial statements. The Commission therefore recommended that opposition parties should be able to trade some of their Opposition Days for the chance to call for statement on a topical issue.³ Opposition parties have 20 days (around 120 hours) of debating time on issues of their choosing. It was considered that a straight trade of hours for ministerial statements would probably be unacceptable to government as it would dramatically increase the length of time ministers would have to spend in the House, and the ability to question a minister for an hour is arguably more valuable than three hours of debate. The Commission proposed that there should be a ratio of, say, four statements for one full day’s debate and that the opposition parties should be able to trade a total of a quarter of their time (five days) for 20 extra statements.

8. A further recommendation in this area was that the Speaker should grant more Private Notice Questions (now Urgent Questions)⁴ Given that scrutiny is a task for all MPs and not just the Opposition, Urgent Questions have an advantage over Opposition Days. The current rules governing the use of Urgent Questions mean that few requests are permitted. The decision would still be at the discretion of the Speaker, and the practice relatively infrequent, but may represent a more effective strategy for the backbench MP.

PUBLIC INTEREST DEBATES

9. The Commission recommended that there should be specific provision for “public interest debates” motivated by policy failure or maladministration on a broad scale.⁵ Many MPs regard representing their constituency as their most important role and the constituency experience is an important valve for alerting MPs to policy failure. For example, MPs knew about the problems of the Child Support Agency and the Passport Agency long before they were debated in Parliament, but there were limited opportunities to raise issues on substantive motions. MPs should have the opportunity to call a short debate and require a ministerial response on such issues where there is a clear case of policy failure. These would be similar to the emergency debates under Standing Order No. 24, but they would be specifically linked to the concerns of constituents. The trigger for such debates would be a specific number of MPs (it was suggested between 150 and 200) drawn proportionately from all the parties. The cross party requirement would prevent potential abuse by pressure groups or manipulation by the whips. The system would effectively allow Early Day Motions to force a debate, but given the number of signatures and the cross-party balance this would only happen in rare cases. Public interest debates of this type would come within the procedures for interpellations in European legislatures.

² *Ibid* (paragraph 4.30).

³ *Ibid* (paragraph 4.32).

⁴ *Ibid* (paragraph 4.33).

⁵ *Ibid* (paragraph 4.34).

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A PETITIONS COMMITTEE

10. On a related issue, the Commission considered the role of public petitions in placing issues on the parliamentary agenda and believed that petitions were one method of engaging more systematically with the public interest. 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. Many petitions are submitted to Parliament each year but they rarely, if ever, translate into parliamentary action. This is in contrast to the Scottish Parliament where the Public Petitions Committee plays a pivotal role in connecting the public and the Executive. All petitions go to the Committee which then assesses the merits of each submission by consulting with the Executive, MSPs and, if necessary, taking evidence from individuals and organisations. The Committee 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 on for further consideration by the relevant committee or department. The Commission recommended that a Petitions Committee should be established in the House of Commons to assess issues of public concern and if appropriate to make referrals for debate or committee inquiry.⁶

11. We do not submit any evidence on the subjects of lists of speakers in debates or printing undelivered speeches in the Official Report. If the Society can be of further assistance please do not hesitate to contact us.

Alex Brazier, (Senior Researcher),
Clare Ettinghausen, (Director),
Parliament and Government Programme
Hansard Society

15 January 2003

Examination of Witnesses

MR PETER RIDDELL, Vice-Chairman of the Hansard Society's Commission on Parliamentary Scrutiny and
MR ALEX BRAZIER, Senior Researcher on the Parliament and Government Programme, Hansard Society, examined.

Chairman

51. Can I welcome representatives of the Hansard Society to the second evidence session of the Procedure Committee as part of our new inquiry? I was interested to read that the Society was formed in 1944 to promote the ideals of parliamentary government when it was seen to be threatened by Fascists on the right and Communist dictatorships on the left. It was founded by Stephen King-Hall, an MP and popular broadcaster. I think you might fall into that category, Peter, if I may say so, but some of the first supporters were Winston Churchill, Clement Attlee, then Prime Minister and Deputy Prime Minister, and since that time the Prime Minister of the day and leaders of the main Opposition parties have very openly and publicly supported your work. Can I welcome you and say thank you very much for coming? Thank you very much for the paper which you have submitted to us. I know Alex Brazier from another incarnation that he has had and I know just how committed he is to the House of Commons and the role it plays. How effective are debates in the House of Commons and how could they be made much more effective?

(Mr Riddell) The Commission was chaired by your former colleague, Tony Newton, and had representatives of all parties on it. It had members of the House of Lords, academics, a couple of journalists and people from outside interest groups which were particularly valuable and people from business. It was also advised by certain clerks which was extremely valuable, not only to keep us on the straight and narrow but to raise an eyebrow when we

were getting too adventurous. In the report which you have seen a summary of, a lot of the focus was on select committees and scrutiny in that way but within the report there were three points. I have read the evidence from last week and so has Alex, which touches on what was there. One theme of the report was strengthening the House as an institution. One was Parliament as the apex of a whole system of scrutiny and examination. Third was that the role of the chamber needed to be redefined. In our chapter there, we feel that many of the current debates are wasted opportunities. They are, in terms of outsiders, a rather antiquated form of expressing opinion. You can say anything about newspaper reporting and there can be a whole separate debate on that. It has been going on 30 years, but it is not going to change. A six hour debate where people get up and talk to 20 people or whatever in the chamber is a pretty bizarre way for opinions to be expressed. It can be done more succinctly, more effectively and make it more interesting in different formats. That was one of the central thoughts that came out of our discussion: the feeling that a lot of debates were not an effective way of expressing opinion. That is not to say that there should not be opportunities for two groups, which came out of your discussion last week, the balance of the Opposition parties as parties and back benchers. Often those lines are blurred when we talk about possible changes. Our own feeling—and we came up with various ideas, some of which your own Committee in parallel and one additionally has looked at—is of shorter, sharper opportunities for back benchers and Opposition parties to raise ideas. That was our suggestion, particularly in relation to

⁶ *Ibid* (paragraph 7.45).

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[Continued]

[Chairman Cont]

what are now known as Opposition days. There are 20 Opposition days, by and large a waste of time. I have practically never heard an Opposition party, which after all has the power of initiation, put forward a proposal in a debate. They do it in a press conference, for your party in Smith Square, for Labour in Queen Anne's Gate and for the Liberals in Cowley Street. It is regarded as a bit of a knock about. I would suggest a trade off of opportunity both for parties and for back benchers for shorter, sharper opportunities to put the executive under scrutiny.

(*Mr Brazier*) If I can add a couple of themes that the Commission picked up which are relevant to this, firstly, that the House of Commons should move towards being more of a committee based Parliament so that less was done on the floor of the chamber and more was done in committee and more of the work of the committees would come into the chamber.

52. Could you perhaps be a bit more specific? How could more work of committees come into the chamber, unless you are saying there should be more or lengthier report stages or that there should be more stages of a Bill, for example some part of the committee stage should be on the floor of the House. Are you saying that?

(*Mr Brazier*) No, but more select committee and scrutiny work. It was a scrutiny commission and we did not look particularly at standing committees but the feeling was that more work from select committees should be picked up on the floor of the chamber.

Mr Burnett

53. I have not understood that.

(*Mr Brazier*) Rather than having a handful of opportunities for select committees to be debated on the floor of the chamber, there would be more opportunities for the findings, the recommendations, debates on particular evidence coming out of select committees.

54. You are adding in the whole problem of Parliament itself as a chamber, which your colleague was criticising.

(*Mr Brazier*) Part of one of the recommendations was that there should be one day a week when the chamber should not sit, solely for committees. There would be a shift towards a more committee based Parliament.

(*Mr Riddell*) One of the ideas is parallel to the idea which you proposed and which was unfortunately voted down last October, which is that at present select committee reports, when they are debated—exactly the same as is happening today in the Public Accounts Committee—I will wager that 90% of the speakers apart from the Financial Secretary will be members of the Public Accounts Committee. The same is true on the whole with the Westminster Hall debates. Our suggestion is to have much shorter, sharper things. Within, say, a month of the select committee report coming out, you would have half hour or 40 minute exchanges on the floor of the House, very sharply time limited, focusing on some very tight points, producing a reply of substance. For example, there is a report today from the Defence

Select Committee about Fylingdales. There was a statement in the House on that a week or two ago. That would be a perfect example, something which arouses very strong emotions in the House, for short, sharp exchanges. The issue would be highlighted. I can think of a number of reports, a number of committees you have been involved in, Sir Nicholas, and other committees which, because of the time the government takes to reply to them, get forgotten. You would have a short debate taking up 40 minutes or so on some of the main points of the inquiry to highlight it to your colleagues.

Chairman

55. Would you say that it was a debate or would you say that it was a statement and then the minister would deal with questions from across the House? If it is a 30 to 40 or 45 minute debate, would it be a debate or would it be members picking up important issues from the select committee report in question and putting questions to the minister who was responsible, whose department would be replying to that report in due course?

(*Mr Riddell*) There is an interesting blurred line there. I agree with the premise of your question. I think it would be more like a question but when does a long question become a speech and when does a short speech become a question? You get into a fine line there and you would be slightly changing the rules on that. I am not too fussed about which way you approach it from. I think we would know what the product looked like.

56. You ask when does a question become a speech. When Mr Speaker intervenes and says, "The Honourable Member has been going on too long; would he bring his question to a conclusion?"

(*Mr Riddell*) You would accept that the conventions would be different.

Mr Burnett

57. Most of us have great sympathy for this because no organisation known to me that is effective in the commercial or any other world, except possibly some councils but I do not know how they run themselves, organises their activities in the way we do. It is simply not suitable to challenge the executive and bring the executive somehow to heel. We had an example today of some DTI questions. You bob up and down; you get one question of the minister, no chance of a supplementary and I got a nonsense reply. She had not even begun to understand what I was asking her. Do you think the construction of the chamber is adrift? Can you tell me how you foresee the format in which we debate or question ministers and hold them to account? Is it something along the lines that we are doing now with you?

(*Mr Brazier*) We had a whole range of different proposals so that back benchers in Opposition would be able to call ministers to account in addition to the ones we have at the moment. Some of those we put in the memorandum for emergency debate or public interest debates, either in Westminster Hall or in the chamber. We wanted a whole range of different ways and one thing we did suggest was that Parliament should experiment with different ways of working to

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[Continued]

[Mr Burnett Cont]

see if they work. Some things will work; some things will not. After a certain period an evaluation should be made of why they have not worked if they have not.

(*Mr Riddell*) Something that did work quite well is that in Westminster Hall you now get some longer adjournment debates. They are more like some of the ones you were used to in the old days when it was private members' motion days. You can have an hour and a half debate on a local issue. There was one last week to do with a hospital in Sussex where a lot of local members spoke. That struck me as exactly something which expanded out of the half hour where the member starting the debate is terribly reluctant to let anyone else in. If you have an hour and a half, there is time when it is often a local issue like a hospital, where you would probably get half a dozen members affected. That struck me as exactly what should happen. That was an example of a successful experiment. In some other cases they do not necessarily work out. Sometimes on Thursday afternoons there has been shifting and in select committee debates and having a full one becomes terribly repetitious. That is why I would try something different but the idea of having pilots and experiments which are then properly evaluated by your committee or another committee is desirable.

Chairman

58. Can I ask whether, in respect of this proposal, you are seeking to isolate it to the 20 Opposition supply day debates, because if you are not it is very difficult to know how the House is going to bring it about. Currently, the government controls the order paper and, to all intents and purposes, the business of the House so unless you are going to say, "This change will come in those slots which are the 20 days that the Opposition has for subjects of their choice, mainly the Conservative and Unionist Party but also the Liberal Democrat Party and other minor parties".

(*Mr Riddell*) I understand the premise. It also depends on what you do with legislation. In practice it has to start with the 20 days. Then you get into issues like a business committee and the allocation of time.

Mr McWalter

59. I would be a bit worried by your idea that a six hour debate or whatever is *passé*. It seems to me that, just as you can have issues where it is clear that a short debate is appropriate, I was on the Science and Technology Select Committee and I suspect a six hour debate on nanotechnology might be extremely welcome. A lot of people might find out what is involved in that and it gives them an opportunity to explore all the implications of the issues. We do not use the six hour debate at all well because members come with prepared speeches. They read the speech out and even if somebody else has said exactly the same thing it does not deter them from reading it out. The government wants that speech read out because that is often from a friend and that is stopping somebody who might not be quite such a friend from being able to make a rather more telling

contribution. Clearly, it is not just on technical matters. The debate on Iraq was suppressed and much shorter than members would have wished and I suspect the public would have wished. Also, if you do get a chance to speak, you do not just speak to 20 people. To start with, there are monitors all over the place. Secondly, whatever you say is reflected back when you next ask a minister a question. They go back and find out what you thought about it. I would be a bit worried to start from the position where you seem to be starting from, that that classical way of doing things is wrong. I would want to say instead let us make that right and, in addition, we could bring in some of these other ideas, not least into the evenings, where we have some very interesting submissions about how the evenings could be used more effectively.

(*Mr Riddell*) Journalists, every May or June, write stories about Cabinet reshuffles and they are always brilliant at writing about who is going to get promoted. They are not always very good at who is going to get sacked. If I might draw a parallel, it is always very easy to advocate new ideas without saying where you are going to cut. Tony Newton, as the chairman of the Commission, brought a dose of world weary reality to our discussion. If you are going to propose something, where is the balance? I have been a journalist here for over 20 years now. On the big subjects, Iraq is a classic example, the Lords debate next week and the Lords debate previously, that is a format for long debates and arguably longer debates. On some subjects, in reality, the format of using the full chamber, you are primarily talking to a small group. That can be done in other ways. Where matters of intense public interest are concerned, often a shorter, sharper thing will get the wider impact. It is time to think more radically about the format of debates. You are politicians; I am a journalist; we are used to a certain type of discourse. I suggest that a very high percentage of your constituents, particularly the younger generation, regard it as weird.

(*Mr Brazier*) In the same way that private notice questions, urgent questions, can come onto the agenda as statements, some of these suggestions could come in at a similar sort of time for an hour, so they would not eat into a massive amount of time but would come in when the case was made for them to be taken.

Huw Irranca-Davies: Whilst I think it is right to try some experimentation because unless we try things we will die on our feet, I fail to see quite how going back to short, sharp debates will avoid the situation my colleague was referring to which is the debates still being stuffed full of either loyalists or the usual contenders and so on. Linked to that, how would that enable more access for back benchers such as myself with the 2002 regime and so on. You mentioned adjournment debates and I would again invite your comment. The benefit of adjournment debates is that the agenda is wrested from the government. It is set by the back benchers. I would be interested in your thoughts on how much more of short, sharp debates or longer debates should be set outside of the government by a business committee or by back benchers through adjournment debates and whether the evenings or other times could be used for more of that to hold the government to

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[Mr McWalter Cont]

account. I see more potential in drawing the government to account that way rather than perhaps the length of debates.

Chairman

60. Two colleagues now, Tony McWalter and Huw Irranca-Davies, have raised the feeling that is bubbling up since the new timetable came in a short while ago that there is a waste of parliamentary time on a Tuesday and Wednesday between seven and ten. Would some of the ideas that you put forward and some of the ideas that Huw has mooted fall into these particular slots?

(Mr Riddell) We are in early days. I do not quite take the view of Zhou En-lai when asked about the French Revolution who said, "It is too early to tell." There is an interesting potential in the evenings, especially as a lot of the staff are here. There are some areas where there are not votes and a lot of debates that we are talking about could happen then. We are not saying that all 20 days go. Some of the days might be traded for a variety of things. There have been massive changes in this House in the last decade. If you went back a decade, you would see a very different place. Therefore, some of it would be to give the right to get a minister to the floor of the House. Ministers make statements but a lot of things they do not want to make statements on. That would give the right to the Opposition. It would also be for back benchers too. This was implicit in the idea voted down of a topical question, enabling back benchers to do that. The adjournment debate is a very good thing. It is a classic part of your representational role, to raise a grievance on behalf of your constituents. One of the best bits of Westminster Hall are the quasi-local issues like the hospital I mentioned. I would not want to do away with that at all. Some of the set piece occasions are inward looking things where the time is not properly used.

Huw Irranca-Davies

61. Do you feel that would make the government more accountable and it would have a more incisive analysis of the government's position with a shorter debate?

(Mr Riddell) On some issues, yes. It depends, but mainly by having ministers talking. One of the biggest changes and gains of select committees is not necessarily reports but that, at the table, you get a minister and civil servants answering. That did not happen before. Sir Nicholas's experience goes back 30 years. He remembers pre-1979—there were few select committees—the degree of opening up of government produced by committees. A classic illustration of where it went wrong was going back to the poll tax. The environment committee at the time decided not to have a report. The subject was too contentious, to its terrible shame. It should have had a report because some of the problems would have come out. It is forcing people to account. The more you increase that, the more you do your job.

Mr Burnett

62. I agree that many set piece debates are artificial, ineffective and choreographed. I am a great believer in having far more informal, direct questioning, a member direct to the minister, not through the Chair. Is there any overseas legislature that you could recommend that has a procedure that is effective so that a member is not stuck with just one question; he can go on and on and, if necessary, on and on again at the minister until the minister gives him or her some answer or is forced to say, "I do not know"?

(Mr Brazier) I am not sure we have direct evidence that they can go on and on until they get the answers. On select committees they can.

63. I am talking about taking this to the floor of the House.

(Mr Brazier) Most of the European legislatures have the provision for emergency debates or emergency statements where the opposition or a party balance of MPs can call ministers on a particular question. I am not quite sure of the length of time but they have a mechanism to get that on.

64. In 24 hours?

(Mr Brazier) Yes, very quickly.

65. They can instigate it immediately?

(Mr Brazier) Not immediately but very quickly. In Australia, they have a whole day for private members' affairs or business.

66. A day a week?

(Mr Brazier) Yes, Mondays. They have debates. They have 90 second statements where you can put anything on the record. Most of the Mondays are for private members. Most European legislatures have something to bring members debates forward if the House calls for them. We have urgent questions and Standing Order 24 type debates but they are very rarely used. It is very much part of our proposal that there should be some mechanism to get them onto the agenda.

(Mr Riddell) There have been occasions where front benchers have not wanted to discuss an issue. I remember during the miners' strike neither the government nor the official opposition wanted a debate on the miners' strike. There was no serious discussion about the miners' strike for a period of a couple of months. Clearly, there was a lot of back bench opinion and day after day they were saying, "Why cannot we have a debate?" I remember Speaker Weatherill's frustration. He had no real mechanism and opportunity to give private members, on a national issue, a limited right of raising an urgent matter that perhaps front benchers did not want raised.

Chairman

67. Are you suggesting that the House should be enabled—not the government—for instance since the report by Hans Blix on Monday to have a debate on Iraq? Are you suggesting there should be a mechanism to enable the House to demand, to insist,

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to organise, irrespective of what the government or, for that matter, the main Opposition or other opposition parties' leadership might say?

(*Mr Riddell*) Subject to certain safeguards, yes. You batted around last week about whether you have a trigger mechanism of numbers of members. It is a very difficult balance but yes, basically. I believe that when something is an urgent matter it should be debated. You would have to have some safeguard to ensure this was not just one section of one party across the floor and some kind of trigger mechanism for it, preferably something like a business committee to intermediate.

Huw Irranca-Davies

68. I am intrigued by what my colleague, Mr Burnett, just said. Do you see any possibility of this experimentation for the opportunity to follow through not just for government ministers? We see that at the despatch box where the Opposition leader and the Prime Minister will come back and forth at each other. For example, a trade off. Instead of ten minutes speaking, a back benchers could come full force for five minutes, sit down and come back for another few minutes if the questions have not been answered because that would give an opportunity for follow through and be more effective than one hit.

(*Mr Brazier*) We did not recommend that but that would be part of what we say for experiments, that any good idea should be looked at. The key is to have a proper evaluation.

Chairman

69. That is the one opportunity for people on select committees of coming back and driving a question until they are either satisfied or the minister succumbs and admits that he or she has not the answer. Not many are prepared to admit that. You recommend short debates on substantive issues. I refer to paragraph five of your paper. How important is it for such a debate to take place on a substantive motion so as to allow a vote at the end of it? I say that as distinct from a debate on the adjournment, such as the one and a half hour debates on the adjournment in Westminster Hall. What would be the advantage of this?

(*Mr Riddell*) I think it is the subject, not the vote. The House has to be given the opportunity to vote on issues but a lot of the time you spend voting is a waste of time. It is formulaic. Thank heavens we do not have the position in Congress where your opponents are going to say how you voted on X and Y. It is more important to have the issue raised and to force the minister to give an answer. I would not have votes for those things, no.

(*Mr Brazier*) There are very few opportunities other than opposition day debates which end with votes. I think the idea was to have occasionally the potential for some debates that would have a substantive motion but they would not by any means be the majority.

Mr Swayne

70. Despite the rather surprising suggestion that we might do something between seven and ten, it is unfortunate but I suspect that outside this room that would be regarded as a rather controversial suggestion, that the House should sit for longer hours. We are really dealing with the additional time that might be made available as being what is currently the Opposition's time. During our last inquiry, I did suggest to the Leader of the House when he came to give evidence that the Opposition would be prepared to trade some of its days for a guaranteed number of private notice questions. He said that he was very interested in that suggestion and would want to reflect on it, so I suspect that door is still ajar but for the moment therefore we are still stuck with the additional emergency opportunities, if you like, as being the private notice question. Are you happy with the criteria currently used for determining whether we get an urgent question? What would you suggest should be the criteria for determining whether the Speaker holds an urgent question or not?

(*Mr Riddell*) It depends how much weight you put on the Speaker. This is a very serious issue. Lots of suggestions can be made on a whole range of things like the recall of Parliament and so on where the Speaker will decide. An awful lot of weight has been put on any Speaker and past Speakers I have discussed this with say, "Hold on, there is a limit." The first part of your question about the suggested trade-off is a much better solution because of the pressures on the Speaker. I would want to tilt the balance more so that it is of right that the opposition says, "We want this when the government is resisting it." They have a certain number of times they can claim. I have always been in favour of the Speaker annoying the government occasionally. The Speaker will sometimes say to the government, "I am going to give a private notice question unless you come up with a statement" and, surprise, surprise, there is a statement. I think this is putting a little too much weight on the Speaker. I would tilt the balance more.

71. How about considering the opposite circumstance where the House might decide that it does not want to hear the statement, as they have the power to do in the House of Lords? They can decide not to take a statement. There are times when governments might find it expedient to put a statement on to delay proceedings past critical media opportunities etc; or if the House has been abused by a statement having effectively been given on the early morning news programmes. Do you think that is a power that should be available in the Commons as well as in the Lords?

(*Mr Riddell*) It might be an idea to fix a minimum time for second reading debates or the big debates to prevent three statements, half hour points of order and your debate goes down to four and a half hours. It is a bit hard to say, "No, we do not want to hear." My memory goes back to Enoch Powell objecting to a statement because he regarded it as trivial. He is the only member I have ever heard say that. On the media point, the change in hours changes all that and the world is different now.

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[Mr Swayne Cont]

(*Mr Brazier*) Our general view was that there should be more rather than fewer statements, so we did not consider that possibility.

break for lunch and come back with the afternoon's business being the legislative programme or the main debate.

Chairman

72. Do you agree with Peter Riddell that if there are going to be more statements, when you have a second reading on that particular day, there should be a minimum time for the second reading?

(*Mr Brazier*) Yes, I think that is probably very important. Sometimes if we have two or three statements together, which I have seen in the past, it can eat into the time.

73. How would that be achieved?

(*Mr Brazier*) The Commission did say that there should be a business committee or a steering committee. That underpins quite a lot of the things we have talked about.

74. We heard a little about the business committee last week from Mark Fisher and his colleagues and I felt their evidence was excellent. Are you prepared to add briefly, in dealing with Desmond Swayne's question and the supplementary that I have put, any more explanation about this business committee and how it would operate?

(*Mr Riddell*) In the very early days of the devolved parliaments, we had a very interesting visit to Scotland. They have an effective business committee which is chaired by David Steel. It has whips on and it also has representatives in the Scottish Parliament and not only executive parties but one or two individuals. There is weighted voting there but it ensures transparency. It is an antidote to the usual channels. The executive parties on the whole get their way but they have to argue it. What was suggested by Mark Fisher and his colleagues last week was something with just back benchers on. In practice, you would have to have a kind of hybrid committee because I cannot see the whips not being involved in some time allocation. You have a mixture, rather like the House of Commons Commission, of back benchers and so on and it becomes a transparent committee. The minutes are published and so on. We know what is happening. Transparency is a great virtue because some things people are prepared to do behind the scenes they find it a damned sight more difficult to do if they have to justify them publicly. They can still do things which we do not like but they have to justify them. In terms of deciding on length of debates and things like that, you have to be more open. It does not mean the government would not get its way a lot of the time, but you have to argue the case. On minimum debates, it would not be from, say, 12.30 to seven but you would say that second reading debate has to last at least five hours or something like that to give you a bit of flexibility. On the business committee point, the main virtue we saw in that was transparency plus representation of back benchers.

Mr Swayne: One of the more bizarre suggestions for protecting the legislative business or the main debate was the Opposition proposal that the House should meet at 9.30, have the morning given over to statements, questions and short, sharp exchanges,

Mr Burnett

75. Early day motions are unfortunately an impotent procedure and they are sometimes called the graffiti of politics. We have talked a little about trigger mechanisms but how would you trigger or find a threshold for something like the early day motion to precipitate a debate and how would you draw proportionately from the parties so as to ensure that the procedure is not abused?

(*Mr Brazier*) In the Commission, we suggested somewhere between 150 and 200 members drawn proportionally from the House as a whole, across the parties, should be enough to trigger a public interest debate. The examples we used were the Child Support Agency and the Passport Agency, both of which had massive impacts on MPs' caseloads but took quite a while before they ended up going through the parliamentary agenda. We felt they were good examples of something that MPs across the parties would have said were issues that needed to be debated now. They probably would have got a debate through that mechanism. It would be the early day motion becoming a trigger for a debate. That would give it some sort of meaning and purpose. We did not come to a definitive number. We thought roughly between 150 and 200.

76. Roughly 25% of Members of Parliament?

(*Mr Brazier*) Assuming the payroll vote were taken out.

77. 25% across the three main parties?

(*Mr Brazier*) Yes.

78. What about the Nationalists?

(*Mr Brazier*) It was as a whole.

(*Mr Riddell*) This is where you want a business committee as an intermediating body. I am sceptical of mechanistic solutions on this. There has to be a bit more discretion. Perhaps there should be guidelines for a business committee rather than an absolute insistence. I am slightly sceptical on just totting up the numbers on an EDM. It ought to be an indicative thing to be taken into account.

79. What other indicative factors should be taken into account?

(*Mr Riddell*) Topicality, seriousness and so on.

80. Importance?

(*Mr Riddell*) Like the Iraq example, which clearly meets every possible criterion.

Mr McWalter

81. I am interested in your phrase "mechanistic" because speaking as a back bencher if I know what the rules are and I want to achieve an aim and there is a mechanism there which triggers that activity, I know what to go for. Stuff that goes before the mechanism is activated is all very human, political work in order to try and get people from the Opposition, say, to take an interest in the issue. Last week we had a debate in why on brain injuries, for instance, and I am quite sure we would have got out

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[Mr McWalter Cont]

of that had such a mechanism existed an effective early day motion which would have had all party support and could have raised that issue far higher up the political agenda. I would be worried if the Committee took that reference to mechanism without contesting it. Mechanisms give us power.

(*Mr Riddell*) Perhaps necessary and sufficient condition would be a way of doing it. There might be a trigger level for the numbers. Then you would have the business committee assessing what could be quite a number of things like the threshold. What slightly worries me is the practicality where you could probably get quite a lot of motions which meet the criteria Alex has set out and you then have to choose between them. It would be necessary for it to be considered by the business committee but it would not necessarily automatically mean it would be debated.

Mr Burnett

82. With respect, that does not overcome Tony's very good point that unfortunately discretion can emasculate Members of Parliament. Do you take that point?

(*Mr Riddell*) Of course. A committee which has back benchers on it would reduce some of the fears. I understand exactly what you are saying but I just see very practical difficulties.

Chairman

83. I am interested that you are so committed to a business committee comprising the usual channels and back benchers and that you appear to believe that the Speaker of the House of Commons would be over-burdened if any of these additional responsibilities were imposed upon him or her. Is that widely shared by members of the Hansard Society, by all those within your Commission under the chairmanship of Lord Newton?

(*Mr Riddell*) We had a bit of discussion on the recall of Parliament point, where we did make a recommendation and we suggested that the Speaker should consult. I am not saying that the Speaker should not decide. On the business committee it is different. I am merely wary of putting too many highly contentious issues on the Speaker's back. If you have too many on, it results in the Speaker being attacked from all sides more than the Speaker inherently is in the rough job he or she has anyway. In some respects, the Speaker would be the person to decide after consulting a business committee. In some respects, I would see the business committee as a consultative mechanism and deciding in terms of the allocation of time and things like that. On other things, the Speaker could consult. It is all to do with transparency.

Mr McWalter

84. If the Speaker is the custodian of the whole democratic forum which Parliament encapsulates, a vital component of that is the rights of back benchers. It is a tough job and I cannot understand why one should not say that that job requires, in addition to some of the functions that are currently

carried out, an additional set of functions in the light of the new pressures that Parliament is facing and that makes the job of the Speaker tougher. Hard luck, but that is what in the end we as parliamentarians want the holder of that office to do. Do you see that there is a point? We do not want to hold off for the Speaker.

(*Mr Riddell*) If you extend the remit of the Speaker, you can do it to a limited extent but if it is going to work on some issues, if you have the Speaker consulting a business committee or whatever, you would get better results. It is a matter of degree. It is a shady matter. I would be interested to know if you are going to take evidence from Speakers Boothroyd and Weatherill. They might have quite interesting views on that and in the past they have always expressed some scepticism about too much being added on, given the balancing act they have to do.

Chairman

85. You do not think it would give them greater authority in the eyes of back benchers in what they are able to do in consultation and discussion with the government of the day?

(*Mr Riddell*) In some areas, yes; in some areas, I think they would benefit from having consultation with a business committee. It varies.

Mr Luke

86. I am going to concentrate mainly on the area of Private Members' Bills, although I will raise an issue at the end of my questions on a point you have raised that we have not investigated at this stage and that is the role of a business committee which you make comment on. Can you give us your initial thoughts on Private Members' Bills from your own review of *Making the Law*? Secondly, you have made the point in paragraph two of your paper that one of the issues is whether Private Members' Bills are too dependent on government support. The main issue here is how can that be lessened. Lastly, there is the problem of the shortage of time for debate and we have raised some issues to do with the new hours. Would it be feasible in the twilight hours after seven on, say, a Tuesday and Wednesday to have a specific session on Private Members' Bills, therefore increasing the number of Private Members' Bills the House can consider? It is my recollection when we were looking at the modernisation agenda that this had been raised as a possibility. Lastly, you may recognise that I share the Westminster parliamentary seat of Dundee East with a Scottish colleague, John McAllion, who is on the Scottish Parliament. He is also chair of the Scottish Parliament's Public Petitions Committee so I am aware of how that works and I am very appreciative of the role of that committee. I have raised these questions with the Leader of the House in business questions but I would like to hear more about your views. I know from your comments that you support the option of such a committee so could you say a little more?

(*Mr Brazier*) The Hansard Society has just started a project looking at Private Members' Bills. That is part of our review of *Making the Law*. We are at the very early stages. We are collecting research and we

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[Continued]

[Mr Luke Cont]

hope to bring out a paper which identifies options for reform. I do not think we are going to recommend specific ways that you should go but we will lay out the options. The main areas we are looking at are that Private Members' Bills are too easy to oppose. They are too vulnerable to destruction from, on the one hand, the Government and the Opposition on the other. They have problems from both sides. It is often said that they seem to be a sub-species of government Bills now. The government essentially decides on the Bills it wishes to go through under the Private Members' procedure. Many of those are minor, technical or hand-out Bills. Any controversial Bill would need extra time granted by the government and usually fails to get that. There is the whole side of the government's approach to Private Members' Bills and there is the Opposition side where they object and filibuster the procedures, which can also destroy a Bill. The current process is very vulnerable. We are going to look at how the procedure of objecting and filibustering dictates things. We will also be looking at whether there should be extra time used on Tuesday or Wednesday evenings for the report stage so that it is harder for things to get talked out. We have not come to any conclusions yet but they are the areas we will be looking at.

(*Mr Riddell*) We did not look at the Private Members' Bills within the scrutiny commission because we had a lot else to do. This is a big, discrete area on its own. I was very struck by the evidence given to you last week. It is ensuring not necessarily that there are more Bills but that those Bills are properly looked at. At present, there are two hurdles. The initial hurdle is the ballot and then there is the hurdle of what happens at 2.30 when someone shouts, "I object". It is almost a whim of when someone has got through. Now we have carry over legislation, I would have thought that Private Members' Bills are a classic example of where they benefit from prelegislative scrutiny quite a lot. That may take a longer time so you may be talking about a more considered process. A lot of desirable Bills which get through the first part get knocked out for completely arbitrary reasons, not because they amass an enormous vote against but because of some of the weirder procedures of the House. I want a narrow funnel at the beginning but then a much more considered process for looking at, if necessary, carrying over and prelegislative scrutiny.

Chairman

87. Do you think that some of the hurdles in the way of Private Members' Bills historically have been because they are exactly what they say they are? They are Private Members' Bills and they have not appeared in any party manifesto. Therefore, there has been no widely expressed support for them, as there is for policies that are declared by the major parties in their party manifestos which form a very vital section of what is publicity and promotion, leading up to a general election.

(*Mr Riddell*) There is that element but in practice a very high percentage now are things that cannot fit into a Queen's speech. You neither want a Bill too easily proposed or too easily opposed. There are two

lots of obstacles at present. One, rightly, is that there is a hurdle to get over at the first stage but they can be easily tripped up, nothing to do with their merits or the strength of the House and so on. It is the latter part of the procedures which needs to be focused on. Unfortunately, the commission did its work right at the beginning of the Scottish Parliament or the Welsh Assembly and we acknowledge our knowledge of that was out of date. It was a classic reconnection of voters and Parliament. With the mechanisms which apply in Scotland, issues which concern the voters can be fed through the system rather than the procedures you have at 10.30 when someone gets up and reads a petition, which is weird. With the proper safeguards and sieves, it is another method of saying that your voters can get issues raised. The more that can be done, the better, without overloading you as individual Members.

(*Mr Brazier*) That would be a classic example of how monitoring, evaluating or piloting would work. Try it for a couple of years. See if anything useful did come through that route. See if the filter system got rid of the wacky petitions and was all working properly and then evaluate it perhaps after two years.

Mr Luke: It is my impression from its inception that there has been a review of how to ensure that the petitions which are wacky are taken out, but it is my perception that it has played a very useful role to allow not only individual groups but voluntary organisations and so on to make specific representations which, channelled through the petitions committee, do not have a chance to get on to the floor for a debate.

Chairman

88. Are you saying, in answer to Iain Luke's question, that the petitions committee in the Scottish Parliament, you think, could be translated to good use for the benefit of the UK Parliament as a whole?

(*Mr Riddell*) We ought to seriously consider it, yes. The report is nearly two years old. We were basing it on the initial experience. Mr Luke is far more up to date than we are on it. I would not want to give too definitive a judgment. My own knowledge of it is out of date. It certainly ought to be looked at seriously.

89. Alex Brazier also gave a response to one or two of the questions that Iain Luke put, that you are currently looking at these matters and that you would be producing a report. Can I ask when this report is likely to be available and whether or not it will be available in time for this Committee to take account of what you are likely to come up with, so that we could include consideration of these matters prior to producing our own report?

(*Mr Brazier*) We hope to finish it by the end of March.

Huw Irranca-Davies

90. I would like to ask something that goes to the very heart of the relationship that the Speaker has with Members and the government. It is the power of recall. Obviously, we have had one major occurrence last year where there was a strong will within the Members and back benchers that the House should be recalled and it delineated itself in quite a different

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way when there were calls for it to be held outside, which I do not think is desirable. What do you think would be appropriate changes to the role of the Speaker to enable him to reflect the voice of the Commons when it is expressed so strongly in terms of asking for a recall?

(*Mr Brazier*) The commission recommended quite strongly that the Speaker should have the right to recall Parliament and that the current situation where only the government can recall Parliament should be changed. We did not go into details about how he should do it or how he should consult. It was implicit that he would consult with all the right people. Another suggestion which was made was that there should be some mechanism where, if there was a majority of MPs or whatever, that should be allowed. The main point was the transfer of authority and permission from the government to Parliament. The commission is almost two years old now. This was before the change to bring back Parliament in September. In reality, you probably will not have the other situation because the period of time Parliament is not sitting will be much shorter but the principle remains the same; the authorisation should move from government alone to Parliament.

(*Mr Riddell*) It is purely up to the Speaker who he calls in debates. He is unchallengeable and that should remain so. I would go beyond what we recommended when we said consulting with parties. That goes back to the business committee point. To have back benchers also there is very important. It is very important not only to consult the chief whips of the parties but also representatives of the back benchers so that you would not narrowly do it. It is unlikely that all the main parties would not want to recall but you might get the two largest parties not wanting it and the minority parties wanting it and the back benchers wanting it. The Speaker would have a fine judgment. I agree with the consultation but leave the decision absolutely to the Speaker. It is much less acute now that we have the two week sitting in September. The present basis is dependent on the Prime Minister's whim and I think that is unsatisfactory.

91. Would you suggest that such a decision should be justified through the transparency of it as well so that—?

(*Mr Riddell*) What we are talking about is the House is not sitting and everyone is all over the place. There are mobile phones and I think the Speaker is probably aware of mobile phones. There is a quick phone round in practice. That is the case where you could not have a meeting because by definition the House is up but as the Speaker's decision it would emerge "I have decided X or Y" but "after talking to . . .".

92. I appreciate what you say about the need for the power of discretion within the Speaker's role but that is also something that is often open for criticism as to how the Speaker justifies a decision. Do you see that as a difficulty or do you think there is scope within this to say to the Speaker that, if there is a decision not to recall, for example, the justification for that should be announced and shown?

(*Mr Riddell*) I think, in practical terms, you cannot do it that way, just as with debates, when the Speaker gets in a horrible position and says "No, we are not

going to have it". Let me put it this way: once that was introduced it would be a fair bet that within a year the Speaker would recall Parliament on one occasion when the Government did not want it, and it would be a very unwise Speaker who did not do that to make the point. It is always useful to use innovation in that way. I think it should be done, as now, *ex cathedra*, otherwise you get yourself in a hell of a problem of criticism. I think it has just got to be done that way. That goes back to the point Mr McWalter made, that is when it has just got to be the Speaker's authority, and you cannot finesse that.

Chairman

93. How about the date that it is called? How about if Mr Blair said to Speaker Martin "Sorry, the Foreign Secretary is away"? Should the Speaker say "Sorry, too bad; the Foreign Secretary will have to come back"?

(*Mr Riddell*) I think those things can be sorted out, actually. For example, if there is a UN thing and it is in Britain's national interest for the Foreign Secretary or someone to be there, those things can be sorted out. We do live in an age of Concorde and jet travel. The Foreign Secretary went twice to the States last week and he came back from New York to do Foreign Office questions, because the present Foreign Secretary is rather assiduous in dealing with his House of Commons responsibilities. He answered Foreign Office questions, made a statement to the House and then went back to Washington later. So, unless he is in New Zealand (which I do not think is a frequent occurrence) all this is doable. Obviously you would have to have to-ing and fro-ing. I think the point which was raised last week, which I thought was interesting—I think Mr Luke raised it—was that it is very frustrating to come down 300 miles from Dundee and then find you have got a short debate and you cannot get in. In that case it ended at seven-something; why can it not go on to midnight?

94. Or two days.

(*Mr Riddell*) Again, Speakers ought to err on the side of Members on that. Indeed, there have been several cases in memory where the House has been recalled and they have done two subjects. It does not have to be one subject.

Mr McWalter

95. Just on that point, Members themselves voted for the adjournment. There was a vote on the adjournment and Members decided to adjourn, including many of those who are now whingeing about how Parliament does not meet for long enough. Does that not raise this issue: that if you are going to change things by having backbenchers on a business committee, what mechanism do you envisage by which those people could be appointed so as to avoid the usual channels packing that committee with exactly the same people who perfectly happily adjourned prematurely on 24 September?

(*Mr Riddell*) Having gone through a lot of that on the Commission where we were discussing the select committee appointees, there is no easy or right solution. We spent a lot of time discussing that.

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Chairman

96. What was your view about the House's decision—which I personally regret—on the appointment of select committees?

(*Mr Riddell*) We regretted it, too. Absolutely. We spent a lot of time discussing that, and our view was that you could never—and this is where Tony Newton, as a former Leader of the House and former whip and disbeliever in revolutions (if that is not the wrong metaphor), was a balancing factor—take the hands of the whips off completely, but you could balance it. It is naive to assume that on appointments of any kind you will not get the whips involved to some extent; the question is how openly they are involved and how they are balanced with other factors. That was our conclusion on select committees. I am 100% with you, also on the issue of chairmanships—I have one or two long-term scars. Rather than as we have now got, it is true, in the Parliamentary Labour Party, appointees to select committees where they are actually voted by the PLP now (the Conservatives have a slightly different position because of numbers), I think you would have something like that—choice by backbenchers.

Mr Burnett

97. So there would be some pro-rata-ing between the parties?

(*Mr Riddell*) Yes.

Mr Burnett: And it would be an internal party election? This is a terribly important point—these business committees are going to be extremely powerful, with a bit of luck.

Chairman: A business committee.

Mr Burnett

98. I mean a business committee. The other point, just to get it on the record, is that presumably you agree with the proposition that there should be no government veto on the business committee and, furthermore, if in doubt the final decision will rest with the Speaker?

(*Mr Riddell*) Yes, although I think it has to be in the context—to go back to Balfour's reforms of a century ago—where the government does have control over a lot of business. Again, it goes back to my naivety point; when party is central you cannot assume party will disappear from this place. It is absurd to pretend it will. We have quite a lot of sections in the report on that where our MP and peer colleagues on the Commission were very realistic about that. However, it is a balancing factor. The government has got to have its time, it is entitled to get its business through, but with transparency and ensuring that backbenchers are heard.

Chairman

99. Putting a rather general question, not specifically related to your paper, do you think that successive executives are increasingly undermining the role of Parliament and seeking to bypass Parliament? That is question one. Question two: do you think that the power of the political parties is

growing and might be considered too great, such as to create a situation that individual Members of Parliament actually are merely fodder for their party, rather than being there as individuals elected to represent the constituents that sent them to this place?

(*Mr Riddell*) I am not nearly as pessimistic as your question implies, actually. I think a lot of these things are cyclical. You and I both remember, Sir Nicholas, parliaments without majorities or with very narrow majorities; the world can look very different with a majority of only 20 or a minority. A lot of things can be very, very different then. I think there are a number of longer-term factors altering the balance of the executive and legislature, but also (and I have written a lot about this) there are a lot of changes which have created alternative power centres; we have devolved bodies, Europe, judges are more assertive, and the media (which is a different subject). It is not just the executive and the legislative, there are other things. Many of the other things are as, if not more, important than the executive and legislature. I am also inclined to think that not only is it a cyclical point but there is, also, the behaviour of MPs themselves. Far from being necessary lobby fodder, I think there are a lot more independent-minded people—one, because there are more full-time MPs, and they are more committed to politics and everything like that. Therefore they want to do something and they are more inclined to assert themselves—not necessarily in voting but in expressing views. So whilst there are reasons for the parliamentary role being reduced it is not so much to do with the executive, nor does it necessarily imply that MPs are lobby fodder; they now have many more outlets, via committees and so on. I am not as pessimistic as that question implies. Also, I think there have been some very positive changes in the last decade.

100. You talked about the executive but you have not talked about the authority and power of the political party controlling their Members of Parliament. Increasingly, initially certainly, in the Labour Party the problem of re-selection of a Member of Parliament has been raised and the party centrally has weighed in (that is the local parliamentary party of an individual Member) to try and bring him or her to heel. I perhaps could mention a particular lady who comes from Yorkshire who has taken a very prominent position over Iraq, and if one reads what is in the newspapers pressure is being brought to bear on her. Do you think that is a good thing, or do you think that when Members come here—

(*Mr Riddell*) If you are thinking of Alice Mahon, which I think you are—

101. I am indeed.

(*Mr Riddell*)—I think she has announced her retirement anyway. It comes and goes. After all, Winston Churchill and Harold Macmillan were nearly forced out in the late thirties by your own party. If the war had been delayed by a couple of years it is possible that Winston Churchill would not have been selected as the Conservative candidate for his seat. Harold Macmillan had the whip taken away from him. I think these things vary. I am not a

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[Chairman Cont]

determinist, historically, on that. I think the pressures of parties can be overdone—that factor can be quite overdone.

102. Do you think the taking away of the whip from the Conservative Members over Europe was something that should have been done? That was actually denying an individual Member the right to say what he or she thought about a very important constitutional issue.

(Mr Riddell) In practice, it was to give them much more publicity than they had ever had before. Nothing did their PR better than the removal of the whip, in fact.

Huw Irranca-Davies

103. Simply as an observation in terms of the party political aspect, I am sure many constituents regard it as a badge of honour if there is some mark of dissent from their MP, and if they do have the government, in any way, leaning on them they say “You must be doing something right”. But only to a certain extent.

(Mr Riddell) Can I raise one point on the prerogative powers issue, which I saw raised? I think that is overdue for being considered by the House.

Chairman

104. Would you, perhaps, and Alex like to make a brief comment on the use of the Royal Prerogative—in what areas it should be used, whether in fact it should be ended or how Parliament should take more control over these matters or have a greater say?

(Mr Riddell) We danced round the issue a bit in the report because there was not entire agreement on it and people were cautious otherwise. One, I think they need to be specified as to what they are, because they vary enormously from actual ones where the Royal means something to those which mostly means it is the Prime Minister doing it. I think they need to be listed and defined. They vary enormously, of course, from the appointment of ministers—which is an advice and consent power in the US Senate, which I do not think anyone would want it to be here because our parliamentary system and the process of election and creation of the executive means the Prime Minister is entitled to have his ministers—to public appointments where, indeed, the House has already moved quite a bit informally. I know it is *post hoc* rather than prior, although when the Bank of England Monetary Policy Committee was set up in the legislation an amendment was moved with cross-party support to try and get a confirmation process and it was voted down. However, that area of appointments and treaties—I know there is the war issue and the War Powers Act, but I think whilst that is obviously terribly important, in practice it is less important because the House will always vote on a subject as important as that. I think the big issues are the big public appointments and things like treaties, where the House ought to look. There is a big issue where the present scrutiny and approval by the House are inadequate.

(Mr Brazier) I agree, obviously, with what Peter has just said but I think to widen it slightly and go back to your party point, the Commission very

strongly felt that it could make a distinction between the party role and the parliamentary role in scrutiny terms, and the select committees provided the institutional forum for that. So although many people believe that the parties have become more and more dominant, in some ways the parliamentary role of MPs, through select committees, shows the non-partisan, collegiate way. Although people feel it is moving in one direction there are positive forces moving in the other direction, as the select committee system shows. One of the main themes of the Commission was that when the institutional structures are correct then you can actually challenge that party dominance and bring out the parliamentary and scrutiny side.

Chairman: Again, there are two other issues that do not feature in your paper but which are of concern to this Committee in our inquiry. One is whether or not, as in the United States, undelivered speeches might be written into the record. That is question one. The other question, which I am sure other colleagues will want to come in on, please, is whether or not the Speaker of the day should publish a list of those who are either to be called to speak in the order in which they will be called to speak—which is very much what happens in the House of Lords—or whether the Speaker might publish a list of those Members who have indicated their wish to participate in the debate but it would be in alphabetical order and would not be in the order in which people would be called to speak. There is increasing concern in the House, particularly amongst new Members, that those who are long serving and long in the tooth appear to get preferential treatment from the Speaker. As one of those who would, perhaps, fall into that category, I can assure you I get no preference from Mr Speaker at all. What do you think of these issues? They do not feature in the report of your Commission or, for that matter, in the paper that you have sent to us, but they are of very great interest to a large number of Members of Parliament.

Mr McWalter

105. Chair, as a supplementary before the question is answered, it has to be said that many of us would think that if there was an alphabetical list published we could work out what the order would be because we know exactly how the minds of the Speaker and, particularly, the Deputy Speaker work. That is as maybe, but that is just a supplementary. We always know who is going to get called early, but still.

(Mr Riddell) I am a traditionalist—

Chairman

106. I cannot go along with that because as far as I am concerned I do accept the discretion and integrity of the Speaker and his colleagues, but there is concern, and Tony McWalter has reflected it perhaps not precisely in the way that I would have done.

(Mr Riddell) I worked in the States for three years and I saw how Congress performed. Reading speeches onto the record, I think, is awful.

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Mr Burnett

107. You saw the point we made.

(*Mr Riddell*) I think it is absolutely awful. Most of you have got websites now and it is the perfect opportunity to let go of your frustrations when you are not called to speak. That is slightly frivolous, but not entirely. Reading into the record—no. I do not think it works. On the list point, I very seldom hear the Lords debates but I often read them and they are completely disconnected. There may be other reasons for that, given the nature of the Lords as a quasi political body, the background of its members and so on. Even ex-members of this place like to pretend they are not politicians when they get there. I think I would be against a formal list. Frustrating though it is to those Members who are not called—and reading Hansard or listening to the debate at, nowadays, six o'clock, you can see the frustrations and tension mounting—it is always going to be trying to get a quart or even a gallon into a pint pot. That is inherent in the process.

108. With respect, you have not justified your antagonism towards this. If the Speaker has a list and Members know, either formally or informally, if they are going to be called and roughly when they are going to be called, they will abide by the rules of the House, which mean that if you want to be called you have got to be there. If you are on the list and you do not attend you are going to be struck off the list.

(*Mr Riddell*) The problem with that is: "Right, it is going to be four o'clock I am called, perhaps I am going to be polite and get there at a quarter to four."

109. The rules are not like that; you have got to be there for the bulk of it.

(*Mr Riddell*) The rules are not like that now because there is not a formal list. You might have a rough idea when you are likely to be called: you are a Lib Dem, your front bench spokesman has been on, so you are going to have to wait a bit afterwards. That is, in practice, how it works, if I am not misreading that. I think there is an inherent problem; it is a gallon into a pint pot, and there are no easy ways round that without changing the nature of debates, and so on. Having a formal list accentuates the process towards—which is inherent and I think is unavoidable—a lack of actual debate, unless you have time-list debates. Either that or the more focused ones we were talking about at the beginning. Perhaps I am too much of a traditionalist; Alex may have a more lively view on this.

110. Too traditionalist, you said?

(*Mr Riddell*) Yes.

Huw Irranca-Davies

111. I have listened with great interest to what you have said, as a very new backbencher, and I have to say, from that viewpoint, I have not been unfairly treated; I was called on the defence debate last week—one of the few relatively new backbenchers—and I have an adjournment debate next week. However, it is a frustration. What I would say it is failing to recognise at the moment—and I would be interested in your response—is the changing role of an MP. Increasingly nowadays we deal with campaign issues, more and more committees and we

deal with constituency work and so on. The frustration of sitting through two or three debates on a similar subject for, perhaps, 14 hours to get, perhaps, called for 10 minutes is like the January sales, where you wait all night to find a bargain. That is, again, not only frustrating it is a very inefficient use of a modern MP's time. If there were a way to get round that it would be a benefit to the House and, also, to the constituents we are sent here to represent.

(*Mr Riddell*) Perhaps that says something about the nature of debate as a way of getting it across.

Chairman

112. I am sure, Peter, you will admit, although I have grown to accept it, it is a very wasteful use of an MP's time. To take the example of Iain Luke on Iraq, he came all the way down from Scotland for that day and he sat throughout the debate—I think going out once to answer the call of nature. Then Huw has talked about sitting through two debates which could be for as many as 12 or 13 hours and not being called.

(*Mr Riddell*) On Iraq, where the debate is a matter of real passion and real concern, the debate ought to be longer. Some debates ought to be longer. This comes back to discretion and so on. They ought to be longer and, perhaps, extended. In other cases, shorter, sharper. It is also the nature of debate. I understand fully, and wearing my journalist's hat I have got a lot of sympathy for you on that, but it is inherent in the debate format. I think the only answer in practice when it is a really big issue, like Iraq or the fire dispute or whatever, is to accept that you should have longer debates, but otherwise it is, perhaps, a reflection of the inherent unsatisfactoriness of the debate format.

113. I think you have given a very realistic answer.

(*Mr Brazier*) We did not actually discuss that at all in the Commission. The fact that we discussed so many different things but we did not discuss either of those two issues probably indicates there was not a great deal of demand from the Commission itself. So it was not something we looked at at all.

114. What is your view? You worked in the House, you are now in the Hansard Society. What is your view about a Speaker's list?

(*Mr Brazier*) My instinct is probably against a Speaker's list. I would change, probably, some of the structures you have around it—change the length of the debates, have shorter debates—and I would have, on some of these issues, where you can talk for 90 seconds or three minutes, so that you have a lot of people making very short points and at least getting on to the record one way or another. I think there are dangers and benefits both ways round, but it is not something I am particularly attracted to myself.

Mr McWalter: I was just wondering if there was any way in which you had any views about how the quality of debates might be improved. I was interested in your observation about the House of Lords debates and, as it were, people not interacting enough. I am sure that is one key to effective debate. The second issue, for those of us who are left till last or do not get called at all, is the sheer tedium of much that is said, because the speeches are read out and, as we have indicated already, people will read out what they have written even if it has all been said before.

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[Continued

[Chairman Cont]

I suppose one issue is whether one should prioritise people who are not reading out speeches—people who are genuinely listening to other people, picking up the points that others have made and responding to those and not reading out speeches from prepared scripts—or, if they wish to read out from prepared scripts, they let the Speaker know and they are limited to five minutes. Are there issues like that which, potentially, could among other things—speaking, particularly, to Mr Riddell as a journalist—give journalists some incentive to not vacate the gallery the moment the main debate starts and then only pick up the speeches in the next day's paper from their mates so that the result is that the backbenchers' contributions do not get heard and do not get reported?

Chairman: Before Mr Riddell answers that, he has been here and I have been here when the press gallery has been very substantially full for a major part of the debate, not just for the opening but, again, at the closing of debates. Today that is very seldom the case.

Mr McWalter

115. My question was on the quality of debate.

(*Mr Riddell*) If I go backwards into that, I think that is also very cyclical, too. I was sitting up in the gallery and Sir Nicholas was sitting on the floor of the House during many of the happy hours spent debating the Maastricht Treaty enactment legislation when the votes really mattered because they were life or death to the Major Government. Those were absolutely packed. That political situation may recur at some stage in the future. Two points on that: one is that it underlines the Speaker's discretion. That is why the Speaker needs both a deaf ear and a blind eye. You all know who the bores are rather better than I do, and that is where a bit of discretion or a bit of a Nelsonian touch is needed. I think it is very difficult to be hard and fast. The other thing is that it perhaps comes back to the point that the format is wrong on traditional debate. As a journalist, picking up backbench points, there have been three recent big issues. On higher education there was an hour plus of questioning a week ago, and I listened to all of it to inform what I was writing the following day. I am sure when there is a full debate in the House I may or may not listen to all the opening speeches, but I got a pretty good flavour of the diverse currents in both major parties on higher education. Secondly, yesterday on the fire service dispute, Mr Luke, for example, made a fairly pointed question that registered with me that there was not all happiness on the Labour benches in relation to what John Prescott was announcing on the fire service dispute, more than if there was a full day's debate on it today. Similarly on Iraq. That is where, I think, from my point of view as a journalist, I am going to get a flavour—a backbench flavour on that. The full-scale debate is something I catch up on later on. You can play around with it to some extent, but inherently you are going to be frustrated because you cannot all speak, except on big things where I think you ought to extend the hours. There are a limited amount of gimmicks you can do.

116. Any observations, Alex?

(*Mr Brazier*) Just to reiterate that it is not necessarily the structures and the list, or whatever, it is the different types of opportunities that backbenchers have to make their points, as Peter has just said, on the record. I think what we are suggesting is a whole different range that could encompass the long debates, the short debates and the very, very short debates, and that would provide more opportunities in the first place for backbenchers to get on the record.

Huw Irranca-Davies

117. Returning to the concept of a Speaker's list, one of the arguments often put against it is that it would empty the chamber; if you know you are on the list you will be there, if you are not on the list then you will go off and do something else. I put it to you that very often, despite some very good debates in the chamber, there are occasions now where the chamber is very empty because people have withdrawn from the chamber either because they know they have no hope of being heard or for other reasons. That is one point I would be interested in your comments on. The other aspect is going back to what Mr McWalter said: would it be, in your opinion, a good thing if the Speaker gave clearer guidance in order to improve the quality of the debate on the use of notes, reminders, set speeches, etc and the taking of interventions in order to increase the amount of jousting and genuine interchange as opposed to prepared things that I can put in the local press?

(*Mr Riddell*) Yes, but it is discretionary. That is the Speaker as headmaster—a few raised eyebrows and so on. Also, as I say, it goes back to the bores' point. I can think of two or three Members who it is, perhaps, not desirable that they are called very often and then perhaps they will get the message. Otherwise, that is where—not through the usual channels—behind the Speaker's chair does come in, in a way, of saying "Hold on, would it not be better if you did?" I think you can only do it that way.

(*Mr Brazier*) I agree. Genuine debate is far, far more interesting to listen to than a collection of disconnected, arranged speeches. I think it is important that if we are going to get people interested in parliament—from the public I am talking about—and have something that they want to listen to, a popular debate where there is jousting, it is far more likely to grab their attention than endless prepared speeches.

(*Mr Riddell*) It depends on the subject matter too; some subjects will, some will not. I am sure—and I hope the broadcasters will do it—that when (rather than if) there is the big debate on Iraq and it is broadcast live, the viewing figures will be very high.

Chairman

118. If the House established a rule—guidance, perhaps, is not strong enough—that written speeches would not be tolerated and if Members were known to be going to deliver—hold on. I say to my colleague, Desmond Swayne, you can refer to prolific notes and you can refer frequently to prolific notes—you are not supposed to read a speech—but if it was made clearer by the House and by the Speaker that

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MR PETER RIDDELL AND MR ALEX BRAZIER

[Continued]

[Chairman Cont]

written speeches would not encourage the Speaker to call somebody again, do you think that that would increase the spontaneity of debate and enable more people to get in?

(*Mr Riddell*) It is a balance between formal rules and inherent behaviour. I still have my inherent doubts that the current format of long debates on many issues still apply; that that method of stating an argument on a lot of subjects—not all, big subjects—remain, and there is a limited amount—you take the horse to water, and so on. I also think that the background and tradition of public speaking has changed significantly, and you cannot change that. That is there and you have got to accept the limitations. There are still good debates. I think someone was reporting in your evidence last week the William Hague speech on the House of Lords debate.

119. Wonderful.

(*Mr Riddell*) A very eloquent speech. I am thinking of another example post-September 11 when there was a debate on the Terrorism Bill, for example, with Douglas Hogg from your and Mr Swayne's party making very effective speeches on the terrorism legislation. It can occur but it is very much dependent on the subject matter. I think I would be slightly wary of hoping you can change things where there is a long-term decline.

Mr Swayne

120. On the question of speeches, I think it is a question of the will of the chair to enforce the existing standing orders, really, but I would like you to comment on this notion that was introduced, that somehow the interest in the debate will determine the attendance in the chamber. The reality is that now there are six standing committees sitting on bills with 30 Members, there are any number of select committees, and Westminster Hall is sitting even now, at the same time as the main chamber. When the Leader of the House pointed out that the hours of the House had only changed as a result of gas lighting he may have been right, but when we had gas lighting we did not have standing committees, we did not have select committees and we did not have constituencies—by and large. Therefore, even in an interesting debate there would be limitations on the number of Members who can attend.

(*Mr Riddell*) I will not reply on your views of the 1832 Reform Bill, and I do not know how the New Forest was represented in those Halcyon days. Point taken. I am very critical of my press colleagues that when the hours changed people said "Oh well, nobody is in the chamber". There was a very stupid piece, I think, in the *Independent* on Sunday on that, which I think was completely wrong because plenty of people were along these corridors and in Portcullis House. There is a danger in saying that the measure of activity is what is happening in the chamber, but it is to recognise the variability of it—it depends on the subject. Fair enough. You have got plenty of things to do; you are doing more useful things if you are here or in another committee or doing a party thing or on the 'phone to your constituents. I think one of the problems is recognising that factor, actually. Tony Wright made the point last week to you about the Labour re-selections, when the letter

goes on the voting record—not saying "What else have you been doing?" I have yet to meet an MP who has said they have had much recognition from their constituents for what they do when they sit in this oval.

Huw Irranca-Davies

121. Would you recognise that that is actually quite a strong argument for a Speaker's list, in that we know that we are on various parliamentary groups, and we can prioritise that? What we cannot prioritise is when we think we will be called.

(*Mr Riddell*) That is a guarantee of fairly turgid debate. It is a guarantee of what they have in the Lords. Lords debates are incredibly boring. I only read them because they are better to read than to listen to.

Chairman

122. But sometimes they are well-informed.

(*Mr Riddell*) Sometimes.

Chairman: I think we had better come to the last questioner. Although he has turned up very late, I can say from the Chair that he has been attending to other parliamentary business.

Sir Robert Smith

123. Just on the issue of good debates, Monday happened—although it was entitled "Electricity (Miscellaneous Provisions) Bill"—to produce a very good debate with people interchanging and taking points of information, because it was on the rescue of British Energy, and a lot of public money had been spent. Following on some earlier questions about current standing orders being, maybe, imposed more rigorously, in the days when Desmond Swayne and his colleagues were able to keep the House up quite late in the previous Parliament, occasionally you heard the standing order on tedious repetition being invoked, and I just wondered if, on some of these speeches, there is not something for the Chair saying "That point has clearly been made and is on the record".

(*Mr Riddell*) All I would say on that is far be it for a journalist to rule on tedious repetition! Otherwise I would be out of a job. Also, what you may think is your distinguished colleague to your left's tedious repetition (although I am sure you never do) is his brilliant, original point. I have got a lot of sympathy for the people in the chair dealing with 658 colleagues who all think they have got a right to be heard and who all think they are saying something original. I just really do think there is a limit to what you can do with the material you have got in front of you, if you are in the chair, but I think there may be a case for more informally saying "Look, you are not going to be called again quickly" or being done by the whips, or whatever. Apart from reiterating from the chair "This is supposed to be Mr Swayne's point", "You should not read speeches", and so on, perhaps a few more *ex cathedra* statements sometimes do work. For example, the current Speaker has been quite active in the last six months on lengths of questions, and so on. I would not say it has had a wonderful

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MR PETER RIDDELL AND MR ALEX BRAZIER

[Continued

[Sir Robert Smith Cont]

effect but it does have an effect when it is applied occasionally. "I have got three questions to ask" and he says "No, do the one". That is quite effective.

Chairman

124. Can I, on behalf of all of my colleagues on the Procedure Committee thank Alex Brazier and Peter Riddell very much for, I think, the stimulating and forthright evidence which they have given to us. It

will be very vital to the report which we produce. You have both been involved with the Commission on Parliamentary Scrutiny; one as the Deputy Chairman and the other as Clerk, and also members of the Hansard Society and its council. Can I thank you very much for the excellent evidence that you have given; it has been an exciting and interesting session. Thank you both very much.

(Mr Brazier) Thank you.

(Mr Riddell) Thank you.

WEDNESDAY 12 FEBRUARY 2003

Members present:

Sir Nicholas Winterton, in the Chair

Mr Peter Atkinson
David Hamilton
Mr Eric Illsley
Huw Irranca-Davies

Mr Tony McWalter
Sir Robert Smith
Mr Desmond Swayne

Memorandum by the Clerk of the House

The Committee has asked me to comment on four specific subjects which it expects to cover in the course of its current inquiry.

A. Procedure in debates, including the conventions on Members' conduct in the chamber and how effectively these are communicated to new Members

1. It used to be the case that new Members relied mainly on other Members (often their party whips), for initial advice, including about conduct and procedure in debates. Since 1992, and more systematically since 1997, this traditional source of advice has been augmented and the House authorities now provide all newly-elected Members with a pack of briefing material on all aspects of the services of the House, including the procedural services provided by the Clerk's Department. There is also a special reception area for new Members during the first week or so of a Parliament where immediate advice and information can be obtained. Thereafter new Members (and others) receive a variety of advice in addition to whatever is provided by their parties. This ranges from a letter sent by the Speaker to all Members; articles in the House Magazine and elsewhere, such as that by my predecessor in 1997¹, to briefings and seminars by senior Clerks. And of course all Clerks in the Department are available to answer Members' questions and advise on the rules and conventions which govern debates.

2. Also, since 1997, a short guide to the procedures of the House has been published². This was originally produced with new Members in mind and sets out the main rules and conventions Members need to be aware of in order to participate fully in the business of the House, and to advise where to go for further assistance. A copy is sent to each new Member along with other initial briefing material from the House authorities.

3. After the 2001 election all new Members were invited to briefings on aspects of procedure arranged by the Clerk's department, where a Clerk gave a short presentation and replied to questions. About a third of the newly-elected Members attended these briefings. Leaflets on each theme were also available at the briefings, at the reception area for new Members and subsequently from the Table Office. The leaflet about debates is enclosed. A group of officials has now begun to plan the services to be offered to new Members after the next election, which we expect to include similar briefings and publications about conventions in debate. The Committee's views on how these might be presented, as well as on their content, would be appreciated.

4. The Modernisation Committee reported on Conduct in the Chamber early in the last Parliament³. The House agreed to its report on 4 June 1998. That report broadly endorsed the main conventions about debate, while proposing the abolition of some restrictions or rules Members had found particularly archaic or irksome, such as the requirement to be "seated and covered"—in practice to wear a top hat—to raise a point of order during divisions. More relevant to the conduct of debates, as a result of the Committee's report, the rule prohibiting use of quotations from speeches made in the House of Lords was abolished and the recommended form of address when referring to peers was simplified. Similarly, Members are no longer required to refer to other Members of this House as "gallant" (if a commissioned officer) or "learned" (if a QC). These modifications do not appear to have had any adverse effect on the conduct of debate: some Members continue with the old usage, others do not. However the Committee strongly endorsed what is perhaps the key convention during debate: Members address the Chair, not other Members, and refer to each other in the third person, by constituency and not by name. To assist newer Members who were unfamiliar with all the constituency names, the annunciator display has been modified and now displays both the name and constituency of the Member who has the floor (although this applies only in the Chamber itself and not to debates in Westminster Hall).

¹ "The Honourable Member for . . ." Donald Limon reviews the rules and conventions to be followed in the Chamber, *The House Magazine*, 16 June 1997.

² Now entitled "Business of the House and its committees: a short guide" this is reissued after any significant changes to the rules are agreed and is available from the Vote Office or the Table Office.

³ Conduct in the Chamber, Fourth Report from the Select Committee on Modernisation of the House of Commons, HC 600, 1997–98.

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[Continued

5. It is clear that some Members continue to dislike these rules and consider that the House's conventions require further modernising to make Parliament more accessible to the general public. I understand that the Chairmen's Panel have noted a number of occasions when the conventions have been ignored. The Committee may care to seek more information about this from the Chairman of Ways and Means. In general, the rules that have been retained, such as not walking between a speaker and the Chair, staying to listen to the speech following one's own, and returning to hear the wind-up speeches at the end of a debate, are primarily matters of common courtesy. By contrast the convention of addressing remarks to the Chair and referring to other Members in the third person is a key part of parliamentary procedure and remains important to the orderly conduct of debate. Nobody who witnesses proceedings in Parliaments where the convention has been abandoned can fail to notice the resulting deterioration in atmosphere and the more confrontational style that Members tend to adopt. It can be difficult, and sometimes embarrassing, for the Chair to secure observance of the convention at the start of a new Parliament; but in my view the effort has been worthwhile.

B. The procedural and practical consequences of any decision to print undelivered speeches

6. I can well understand the frustration felt by a Member who has sat through all or most of a debate only to be squeezed out by lack of time. I can equally understand the temptation to say that in such cases the Member should be able to have the remarks that he or she was intending to make printed in *Hansard*. But for the reasons set out in the following paragraphs, I believe that this is an instance where hard cases would make bad law.

7. The first point is that the concept of an "undelivered speech" is very difficult to reconcile with the traditions of parliamentary debate. Although the rule is commonly relaxed in practice, it remains a convention of the House that "a Member is not permitted to read his speech".⁴ The Chair still intervenes from time to time to remind the House of this rule, particularly if a Member is evidently reading from a typescript and his style of delivery indicates a lack of prior familiarity with its contents. Many Members appear still to use manuscript notes, of varying degrees of fullness; and of course that is quite acceptable to the House. But if such a Member were to be squeezed out of a debate, what would the undelivered speech be that he was permitted to have printed in *Hansard*, and how long would he be given to work up his notes into a finished text? My fear is that the introduction of this facility would be taken by Members as an indication that they were expected to prepare fully worked out texts of the type that the House has traditionally discouraged, against the possibility of their speech being undelivered and needing to be handed to the *Hansard* staff.

8. Nor would the introduction of such a procedure be consistent with the fundamental principles underlying the House's procedures: namely that the House collectively debates, considers and then decides on a course of action. The printing of undelivered speeches would be an open acknowledgement that Members' main concern was simply to advertise their own or their constituents' views, irrespective of the views of others and without concern for any contrary argument or information which might emerge during debate. A printed, undelivered speech could not be challenged or rebutted, nor could any questions posed by the Member be given a Ministerial answer at the conclusion of the debate.

9. As for more specific procedural problems, the Committee needs to bear in mind the fact that speeches delivered in the Chamber and in Westminster Hall are constantly monitored by the Chair to ensure that they remain in order—that they are relevant (most important), that they do not breach the basic rules of the House concerning orderliness in debate and that they do not breach the more specific rules of debate concerning, for example, matters *sub judice*. All these matters are currently dealt with as debate proceeds, and speeches can themselves be adjusted and re-cast en route to take account of decisions from the Chair as they are delivered.

10. Under any procedure which allowed the automatic publication of speeches the vital element of control from the Chair would be lost. Potentially, a Member could read into the record anything she or he liked. Since this would obviously be an unacceptable situation, the House would need to devise mechanisms to screen Members' speeches before they appeared in *Hansard*. Should this be done by the Editor of the Official Report? Should it be done by the Clerk at the Table in either the House or Westminster Hall? Should it be done by the occupant of the Chair at the time? And there are other possibilities. All of them are potentially hazardous: what right has the Editor or the Clerk unilaterally to alter a Member's speech? And therefore what kind of appeals mechanism would need to be devised? In a debate in which backbench contributions had been time limited, would undelivered speeches be edited down to the time limit?

11. There are also significant practical problems. The staff of the Official Report could be in a position of having no idea at all of the length of the debate which they would ultimately be reporting. Unless very strict rules were laid down about the number of speeches which could be "read in" in the case of any debate, there would be potential problems about producing a printed *Hansard* on time; if the rules merely said that a Member must be in his or her place at the appropriate time it would not be difficult to imagine circumstances when a large number of Members might take advantage of the opportunity. Rules which otherwise limited

⁴ Erskine May's *Parliamentary Practice*, 22nd edition, page 372.

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the number of written contributions could on the other hand be regarded as intrinsically unfair. The Editor of *Hansard* has expressed to me serious concerns about the potential effect of the proposed new procedure on the overall size and cost of *Hansard* and about his team's ability to deliver a full record of a debate, including undelivered speeches, on the day following it being held.

12. My greatest concern about the proposal, however, is the likelihood that the scope of the practice would quickly expand. If undelivered speeches could be printed, why not undelivered parts of speeches, squeezed out by a time limit or, in the case of Ministers winding up, by the arrival of the moment of interruption. And why should the facility not be available in the case of proceedings on programmed bills, where it is not uncommon for whole debates on groups of amendments to be precluded by the operation of the timetable. There is also the risk that the procedure might prove to be an irresistible temptation for outside pressure groups wishing to put material into the public domain. I am sure that the Committee will wish to consider all these implications very carefully before recommending the proposed facility to the House.

C. Private Members' Bills: any improvements in procedure so that the success or otherwise of a bill depends on the level of support for the bill rather than extraneous factors such as attempts to defeat some other bill; and the effects if time allotted for such bills were moved from Friday to somewhere else in the week

13. This is the most difficult and potentially complex part of the Committee's inquiry. The specific points identified by the Committee cannot really be disentangled from profound issues about the management of time in the House and basic principles of procedure governing opposed and unopposed business.

14. The other general comment that I would make concerns the involvement of the Government in the Private Members' Bills process. Much individual discontent about the way the process works in practice no doubt stems from the well-organised efforts of the Government Whips' Office to manage debate on Private Members' Fridays and the regularity with which Whips object to the passage of bills after the moment of interruption at 2.30 pm. Some of the tactics employed on these occasions are undoubtedly controversial. But the Government has an entirely legitimate interest in the progress of Private Members' Bills. It has a responsibility to maintain the consistency and coherence of the Statute Book; Government Departments will generally have a role in administering or securing compliance with new laws that reach the Statute Book after passage as Private Members' Bills; and many such bills involve expenditure which, if they are passed, will have to be accommodated within the Government's expenditure plans. It is not surprising, therefore, that the Government seeks to control which bills fail and which succeed.

15. The degree of control which is exerted by the Government and the difficulty of surmounting the other hurdles that stand in the way of progress towards Royal Assent are demonstrated by the following table showing the number of Private Members' Bills introduced and passed into law in each session since 1997–98.

Private Members' Bills, by session

Figures are shown in the order: introduced: unsuccessful: successful

<i>Session</i>	<i>Ballot</i>	<i>10-minute</i>	<i>Presentation</i>	<i>Lords</i>	<i>Total</i>
1997–98	20: 15: 5	87: 86: 1	27: 25: 2	14: 12: 2	148: 138: 10
1998–99	20: 13: 7	55: 55: 0	18: 18: 0	11: 10: 1	104: 96: 8
1999–2000	20: 15: 5	57: 57: 0	20: 20: 0	7: 6: 1	104: 98: 6
2000–01	20: 20: 0	24: 24: 0	17: 17: 0	2: 2: 0	63: 63: 0
2001–02	20: 15: 5	68: 66: 2	28: 28: 0	7: 6: 1	123: 115: 8

Source: Sessional Returns; Sessional Information Digests

NOTES:

Lords Bills do not include those not brought from the Lords and (in 2001–02) one bill which was taken up by the Government in the Commons.

Ten Minute Rule Bills for which leave was refused are also not counted (these were 2; 0; 5; 0; 1).

16. It seems unlikely that any procedures can be devised which would be completely immune to Government management—and for the reasons given, this could in any case be undesirable. But there are changes that might be proposed which could reduce the element of random chance in the present process. The random element starts with the beginning of session ballot, which determines precedence in the use of the limited time available solely on the basis of Members' names, with no indication being available of the subject matter of the bill which each Member would wish to introduce. And it continues throughout subsequent stages, with the constant risk of collateral damage from a long or controversial bill which happens to be one step ahead in the queue for second reading, committee or report.

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17. I notice that some Members who have submitted written evidence to the Committee have suggested what would amount to a form of programming for Private Members' Bills; in other words, that designated bills would be guaranteed a debate of a pre-determined length and a vote at the end of that time. If the Committee wish to explore that possibility they may find it helpful to commission a factual note from the Canadian House of Commons, where I understand that a system of that sort has been in operation for some years. A Private Members' Business Committee, on which Government and Opposition business managers are represented, divides bills into those which are "votable" and those which are not. The latter category are given no more than a hour's debate, purely to enable the subject to be aired. The former category are guaranteed three hours debate and a vote at the end.

18. It is well known that many bills introduced as Private Members' bills are in fact "handouts" from Government Departments—second-rank Government Bills which have not found a place in the main Queen's Speech programme. There is therefore a danger that, if enough private Members were willing to co-operate with the Government in this way, a Private Members' Business Committee of the sort outlined in the previous paragraph, with the procedural advantages of programming at its disposal, could turn into no more than a vehicle for securing the enactment of more Government bills each session. I believe that the Canadian experience may support that anxiety: controversy about the decisions of the Private Members' Business Committee in designating votable and non-votable bills recently, I understand, led to a serious rift in procedural relations between the Government and Opposition parties.

19. Criticism is often levelled at the procedural rule which allows just one Member to object to a bill making progress after the moment of interruption at 2.30 pm. It needs to be borne in mind, however, that this rule is not confined to private Members' bills. It applies to any motion or bill which is brought forward, without special exemption after the moment of interruption (see Standing Order No. 9(6)). The rule provides a valuable protection for minorities, and, in the case of items such as Business of the House motions, a valuable guarantee that there has been adequate prior consultation through the usual channels. In the case of private Members' bills it also serves as a safeguard against the possibility of a potentially problematic piece of legislation making progress without debate.

20. I have no procedural comments to make on the proposal that time for Private Members' bills might be shifted from Fridays to the period between 7 and 10 pm on Tuesdays and Wednesdays. But in my capacity as chief executive of the House service, I would hope that no further change in sitting hours will be contemplated until the House has had at least 12 months' experience of the new pattern introduced in January this year. As a result of those changes many staff are working hours which are quite different from those in their conditioned terms of employment, and their goodwill and adaptability have been put under some strain. Heads of Department are currently monitoring the effect of the changes on staff working hours and the Board of Management has been asked to report to the House of Commons Commission around Easter. Detailed and possibly difficult negotiations with the relevant trade unions are likely to follow. Against that background, the prospect of further significant changes in the near future would be most unwelcome.

D. Methods of initiating non-Government debates, for example the use of specific motions as distinct from adjournment motions

21. Until the House changed its procedures in 1994, provision was made in Standing Orders for a number of Friday sittings and four Mondays until 7 pm to be reserved for debate of private Members' Motions. In the changes in sittings of the House which followed the "Jopling" Report⁵, in December 1994 the House decided *inter alia* to forgo this opportunity (and debates on the Consolidated Fund Bills and on the Motions for recess adjournments) in favour of extended opportunities for backbench Members to initiate debates on the adjournment. These debates, until 1999, took place on the floor of the House on Wednesday mornings. The change formed part of a package which also provided for non-sitting Fridays and a slightly more predictable Parliamentary calendar.

22. In 1999, a further change was made when the debates on the adjournment on Wednesday mornings were transferred to the House sitting in the parallel chamber of Westminster Hall. At the same time, the number of hours of debate available to backbench Members was significantly increased.

23. It is worth recalling that private Members' Motion days were not universally valued by Members. They were described by Griffith and Ryle in their book on *Parliament, Functions, Practice and Procedures* as "much less significant occasions than bill days and attract[ing] less parliamentary and public attention". In part because they were confined to Fridays and Mondays before 7 pm, attendance at debates was small and whipped votes were rare. On the rare occasions when, in the absence of a whip, motions were agreed to which did not reflect Government policy, Ministers tended to downplay their significance.

24. Each phase of the changes which led to the ending of private Members' Motions was part of an overall package to increase the time available to backbench Members while at the same time making the hours of sitting of the main Chamber more predictable. It seems unlikely that, so soon after sittings in Westminster

⁵ Report of the Select Committee on Sittings of the House, HC (1991–92) 20.

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Hall have progressed from being an experiment to being incorporated into the House's standing orders, the House will wish to change the arrangement that debates initiated by private Members take place in Westminster Hall.

25. The standing order governing proceedings in Westminster Hall (SO No 10) does not dictate that debates must always be on motions for the adjournment. It states simply that "the business taken at any sitting . . . shall be such as the Chairman of Ways and Means shall appoint" (paragraph 3). But it also creates two substantial barriers against the possibility of controversial matters being raised other than on a motion for the adjournment, because it provides that:

- (a) if the decision of a question (other than a question for the Adjournment) is challenged, that question shall not be decided in Westminster Hall and must then be decided in the House (para 9); and
- (b) six Members by rising in their places and signifying objection to further proceedings can prevent a matter from being debated (paragraph 10).

26. It might nonetheless be worthwhile, with the Chairman of Ways and Means' agreement, to experiment with an occasional ballotted debate on a substantive motion rather than on the adjournment, to see whether Members are willing to allow such a procedure to operate in a sensible fashion and without damaging the fundamentally non-party political culture of Westminster Hall. Another possibility might be to revive a proposal made by the "Jopling" committee in 1991–92, that "Members should be permitted to include on the Order Paper a reference to any relevant early day motion"⁶. The motion would not formally be before the chamber, but its terms would set the context of the debate and indicate the policy stance of the Member initiating the debate.

February 2003

Leaflet prepared for new Members

DEBATES

FORM OF DEBATE

A typical debate takes the following form:

- A Member moves a motion;
- At the end of his or her speech, the Speaker proposes the question, repeating the terms of the motion;
- The motion is debated;
- Unless the motion is withdrawn, the question is put by the Speaker and the House comes to a decision (if necessary by means of a division).

Sometimes there is a subsidiary motion (eg an amendment to the motion), and sometimes proceedings are formal, without an opportunity for debate (ie a Member moves the motion formally and the Speaker immediately puts the question, following which there may be a division).

Debate ends when no-one else wishes to speak or the time available expires; in the latter case the debate is adjourned unless standing orders or a business, programme or allocation of time order (ie, a motion agreed to by the House governing the time spent on a particular item of business) require that the question be put. It is also possible to bring debate to an end by means of a closure motion, ie the question "That the question be now put". Any Member may move the closure, but the Speaker has discretion whether to accept it; if he does, the question on the closure is put immediately, and, if opposed, requires not just a majority but at least 100 Members voting in favour of it.

RULES OF DEBATE

Members wishing to speak in a debate should normally give their names in advance to the Speaker's Office, preferably indicating the reason they wish to speak.

Members should speak from within the main part of the Chamber, they should address their remarks to the Chair. They should refer to other Members not as "you" ("you" can refer only to the occupant of the Chair) but as "the honourable Member for (constituency)". To avoid having to refer to the constituency, Members can be described as "my honourable friend" or "the honourable Member opposite". Privy Counsellors are "Right Honourable". Ministers can be referred to by their office, or simply as "the Minister". The Speaker and Deputy Speakers are referred to as "Mr Speaker" and "Mr (or Madam) Deputy Speaker".

Members are obliged to declare any relevant pecuniary interest if it might reasonably be thought by others to influence the Member's speech.

⁶ HC (1991–92) 20, paragraph 51.

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Members may intervene in each other's speeches, but only if the Member who has the floor chooses to give way. Members will normally be able to speak only once in any debate (not counting interventions).

The Speaker has the power to impose a time limit on speeches. If he intends to impose such a limit, he will announce it at or before the beginning of a debate. When a time limit is in operation, the digital clocks begin to flash 30 seconds before the expiry of time.

Speeches should not usually be read, but it is accepted that Members make extensive use of notes, particularly when they are new to the House.

After speaking, Members should, as a matter of courtesy, remain in the Chamber at least for the next two speeches and should be present for the front bench winding-up speeches. A member who is unable to observe these courtesies should explain the reason both to the occupant of the Chair and to the Members concerned. Members intending to refer in debate to another Member should inform that Member in advance.

Members may not: accuse other Members of deliberate misrepresentation or lying; use abusive or insulting language likely to create disorder; criticise the conduct of individual Members and Peers (other than on a substantive motion to that effect); refer to the alleged views of the royal family; refer to matters awaiting adjudication by a court of law (except when discussing legislation); use electronic devices as an aide memoire or to receive messages when addressing the House.

When the Speaker rises to speak, all other Members, including the Member who has the floor, must resume their seats immediately.

Members who wish to see the text of their speeches as reported in *Hansard* should do so within three hours of the speech being delivered. To do so they should go to the Official Reporters room (one floor up from the principal floor by the Ladies' Gallery stairs). It is of great help to the Reporters if Members send their notes and answer any queries—for example, on the spelling of names mentioned in the speech—as soon as possible. These requests will be delivered by the Doorkeepers.

ADJOURNMENT DEBATES

An adjournment debate (on the motion "That this House do now adjourn") is simply a way of having a general debate without a substantive question on which the House comes to a decision. Adjournment debates at the end of each sitting and in Westminster Hall on Tuesday and Wednesday mornings provide an opportunity for backbench Members to raise constituency or other matters. Some of those in Westminster Hall last one and a half hours; all others available to be initiated by backbenchers are half-hour debates.

Proposed subjects (i) must relate to a matter for which a Minister has responsibility and (ii) must not involve a call for changes in legislation, except incidentally. The Table Office can provide advice on proposed subjects.

Applications should be made in a letter to the Speaker or on a form available from the Speaker's Office, and should state the proposed subject. Relevant interests must be declared. Applications for Westminster Hall debates should be made by 10 pm on the Tuesday in the week before, and for end of day debates by 10 pm on the Wednesday of the week before. Members are notified by the Speaker's Office of the result of their application.

In half-hour adjournment debates, Members other than the one whose debate it is participate only with the consent of that Member and of the Minister who is replying.

CONTACT

Table Office, 3302, 3303;
Speaker's Office, 5301, 5300.

FURTHER INFORMATION

Business of the House: a Short Guide

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Examination of Witnesses

MR ROGER SANDS, Clerk of the House of Commons, MR DOUGLAS MILLAR, Clerk Assistant, and DR MALCOLM JACK, Clerk of Legislation, examined.

Chairman

125. Can I welcome our very distinguished visitors this afternoon. They have held their current positions, I think I am right in saying, since 1st January. Mr Roger Sands, the Clerk of the House of Commons, Mr Douglas Millar, the Clerk Assistant and Dr Malcolm Jack, the Clerk of Legislation. Gentlemen, can I thank you for coming to give evidence to us. If people come in and out, go, please do not be put off. We have a fairly mobile Committee and with so much work in this House taking place on a Tuesday and Wednesday you know the pressures under which Committees, let alone the Clerks of the House, have to operate. You are also aware of the scope of our inquiry. Can I, from the Chair, start with the first question? I would ask whoever feels they would want to respond to respond to this question. Peter Riddell, who all of us know, of the Hansard Society and a distinguished journalist, said a fortnight ago that, and I quote, "... a six hour debate where people get up and talk to 20 people or whatever in the Chamber is a pretty bizarre way for opinions to be expressed. It can be done more succinctly, more effectively ... in different formats ... a lot of debates were not an effective way of expressing opinion". Can I put to you: could changes to the procedures or formats for debates make them a more effective way of Members of Parliament to express an opinion? If you believe that that is the case, what could those changes be? Perhaps the Clerk of the House would like to respond first.

(*Mr Sands*) Sir Nicholas, I think the one thing that I would say is that, in a way, the House has already experimented with a variety of different formats for debate. Debates in Westminster Hall, for example, are of relatively brief duration, even the longest ones. I think that it is probably your experience, as it is mine, that some of the one and a half hour debates have been quite successful in getting a lot said in quite a short time. I would say two other things. Firstly, of course many debates are not six hours any longer. The one that is going on now, on a very wide ranging topic, is just going to be about three and a half hours, I think, in total and the Opposition increasingly split their days. The third thing: I detected, in some of the evidence that you have had, a feeling that certain formats are suitable for certain debates, but I do not know how you determine that in advance. Debate is an unpredictable thing. Some debates that you think are going to be extremely dull turn out to really catch fire and others which you think would be a mass of fireworks just fizzle out. Who would the wise person be who would look at the week's business ahead and say "That is the sort of debate where we ought to have four minute speeches maximum and this is the one where we ought to let the good and the great have their head and have no time limits on speeches at all"? I think it would be really very difficult to manage.

126. Can I just put the question to you relating to the pressure under which the House is currently operating? I think it is greater since the changes than

it was before the changes in our sitting times. Do you think that it is good for so many Committees to be sitting concurrently with an important debate? Does that really reflect the best interests of the House that perhaps 50% of the House is elsewhere rather than able to attend the debate if they wish?

(*Mr Sands*) I think you are really inviting me to comment at large on the new sitting hours, which is something that the House has decided. It was introduced not much more than six weeks ago. I think it will take time to bed down, but certainly from an official perspective the effect of the new hours is quite visibly to compact business into a shorter period of the week. There are many more things overlapping, as you say, and that has affected us to some degree in unwelcome ways. We have been used, in the past, to have staff doubling up in different functions. A Committee Clerk would become a Division Clerk at night after six o'clock and we would find Committee Clerks to do Westminster Hall, for example, which is becoming much more difficult. Douglas Millar, who spends much more time in the Chamber than I do, may wish to add a comment, but my feeling is that attendance in the Chamber, particularly during question time, has dropped since 1st January, if anything.

127. How would you get more people to attend debates, to intervene, if necessary, rather than to speak and make a major speech? How could we re-invigorate the Chamber to make it more meaningful and, for that matter, to make it both more exciting and hopefully more constructive? Because this is what Peter Riddell said "... a six hour debate where people get up and talk to 20 people or whatever in the Chamber is a pretty bizarre way of for opinions to be expressed". Is there any better way of doing it? You have been around this place a long time, I am trying to draw on your experience.

(*Mr Sands*) I think sometimes people give to procedure more influence than it actually has. Procedures are there to establish a framework. There has to be a framework, but procedures are used, sometimes misused, in ways that are entirely unpredictable when you change them and I would be reluctant to say that there was a single fix that you could do simply by changing the procedures.

128. Would you allow people to read their speeches as obviously as they do today?

(*Mr Sands*) As I think I made clear in section B of my memorandum, which is the one about undelivered speeches, my reluctance about the introduction of that particular innovation is simply because I think it would encourage people to prepare their speeches word for word. They would feel that they were obliged to do so and listening, as my colleagues and I do, to an awful lot of speeches, I think that one that is heavily prepared and is simply delivered looking down like this has a very deadening effect on debate. So I would regret it.

(*Mr Millar*) I entirely agree with what the Clerk has just said. On the whole, a bit of spontaneity is important in the debate. It is always regrettable

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[Continued]

[Chairman Cont]

nowadays that some Members start their speeches by saying “I will not follow the Honourable Gentleman who has just spoken in what they have said”. One of the best features of debate—and we have just been having a very good one downstairs, it seems to me, on the economy—is that people make points and they are responded to in the course of debate and the whole political divide is illuminated by the points that are being made. This is one of the purposes of debate. If Mr Riddell was making the point that he would prefer some kind of proceeding other than debate, I would make the point to you that in proceedings like questions and statements, there it is the Government that is under scrutiny, but when you get into debate, it is the policies of all parties in the House that are under scrutiny and open for debate. That is a good thing because that is what Parliament is there to demonstrate; what those views are.

(*Dr Jack*) I do not really think I have much else to add except perhaps just one observation, Sir Nicholas. That is that the shortness of time for speeches tends to make Members prepare their speeches rather carefully and not be so interested in the kind of things you were talking about in responding to cut and thrust. They tend to think “I have got this limited time. I must deliver this speech”.

129. So then I am bound to ask—and perhaps any one of you should answer before I pass on to Eric Illsley—do you think that, in fact, time limited speeches actually achieve a better quality of debate and a more exciting debate? Although you do get, as it were, extra time, with up to two interventions, but do you think that does make for a better quality debate? It may get more people in, but does it actually create a better, more exciting, more relevant debate?

(*Mr Millar*) One of the points that I would make to you is that, particularly with the shorter debates, there is often a great deal of disquiet that some of the smaller parties do not get an opportunity to make a contribution. If we have a debate on fishing, there are a lot of parties in the UK who have interests in the fishing industry and it is always very uncomfortable, I am sure, for the Chair not to be able to call Members from all of those parties. So in that sense time limited speeches can have a very beneficial effect. My experience of time limited speeches too is that most Members actually manage to get their remarks done and dusted within their allotted time. It may be, as Dr Jack has suggested, that this is because they are heavily prepared in advance, but nonetheless it has not been necessary for the Speaker or Deputy Speakers to interrupt many speakers because they have exceeded their time limit. I find that most Members can usually make most of the points they want to make within that 10 minute—

130. Yes, but you have not answered my question, Mr Millar. I said: does it make for a better, more exciting, more relevant debate? Not: do Members make their speech in the time limit? Does it make a better debate?

(*Mr Sands*) I would say, on balance, Sir Nicholas, yes I think it does. I think that the new form of the short speeches Standing Order is a great improvement on the old one. It did look, at the beginning, as though that was simply going to be exploited as a way of increasing one’s speaking time,

but I think that that little craze is now dying out and people are using the new standing order more in the way that that was intended. I think that has improved things. I think that it does impose a discipline on speakers. Okay, there have been some extremely good long speeches that we all can think of and remember, but there have been an awful lot that were not—

131. Thank you very much.

Huw Irranca-Davies

132. Having experienced the great pleasure of a non-time constrained speech and also working within time (I think you have partly answered this), what would your comments be on the fact that the quality, in terms of the content of the speech, could actually be far better when it is time constrained than sometimes when it is open ended? Not only do you have repetition, but you also have sloganeering, as opposed to informed articulation of specific points. In other words, preparation can go a long, long way to making a good speech, as well as spontaneity.

(*Mr Sands*) Yes, I think the discipline of having to say what one has to say within a time limit means that you do focus on the points that are really crucial and you do not get tempted into self indulgent reminiscences, let us say (I am just picking an example at random), or long passages about the virtues of one’s constituency, which are not necessarily illuminating the debate. So it is not an easy choice, but I also see things from, of course, the Speaker’s and the Deputy Speaker’s angle and they are under enormous pressure. They get daily complaints from people who have not been called in a debate. I think time limits help them.

133. Is your experience that it has ruled out spontaneity by having time limited events?

(*Mr Sands*) Time limited speeches?

134. Time limited speeches, yes.

(*Mr Sands*) It can do, yes. Certainly, because Members prepare that bit more carefully, they do not feel tempted to sort of follow an alleyway which another Member has opened up. Yes, I think that has to be put on the minus side of the equation.

Sir Robert Smith

135. Do you think also, though, in a sense it is quite still a new thing of time limiting and after a few years of being in that culture, people will have naturally adapted to being able to be more spontaneous in making use of the time?

(*Mr Sands*) I would have to look up and see how long we have had it, but we have had the short speeches standing order for a fair time now. In its revised form it is quite new. Of course, the encouragement in the Modernisation Committee’s report, which the House approved, to the Speaker was to use it more frequently. Indeed, they almost implied that it should be routine, which the Speaker has not quite followed. So in that sense the experience is changing; but people have had a fair amount of time to get used to this.

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[Continued]

Mr Illsley

136. Thank you, Chairman. Just before I come onto questions on conventions, the three of you obviously have vast experience of visiting other Chambers, other legislatures. I just wondered whether you have any examples or can think of any examples of where the attendance is perhaps better than ours in debates? Because it strikes me, from my visits to other Parliaments, that we are no different from any other legislature in that our attendance is really the same as other countries.

(*Mr Sands*) It is very, very difficult to generalise. In general, other Parliaments sit less in plenary than we do. Let us take the Bundestag, which I happen to know a bit about although I have not been there for many years. They draw a clear distinction between their plenary periods and their Committee periods. So Committees are not, in general, sitting when the plenary is and the plenary is very highly structured, much more than us. The parties decide on who should speak on their behalf. There is not the same freedom that the Speaker has to go about. So yes, the attendance is better, but I would have said that the spontaneity was much less.

Chairman

137. Could we strike a happy balance? Do you think that it helps Parliament for, as I say, perhaps 60, let alone 50%, of Members not to be available? We have Members here who are not only here in this Committee, but are going to chair the Scottish Grand Committee, which meets a little later on, when in fact probably, and I speak for myself and I could speak for Peter Atkinson and probably other Members as well, that we would like to participate in the main debates in the House, it is a very important debate, but we are obliged to be here.

(*Mr Sands*) I think that is unanswerable, Sir Nicholas.

138. I am asking you: do you think that we should adapt or adopt the best parts of having a plenary and then more Committee work carried on at a different time?

(*Mr Sands*) One thing that some Parliaments do is to have a plenary week and a Committee week, but one has to face the fact that that is going to cut down on opportunities and if you have got—

139. Cut down on opportunities for Members or to cut down for opportunities for Government to legislate? Which or both?

(*Mr Sands*) It would be probably be both, but I was thinking of Members because you were putting it in terms of opportunities for Members to participate in a debate. The fact is that we have a very large House full of Members who increasingly have opinions on a very wide range of matters which they want to express. It is not like, when I started off in this House, when there were several Members who were quite happy to support their party, play a modest part, but not come to trouble the House too often with their own opinions. That has gone. If you are going to satisfy Members' aspirations in that respect, cutting down, let us say, plenary sitting days from 160 a year to 80 a year is not going to be very popular.

140. You do not think that Members' desires to speak are driven by the media?

(*Mr Sands*) By the media?

141. By the media.

(*Mr Sands*) I would hesitate to speculate about the motives of Members who wish to participate in debate.

142. Does Dr Malcolm Jack or Douglas Millar wish to trespass in this area? Although you were nodding.

(*Mr Millar*) I was agreeing with the Clerk. There is nothing that I could usefully add.

Mr Illsley

143. On conventions: in the paper you have submitted you have made reference to the fact that there have been reports by members of the Chairmen's Panel that conventions have been ignored or not followed in the House. I was just going to ask a general question: do you think this is arising because Members are now more inclined to ignore conventions of the House, or it arises because Members are not fully aware of the conventions of the House, or never knew them? Bearing in mind, of course, it outlines in your paper and I think attached to the back of the paper is a leaflet which sets out the conventions. There now appears to be quite a lot of opportunity for Members to become aware of the conventions. Do you have an opinion as to why conventions perhaps are not followed as—I am not meaning the ones which you refer to in your paper as the "Gallant" or "Learned Gentleman", more the type of being present for the wind ups, or being present at the beginning of the debate, being able to take part in it. Again, following on from the flow of debate and referring to what has been said and so on.

(*Mr Sands*) First of all, Mr Illsley, I reported it in my memorandum, but I have not been present at meetings of the Chairmen's Panel when this has been covered. It is not my experience. I sat in Westminster Hall until very recently, and it is not my experience that there is wanton disregard of conventions; but it may be that in the smaller Committees and in Bill Committees, where things tend to be more informal, there may have been problems in that respect. I think there are a few, but it is quite a few, Members who do not like the conventions and almost take a sort of pleasure in ignoring them. And I think, of course, there is a general tendency in society to be more informal, to have less regard for protocol and small courtesies and I think Members of Parliament reflect that tendency.

144. Do you think there is anything further that the House authorities should do to try and encourage the better take up of conventions or the better following of conventions by the main players?

(*Mr Sands*) The Speaker did give a ruling yesterday saying that he was going to reissue his beginning of Parliament letter about these conventions in the next few weeks in an expanded form. I think that that could help, but I still myself believe that the best way of initiating new members into these things is for them to talk to their colleagues and to just be there. There are usually a few members in every intake who never quite seem to get sucked into the ethos of the

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place, do not have too many close friends among more experienced Members and just never get that sense. They just do not feel comfortable here, in a strange way; but I think that learning from watching and from talking to colleagues is still the best way and however much literature we pump out it is not going to have the same effect.

Chairman: You see, in years gone by, Mr Sands, a Member of Parliament, in the main, would never make his or her maiden speech until they had been in the House for six, eight weeks, sometimes even longer. Today they jump in—

Huw Irranca-Davies: Two days in my instance.

Chairman: Indeed—extremely quickly when, inevitably they have not got a proper understanding of the conventions or traditions of the House.

Mr Illsley

145. One other question which relates to a point where you say that the convention of addressing other Members in the third person through the Chair is one which should remain and you make an interesting point where you say “Nobody who witnesses proceedings in Parliaments where the convention has been abandoned can fail to notice there is a deterioration in atmosphere”. Could you give an example of that or emphasise that point, because I was quite interested in that?

(*Mr Sands*) The particular experience I was drawing on was seeing a Parliament in session in Australia. I will not name names, but it was pretty rough stuff. The fact that they were looking across the Chamber and saying “You are a . . .” just encouraged that tendency.

Sir Robert Smith

146. Had you seen the Australian Parliament before the convention was changed?

(*Mr Sands*) No. Well, my understanding is that it was never changed formally, it just sort of fell by the wayside and occupants of the Chair were not willing to enforce it.

Mr Atkinson

147. I wanted to refer back to something before we talked about the convention of the house, but can I just say I also watched the Australian Parliament in session and I did ask the question about the changing of the conventions and they have not been changed. But I have to say that it took my breath away because I thought *we* were badly behaved but it was vintage stuff. Just going back to what you said earlier about the plenary and the Committee, when you talk about 160 days you are also including things like report stages and time when we deal with very minor pieces of legislation. If, for instance, report stages were held in the Committee, which some of them ought to be, not on the floor of the House, you would actually come down to fewer days where actually real front line sort of debates were taking place, so that if you did go to that system of trying to hold things on different days, I suspect you would still end up with enough major days to satisfy most members who wanted to speak on the major debates.

(*Mr Sands*) It certainly would make a difference and I also refer in passing to the fact that report stages are the most difficult stages to reconcile with the new programming system, particularly when the programme is expressed in terms of a fixed finishing time rather than a length of time so that you get to report stage on quite a significant bill which has to finish at seven o'clock and you do not know whether that is going to be five hours, four hours or even, on a day with three big statements, even less. It is already procedurally possible (Standing Order No 92) to have report stages in Standing Committees. I think it dates back to the 1960s, that particular Standing Order, and it has simply never taken hold. It is one of those pieces of machinery which has been provided but, for some reason or another, not used.

Chairman

148. So it has never been used?

(*Mr Sands*) It has been used a couple of times, perhaps once.

149. Do you advocate it?

(*Mr Sands*) I think it would be regrettable for Bills of significance because, although in practice this does not often happen, the theory, I think, is a good one that a Committee is for a small group and report stage is there as an outlet for people who were not on that small group, but then can come in and make their point.

150. But is that right? I put it to you, Mr Sands, as Clerk of the House, with the programming now of the report stages of Bills, which very seldom happened in the past, how are many people able to get in? Because the time that is given to the report stage of an important Bill on the floor of the House is so limited that only a token number of people can actually get in to speak.

(*Mr Sands*) I agree with that, Sir Nicholas.

Sir Robert Smith

151. Can I just clarify, when the report stage goes to Committee it is the same Committee that did the Committee stage, or can other people then take part in the same way as a delegated legislation?

(*Mr Sands*) No, it can be—

(*Mr Millar*) Re-nominated by the Committee of Selection.

(*Mr Sands*) So it is not everybody. It can be up to 80 members.

(*Mr Millar*) But the Standing Order is framed so as to limit the type of Bill that can go to a report stage Committee to one which has been considered by a second reading Committee or the Scottish Grand Committee in relation to its principle. So it was originally intended for uncontroversial Bills, but the point that the Clerk of the House has made is that even for uncontroversial Bills it has not been deemed appropriate to use it more than once.

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[Continued]

Chairman

152. This is interesting, this whole matter. I read your paper. Would you be prepared to look at this to see whether it might help the House? Am I at liberty to ask the Clerk to the House? Because, to my mind, to me, it could be a way of unlocking more time and having, at some stage, a move to a plenary and a more Committee orientated activity but still giving a largish number of people opportunities of participating. Because you yourself have just stated to us, in answer to my observation and question, that programming has dramatically limited the number of people who can contribute to the report stage of an important Bill. Historically, that was open to every member of the House. When I first came into this place there were very, very few, if any, time limits or guillotines on report stages and Members who were interested but had not been on the Standing Committee did have an opportunity of making a contribution on a subject that they were concerned about or which was of great relevance to their constituency.

(*Mr Sands*) That is undeniably the case. It was fairly routine in those days for report and third reading stages to be exempted from the 10 o'clock rule until any hour and going until midnight was a pretty common routine, so that there was time for proceedings to develop a certain momentum of their own. I have to say, though, that I think the way that Members use legislative proceedings now has changed very considerably. There is much less focus on the text of the Bill and the details of the clauses. There is much more a political decision to focus on a few key issues and forget about the rest. I think that that was evident before programming, I have to say. Malcolm Jack, as Clerk of Legislation, may have a different perspective.

153. Do you wish to comment briefly?

(*Dr Jack*) No. I would agree with that. The Standing Order we are talking about was first introduced in 1967, to confirm what the Clerk of the House said. So it has been in existence for a long time.

Chairman: But not been used and that is interesting. Huw, can you perhaps now move onto another—

Huw Irranca-Davies

154. Yes, indeed. Thank you. I take it one stage further and I think that it is put eloquently by one of the submissions we have had. One newish MP who says that they feel regularly humiliated waiting for five hours never to be called. "The debating Chamber is almost irrelevant to me now. . . . My apologies for not getting this reply to you any sooner. I have been sitting in the House waiting to be called!" I think that puts it quite succinctly. One of the ways forward from this that has been put forward by a number of submissions is the idea of lists of speakers and actually publishing of speeches. Now, I know that there are very divergent views on this, but some people are saying quite strongly that at least it gives them an opportunity to put their views on record if they cannot get called in the Chamber. I am wondering if you have any comment on that?

(*Mr Sands*) On speakers' lists or printing—

155. On speakers' lists but also then beyond that, the printing of their speeches that are not delivered.

(*Mr Sands*) I am very reluctant to be drawn on speakers' lists, to be honest, Mr Irranca-Davies, because it is, I think, very much a matter for the Speaker and his Deputies and they have their views on this matter. It is not a procedural issue, so I would prefer, if you do not mind, to leave that to one side.

Chairman

156. Can I just intervene in support of Huw Irranca-Davies? But it is a matter for the House and again we are trying to improve the procedures of the House and the relevance of the House, both to the outside world and for the convenience of Members. The sort of letter which Huw Irranca-Davies has just read out is not untypical of Members of Parliament—

(*Mr Sands*) I have noticed that.

157.—who feel that this place is increasingly irrelevant to them. They cannot get in to speak in debates. The chances of speaking and representing the people that they serve in this place, those chances are very few and far between. Does this not worry you?

(*Mr Sands*) Mathematically, with a House of our size, the chances are always going to be fairly limited. I was quite struck by the number of people who have written in to you and particularly contributed to the Modernisation Committee's inquiry who obviously quite seriously feel that they are being discriminated against. I have raised this with the Speaker's office and it is always hotly denied. They can produce figures and demonstrate that it just is not so, but there obviously is a perception there which—

Huw Irranca-Davies

158. Can I take you down one other angle as well, which again I would invite your comments on. Round about this time of this year—you mentioned the pressures of the media to force Members to appear on the floor. If you do not, certainly the media will pick it up or they can do. We have a very well-publicised sort of witch hunt down in our part of the world where some Opposition Members publish the list. One of the criticisms of this very often is that of course the party of the greatest majority, their backbenchers, have less of an opportunity because of the normal convention of going from side to side when selecting contributions. In other words, you have a greater opportunity if you are in either an opposition party or a particular minority party to be called on any particular debate. Would it reduce the concerns expressed in this sort of letter if there was a different type of discretion shown that would reflect more accurately the proportion of people within different parties within the Chamber as opposed to simply going to side to side?

(*Mr Sands*) I have to say yes, it could do. In fact, reading the evidence it is clear that most of the discontent comes from your side of the House and I suspect that that practice of the Chair, in general, going from side to side—although even more important, trying to balance views within a debate

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which is sometimes much more difficult to do. The Speaker was complaining the other day he could not find anyone to support the Government.

Chairman: He should look to the Opposition side of the House! David, you wanted to come in.

David Hamilton: Chairman, the very point that you raised at the very end there was a point that I was going to come in on. As a Scottish MP, I am under the same pressures as the Welsh MPs and that is that the Scottish look at what happens, if you have Plaid Cymru and the SNP on one side and on average we calculated out that my counterpart, who came in at the same time as me, has been allowed in 13 times to my twice and that is based on across the floor of the House, one to one. And no matter how this dresses up, it is more acute now because of the size of the majority than what it has been in past years. I do think and ask the question: do you not think there is a change that needs to be brought forward to change that balance, whilst at the same time allowing the minority parties the floor? As it stands at the present time, there is a major imbalance of minority parties taking the floor.

Huw Irranca-Davies

159. Could I possibly add, David, some comments there? There are two possible ways on this one I alluded to earlier on, which is highly controversial, which is the publishing of speeches that were not delivered. I appreciate that that is highly controversial. The second one is to actually publish the list of those who have applied to speak so that constituents could say "Whilst they may not have been called, I know that even though they were only called twice in the whole of the session, they applied 53 times".

(*Mr Sands*) I think that that, as it were, *ex post facto* publication of the list of people who have applied raises quite different issues from the business of issuing a speakers list at the start of the debate which tells people exactly where they are in the batting order. I can see the arguments against that but, as I say, I do not want to be drawn into that. The other one raises quite different issues. It is not a proposal I remember hearing made before and I would not necessarily discourage this Committee from putting it forward, but it would be a matter for the Chair. I should make it clear that the Clerk Assistant and I are not there when speakers lists for a debate are drawn up. We have a briefing meeting with the Speaker to take him through the day in procedural terms, but then it is down to the Speaker and his deputies to "do the list", as they say. Very often they are in the position of having a very unbalanced list, but the imbalances are not always what you would predict.

Mr McWalter

160. About things like speakers' lists, you said they are not a question of procedure, but in a way as a Procedure Committee I suppose we see what we are doing as to try and be custodians of the highest possible quality debates in Parliament and for Parliament to act as effectively as possible. If there is a change in procedure which will facilitate that end,

then I think the Chairman agrees with me that we had better consider that in terms of how things move. Certainly, although there are not any speakers' lists, I think most of us have got quite a strong sense of actually exactly what the order will be. We know if there is a major debate and a Privy Counsellor comes back from his month long lecturing tour of America, he will be called very early and he will leave the Chamber shortly afterwards. Equally, a humble backbencher of the sort who wrote this letter here can sit there for ever and not get called. And she makes the very interesting point that she will not even intervene because by intervening on anybody the chances of her actually getting to say what she is sitting there for six hours to say is further reduced. So you have an absurd system in which the procedures for conducting the debate have, in the end, created people, who have been elected to Parliament to serve an area, with the feeling that they do not have the capacity to represent the interests of the people of that area on things that they feel passionately about to Parliament. So that is how we are interpreting the concept of procedure, I think, and it is important maybe to understand that so that we would consider making such recommendations if it turned that we thought that that would rectify some of the difficulties.

(*Mr Sands*) I think it is only a matter of procedure to the extent that the House has given the Speaker the discretion to call people to speak in a debate. You get to speak by catching the Speaker's eye, in the old parlance. It would be possible to recommend that that power be taken away from him and that priority be determined in another way; but while the procedure remains as it is, the way it is operated I think is not a matter for us, as Clerks.

Chairman: No, but would you accept, Mr Sands, and really picking up what David Hamilton said and Tony McWalter and others, that there is now a greater degree of disquiet about the way that people get called to speak in a debate, catching the Speaker's eye, than ever before? Certainly because I am Chairman of this Committee, many members are coming to me expressing growing frustration and disquiet about how they perceive the lists may or may not be drawn up. Hitherto, I have to say, I have relied entirely upon, and trusted, the discretion of successive Speakers, but there appears now to be an increasing disquiet about the inability of some people to get called.

David Hamilton: I follow that on by saying in the very short time that I have been here, one of the things that I have adopted and a number of other new MPs have picked up on is interventions because if you are not getting—and that is a problem that you relate to. The problem with that is the more interventions, the less speakers will be able to go through. But at the end of the day, because of the changes that have taken place in society over the last 10, 15 years, we now have 24 hour television, MPs are now actually now more to people in the street than they have ever been before. Without digressing, Chairman, I can recall the MP two times before me, where he walked in the street in Dalkeith, they virtually turned the phone off because they had never, ever seen him. They never had television, they never had access. Accessibility has changed how this place should work. I think that is a major, major issue

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for many new MPs coming in, that you are not seen to be delivering the goods, if you like, to the public who elected you to do that. It is a very public thing and that is why I think there has been major changes.

Chairman

161. I think we have hammered it enough, but I hope you appreciate, I think, the frustration which we, as a Committee, are seeking to deal with on behalf of many members of the House who are unhappy.

(Mr Sands) I entirely understand that, Sir Nicholas, but if I can just go back to your point about this being a new phenomenon, I would challenge that, to be honest. There have always been complaints about the convention, which has now actually formally been abandoned, that Privy Counsellors had preference.

162. It has been abandoned.

(Mr Sands) It was once understood that Privy Counsellors had precedence; and there would be early day motions put down on that issue every session that I can remember, going back to the mid 1960s. So I do not think that the disquiet is new. I think what is new is the long period we have had now, since 1997, with a very unbalanced House and I think that that has created particular tensions.

Sir Robert Smith

163. Do you think, in a sense, a lesson in mathematics for the public would alleviate part of the problem? If we had a Parliament of 400 people obviously more people would get called in a finite length of time, but if you have a finite length of time and 659 people by definition, presumably, not everyone is going to speak in every debate.

(Mr Sands) No. That is absolutely right. I thought for a terrible moment there you were going to tempt me into the issue of fair voting and the effect that that would have on the make up of the House!

Huw Irranca-Davies

164. Very quickly, would you recognise that in the current system there is actually a perverse incentive for backbenchers to contribute to debates which are not their specialism in order, if you like, to up their batting order or the number of times they had and actually, what we should be looking at is some way of changing this in order that you have MPs who specialise more? It is actually within the numbers, the logic of the numbers, is that you are going to end up with MPs, which I think is quite right, that should be much more specialist in certain areas, as opposed to generalists, but I am not quite sure how we get there.

(Mr Sands) I think what you say about Members perhaps being less specialist than they were is right. It is what I think I was tempted to say slightly more rudely by saying how many Members now had opinions that they wanted to express on so many issues and that is a growing phenomenon, I think.

Chairman: By the way, Douglas Millar and Dr Malcolm Jack have been quite quiet. Do not hesitate to come in, please, because it is important that we get a complete range of experience and all of you have tremendous experience. Peter Atkinson.

Mr Atkinson

165. Thank you, Chairman. To move onto Private Members' Bills and some questions on Private Members' Bills. As you know, there is a concern among many members that the hurdles that Private Members' Bills have to go through are defeating the system. It is not a view that I share incidentally. I think the more hurdles the better, that is my personal view. But to look at the system to see whether there could be fewer Bills, but Bills with a greater degree of certainty perhaps to proceed. One of the points that you made in your paper was that many Private Members' Bills involve some form of expenditure and that therefore the Government would therefore wish to seek to control them. What proportion of these Bills would need a money resolution and therefore can be vetoed by the Government?

(Dr Jack) I have not got the statistics right before me, but I can certainly send them to the Committee.

166. It is an idea I think we would be happy with.

(Dr Jack) Yes. I think that the basic point that you are making is that the money element has to be controlled by Government and that is true, but that applies to Government handout Bills, as it does to other Private Members' Bills.

167. Yes. In a sense, if a Private Members' Bill which involves money that the Government frustrates because of the money resolution.

(Dr Jack) I think the answer to that is that the Government has some responsibility in those areas. I think the Clerk has made clear in his paper, I think it is somewhere in paragraph 14, in that area of the paper, that expenditure that arises from legislation must be part of Government's responsibility as a whole.

(Mr Sands) Can I ask Douglas to come in because he has fairly recently ceased being Clerk of Legislation.

(Mr Millar) I would not want Members to get the wrong impression. In fact, if a Bill gets a second reading, albeit that it requires a money resolution to proceed into Committee, it has been the experience more or less since the 1960s that the Government will facilitate the passage of that Bill by passing a money resolution to enable the Committee on the Bill to consider it. So the reason, I think, the Clerk was adducing in his memorandum why the Government are interested in expenditure is that they may have an interest in the fate of that Bill and may seek to influence that fate, but they will not do so by the technicality of not offering the support of a money resolution.

168. Just to move on, also in order to help more backbenchers get Private Members' Bills, one of the problems that they face at the moment is that unless the Bill is unopposed, which I suppose is quite rare, the Bill has to take up all of Friday before a closure can be moved. So you virtually have to have a long five hour debate before you can get a closure on it.

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Would more Bills succeed and go on the Statute Book if the Chair allowed a closure earlier? Or would you think that the Government would simply then knock these Bills off when they came to report stage? Would there be any benefit in allowing early closure?

(Dr Jack) I think the main problem of the bottleneck actually occurs on report stage rather than at the earlier stages. So I am not sure that it really would make very much difference.

Sir Robert Smith

169. Could you not get two Bills on a Friday though?

(Mr Millar) We did last Friday. The other point I would make is, of course, that it is the Chair's prerogative whether a closure is granted. It then involves the Chair making a value judgment about whether or not a Bill is so important that it requires the full five hours of debate that might be available on a Friday or whether it could be brought to a close, say, at midday and that is a very difficult decision for the Chair to take. In particular, when a Bill is being debated, it may be of a very minor technical nature, but that minor technical change to the law may be very controversial and it does put the Chair in a slightly invidious position to ask them to make that decision.

David Hamilton

170. However, Chairman, there were two Bills last Friday, but there should have been more followed by some taking place without opposition. That was one of the first experiences I have had to come to a Private Members' Bill on a Friday and I found it really quite unsettling that here was some really good Private Members' Bills, but the Opposition did not want to talk it out. So Sir George Young makes the point in his area that he would actually prefer to see less coming through with a sort of guillotine coming in saying that there would be a debate and then a vote at the end of that, rather than being talked out.

(Mr Sands) My memorandum does acknowledge the fact that there is a great deal of random chance and luck in the way things turn out now on Private Members' Bill Fridays, but the only way that I can think of in which one would change that would be to turn the system completely around. Instead of having things like a ballot and the rather random way in which a Bill may trip up, not because it itself has come to grief, but because one ahead of it is experiencing trouble (it is rather like a runner in a race getting interfered with on the bend), one would have to go to a managed system with a form of programming where a Bill would be given three or four hours with the guarantee of a vote at the end of it, a decision.

Chairman

171. You are not suggesting in any way a sifting of Private Members' Bills?

(Mr Sands) Yes, if you have a managed system, you have to have someone doing the managing and that is why I drew attention to the procedure which applies in the Canadian Federal House of Commons

in Ottawa where they have, in effect, a sifting Committee. It is a Private Members' Business Committee or called something like that. Your Clerk, I believe, has got details off the Internet about it and can provide them.

Mr Atkinson

172. You say that that is controversial anyhow? That is proving controversial in Canada?

(Mr Sands) It has recently. I met the Clerk of the Canadian House of Commons by chance a few weeks ago and, knowing that this inquiry was coming up, I did have a discussion with him. The system had virtually led, as I understood it, to a sundering of procedural relations between Government and Opposition in Ottawa because the Opposition were so upset about the way this sifting Committee was doing its sifting. So no procedure that you can conceivably devise, I think, is immune from the possibility of being influenced by a Government with a healthy majority because the sifting Committee would have to reflect that majority.

173. If you did not have a sifting Committee, could you have a system where the Bill was given a priority after, say, a second reading based on the number of people who voted in support of it or something like that? Or people who signed a motion in support of a particular Bill, say there was a deep strength of feeling—

(Mr Sands) The size of the vote for a second reading I do not think works logically because it does not meet the case of a Bill which goes through totally unopposed and the fact that people have voted against a Bill is probably a sign that it should be lower down the pecking order than some others. But even if you had a system whereby people had to register support for a Bill in order to secure it a preferential place in the pecking order, that can be managed too. It is not difficult to get 150 signatures if people with influence really set their minds to it.

174. The difficulty is that because of the hurdles there is always a temptation, for most lazy members like myself, when we come up in the ballot we take a Government handout Bill because all the work is done for you and you will probably get it through, but it does actually militate against the idea of Private Members' Bills. However, on a different point, the Chairman of Ways and Means has commented that the £200 allowance that you actually get to help with drafting is hopelessly inadequate now. Do you think that the money could be increased or do you think that the Government should be asked to put the Parliamentary Draftsmen at the disposal of some Members?

(Dr Jack) I think, Chairman, to answer that, the £200 obviously is a derisory sum now and I do not think it would buy you very much expertise. I think it is more a question of the kind of advice, rather than the amount of money available to Members and that advice is best from Parliamentary counsel, as you suggest. So I think that that avenue has more to do with it than upping the £200.

175. We do not have any access to Parliamentary counsel on our Private Members' Bills.

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(Dr Jack) To the extent that Government handout Bills become Private Members' Bills—

176. Indeed. That is the attraction, but if you do not have a Government handout Bill do you think there is any scope for the Government to be asked to provide time from Parliamentary counsel?

(Mr Millar) I think the Government have in the past done something of that sort. I remember in the 1980s, when I was Clerk in charge of Private Members' Bills myself, I helped a Conservative Scottish Member at the time draft a Bill with about 16 clauses and I think only the citation clause remained at the end of the process. So it definitely was not drafted with Government help. It definitely was not a handout Bill, but by a process of negotiation with the Government, in whose hands the implementation of the Bill would lie in any event, the Member managed to have the Bill redrafted through their good offices. Now, whether the Government have the resources to do that for every Private Members' Bill that gets a second reading, I am not in a position to answer, but that certainly does happen beyond the case of pure handout Bills.

Chairman

177. Perhaps Peter Atkinson, in a rather courteous way, was asking whether or not a backbench Member of Parliament who is successful in the Private Bill ballot should, as of right, be entitled to approach the Parliamentary Draftsmen in order to seek the best possible advice in the drawing up and drafting of a bill. If Parliament is to mean anything, there must be a levelling up of the rights of authority between the Executive and Members of Parliament. Is this not one way in which a better balance could be established that a Member of Parliament would have the right to approach Parliamentary Draftsmen in respect of the bill that he or she would wish to introduce?

(Dr Jack) I would rather suspect, Chairman, that that would probably be limited, would it not, to a certain number of Members successful in the ballot.

178. Absolutely, yes. Would you think that that is an acceptable proposal?

(Dr Jack) I think it rests with the Government really, does it not? The Parliamentary Counsel Service is under tremendous pressure in meeting the demands of Government.

179. Yes, but you see you have already showed surrender because you have said it is up to the Government. As a Parliamentarian, I would say to you, as Clerks of the House, and you serve the House, that surely it should be up to the House to take that decision, not the Government.

(Dr Jack) Yes, I merely meant to say, Chairman, that the staff of Parliamentary Counsel are part of Government, just to clarify that.

Mr Atkinson

180. What about allowing a Member to use or have enough money to use an outside Parliamentary Counsel?

(Mr Sands) That was the original idea behind the £200. £200 could just about buy you something then, but I do not think it ever really worked in that way because—I mean there were a lot of genuine private initiatives—more, I think, by proportion at the time when that allowance was introduced than now—but their provenance overwhelmingly was from outside pressure groups who had the resources themselves to do drafting. Not drafting that Parliamentary Counsel would have been happy with, but then one Parliamentary Counsel does not like another Parliamentary Counsel's drafting, so the idea that they would ever accept, or advise a Minister to accept, the output from an off-the-shelf lawyer purchased with, let us say, £2,000 is just wishful thinking. I do not think, in all honesty, that any bill has ever failed solely because of the deficiencies of its drafting, unless it was very ambitious. If you look at that famous Bill—Alf Morris's, as he then was, Chronically Sick and Disabled Persons Bill—that was originally drafted by a senior clerk in the Public Bill Office. If you look at that first draft and then look at the Act, they are totally unrecognisable as being the same piece of legislation, but the Bill succeeded.

181. That is reassuring because it is, I think, a limiting thing that you either say take a Government handout bill for an easy life or you have to go to a pressure group.

(Mr Sands) Or the Public Bill Office can, with its very limited resources, and in an acknowledged amateur way, assist Members to put their thoughts into something which looks respectably like a bill.

Chairman

182. This Committee really wants to put more authority back with the House and with Members. If Members have been successful through a sifting mechanism or Committee or whatever, that is another argument and another matter. Do you not think that Members should have reasonable access to skilled Parliamentary draftsmanship to enable them to take their bill forward?

(Mr Sands) I think if we did have a managed system with, for example, instead of Members going in for the ballot with no idea of what they were going to introduce if they were successful, but having an idea which was regarded as meritorious by some sort of sifting mechanism, there would be a good deal to be said for making resources available to work that idea into a serious bill. But the whole process would take a lot of time and it might be quite difficult to compress into a session—and one of the features of the Private Members' Bill procedure is that it is compressed into the session. We have the ballot pretty early in the session, but you do not know, at that stage, what the proposal is. You just know the Member's name and then there is another lapse of time before you know the actual proposal. So I think if there were some sifting or managed mechanism, that management would have to kick in much earlier in the process.

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Sir Robert Smith

183. Is it completely beyond the realms of possibility to have the ballot at the end of one session so that people can be ready to go at the start of the next session?

(*Mr Sands*) Say there was still a ballot, you could hold the ballot very early, at the beginning of the session, and require Members to have at least their long title or the basis of their legislative proposal in time for that ballot.

184. If they had the ballot in a previous session, they would then have the full session in the next Parliament. They would then be able to present their bill right at the beginning of that session and have the full—

(*Mr Sands*) Yes; I am just reluctant to encourage you down a route which would only really properly work in the middle two sessions of a Parliament.

185. Yes. One of the other things, of course, your memorandum deals with the sitting times and you have made the point that you would like things to bed in for about 12 months' experience of the new pattern to give time for monitoring the effect on staff working hours and for subsequent negotiations with the trade unions. What aspects of the effects on staff were foreseen before the new hours and what have emerged in practice?

(*Mr Sands*) I cannot answer the second part of the question yet, Sir Robert, because we are engaged in each department, and of course the effect is quite different in different departments, in collecting evidence of the effects which we will then put together into a paper for the House of Commons Commission. Of course I was not at that stage on the Board of Management, so I am talking at second hand here, but our efforts during the two months between the House agreeing to the Modernisation Committee Report (which was by no means a foregone conclusion) and its coming into force at the beginning of this year were concentrated, within each department, on making sure we could cope; that there would be Division Clerks in place at the right time, that the Refreshment Department outlets would be opening at hours which suited the new pattern rather than the old hours, that Hansard shifts were re-organised. All that sort of thing. So there was a lot of—well, it was not contingency planning, but planning went on in that period. But it was piecemeal and there is a knock-on effect on staff allowances and so on which we are going to have to deal with more consistently so that we can re-negotiate this House of Commons staff handbook into a form which suits the new hours. Perhaps I overstepped your Committee's brief by putting this in my memorandum, but I was quite keen that you should be aware that a lot of staff felt quite upset that the Modernisation Committee seemed to take no account of their concerns and interests at all. Papers were put in, but they did not seem to be regarded. I have read papers from members of staff which say quite disrespectful things about Members thinking only of their own interests and not at all of the staff. I just feel that here we are, six weeks after the new disposition comes in and we are already thinking of changing the game. I think that is going to—

186. Putting aside the people wandering around in a daze saying "Why did I vote for this? What is going on?" that is different. But we are looking—is there something then if we know where to see the type of Private Members' Bills or for some other proposals coming to us that there was use to be made after seven on a Tuesday or Wednesday, is there somehow that we could handle that recommendation that would better placed to work with the staff? (a) Maybe more notice of the transition, or (b) the sort of more practical considerations then before actually that proposal would be implemented?

(*Mr Sands*) I think perhaps, in my Chief Executive hat, I ought to deal with that one first, but Malcolm might tell you about, for example, the effects on the Public Bill Office. The effect of that would be to introduce a standard 14 hour working day for at least two days a week. Now, we have coped with the change to the new hours in a way which I think, in the end, will be cost neutral. There may even be savings in some allowances, but not very much. That further step I do not think would be cost neutral. There would be more resources involved because we would have to introduce shift systems. We have to have staff doubling up in roles. We would be having to pay overtime on a far higher scale. That would have to be planned for, built into our estimates. We would have to recruit the bodies. So you are talking about a significant lead time, I think, for that.

187. On the other side of things though, if we could define more predictably exactly how long the House would sit, would that bring any savings? Because at the moment you always have to build in for allowing the business to go beyond, but at least if we had defined times when we knew—

(*Mr Sands*) It is unpredictable because it would depend on how it was done. At present there is no guarantee, for example, that the House will rise at seven o'clock or 7.30 on a Tuesday or a Wednesday. The rule can be waived and it has happened already. So if you wanted a guaranteed three hours, you would not necessarily get it by sitting just until 10 or 10.30 with the adjournment. So you could already be talking of going beyond 10pm. One of the big reasons we could not plan exactly in advance before 1st January was that we did not know how Committee sitting patterns would develop—Committees are free to determine when they sit. This Committee would not previously, probably, have been sitting at 2.15. Standing Committees have started meeting at five to nine in the morning as a matter of routine, which means that staff in Malcolm's office have to start at eight o'clock at the latest. We then start worrying, if staff have been here until an hour or two after—or even just until the end of the sitting on Monday and that goes to 11 o'clock or so, and then they are back in at eight o'clock the next morning, that is already straining the bounds of the Working Time Directive. We have already had to negotiate flexibilities within the Working Time Directive and they would be more extreme flexibilities if we had a 14 hour sitting day. But Malcolm can say more about that because it affects the Public Bill Office particularly intensely.

(*Dr Jack*) If I can just supplement the Clerk's remarks by saying that in the Legislation Office we are also monitoring the hours that people are working and we will contribute to the general paper

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which eventually will be put forward to the House of Commons Commission. But from observation of these last six weeks, I can say that at least on two days a week members of the Legislation Office are tending to work more than 11 hours a day. They are coming in, because of the early starting of Standing Committees, at about eight o'clock or thereabouts and no-one really is leaving before seven in the evening. I think that, of course, it can be argued that at other ends of the day people have gained in that they are not here at two o'clock in the morning, but nevertheless this as a continuous pattern is quite a heavy one, but I stress that we are monitoring this very closely and we will come back.

Sir Robert Smith: Because it has also evolved that the Fridays now really are just Private Members' Bills now. Is that affecting the use of time, the fact that on a lot of Fridays now the House is not sitting?

Chairman

188. We have got a four day week now.

(Dr Jack) That is right, yes. My 11 hours a day was an average over five days a week. There are members of the office doing about 56 or 57 hours a week.

(Mr Millar) On non sitting Fridays, if I might just add, Sir Nicholas, the Standing Orders do allow Members to table questions and amendments. When I was Head of the Legislation Service, I recall one Friday afternoon, three o'clock is the time set out in the Standing Order, but about 200 amendments were handed in at five to three and my colleague who had to deal with those amendments left the office on that Friday evening at eight o'clock. Our commitment is that whatever is tabled within the laid down hours, all those transactions, all those proceedings will be dealt with before the staff leave. So that is our commitment to the House and that is what we do.

Sir Robert Smith

189. So there are quite a lot of practical considerations and long term planning required in looking at any changes in how we—

(Dr Jack) Yes, I think that is right.

Chairman

190. Can I just add one quick thing? Last night the House surprisingly rose early. The House finished its business at half past five. Interestingly, because I was around the House until half past seven, I was approached by three Members who were incensed that they could not table their questions up until seven o'clock, which is the time that the House would normally have concluded its formal business. Do you not think it would be sensible to say that the Table Office, Dr Malcolm Jack referred to the Public Bill Office, I now refer to the Table Office, that that should remain open until seven o'clock or 7.30 after the adjournment debate to enable people who have planned to table questions that day, maybe for whatever reason they will not be able to do it subsequently, although with the more flexible system that is not now so difficult, but should not the facilities of the House, like the Table Office, be open to the scheduled time of end of business?

(Mr Sands) The House's perception of giving notice, unless it is otherwise stated in the Standing Orders—which it is in relation to non-sitting Fridays—means giving notice during the previous sitting of the House. So it is not lack of willingness to be here until—

Chairman: The House, Mr Sands, gets very good service from the Clerk's department. Very, very high quality of service and standard of service and help to Members. But does it not make sense that if the House is expected to sit until seven o'clock, and it is not as if it is until 11 o'clock or 12 o'clock, that the Table Office, for example, should be available to take questions until that time?

Sir Robert Smith: You need to change the Standing Orders.

Chairman

191. If it would require a change to Standing Orders, but I am saying is that not a reasonable request?

(Mr Sands) It is not an entirely unreasonable request, no, Sir Nicholas, although one of the feelings of the staff in this matter is that one is used, in Parliament, to there being swings and roundabouts, but they are beginning to wonder where the roundabouts are.

192. Members of Parliament have never had the roundabouts, so they no longer expect them. David Hamilton.

David Hamilton

193. Could I ask for comments on a couple of observations? One is that as someone who voted for modernisation programme and has, in a very quick period, regretted that decision and the changes that have come about, I indicated earlier on I came down on a Friday to see the Private Members' Bills, one of the things that has been openly talked about at the present time is Private Members' Bills being taken on a Tuesday and a Wednesday, which would further change things within the House itself. My dilemma, Chairman, is one of two things. One is that, as employers, and that is what we are in this sense, we have a responsibility in that a decent employer should look after their staff. What disappoints me, and I will put it a little stronger than that now, but what disappoints me—and that is good for me to say that rather than what I really think—I remember Lindsay Hoyle raised a question directly in the debate to Robin Cook, the Leader of the House, and Robin Cook gave an assurance quite clearly that this would not affect financially any member of staff. I found that a wee bit hard to take. When you say that cost neutral would be the effect, does that mean that members of staff have not lost income because of the changes that have come about? Or when you say cost neutral, does that mean that some are being paid more because of the changes in hours and some are being paid less? Because I see that as a very simple guarantee from the Leader of the House and if that is not being complied with, I would be quite disappointed with that.

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[David Hamilton Cont]

(Mr Sands) I am afraid I cannot answer that without notice, but my understanding of the situation is that no allowances have been withdrawn. They are still being paid in their previous form, but there may, of course, be cases where people who were getting overtime to be here until 10 or 11 o'clock and are no longer needed in that capacity may not be getting that overtime. So I cannot give you a categorical undertaking.

Chairman

194. Obviously, Mr Sands, there are great savings on the cost of taxis for staff of the House. I always used to find it rather unfortunate that I would be queuing for a taxi and I might be queuing for three quarters of an hour late at night, only to find all the staff going off in taxis that had been booked for them. But that was, I think, relevant from half ten, 11 o'clock at night? So clearly that is no now appropriate. So there clearly has been quite a saving there.

(Mr Sands) That clearly would be some saving, yes.

195. Yes. Could I just come on to the last question from the Chair? This is substantive motions for debates in Westminster Hall. You suggest that the House could experiment with having debates in Westminster Hall on motions other than the adjournment, which is the present situation. To avoid divisions on such motions having to be transferred to the House, would the motions that you suggest could be dealt with in Westminster Hall have to be very anodyne and would this give much advantage over the existing system?

(Mr Sands) I think they would have to be fairly anodyne, yes, Sir Nicholas. And so I am conscious that I am not offering a great deal in putting that suggestion forward. But I cannot think that it is really practical politics now or in the immediate future to suggest a re-shift of Private Members' debates back from Westminster Hall to the Chamber and so I was making my suggestions on that basis. Nor do I think, given the physical layout of Westminster Hall and the culture that has tended to build up there, that it is feasible to think of recommending full divisions there, or votes taking place there.

196. No, but of course time has to be found for such divisions and that would have to be on the floor of the House, but would it not be sensible and make Westminster Hall more relevant, and it is the representations one has had from Member of Parliament in all parties that, for instance, Select Committee reports might be subject to a substantive motion, not just debated on the adjournment. To make these debates more relevant, more exciting and leading people to believe that actually their vote can mean something on a report that has been drawn up after a very considerable amount of time of deliberation and drafting. Do you not think that the House should then find time, if a debate does end in a division, that time should be found maybe once or twice a week, at a specified time of the day, for a division to take place on that motion?

(Mr Sands) Douglas, do you want to say anything about that, as the man in charge of Westminster Hall?

(Mr Millar) I think that the difficulties of the rules, as presently drafted, explain why the Clerk was very cautious in his memorandum about what could be done. Whether or not your Committee wish to recommend that debates should take place with a guaranteed subsequent division in the House is a matter for the Committee, but as the rules stand if Members wish to frustrate it, they could prevent the debate happening at all by rising in their places and signifying objection to further proceedings. So I am not quite sure how this would be engineered without the anodyne motion of which you spoke.

197. But I am trying to help the House because there are people who believe that Select Committee reports are very important and that they are likely to be even more important if they are actually debated on a substantive motion. What I am saying is that the debate could continue to take place in Westminster Hall, but as the Standing Orders are at the moment any division is referred to the House. What of course it does not say is when time would be found for that division to take place. Am I not correct in that?

(Mr Millar) You could use the analogy of statutory instruments, which are debated in delegated legislation committees. They are debated upstairs and thereafter a motion is put on the floor of the House. We have them almost every day. A procedure could be devised for any such motion debated in Westminster Hall to come back to the Chamber for decision.

198. If we wrote to you at a later stage of our inquiry asking whether you could help us on that, would you be in a position to do so?

(Mr Sands) We could set out what the scenario would be. In reading the Standing Order, I think that the likely course of events would be that the motion, whatever it was, which had been challenged in Westminster Hall would appear on the Order Paper at a subsequent time, almost certainly after the moment of interruption. Therefore if challenged again, it would be the subject of a deferred division on a Wednesday.

199. Perhaps it would be helpful to have that in writing at an appropriate stage and if our Clerk should write to you and we want to pursue it, if you could actually produce a paper for us, that would be very helpful. Are there any other matters that the colleagues still—

Tony McWalter: I was just wondering what exactly, Chairman, was meant by an anodyne resolution. Would it be of the form that the House do receive this report or whatever? Because I am not quite sure that we have that at the moment, in which case we probably just do that all the time and it would not be contentious, but it would be a more—currently the Government takes cognisance of Select Committee reports but probably in a way that has gone beyond the control of the House. Is that the idea of this anodyne motion?

12 February 2003]MR ROGER SANDS, MR DOUGLAS MILLAR
AND DR MALCOLM JACK[Continued

Chairman

200. Perhaps, Roger, you can give us some idea of an anodyne motion?

(*Mr Sands*) A fairly anodyne one, without being absolutely sort of completely formal would be urges the Government to do more to respond to recommendations by the Committee.

Tony McWalter

201. So not a formal motion of the sort I was just—

(*Mr Sands*) Not necessarily, that is right. I mean whether the Government would think that was anodyne, I do not know. I cannot speak for them. I certainly agree with you, to this extent, Sir Nicholas, that I think if you were minded to recommend an experiment with that sort of procedure, doing it in the three hour Select Committee slots would be the best place to start.

Chairman

202. That is very good advice and perhaps very good advice to finish on. Mr Sands, Dr Malcolm Jack, Mr Millar, can I thank you very much for being so patient, giving us, as fully as you tactfully could, answers to all the questions that we put to you. We did not seek to embarrass you in any way earlier in respect of speakers lists or publication of a list of those who applied to speak. I can only say from the Chair, and I know my colleagues will support me, the number of members that believe that this is a way forward is very substantial indeed and we necessarily need to press and probe this very deeply. I am sure Mr Speaker will not be happy when he reads all these transcripts or, shall we say, has a précis of the transcript before him by any of you gentlemen, but the fact is that we have to respond. It is a Committee of the House, we have to respond to the demands, the expectations and requests of those in the House of Commons. Thank you all very much for your expert advice, which has been very, very helpful indeed. Thank you.

WEDNESDAY 5 MARCH 2003

Members present:

Sir Nicholas Winterton, in the Chair

Mr Peter Atkinson
Mr John Burnett
David Hamilton
Mr Iain Luke

Rosemary McKenna
Mr Tony McWalter
Sir Robert Smith
David Wright

Memorandum by Peter Bradley, MP

It is my view that backbenchers have not had the opportunities they deserve to promote either debate or, for that matter, legislation.

However, the rescheduling of the Parliamentary day provides unprecedented opportunities to address this problem.

I can see no reason why use cannot be made of both the Chamber and Westminster Hall after 7pm on Tuesdays and Wednesdays to debate Private Members' Bills, Select Committee Reports and matters of general interest to Members. Indeed, I would go further and on occasion invite individuals who are not Members of Parliament to participate in those debates.

I also thought it might be helpful if I enclosed a copy of the letter which I wrote to the Speaker on 15 October last year which set out my concerns about the way in which participants in major debates are chosen.¹

I would be very happy to contribute oral evidence to your inquiry if you would find that helpful.

21 January 2003

Further memorandum by Peter Bradley, MP

IRAQ DEBATE I 24 September 2002

The 50 Members, not including the Foreign Secretary and his two Shadows, who spoke in the debate comprised 19 former Ministers, the father of the House, two select committee chairs and two leaders of minority parties.

Only 26 (11 Labour, eight Conservative and seven Liberal Democrat or minority party Members) could be described as genuine backbenchers.

Of the 50 speakers, only 11 (22%) had entered the House since the 1992 general election despite the fact that 57% of MPs (378 in number) have been elected since then.

Of that modest total of 11, ten were Conservative and Liberal Democrat Members who were able to speak because relatively few Opposition Members were seeking the opportunity.

Only one Labour MP elected in 1997 was able to contribute to the debate. She was the very last to speak before the front bench wind-ups began.

Although Labour MPs elected after 1992 constitute 71% of the Parliamentary Labour Party (293 out of 410), they made up only 4% of Labour speakers in the debate.

No Labour MP who was first elected in 2001 spoke.

IRAQ DEBATE II 26 February 2003

The 35 MPs who spoke in the debate, not including the Foreign Secretary and his two Shadows, comprised 13 former Ministers, 3 Select Committee Chairs and 3 leaders or former leaders of minority parties.

Only 16 (six Labour, seven Conservatives and three Liberal Democrats) could be described as genuine backbenchers.

Of the 35 speakers, only eight (23%) had entered the House since 1992 despite the fact that 57% MPs (378 in number) were elected since then.

¹ Not printed.

5 March 2003]

[Continued

Of the eight, six were Conservatives or Liberal Democrats who were able to speak because proportionately fewer Opposition members were seeking to speak.

Only two Labour MPs elected in 1997 spoke in the debate and they were 28th and 34th out of the 35 Members to speak.

Although MPs elected since 1992 constitute 71% of the Parliamentary Labour Party (293 out of 410) they made up only 12% of Labour speakers in the debate.

No Labour MP who was first elected in 2001 spoke in the debate.

IRAQ DEBATES I & II

The 85 Members, not including the Foreign Secretary and his two shadows, who spoke in the two debates comprised 32 former Ministers, the father of the House, five select committee chairs and five leaders of minority parties.

Only 42 (17 Labour, 15 Conservative and 10 Liberal Democrat or minority party Members) could be described as genuine backbenchers.

Of the 85 speakers, only 19 (22%) had entered the House since the 1992 general election despite the fact that 57% of MPs (378 in number) have been elected since then.

Of that modest total of 19, 16 were Conservative and Liberal Democrat Members who were able to speak because relatively few Opposition Members were seeking the opportunity.

Only three Labour MPs elected in 1997 were able to contribute to the debates.

Although Labour MPs elected after 1992 constitute 71% of the Parliamentary Labour Party (293 out of 410), they made up only 7% of Labour speakers in the debates.

No Labour MP who was first elected in 2001 spoke in either debate.

IRAQ DEBATE II 26 February 2003

Speakers by Party and Election

	<i>LAB</i>	<i>CON</i>	<i>LD</i>	<i>OTHER</i>	<i>ALL</i>
2001		1	3		4
1997	2	2			4
1992	2	2			4
1987	*3	2			5
1983	*3	*2		1	6
1979	*3	1			4
1974	1				1
1970	2	4			6
1966	1				1
Total	17	12	3	3	35

* Asterisks refer to MPs elected in a by-election during the term of Parliament indicated by starting date.

Speakers from 1997 and 2001 Intakes

	<i>LAB</i>	<i>CON</i>	<i>LD</i>
First 2001	X	Mercer	Barrett
No in list (out of 35)		25	19
Time of speech		5.06	4.23
Time since start of debate		3.20	2.37
First 1997	Sarwar	Lewis	X
No in list (out of 35)	28	23	
Time of speech	5.30	4.50	
Time since start of debate	3.44	3.04	

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[Continued

IRAQ DEBATE II 26 February 2003*Speakers by Party and Order*

	<i>LAB</i>	<i>CON</i>	<i>LD</i>	<i>OTHER</i>
1	83			
2	79			
3		70		
4	91			
5		84		
6	70			
7		70		
8	74			
9		70		
10	87			
11		70		
12	79			
13				90
14	70			
15		79		
16	84			
17				87
18	92			
19			2001	
20	92			
21		83		
22				83
23		97		
24	66			
25		2001		
26	87			
27			2001	
28	97			
29		92		
30	83			
31		97		
32	82			
33			2001	
34	97			
35		92		

5 March 2003

Memorandum by Dr Richard Taylor, MP

As still a very new MP and without the backing of a major party, some of my comments may not be particularly relevant as other MPs probably have more information than I do, but I do have some concerns to raise.

From my point of view to take part in a debate in the main Chamber requires a vast time commitment. I have no way of knowing whether I am going to be called and when I am going to be called and even though in a debate I am really interested in, I am quite happy to sit through the whole of the proceedings, it can be extraordinarily difficult to attend the whole of the debate when one has other pressing commitments. Would it be possible to have some sort of indication about when one is going to be called? I do realise that one can approach the Speaker's Chair and ask permission to be absent for short periods, but it would help to plan one's workload if one did not have to commit the total time to a debate.

I think it would be wrong to print undelivered speeches in the Official Report but I think it should be possible except in exceptional circumstances for everybody who has requested to catch the Speaker's eye to achieve this.

I do feel very strongly that the Speaker should have the power to recall the House in emergencies when there is an obvious feeling in the House that it should be recalled.

On the positive side I very much welcome the short and longer debates in Westminster Hall as these are a very valuable use of one's time.

*5 March 2003]**[Continued*

My final point is that it is a great disappointment to me that Private Members' Bills are relegated to Fridays when I suspect most of us have longstanding commitments in our constituencies. Thus it is almost impossible for Private Members' Bills to really get anywhere. I don't know what the answer to this is, but I would like to think that there is an answer that would give a Private Member's Bill more of a chance of becoming law or at least having a full scale debate with a good attendance of MPs.

23 January 2003

Further memorandum by Dr Richard Taylor, MP

Since I wrote to you about parliamentary procedures on 23 January, I have had further thoughts particularly in view of the change of hours of the work in the Chamber.

As an Independent without a Party Whip, I have to make up my own mind on which way to vote on all issues before the House. The hours between 6pm and 10pm, when it was less easy to do routine office work, were ideal for catching up with the Bill of the day and probably getting into the House to listen to the wind ups to help me decide which way to vote at 10pm.

Now most votes are at 7pm or earlier, and as you will understand the hours between 8.30am and 6pm are so incredibly busy with office work and Committee work, I have virtually no time to study the pros and cons of Bills and to work out which way to vote.

Although I can get a certain amount of advice from Members of all parties, it is not the same as having time to study the issues and make up my own mind.

I realise that this is a purely personal issue for me as the only Independent, but I wonder if the Procedure Committee could bear it in mind.

29 January 2003

Memorandum by Tam Dalyell MP, Father of the House

1. List of Speakers in Debates

Should not be made available, as MPs will "blow in, blow up and blow out", with minimum time in the Chamber.

2. Conventions

I am against time limits—8, 10, 12 or 15 minutes. If Michael Foot and John Mendelson had been confined to 8–15 minutes in 1967, Harold Wilson would have succumbed to Lyndon Johnson's request for a symbolic "battalion of bag pipers" (Johnson's words), and taken us into the Vietnam War! The Speaker should use his discretion to call people with an obvious "locus", rather than rely on "Buggins' Turn".

3. Printing Undelivered Speeches

I'm against it. Who would read them? Besides "a speech is a speech", an article would be better. If no one writes an article, possibly the substance was not worth saying in the first place!

4. Private Members' Bills

I think the occasional 10 Minute Rule Bill should be given a fair wind.

5. The Speaker's Role in the recall of the House

It should be Mr Speaker, and the Speaker ALONE. I would like to give oral evidence on this crucial issue.

6. I regret that the opportunity for balloted Friday motions has been stolen from back benchers. In my 35 years of Friday debates, the topics chosen often resulted in action which would not otherwise have taken place.

7. The Royal Prerogative

The Royal Prerogative always was suspect and has been ABUSED by this Prime Minister, in relation to potential war with Iraq.

2 February 2003

5 March 2003]

[Continued

Memorandum by Sir Patrick Cormack, F.S.A., MP

I offer some comments for the Committee's consideration and would be very happy to amplify these either in writing, or by appearing before the Committee, if that would help.

1. I believe it is entirely appropriate for the Speaker to take such factors as seniority, membership of relevant Select Committees, known interest, or expertise, in a subject into account when calling Members to speak in a debate. I also believe it is essential that the Speaker strictly enforce the convention whereby Members must be present for the opening and closing speeches of any debate in which they take part, and indeed for the two speeches subsequent to their own. Any Member who fails to observe such conventions should be given penalty points! I also think it would be helpful, in this context, for a printed list of speakers to be available an hour before the commencement of the debate, but I would suggest a further innovation, namely the reserving of either 30 minute or 1 hour (depending upon whether the debate is a full day or a half-day debate) when Members who have attended could genuinely catch the Speaker's eye. That might encourage attendance.

2. I am emphatically not in favour of printing undelivered speeches. This would merely encourage Members to write their speeches and that, in itself, flies in the face of one of the best, though least observed, conventions of the House.

3. I am reasonably happy with the procedure for debating Private Members' Bills, but I would like to see a reinstatement of Private Members' Motions, to be balloted for on a given number of Fridays. Now that no Government business is taken on Fridays there are several that could be made available for this purpose.

4. The recalling of the House should be the prerogative of the Speaker, though obviously he could not reasonably refuse the request of the Prime Minister of the day, any more than he could refuse to allow the Prime Minister, or any Minister, to make a statement.

24 February 2003

Examination of Witnesses

MR TAM DALYELL, a Member of the House, SIR PATRICK CORMACK, a Member of the House, PETER BRADLEY, a Member of the House, and DR RICHARD TAYLOR, a Member of the House, examined.

Chairman

203. Can I warmly welcome our witnesses. Apologies for keeping you for just a minute or two but we had some private business which we had to complete. Can I thank you for coming to help us with our inquiry. We have some very distinguished members of the House to give evidence to us today. Tam Dalyell, the Member for Linlithgow, is the Father of the House and has submitted a paper. Sir Patrick Cormack is a very senior Conservative Member of the House, having been in for some 32 years. Dr Richard Taylor, interestingly, is the only Independent in the House. We welcome him and thank him for the contribution that he has made, and of course Peter Bradley is the Member for The Wrekin. All these witnesses have submitted papers to us. Can I from the Chair ask the first question, and I am presuming that those who are giving evidence have actually read some of the evidence that has already been published as part of our inquiry. Peter Riddell of the Hansard Society said on 29 January that, "... a six hour debate where people get up and talk to 20 people or whatever in the chamber is a pretty bizarre way for opinions to be expressed. It can be done more succinctly, more effectively ... in different formats ... a lot of debates were not an effective way of expressing opinion". I put it to our witnesses: should some debates in the House be shorter than is currently the case?

(*Mr Dalyell*) I think it depends on whether speeches are truncated or not. If it is just a series of nine or ten minute speeches that is deeply unsatisfactory. If people who know about the subject

in the opinion of the Speaker are asked to speak and are allowed to make 25-minute speeches, that I think is rather effective.

(*Sir Patrick Cormack*) I find myself much in sympathy with what Mr Dalyell has said. Of course, there are occasions when a two or three hour debate is entirely adequate, and of course there are occasions when it is perfectly appropriate to limit the time of speeches, but, as Mr Dalyell made the point in his submission to you, where would some of the great speeches of the past have been and some of the great orators who moulded this place if they had been limited to eight or 12 or even 15 minutes? It is a question of balance and getting the balance right. What I am concerned about is having people in the chamber and that is why I have suggested that the Speaker should be particularly tough on those who do not honour the parliamentary convention of being there at the appropriate times. My own view also is that there should be a slot in every debate when the Speaker genuinely lets people catch his eye. That would encourage attendance, I think, if you felt you really did have a chance and it was not just a question of the list. I would not be against publishing some names but I would have one slot in a major debate of at least an hour and in a short debate of at least half an hour where Members could rise in their seats and have a real chance of participating in the debate. The worst thing about our debates is that so many Members have written their speeches, they read their speeches, they pay no regard to what has been said by the speakers that have preceded them and, having read their speeches, they disappear shortly afterwards and if you are very lucky come

5 March 2003]

MR TAM DALYELL MP, SIR PATRICK CORMACK MP,
PETER BRADLEY MP AND DR RICHARD TAYLOR MP

[Continued]

[Chairman Cont]

back for the wind-up. That is no way to run a parliament. I do think that we should take some lessons from the way they do it at the other end of the corridor where the attendances are better throughout and there is a degree of spontaneity that we do not always have.

204. Very quickly in response to that and, if colleagues want to come in at any stage I urge them to do so, are you suggesting that Members need not write to Mr Speaker for this half hour or hour slot in a major debate requesting to catch his eye? Are you suggesting that they just rise in their places?

(*Sir Patrick Cormack*) Absolutely. I am suggesting that there should be an allocation of time in every debate, and it depends on the length of the debate how long that should be, and Members should be told that they will not get any preferential treatment by writing. That does not preclude Members from writing for the greater portion of the debate, but I am a tremendous believer in spontaneity. I have been in the chamber on many occasions and have suddenly been moved to make a speech and if it has been the report stage of a Bill or something like that then one is called but otherwise you do not stand a chance and it seems to me that sometimes we probably miss out on quite a lot.

205. Could you spell out, because you are a stickler for tradition, what you believe the courtesies and the traditions of the House are that should be honoured by all Members if they wish to speak in a debate?

(*Sir Patrick Cormack*) The courtesies are that the Member must be there from the word go. No excuse should be accepted for missing even five minutes of the opening speeches. The Member must stay for at least the two speeches following and must be there for a wind-up but the Member should be expected to be there pretty well throughout.

206. Peter Bradley?

(*Peter Bradley*) The first thing is that everyone, I imagine, can make a case for speaking 25 or 35 minutes on the basis of their knowledge of an issue or their passionate commitment to it. We have to have some way of limiting the length of speeches when there is pressure on time, when there are Members who want to speak in a debate. Frankly, although I can see the point that some of the greatest speeches in the House of Commons and elsewhere have taken more than ten minutes, for the most part I suspect that longer speeches can be distilled into ten minutes and if they cannot then probably there is something wrong with the speech. The key question is, what is the chamber actually for? You quoted the occasions on which people are making speeches to an empty chamber. Why are they there? They are not really these days going to persuade people from positions they have already adopted because if they were to do that they would have to persuade those Members not only to change their minds but also to defy their Whips.

207. Could I just come in there? Do you not think that Ann Clwyd in the debate on Iraq might well have swayed a number of her colleagues? Whether or not that was to defy the Whip a hundred and whatever members of the Labour Party were prepared to do that. Do you not think that her speech was very telling?

(*Peter Bradley*) I think there will be occasions where it is possible that good speeches can dissuade people from positions they have already adopted but I think they are few and far between. They will be typically in cases where the issue is a matter of a free vote or where there are pressing matters of conscience that are being debated. There are some MPs, although regrettably perhaps not all, who, loyal as they may be to their party, also are prepared to exercise their conscience. On those rare occasions yes, I think it is possible, but they are few and far between. For the most part people know which way they are going to vote whether they attend the chamber or not. We all are aware, and it would be silly to deny it, that we ourselves and many of our colleagues troop through the lobbies at the end of the debate asking each other what Bill it is that we are voting on, never mind what the issues are and what has been said in the chamber. I think we have to consider the importance of the chamber and what it really represents. Are we there to express the views of our constituents or our own views on behalf of our constituents rather than making speeches in the vain hope that we will persuade people to change their minds? That is the key question in my own mind.

(*Sir Patrick Cormack*) You ask what the chamber is for and what it should be. In a word, it should be the cockpit of the nation. What I want to see is the chamber reinstated in that position. I thought last week the debate on Iraq was a very good example of the chamber at its best. Examples of that are few and far between. I am one of those who frankly deplores the Westminster Hall experiment because I believe that the chamber should be the place, but that is my prejudice and I readily admit to it. We all have prejudices. Yes, it should be the cockpit of the nation. People should be encouraged to participate and to stay and I think some of the things I have suggested might have a real effect on increased attendances.

208. I want to come back to Peter Bradley but I feel I am obliged to ask Dr Richard Taylor to come in.

(*Dr Taylor*) Thank you very much, Mr Chairman. I am very hesitant because, as you know, I am one of the newest Members and therefore one of the least experienced and I bow to what my eminent companions on this table say. Not that long ago a backbench Tory said he had never ever seen anybody change their mind. I forget which debate that was in, but it was in one in which I changed my mind so there was one person who changed their mind. The six-hour debates to 20 people absolutely amazed me when I arrived here. I always remember for my maiden speech it was meant to be on a Thursday and I did not get in and I was very tempted to quote William Cobbett before his maiden speech because he said, "Mr Speaker, it appears to me that since I have been sitting here I have heard a great deal of vain and unprofitable conversation". I did not dare to say that and I am sure that was not right, but I am with people who certainly have said that most contributions could be condensed and this is why, exactly the opposite to Sir Patrick, I really like the 90-minute debates in Westminster Hall because the people there are all going to speak, or hopefully they are all going to speak. They have all got a view and it usually makes a much more interesting debate. As a single person who finds it utterly impossible to be

5 March 2003]

MR TAM DALYELL MP, SIR PATRICK CORMACK MP,
PETER BRADLEY MP AND DR RICHARD TAYLOR MP

[Continued]

[Chairman Cont]

in two places at once, to commit a whole six hours is sometimes extraordinarily difficult. Like Sir Patrick, if I am going to speak I want to be there for the opening speeches and really for the speeches before I speak because somebody might say what you were going to say, so it is a total commitment of really a whole day which can be difficult.

209. Can I just come back to Peter Bradley because he talked about people not changing their mind, or very seldom changing their mind. Is that not, Mr Bradley, an indictment of the thoughtless whipping systems that we have in the House which deny people apparently the right to do what they believe to be right and adequately to represent the views of their constituents which may not necessarily be in accordance with a particular policy that their party is implementing?

(*Peter Bradley*) I think I would need about 300 years' notice of that question. I think you are ranging way beyond the issue of the procedures of the House.

210. My prerogative.

(*Peter Bradley*) It is, of course, your prerogative but of course you are a Conservative Member of Parliament. If we were not going to have Whips then it would be very difficult to be a Conservative Member. It is already very difficult to be a Conservative Member, but it would be almost impossible to be a member of any organised political party; I think we all accept that. As I said earlier, it does take courage now to vote against your Whip but there are Members of Parliament who are prepared to do so when they are sufficiently moved to do so and that is a very noble tradition and I would hate to see that disappear. I am not sure, however, that our electors would want us to dispense with the whipping arrangements. I know we all like to think that we are here because of our own personal qualities, our charisma and our appeal to our electors, but most of us are here because of the party we represent and they expect us to speak for that party as well as to exercise our own judgement. Just to pick you up on a point, you say that perhaps we should be here to represent the views of our constituents. I would suggest that that is an extremely difficult thing to do on issues as divisive, for example, as Iraq. Richard Taylor says he cannot divide himself into two. I do not think I could divide myself into seven, eight or nine. Ultimately we are here because we represent a party and also, hopefully, because our constituents believe we have the right qualities. We have to balance the loyalty we owe to our party and to our duty to be politically consistent to our constituents on the one hand and the exercise of our independent judgement and our own consciences on the other. That is something we will have to wrestle with just as our predecessors have and no doubt our successors will.

211. A specific question to Mr Dalyell who was very brief in his first response. Mr Dalyell, what attributes in your view make a debate a really effective use of parliamentary time?

(*Mr Dalyell*) When those who are speaking know something about the subject that they are speaking on. On the changing of mind, all right, circumstances in 2003 are rather different from circumstances in the 1960s, but there was a changing of mind and it was a changing of the Prime Minister's mind in relation to

Vietnam. After he ceased to be a Prime Minister the first time and before he became Prime Minister for the second time, Harold Wilson was a great gossip to us. When asked by me, had Michael Foot and Jack Mendelson actually changed his mind on whether to commit the battalion of bagpipers that Lyndon Johnson asked for symbolically into Vietnam, he admitted yes, the speeches of Michael Foot and Jack Mendelson were a major factor. Another major factor actually was Sir Maurice Oldfield but that is a different story. The fact is that the debates mattered. I do not know whether you are having Jim Callaghan before you; perhaps it is a bit difficult, now he is 90 years old, but he might have some interesting things to say about how the House of Commons changed attitudes to that White Paper produced by Barbara Castle, *In Place of Strife*, on the industrial front. What the House of Commons is for did matter very much.

(*Sir Patrick Cormack*) I think there are more recent examples than that, if you look, for instance, at the last Conservative Government and the very distinct change of attitude towards Bosnia. I know I have an axe to grind and I was one of those who was constantly arguing against my Government at the time, but it started with a very tiny group of us, a few Labour Members, to be fair, most of the Liberal Members and one or two on our side, but there was a changing of mind. I think debate can have that effect. It does not always have it, of course. Although I think party is important and nobody can deny that, the classic definition of country, constituency, party in that order is the way most of us have to behave. Of course, Peter Bradley is right. We cannot give our constituents' views unless we have a referendum on every subject. We do not know what they are. What we have to do is that we owe them, in the classic Burkeian phrase, our judgement and our industry and our initiative, and we then have to be answerable for that.

Chairman: We now move to lists of speakers and choice of speakers and I am going to ask Iain Luke to come in.

Mr McWalter

212. Chairman, before you do that, I did not want to be left unchallenged the remark of Sir Patrick Cormack to the effect that we might emulate the House of Lords, where you do not get paid unless you are seen and that does have the effect of scattering bodies around the chamber at all sorts of different times of the day. Unless we are going to emulate that system, to be honest, we are left with the situation in which we cannot assume that because people are in the chamber they are necessarily there because they are riveted by the details of the system for calculating rate support grant, which is what we are missing this afternoon.

(*Sir Patrick Cormack*) Mr McWalter makes a perfectly reasonable point in a jocular manner and yes, I was speaking in shorthand to a degree, but I do believe that it is true that the debates tend to be better attended there, not just for the reasons that you adduce but for other reasons too. There do tend to be

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more experts taking part in debates on specific subjects and I do think that a well attended chamber is something we would all like to see more of.

Sir Robert Smith

213. Sir Patrick has raised the example of Bosnia. There are not many examples that have been raised but even then how much was that change of heart because of what was happening in debates in the chamber in the House of Commons and how much was it the movement of external events that had been reflected by debates in the House of Commons?

(*Sir Patrick Cormack*) It is impossible to give a proper answer to that question. All I was trying to say was that I know that people were influenced. I also know, to give a more recent example because I was much involved in it and circulated a lot of papers in between the debates on the House of Lords, that there were Members who changed their minds on that. Indeed, at least one of your own colleagues personally told me he had done. I think this can happen. I do not want to push it too far but it can happen.

Mr Burnett: I think minds change during debates but this becomes apparent when the Government majorities are small.

Chairman: Observation noted.

David Wright

214. Sir Patrick, I was interested in your comments about Westminster Hall. I know Mr Bradley has done some statistics on how Members are called in main debates and I challenge your comment about the debate on Iraq. If you look at a profile of Members that were called in those debates it is very much skewed against recently elected Members. In fact, it is virtually impossible for a Member from the 2001 intake to get into one of those debates. One of the advantages of Westminster Hall is that ministers tend to be less trenchant in their views in Westminster Hall because they feel there is less of a spotlight upon them. I have found in speaking in Westminster Hall that it is often easier to win a concession out of a minister or win some movement from a minister in that environment than it is in the main chamber. Whether that is a good or bad thing I do not know but I think that is the value of Westminster Hall.

(*Sir Patrick Cormack*) You make, of course, a perfectly valid and proper point. I would like to make two points in response. First of all, of course we have all been newly elected Members and we have all sat through debates. Sir Nicholas will remember this. He came in during the 1970 Parliament. I came in at the beginning. All the debates I really wanted to speak in I never had the chance apart from when we had one on our entry into what was then the Common Market. The debate took six days and every single person who wanted to be called was called. I think on great issues we should have more two-day debates. I think last week's should have been a two-day debate; that is my opinion.

(*Mr Dalyell*) I agree.

(*Sir Patrick Cormack*) As far as Westminster Hall is concerned, I readily admit to prejudice. We all have prejudices. My main criticism is not that it exists and

I certainly do not challenge what you say about it offering certain opportunities to people but I think it is a pity that it sits at the same time now as the chamber more because there is then this conflict of loyalties as to where you should be and where you should not be. I wish it were called the Westminster Grand Committee rather than almost a rival too the chamber as it were, but that is just a personal opinion.

Chairman

215. We really have opened up the debate now in a major way.

(*Mr Dalyell*) It may be some delicious solace to Mr Wright to know that among the uncalled was the Father of the House last week.

216. I think we can say, Mr Dalyell, that is not for the first time!

(*Mr Dalyell*) No!

(*Dr Taylor*) May I pick up a point of Mr Wright's. You were in the chair at a very poorly attended adjournment debate in Westminster Hall when I had the most amazing co-operation from the Minister of State for Health who agreed with everything I said, which was absolutely unknown because every time in the main chamber I am sat on. That is a very good point, that you get a much more kind and open hearing in Westminster Hall.

217. If I may say so, our witnesses have raised very important issues. Patrick Cormack, supported by Mr Dalyell, has indicated that there should be longer debates and the debate on Iraq should have been two days, not one day. Clearly, debate in the chamber is currently inhibited very frequently by programme motions that are actually tabled even before the House has indicated the areas of Bill that they would like to take in either Standing Committee or Report. Is there any recommendation that our witnesses would like to make in respect of length of debates and the somewhat restrictive influence of programme motions, and perhaps the comment could be fairly brief so that I can finally bring Iain Luke in? Perhaps, Tam, as the Father of the House, you would like to comment on that: length of debates and the somewhat restrictive influence of programme motions on full and very often valid debate.

(*Mr Dalyell*) I am uneasy about guillotines.

(*Peter Bradley*) I think guillotines have their place when there is a congestion of business or indeed to stop small minorities from exercising undue influence, but on issues as big as Iraq where there are as many Members who wish to speak but will not get the opportunity I do not see any reason, for example, last Wednesday why we could not have gone through till ten o'clock. Perhaps that is an issue we will come on to in a minute but I cannot imagine that there were very many Members there who would not have agreed to go on till ten o'clock.

(*Sir Patrick Cormack*) I agree entirely with that. I think a two-day debate would have been fine. I think it should have been two days, perhaps each going on to ten o'clock, and every Member who wanted to speak should have had the chance to speak and clearly it was not possible last week. I do not like guillotines in any form. They were a rather

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unpleasant aspect of the French Revolution and I do not think they have improved much since. I was one of those who, when my party was in government, did not support guillotines very often and I do not like restrictive programmes which are in effect a guillotine by another name. I think the most shameful thing about the House of Commons at the moment—I do think it is shameful and I use the word deliberately—is on something a Member of the House of Lords said to me at the CPA lunch just now, that he thought it was such a pity that more and more Bills were going to them with up to 50 per cent not considered at all in our House because of the nature of the programme motion. That I think is wrong and I think if our constituents fully realised that was happening they would be very upset.

(*Dr Taylor*) A very practical matter puts me off longer debates, particularly when Mr Speaker at the beginning says that approaches to the Chair would not be welcome, because when you are getting a little bit older your bladder perhaps is not quite so easily controlled and you need to be able to get out and when the Speaker says you cannot go and ask him if you can creep out it makes the longer debates more difficult.

Rosemary McKenna

218. Sir Patrick made a point about the guillotine and the effect on Bills. Those Bills have been in committee for several months and it is entirely up to the Committee members, particularly the Opposition, to ensure what clauses are debated in committee, so very often what takes place in committee is just rehearsed. Having sat on various committees I know that it is rehearsed in the chamber and it is in those terms that I think it is quite appropriate for the guillotine to be applied.

(*Sir Patrick Cormack*) I do not say there is never a case for a guillotine but it should only be *in extremis*. I well remember in the early 1970s the long debates we had over local government reorganisation. The Committee sat 58 times, through the night on a number of occasions. I was on that Committee. The Industrial Relations Bill was going on and on. As with all things in life, it is a question of balance. I am not a great advocate of all-night sittings, never have been, although I have done many in my time, but I do believe that what is of paramount importance is that the Bill should be thoroughly discussed. I welcome the Government's move towards pre-legislative scrutiny. That is a very good move and it is a positive one. I do try and look at these things not as a party politician but as a parliamentarian and I have always tried to do that. I think it is important for us and for our constituents to be able to say that the Bills affecting their daily lives have been adequately and thoroughly considered on committee. The rigid timetable should be the weapon of last resort. I think that you do have a point. You infer in your comments that the Opposition does not always co-operate sufficiently on programme motions. That was a point made by Sir Alan Haselhurst in his submission last year to the committee looking at this and I think that is a valid point. There is far too much simplistic thought on both sides but I really do stick by what I said on guillotines.

Mr Atkinson

219. The panel seem largely in favour of longer debates, certainly on major issues. Would the reverse of that be that they would welcome more pedestrian legislation perhaps going to second reading committees which we have not used for years in this House, and the remaining stages of Bills possibly being dealt with off the floor of the House? One of the reasons why the chamber is so empty is that the material it is talking about is deeply pedestrian and of little interest to very many Members of the House.

(*Sir Patrick Cormack*) The answer is yes.

(*Mr Dalyell*) I agree with Patrick.

(*Peter Bradley*) Yes, I see no reason why not.

Mr Burnett

220. I am not in a position to challenge what Tam Dalyell has asserted about what happened here in 1967 in connection with Vietnam but I can say that not many people seriously believed that we could deploy troops to Vietnam when we had our hands so full in Borneo and in Aden.

(*Sir Patrick Cormack*) It is hardly a procedural matter.

(*Mr Dalyell*) The quick answer to that is that what Harold Wilson was asked for was symbolic. I used Lyndon Johnson's phrase, "only a battalion of bagpipers". That was all that was asked for.

(*Sir Patrick Cormack*) But they made a lot of noise.

Chairman: I do not feel we need to pursue that particular matter.

Mr Luke

221. It would perhaps be useful at this stage to summarise because I think we have been skirting around the issue I was going to ask questions on anyway, Chair. The issues that we have all been skirting around and one of the issues we have raised with the Speaker is about bringing much more transparency into the order of speakers to make sure that people are certain that they are being called or being considered to be called. Would you agree that speakers' lists printed prior to debate without any indication as to when they are being called, on the assumption that you will be in the House for the whole of the debate, could be a positive addition to the workings of this House?

(*Sir Patrick Cormack*) Yes, but subject to my free hour or whatever.

Chairman

222. Tam, this is surely something you feel very strongly about.

(*Mr Dalyell*) It depends on the length of speeches. Again, forgive me being historical, but there was a Deputy Speaker who was a small, peppery, bad-tempered but immensely sharp man. He was a former Lord Provost of Glasgow. He had learned his trade with Glasgow City Council. Sir Myer Galpern I will treasure. On one occasion he just said to me, "Stop blathering", and that was the end of it.

(*Sir Patrick Cormack*) And he succeeded?

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(*Mr Dalyell*) Yes. He was jolly right. I do think that a Deputy Speaker or Speaker should have the power and the confidence to stop people when they have wandered off the point. Rude, sharp they may be but immensely effective. One did not blether twice with Myer Galpern.

(*Peter Bradley*) The first observation I would make is that I think it is appropriate that Iain should have had to wait so long to put the question since he was first elected in 2001. I feel quite strongly about this. I know that this is a sensitive issue for the Speaker, as it has been for previous Speakers, and I believe it is his view, shared by others, that if you publish speakers' lists you discourage people from attending the chamber because the only people who will attend are those who will be on the list. I take absolutely the opposite view.

Mr Burnett

223. Hear, hear.

(*Peter Bradley*) We have now got to the point where Members of the 1997 intake and certainly of the 2001 intake have in many cases given up any expectation of being called to speak on the major issues of the day because they have to wait while the hierarchy of Members have their turn, to the extent that they are not now putting notes into the Speaker's office because they do not want to sit on the green benches for six hours in the futile expectation of having their say. We also should bear in mind, and I was thinking about this when we were answering the original question—Tam is upset by my use of the word “hierarchy” and perhaps I can explain what I mean at a subsequent time. I was thinking when Sir Patrick was answering the previous question about speaking and the great speeches. There are many Members of this House who actually are not great speakers and have no pretence about being great speakers. They have other talents and other strengths and, frankly, if they are not going to be able to make a contribution to the debate in the chamber they may just as well be elsewhere answering the other demands of the job that we do, whether it is in committee or at a desk or following some issue or cause or campaign of their own. I think it is very important that we have speakers' lists, that the way that the Speaker selects people for that list should be transparent. That does not mean that he or she should not have discretion to alter the order as the opportunity or the need demands, but at the moment some Deputy Speakers will not even tell you halfway or three-quarters of the way through a debate whether you are even likely to be called. I know that we all should respect the chair and respect the chamber and respect the House, but my argument is that if the chamber does not respect Members and the demands on their time and their ability as adults to make choices as to how to spend their time then it is hardly surprising that increasing numbers of Members do not respect the chamber as much as others would like them to.

(*Sir Patrick Cormack*) Perhaps if the Speaker is reluctant on lists your Committee might consider suggesting an experiment in certain major debates and just see how it does work. I do not think it would

lead to the depopulation of the chamber. I think it would encourage people, especially if we had this spare hour.

Mr Luke

224. I think you have made a very good point with regard to questions in regard to an emergency debate and Peter's information is revealing but we knew that generally that was the case. On things like emergency debates on Iraq would it not be fairer and more honest and more democratic, rather than do it, as it has clearly been done, on a hierarchical basis, whatever Tam feels, being the Father of the House, to have a ballot of the Members who put in their letters to the debate to be pulled out and allowed to speak? At least there you would get a cross-section of Members across all the years and the parties making a point, because, although it probably would not have changed my mind in the way I voted (and I voted the same way twice on both the debates because I was opposed to the issue, I regret), it does raise questions in my mind that this has been rigged by the Government to reduce debate and I think at the end of the day if we want to see it fairer and across the board it would be better for a ballot to be held of all Members interested to talk.

(*Mr Dalyell*) No, no, no.

(*Sir Patrick Cormack*) Certainly not. I actually think that the Speaker does choose without fear or favour. I have been here nearly as long as the Father of the House and I have missed out on a number of major debates, so I know what it is like, but I think that if you had a ballot you actually could run the risk of having all people with one point of view. I think it is terribly important that the Speaker is able to take account of many things, including length of service, including the line that the Member is likely to take, so that the debate is indeed balanced. The reason that I am anxious to have this free hour is that then there is that extra element of spontaneity which really does give people a chance to be buttoned down and be noticed.

Chairman

225. This is a very critical part of our debate and our inquiry.

(*Dr Taylor*) I would certainly welcome the transparency of having a list. It would help one to plan one's life much better. I did go with the new Members in the smallest parties to a meeting with Mr Speaker just ten days or so ago and he outlined in detail how they keep track of Members when they have spoken, when they have stood and have not spoken, and how they fall over backwards to try and maintain a fair way of calling people. Obviously, from what people have said, some people do not think that that works. I would certainly welcome a list, as I welcome time limits for backbenchers when there is a vast number who want to speak.

(*Mr Dalyell*) I am not unsympathetic to Iain Luke's line of argument, but there is one point I would wish to put to the Committee. If you have ten-minute or eight-minute speech allocations, psychologically everybody who is called thinks that they have to speak for eight minutes or ten minutes.

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I have never been part of a hierarchy, I assure you. I spoke on Iraq for four minutes, said everything that I needed to say at that time, and it was considered rather odd that I had spoken for only four minutes. If people can say what they wish in four minutes or two minutes they might be given credit, incidentally, the next time round.

Mr McWalter

226. A couple of our witnesses today talked about how you select people and Peter Bradley said that the method of selection for a list should be transparent. I find, by the way, Peter's evidence characteristically well argued, partly because I agree with every word of it. Sir Patrick Cormack also talked about getting points. Might it not actually be the case that attendance in debates, of actually standing and not getting called and so on, in a way gives you a kind of points rating? I do share with Peter the thought that there is really a real effort by the Speaker to try and recognise that you have been there for a very long time and have not been called, but I have to say, Chairman, that I have no feeling that that applies at all in the case of many Deputy Speakers and they seem to have very little knowledge of what the Speaker's database is. I do not know how that information percolates through. If it was possible to have some sort of building up of points, and that might be partly through just attending the chamber, it might be trying to get called to speak and failing to do so, expressing an interest in a point and being constantly rebuffed, and if we managed to codify that a bit it would not alter the Speaker's capacity to regulate the debate and it might not end up completely fair, but it might give people a greater sense that, just because you are not known and the Deputy Speaker does not know what side of the debate you are going to be on, you are not actually ever going to get called, and therefore he is never going to know what side of the debate you are on because he is never going to find out because he has got this list of people who are always miles above you in terms of the pecking order.

(*Sir Patrick Cormack*) A points system, yes, I think you could do that. I do believe that for those who attend regularly in the chamber some recognition should be made of that fact. We all know that there are some people who, come what may, unless there is something really personal or pressing, are there for Question Time day after day. They are in the chamber, they seek to take part, and I do believe that those people should frankly, whatever their seniority, be given a degree of preference over the few—and we all know who they are—who come in perhaps once a week for Prime Minister's Questions and grab a particular seat and then are not seen at all for the next week. There are some on both sides of the House that fit that category and I think that assiduous attendance should bring its own reward.

Chairman: Before I ask John Burnett to come in and then Rosemary McKenna, in the answers you give to the next question you would include a response to whether or not you would like to see a list of those who have applied to speak in alphabetical order, or a list which is published in the order that the

Speaker is likely to call them to speak. I do believe that both are relevant and it would be interesting to know what our witnesses think.

Mr Burnett

227. I think the Speaker is very much more open-minded on this matter of lists than has been suggested, and I would cast the Committee's attention back to our meeting at Speaker's House. I agree with Peter Bradley on this matter and I also agree with Sir Patrick who has set out his view about the etiquette of the House. The point I would put is, if there was a list and you were on it and you did not obey the etiquette, well then, you are struck off it and you do not get to speak. There is a similar arrangement in the House of Lords. I strongly support it and I am also strongly supportive of a chronological list so that people know when they are going to come up. Peter is quite right to say that there are many other compelling duties that we have in this place other than performing in the palace of varieties, which is very important but it is not the only thing we are here to do.

(*Sir Patrick Cormack*) I am slightly in favour of a list that is not chronological because I believe it would encourage attendance. I am in favour of the list but I am rather in favour of it not being chronological. Then you know that you are going to be called but you do not precisely know in what order. I want to clarify something I said earlier. I do think it is crucially important if you are speaking in a debate that you are there until you are called and then for at least the two speeches after and then you come back as soon as you can. That is why I would favour it being non-chronological.

(*Mr Dalyell*) I am a dinosaur who just thinks, in answer to John Burnett, that if anybody has more important things to do then they should not put in to speak at all.

(*Peter Bradley*) They do not. That is the whole point. The fact that Tam did not get called in the Iraq debate I think is the exception rather than the rule. I am glad he has shared our experience of that though. Let me take issue with what Sir Patrick was saying when he was talking about seniority of Members. I think there is a very important principle at stake here. There should be no senior or junior Members of Parliament and when I talked about hierarchy, Tam, I have tabled some evidence which you may not have seen but is my analysis of the Iraq debate in September and the Iraq debate last week, both of which show a very heavy preponderance of what would be considered by some to be the senior Members, the Privy Councillors, former ministers, those with long service, in preference to those who were elected in 1997 and 2001, and the vast majority of MPs in this House have been elected in 1997 and 2001. They get very little look-in. Only three Labour MPs elected in 1997 participated in either debate and none from the 2001 intake. I think that is pretty telling. This principle of seniority is utterly alien to me because it means that we have at least two categories of Members of Parliament, one of which is a second-class category which renders our constituents second-class constituents. When we are elected to this House we should have equal rights

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each with another and equal opportunity, all things being equal, to speak for our constituents in the chamber. I have to say to Iain Luke that I would not support the idea of a ballot, frankly, because I think it is important that there should be a proper matching of backgrounds and parties and points of view and experience to have a really vital debate, and I also agree that once people understand what the rules of combat are they should comply with them and, if they do not, they should suffer the penalty. In other words, if you are selected to speak you must pay respect to others in the debate both before and after your speech and so on, and if you do not it will be quite clear that you will suffer next time. However, other than those rules of engagement, there should be no discrimination against a Member on the basis of his or her seniority, juniority (if that is a word), party or background.

(Dr Taylor) I would just like to support Peter Bradley about the ballot. I would not like to see that, and I very much agree with Sir Patrick that I would like to see a list but I do not think it should be a chronological list.

David Wright

228. On the list issue, I am broadly supportive of a list, but let me bowl you a googly, which is the point the Speaker will come back with, interestingly enough, which is that if we have a list every Member will have to apply for every debate because you and I will get a letter in our postbag the week after a debate saying, "Why did you not apply to speak in the Iraq debate?", "Why did you not apply to speak in the hunting debate?", "Why did you not apply to speak in whatever debate?" Would we get into a situation where the list actually becomes self-defeating because we all have to bid all the time; otherwise our constituents think we are not interested in the business of the House?

(Sir Patrick Cormack) I do not take that point because I think that the Speaker should regard the letters that he receives as entirely confidential and nobody has to say whether they have written to the Speaker. All the Speaker does is that he says, "These are the Members I have selected", on whatever grounds. I do not want to get into a long debate with Peter Bradley. I probably should have used the word "experience" rather than "seniority". Mr Bradley used it himself. He said it was one of the things you had to take into account and when he looks at the evidence he will find that that was what he did say. I think that that should be confidential and the list should be published and then you do not have to tell your constituents or anybody else. It is entirely between you and Mr Speaker.

229. I am probing you on that.

(Sir Patrick Cormack) Indeed. I would like to re-plug my idea of having this period in the debate when there is this genuine opportunity to catch the Speaker's eye. I would only support the list if that were there as well.

Chairman

230. Would you have a limit to all the speeches that are asked of members during that hour?

(Sir Patrick Cormack) Yes. During that hour I would have a time limit and that would be for the Speaker to say whether it was six or ten minutes or whatever.

231. I know the problems the Speaker faces from the experience I have had this afternoon.

(Peter Bradley) We are talking about two different kinds of experience. The experience I felt Sir Patrick was referring to was experience in the House which relates to longevity of service. The experience I was talking about in selecting speakers for debate is their knowledge of or commitment to the issue under debate, which I think is somewhat different.

(Mr Dalyell) David Wright's point about constituents asking, "Why didn't you even reply?" is very valid and here again we are faced with the laws of unintended consequences.

Rosemary McKenna

232. I find your analysis very powerful. 71% of the Members of Parliament in the Labour Party came in after 1992 so that is from 1997 onwards and yet only 7% of them were called in the debate and I hope that Tam will have a really good read through that because it is quite a powerful argument about being called in debates other than through seniority. Sir Patrick, I agree with you completely on the list, provided there is no publication of people who apply and there is a time when the Speaker can use judgment. I do think that would increase people's time in the chamber. Peter, have you done any analysis on how many senior members spoke in both debates, because I think that is important as well—not just how many people were not called but how many people were called to speak in both debates?

(Peter Bradley) That was the question I was hoping you would not ask me. It is an absolutely sensible question but I have not done that analysis. I can reveal to a startled nation that Tam spoke in the first debate and that Sir Patrick spoke in the second, but whether they spoke in both I do not know. The reason why in the analysis I have referred to the proportion of Labour MPs as opposed to members of the House in general is because the Conservative and Liberal Democrat MPs do not suffer the same congestion that Labour MPs do. Because of the ping-pong, it is rather unlikely that if a Conservative or a Liberal Democrat is standing that they will not get called. Sir Patrick's experience in recent years at least will be rather unrepresentative of other members of the House. Sir Patrick will always get called not because he is such an eloquent orator, although I am sure that is an important factor, but partly because of his seniority, because that is the current system, and largely because of the numbers game in the House of Commons. That is why the newer intake of Labour MPs is effectively being disenfranchised by the current convention.

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Chairman

233. We did in the Conservative Party have a not dissimilar problem in 1983.

(*Mr Dalyell*) I am getting a bit restless about this because much has been made of my seniority and speaking on Iraq. The fact of the matter is that I have spoken on nothing else. I did not speak on the Queen's Speech; I did not speak on the Budget and I saved myself for Iraq. How much is it about seniority or the fact that I have been to Iraq, one of the very few who has, on two occasions?

David Hamilton

234. The question has been asked about three times and answered four times. That was about the seniority issue. Tam's contribution and the statement about seniority appearing to be a relevant factor in choosing the members who speak has already answered that question. There is another important issue about the ballot. I agree with Sir Patrick that there has to be a balance about the printed list, but there has to be a flexibility within that. I have sat through part of a debate where I have never stood up but as the contributions were being made I felt there was a contribution I could make. That flexibility is not there because they have a list already set up and that is something I would like to see expanded upon. When we talk about balances, there is one very big issue and that is the imbalance of the Labour Party versus everybody else. There is a 104 government majority and if you are looking seriously to have a balance within Parliament one of the things that must be changed is the ping-pong because the ping-pong works out on the basis that it is one from one side and one from the other. Many times I have been in the chamber when there have been 20 or 30 Labour MPs standing and other parties scurrying to get people in so they can speak. That is an extremely unfair position and it is also a very unfair position when the minority parties, both Plaid Cymru and the SNP, have *pro rata* speeches in the chamber that are far greater than that of any back bencher. When I go back to my constituency, constituents quite rightly say where was I; why was I not in that debate; why could I not do that? They see in the Scottish papers that other Scottish MPs can get in, namely from the SNP. That is a very unfair system and if we do look at changing certain things one of the things we must look at, surely, has to be the ratio of speakers.

(*Sir Patrick Cormack*) It is extremely difficult. It is very fair to raise the subject and your Chairman, Sir Nicholas, was right when he referred to 1983. I was along with him one of that large majority, frequently, I might say in a minority in that large majority on things like the poll tax and so on, and finding it difficult to get my point of view across. I have been there; I have done that, or failed to do it, as the case may be. This is something where your Committee has to weigh up the very powerful arguments on both sides. There is the argument Mr Hamilton has put and I concede it is a powerful one, that the Labour Party has, as a result of the will of the electorate, far more members than the other parties put together and therefore, yes, Mr Bradley is right. I have a better chance of being called than if I was sitting on the Labour side of the House. Against that you have to

weigh the longstanding convention which pertained throughout the Thatcher years when we had that big majority that the Speaker always alternated one side to the other and, in his alternation, brought in the minority parties. What you cannot do is have a system which so discriminates against the minorities that they are excluded at the expense of a huge majority. One of the answers to your question might be that you concede that you have to pay the price for electoral success by this slight imbalance. It is not for me to say what your Committee should decide but merely to indicate some of the issues that I believe you should address.

Chairman

235. From the chair, Sir Patrick, do you believe that the Speaker should have the discretion to call two members from the same side if there is a huge demand from both sides of the House because of the current imbalance in the House in order to ensure that as wide a section of opinion can be expressed?

(*Sir Patrick Cormack*) Yes. I think probably he should. I think the Speaker must have as much discretion as possible. I am a great believer in giving the Speaker a lot of discretion but I think that if he is going to do that that is where he should also be able to exercise the discretion by saying, "Yes, I will do that, but they will be shorter speeches." I do not think you have to say that every speech must be a maximum of ten or eight minutes. You can well say, "Yes, I am going to do this", just as he has the discretion at the moment to treat the Liberal spokesman in the same way that he treats the Tory front bench speaker. He might say, "If I am going to call two from the government side, those two people will have to pay the price of a slightly shorter speech." These are the sorts of things that the Speaker would be able to do. I was for three years the Deputy Shadow Leader of the House so I have been through this, through the usual channels. I would be happy to endorse that sort of approach because I think Mr Hamilton has a perfectly valid point.

Mr Burnett

236. Bearing in mind there should be equality, government against opposition, because opposition is so difficult and the huge power of the government and its machine, we must be able to speak against them and have equality of time.

(*Sir Patrick Cormack*) Yes.

Chairman

237. Mr Dalyell, would you like to comment on that?

(*Mr Dalyell*) I think the discussion is distorted by the issue of Iraq. Can I turn back to another issue, namely the miners' strike? It was quite right that the Speaker should repeatedly call members representing the National Union of Mineworkers. I at the time represented three pits. Did I ever speak on it? No. Did I attend the debates? Yes, every one because I thought I had an obligation to do so, but without uttering a word.

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MR TAM DALYELL MP, SIR PATRICK CORMACK MP,
PETER BRADLEY MP AND DR RICHARD TAYLOR MP

[Continued]

Sir Robert Smith

238. Some of these problems might solve themselves because if Sir Patrick's point is taken on board that the courtesies of the House are respected what Peter Bradley has seen happening would not be able to happen because the whips would not be able to go scurrying and find someone in the tea room to make up the numbers.

(*Peter Bradley*) It already does happen because very frequently one convention of the House will conflict with another. One convention says that you should be there throughout the debate if you expect to be taken seriously and called but, at the moment, what tends to happen is that you will have some members on the Labour benches standing up fruitlessly, hour after hour. That is the tip of the iceberg because many people who feel strongly about the issue have spent a day or so researching and writing a speech before they even get into the chamber. While they are standing up fruitlessly, a Conservative Member of Parliament may wander into the chamber and within five minutes be called.

(*Sir Patrick Cormack*) That should not be allowed.

(*Peter Bradley*) We are pong-pong, ping, ping-pong.

239. If there is no time limit, you will find that the third parties get squeezed out because the extremely long length of speeches by the Conservative benches tends to mean that the one to four ratio between third party and Conservative Party means that hardly anyone else gets called.

(*Sir Patrick Cormack*) I hope that as a result of your deliberations there will be a guide to the proper etiquette to be observed so that members will be penalised if they flagrantly disregard that. I also think that the Speaker, again with his discretion, should have the power to do what Sir Myer did do on a number of occasions and say, "That is enough." The Speaker does it now sometimes in question time. He did it three times today. I think that is a power that the Speaker can reasonably exercise after a period. It places great burdens upon him but, if your Committee came up with a guide and he was then enforcing it, it would have the endorsement of the House's own committee on procedure.

Chairman: We intend to make reference to the courtesies and traditions of the House but I believe I am correct in saying that the Speaker himself has recently sent out a letter to all members of the House outlining the courtesies of the House which he wishes to see implemented and respected by all members.

Mr Atkinson

240. Does the panel have any idea about how to make more time available for back bench members to speak? Our Parliament probably sits the longest of any European Parliament but could we extend the time even more or could we shorten ministerial speeches?

(*Sir Patrick Cormack*) In the context of the Iraq debate, I talked about two days and Peter Bradley talked about going on until ten o'clock. I think the House should not be so rigidly bound. If there is a subject of great importance—and there could be no greater importance than whether the country goes to

war or not—and members are wishing to take part in that debate, that debate should be long enough to accommodate the members. We could take a lesson from the House of Lords, where they do go on until everybody has contributed who wants to contribute. This is something that really should be borne in mind. I hope the next debate on Iraq, which probably will be the crunch debate, should be a two day debate.

(*Dr Taylor*) It has been obvious on two or three occasions in the last few weeks that everything has finished before the allotted time, so there has been quite a waste of a few hours that way. I would like to see the hours between 7pm and 10pm used much more effectively. I think it was Peter who suggested that Private Members' Bills or even adjournment debates could go on then and I would support a major debate overflowing.

(*Mr Dalyell*) I agree. There used to be the system of second adjournment debates which you applied for before seven o'clock or so and that kept the government on its toes. There is an argument for going back to that. On the question of ministerial speeches, some of them are inordinately long and the opposition equally long. Often, I think they are very selfish. They are reading out a departmental brief at endless length. When it comes to the wind up, I feel a wind up should be a wind up and that is addressing the points that have been made in the debate, rather than another deluge of departmental brief.

(*Sir Patrick Cormack*) I agree but if you limit the opening speeches too much you cut out interventions which are often terribly important. I agree with Tam about the second adjournment. I also make the point in my paper that I want to see a bringing back of Private Members' Motions and the using of perhaps extra Fridays for that. To have a vote on a substantive motion on the floor of the House is something that is now denied to the back bench member.

(*Peter Bradley*) We are all expected to be speech makers, if not orators. A lot of people come to this House with very little experience of how to make a speech. It may be sensible if those who want it are given a little training because there are some people, perhaps myself included, who will make 15 minute speeches when frankly they would much prefer, if they had the resources, skills and experience, to make eight minute speeches. We have given ourselves an opportunity now. We close the chamber at seven. We close Westminster Hall even earlier. Most of us, myself included, have nowhere to go after seven. I go home at exactly the same time as I did before. I would be more than happy—I suspect many MPs would too—if we did extend major debates beyond seven but also if we used the chamber and Westminster Hall to debate the select committee reports that never get debated, to debate the Private Members' Bills that always fall off the agenda, to debate Early Day Motions when they have reached a certain critical mass. It seems to me a very common sensible suggestion which I think might be regarded as radical, if not heretic: why do we not invite other people into our Parliament—into their Parliament, actually—into our chamber to debate with us on the issues of the day?

(*Sir Patrick Cormack*) I do not like that one at all but I agree with all the other points.

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MR TAM DALYELL MP, SIR PATRICK CORMACK MP,
PETER BRADLEY MP AND DR RICHARD TAYLOR MP

[Continued]

Sir Robert Smith

241. On the exchange between Tam Dalyell and Sir Patrick about the opening speech by ministers, during the foot and mouth debate it seemed to make sense for the minister to take a lot of interventions because it got all the nitty-gritty sorted out. The feeling was that ministers do not just read out a brief but take a wide range of interventions across the House. If that takes a lot of time, is that a fair use of the House's time?

(*Mr Dalyell*) It is a long parliamentary brief, introduced by civil servants.¹

(*Sir Patrick Cormack*) Last week, the Foreign Secretary was very good at taking interventions on Iraq as well.

242. He did not start off that way.

(*Sir Patrick Cormack*) He did recognise it was wise to do that. The great thing about debate is the cut and thrust, the spontaneity, and therefore there are occasions—you mentioned foot and mouth; Iraq is another—where it is absolutely right that the minister should not be constrained on time so that he can deal with those things.

243. Does that apply to the opposition front bench or should they be a bit more constrained?

(*Sir Patrick Cormack*) I think they should be a little more constrained.

Mr McWalter

244. The issue has been constantly adverted to about members being expected to conform to some sort of code of practice. Would not our witnesses think that we should also ourselves have some indication of what the rules are governing the Speaker because if you have occasions—the second reading of this Bill was a case in point—when the second reading was moved not a single member of the opposition was standing. At the end of the debate, there was said to be a ten minute limit. There were four members still standing, of which three were called in the last half hour of the debate before the wind-ups began. I was the one member left standing and not called. I feel a bit aggrieved about it but I feel particularly aggrieved that the Deputy Speaker had no knowledge at all of the fact that not a single person on the opposition benches had stood to speak at the beginning of the debate, six hours before, and I had not taken a toilet break or a biscuit break and I have not got a problem with my bladder or anything. None of that information ever seems to get communicated through. I do feel that the Speakers themselves have a duty to respect members' efforts to get in, as well as members expecting Speakers' efforts to achieve an effective debate.

(*Sir Patrick Cormack*) If your report reflects some of the suggestions made this afternoon about lists, about the spontaneity hour etc., then the Speaker is guided by the rules of the House. If your Committee produces a report which indicates that, the Speaker would have to take that on board.

(*Dr Taylor*) It is fairly obvious that Mr Speaker always has Sir Nicolas with him advising and helping. The Deputy Speakers I do not think ever have anybody with them. Is that significant?

Chairman

245. They have the clerk sitting in front. I do not think I am letting anything out of the bag. Two of us are members of the Speaker's panel of chairmen. The Speaker does have a briefing session with his deputies each and every day, not only about the way that the Business will be taken but also those who are likely to be called to speak. A fair amount of preparation goes in before the Speaker or the Deputy Speakers appear in the chamber.

(*Dr Taylor*) Before they change over?

Chairman: Indeed.

Rosemary McKenna

246. Moving on to the substantive motions suggestion by Sir Patrick, I do not want us to move outside the hours of the House that we have agreed already in terms of any deliberation of the House because I think it is important that we stick to the new hours. It is possible to have Westminster Hall debates or adjournment debates of Private Members' Bills in the evenings of Tuesday and Wednesday. It would be helpful for those of us who have to travel to our constituencies on a Friday. My concern is, Sir Patrick, you have said that we could maybe go back to the substantive motions. How would you guarantee that that would not just turn into another opposition position?

(*Sir Patrick Cormack*) Experience is the answer. This was abandoned before you came into the House and I think most of the people here were not in the House but we were both here and the Father of the House. There was a ballot. During part of the parliamentary year there was a ballot every week and certain Mondays and Fridays were set aside. You put in the ballot and your name was drawn out of the hat if you were lucky. I remember getting a debate, a Private Members' ballot, and I won a debate in 1972 when there was a plan to build a 300 foot high building on the site of Portcullis House of bronze and glass. I chose that as my subject. It was as a result of that debate that that idea was not proceeded with. That is what I mean by private members being able to have a substantive motion which the House can vote on as it chooses, without any regard for party. I am certainly not in favour of having party political debates in another guise, but I am very much in favour of private members' motions and, for instance, I would like to test the will of the House on our new hours. I know a number of colleagues have changed their minds and that would be a way it could be done.

247. A number of colleagues may have changed their minds either way. We will not know that until it is tested. Surely it is not going to be tested for a long time.

(*Mr Dalyell*) To borrow John Stuart Mill's phrase, we have a deep slumber of decided opinion on this.

Rosemary McKenna: How would we choose the motions to be debated? I think we have covered that.

¹ Note by witness: Yes. If a Minister subjects himself to scrutiny by questions and interruptions, that is a good use of time. A long brief, droned out, for the sake of Departmental duty, is not acceptable to the House.

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MR TAM DALYELL MP, SIR PATRICK CORMACK MP,
PETER BRADLEY MP AND DR RICHARD TAYLOR MP

[Continued]

Chairman

248. Peter Bradley talked about having Early Day Motions with a certain number of signatures being allocated time for debate. Would Mr Bradley be prepared to tell us here and now the numbers that he thinks would qualify an EDM for a debate on the floor of the House?

(*Peter Bradley*) Firstly, I just want to put on record that we know now who to blame for the most expensive office building in Westminster. It is a numbers game. I would have thought that once you hit a hundred names to an EDM, although we are all aware how you can capture signatures on an EDM, that begins to show that the House takes the issue seriously. I think we would have to ask the whips and the ministers when they start taking notice of EDMs and what is the critical mass but certainly something above 100, perhaps 150, shows that there is an issue that people feel strongly about and maybe is worthy of debate.

(*Mr Dalyell*) I am very wary of numbers. You can get 100 people easily to congratulate Aston Villa Football Club.

(*Peter Bradley*) You could not and I am a supporter.

(*Sir Patrick Cormack*) The threshold would have to be much higher than 100. I am not entirely against the idea but the EDM is a much devalued currency. I would have a different rule. I would say you could not put an EDM down until you had a certain number of signatures because some of the ridiculous, absurd, self-congratulatory motions bring the whole place into disrepute. I would say you cannot put down an EDM unless you have a minimum of 50 signatures and if you get up to 200 signatures I would be prepared to go along with Peter.

(*Dr Taylor*) There must be some way of making the EDMs more valuable. I very much like the idea of them leading to a debate when triggered, but I agree that numbers alone are very difficult. I do not know what the other answer is.

249. Do you think, for instance, Westminster Hall would be an appropriate forum for those debates rather than the floor of the House?

(*Dr Taylor*) I do not think I mind where they would be. The problem is deciding what triggers a debate. I am with Tam. You could very easily get 100 people to sign up to anything.

250. Could I try and get on record quite firmly where our current witnesses stand. Rosemary McKenna, as a distinguished member of this Committee, takes a very strong position. What would our witnesses feel? Do you think it would defeat the purpose of recent changes implemented as a result of recommendations by the Modernisation Committee to reinstate later sitting and rising times on Tuesdays and Wednesdays?

(*Sir Patrick Cormack*) Yes. I do not believe these are helping Parliament. I would like to go back on Tuesdays at least and I would like to see a reversion. On Wednesdays too.

(*Dr Taylor*) I would like to see a reversion.

(*Mr Dalyell*) Reversion.

(*Peter Bradley*) Not a reversion, because I think the business that we should be taking after seven o'clock should not culminate in a vote, so it would be

voluntary. That would mean that only those who have a particular interest in the debate will attend, and I think that will assist the debate.

Sir Robert Smith

251. If we are trying to get substantive stuff where there are votes on EDMs, would you have them as deferred divisions?

(*Peter Bradley*) I would not have votes at all. We have been talking about how to enhance debate. The best way is to encourage members to attend who have something to say. I am not one of the most frequent speakers in the House, partly because of pressure of other things and the way that I prioritise my work, but partly because I always ask myself when I am tempted to speak: have I got something to say that nobody else has said or is about to say? If the answer to that is no, as like as not I will attend to another priority. I would like to think that we could have debates where people really have a passion about a subject or a lot of expertise. Then we can have a debate which is not going to be overshadowed by the demands of the whips or government business and we really can restore to the chamber or to Westminster Hall the free flow and exchange of ideas and opinions.

252. Would you have a motion? It debates the EDM but it does not come to a conclusion?

(*Peter Bradley*) I do not think you would need to come to a conclusion. How would you bind government or anyone else to that? If we are talking about private members' business, it may be that ultimately a vote would have to be taken either in the evening or on a deferred basis or perhaps it comes back on a Friday.

David Wright

253. I understand that the current rules on the recall date from around the 1930s in relation to the process. I would like your views on how the recall should be handled. The government at the moment has authority in relation to recall. What is your view on that? Do you think the Speaker should have control and how would the Speaker use any powers in terms of recalling the House?

(*Sir Patrick Cormack*) The Speaker cannot ignore a request from the Prime Minister of the day. That would be manifestly wrong. Equally, the Speaker should be able to determine a recall if sufficient members request it. It should be the prerogative of the Speaker. He should react, in my view, rather as he does when there is an application under what used to be SO No. 9 and is now SO No. 24. He does not have to give his reasons, but he should determine this. He cannot refuse the Prime Minister, any more than he can refuse a minister permission to make a statement, but if members request it in sufficient number and he is persuaded the issue is of sufficient importance then his word is binding.

(*Mr Dalyell*) It should be the unfettered judgment of the Speaker and his judgment alone because everybody else is going to act in their political interest and this is a House of Commons parliamentary matter.

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MR TAM DALYELL MP, SIR PATRICK CORMACK MP,
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[Continued

[David Wright Cont]

(Dr Taylor) I agree.

(Peter Bradley) Absolutely.

Mr Burnett

254. Mr Bradley, in your paper and today you have indicated that individuals who are not Members of Parliament should be invited to participate in certain debates. Presumably you are not asking them to have a vote. How do you choose them? Who chooses the outsiders? What qualifications and in what circumstances? Do you not think this is undemocratic and is going to be an absolute hornets' nest to organise?

(Peter Bradley) It may take some organisation but let us take the example of Early Day Motions. The member who tables the Early Day Motion ought to have some control over the debate.

255. The person who has tabled it is going to be the speaker. You are trying to bring other, outside people in.

(Peter Bradley) All I am doing is floating an idea. I have not thought it through in organisational terms. I am trying to establish a principle that this Parliament that we have all been talking about as Members of Parliament is a Parliament that belongs to the public. It is a pretty hostile institution. I was thinking about the way people have to queue outside their own Parliament in all weathers, unprotected from the elements, to come here and be dragooned around the building in the hope that they might hear some of the debates from the gallery, as long as they do not sneeze or make a noise. I would like to throw open the doors once in a while and say to people, "Come in, you have ideas." You do not have to be elected to have an idea. I am talking about academics, perhaps journalists, people from NGOs, people from our own constituencies who have a point of view and I think we should engage with them.

(Sir Patrick Cormack) I disagree absolutely and emphatically. Members of the public can be summoned and invited as they frequently are before select committees. They will have a chance in prelegislative scrutiny to take part as witnesses and so on. That is where it should begin and end. As for bringing people onto the floor of the House, I think it is barmy.

(Mr Dalyell) The first one to come would be Robbie the Pict.

Mr Burnett: I am rather in agreement with Sir Patrick on this but, Peter, you mentioned that you had not thought it out. If you want to think about it, do and come back again.

The Committee suspended from 3.49pm to 4.05pm for a division in the House.

Chairman: The subject we want to touch on with our witnesses is Parliament and prerogative powers.

Sir Robert Smith

256. The question that is topical at the moment is what parliamentary control ought there to be on whether armed forces are committed to a conflict.

(Mr Dalyell) I have a strong view. If we ask British servicemen and servicewomen to risk their own lives and the lives possibly of tens of thousands of

civilians, we owe it to them that it is the considered judgment of their countrymen and countrywomen that their cause is just and that what they are doing is the overwhelming will of those in the British state, believing that it is an urgent interest for our country. That conviction can only be endorsed by Parliament and the elected representatives. I think it is an abuse of the Royal Prerogative to take that decision without parliamentary justification in a situation where there is no particular time problem. If it was reaction to an emergency invasion, that is one thing, but when it is a question of war in cold blood, pre-emptive action, then I believe that the use of the Royal Prerogative is just wrong.

Chairman

257. I presume that you would look to a substantive motion of the House to endorse the entry by UK forces into a conflict but without the specification of a time because of the problems that that could cause for the security and safety of our forces?

(Mr Dalyell) Of course.

258. Just the principle?

(Mr Dalyell) The principle of a clear, unambiguous, substantive motion.

(Dr Taylor) I find myself very much with Mr Dalyell. History is not my strong point but I do not think we have ever made a pre-emptive strike in the past like this. For the morale of our troops, they need to know we are behind them. It is always self-defence or the defence of other people that we have had full justification for in the past. I cannot see that we have got to that stage yet. I feel desperately sorry for the troops out there who do not feel they have the absolute support of the British people at the moment. I would very much have liked there to be an absolutely substantive motion before committing troops.

(Peter Bradley) It is an immensely difficult issue. If we demand a mandate from Parliament, what would constitute a mandate? Would it be a majority of one on a free vote? Would it be a substantive motion that is whipped? I can imagine that those who were not happy with the outcome could adduce a whole range of reasons as to why it was not legitimate. There is also a huge difficulty in the quality of information we have on which to base that kind of decision. Most of us acknowledge that the Prime Minister and his senior ministers are privy to information that simply is not available, nor should it be available, to each individual Member of Parliament. The whole system here depends on us having at least some faith in the judgment of others as well as in our own judgment. I would find it very difficult to see how in practical terms we could have the kind of vote that Tam has in mind, particularly were it to take place, for example, after hostilities have begun. In modern warfare, with special operations and so on, it is very difficult to know when we have committed troops to an armed conflict. To pick up a point that Richard made, most of our imperial past was based not on self-defence but on gunboat diplomacy, opportunism and self-interest. The greatest volume of precedents is against what Richard was suggesting.

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MR TAM DALYELL MP, SIR PATRICK CORMACK MP,
PETER BRADLEY MP AND DR RICHARD TAYLOR MP

[Continued]

Sir Robert Smith

259. Obviously ministers are party to a lot more information than in certain situations they could not share but is that not one of the roles of the House, to judge how confident you are in the way the minister appears to be handling the brief and still have the responsibility of making a decision in the light of their advice?

(*Peter Bradley*) You are absolutely right. We have to come to that judgment individually and collectively. We should not forget either that we are, and public opinion is, a constraint on those who ultimately take the decisions. The Prime Minister will be very keenly aware of what the views of his constituents are or what the views of the general public are and what the views of the House of Commons are following last week's vote. He will take that into account. There has to be a basic trust between the executive and Parliament and Parliament and the executive when decisions which necessarily have to be taken by a very small number of people are taken. It is very difficult to worry about the morale of troops and then demonstrate to the troops that they are going to war on the basis of the views of 300 out of 659 MPs voting for a motion. I think that is more problematic than those who would support that change would concede.

260. Dr Taylor wanted to respond.

(*Dr Taylor*) The critical thing to me is trust. The sadness is that because of various episodes in the past the degree of trust that the country as a whole, I fear for the government, has been eroded. This to me is the basic problem because of spin and episodes in the past. If we absolutely took on trust that the Prime Minister does have evidence that was sufficiently strong, I think more people would be following him.

261. Tam, could you address the point when in the modern stage do you decide that the crucial vote has to be taken in the sense of this argument that special forces are probably already there; a no fly zone; the nature of the bombing has probably intensified and the targets widened. At what point is Parliament taking the decision before?

(*Mr Dalyell*) Before blood is irrevocably spilled.

David Hamilton

262. Tam is quite clear in relation to the type of conflict that we may have. If we are defending ourselves we have to respond to that and that would be a decision for the Prime Minister. I think he was talking in terms of the specific, where we do have time to debate an issue. In that situation, could I ask what is the difference of the government and why should the government whip members into a position of such importance, when the vast majority of the public out there expect their MP to make that decision on their behalf? I take the view that if MPs had that responsibility, their opinions may be different from what they are at the present time. I have heard people say that they are quite pleased that the Prime Minister makes that decision because they do not need to make it. I do not accept that. Do you believe that members should be whipped in these circumstances? After all, you have a vote of conscience on a number of other issues.

(*Dr Taylor*) I think it should be an unwhipped vote but my experience of the unwhipped vote over the House of Lords was most desperately disappointing. It should be unwhipped: conscience and the belief of their constituents.

(*Mr Dalyell*) It is an extremely grey area but members do have the opportunity to defy a vote.

(*Peter Bradley*) Tam has expressed the difficulty with this issue. I am not sure what the difference between blood spilled and blood irrevocably spilled is. Similarly, in discussing whether we should have whipped votes or unwhipped votes, this shows the difficulty we would have in coming to a decision. As Richard has quite rightly said, in trying to vote on the future of the House of Lords we could not come to a decision. Who is to say that the vote should be simply about going to war or not going to war? There will be all kinds of shades of opinion as to what would be justified, in this case whether we have a UN resolution and so on. It might prove impossible for the House to come to any consensus. That would be deeply damaging as well as making it almost impossible to make any meaningful decision. That, I suggest, is why we have the arrangements, imperfect though they may be, that we have.

David Wright

263. I wanted to reflect on the American experience because the powers that the Prime Minister has through the Royal Prerogative here are the closest comparison with the presidential style system that operates when potentially you have a war situation. In the States, the president needs authority from elected representatives to take action. There are some questions there about how long that is time limited for and the scope of those powers, but if it is good enough in that presidential environment for the president of the United States to have to go to representatives to get authority is it not right that we should have that and acknowledge that the prerogative power in relation to war is perhaps one of the most presidential powers that exists within the British constitution?

(*Mr Dalyell*) I think electors have rights. An elector has a right to know whether his or her representative is for or against war. Members of constituency Conservative Associations, Liberal Associations, constituency Labour Party executives are entitled to this right.

Mr Burnett: I was going to raise the point that David Wright made and I would like us to take evidence from someone maybe from the United States who is an expert on United States constitutional law, because I think it is a very powerful precedent for us.

Chairman: I do not think our witnesses can reply to that. I will say from the chair that I will take advice about that.

Sir Robert Smith: Are there any other prerogative powers—?

Mr Burnett: Mr Wright endorses my point.

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MR TAM DALYELL MP, SIR PATRICK CORMACK MP,
PETER BRADLEY MP AND DR RICHARD TAYLOR MP

[Continued

Sir Robert Smith

264. I probably do too. Are there any other prerogative powers which should be brought under the same sort of parliamentary control, or not?

(*Mr Dalyell*) This is part of a much larger question and that is the role of the Cabinet in modern day government. I think it is relevant to say that I was appalled last September, when some of us were asking for the recall of Parliament, that there was not a single request from any member of the Cabinet for a recall of the Cabinet in that situation. That would have been unthinkable 20 years ago.

Chairman

265. Perhaps it is not a question you feel you can answer very easily, Dr Taylor.

(*Dr Taylor*) You are very kind to me there.

(*Peter Bradley*) I was still reflecting on the question about the American president and I would recall a comment by an otherwise anonymous British ambassador to the United States 100 years ago who referred to the American constitution as all sail and no anchor. I think there is a lot of wisdom in that. Sometimes I think we are rather more anchor than sail in this country but I would not want to take too many lessons from the American constitution.

Sir Robert Smith

266. The role of the Cabinet is not something we can control from the Procedure Committee but what sort of issues of prerogative power are not being scrutinised by Parliament, apart from war making?

(*Mr Dalyell*) War making is just head and shoulders above every other issue in this field.

Chairman

267. Is there any other area as Father of the House that you feel Parliament should have more say in and where there is an element of executive Royal Prerogative currently?

(*Mr Dalyell*) I am all for more say. The question is how does one get more say on domestic policy other than through the treasury select committee and a number of other procedures?

Chairman: A very wise observation. Unless any of my colleagues have any other questions, first of all, I congratulate my colleagues on their stamina, perspicacity and enthusiasm. May I also warmly congratulate all our witnesses—Sir Patrick could not return after the division—on the huge contribution that they have made, the interesting ideas they have put forward and the positive way in which they advance those ideas? I hope my colleagues who are here will agree that it has been a most exciting and interesting session of the Procedure Committee. On behalf of my colleagues, can I thank our witnesses very much indeed for their time, effort and experience.

WEDNESDAY 26 MARCH 2003

Members present:

Sir Nicholas Winterton, in the Chair

Mr John Burnett
Huw Irranca-Davies
Mr Iain Luke
Rosemary McKenna

Mr Tony McWalter
Sir Robert Smith
Mr Desmond Swayne
David Wright

Memorandum by Andrew Dismore MP

I am responding to the announcement that the Procedure Committee is to look at, amongst other issues, the question of Private Members' Bills. As you may be aware, this is an issue in relation to which many see me as something of a "Friday Specialist".

It seems to me that the problem is that a considerable amount of time on the floor of the House is wasted in debating bills which are hopelessly conceived or badly drafted. At the same time, bills with great merit can be very easily blocked by one or two Members.

Perhaps we should go back to first principles, and look at what a PMB really ought to be, to succeed.

It goes without saying, in my view, that it should do some good; it should have the support of Parliament; it should be properly drafted; it should be practical in its implementation; generally modest in its ambitions; and should not involve substantial expenditure.

We now have a considerable number of extra "tools" available to the House which would enable the system to operate much more effectively. We now have pre-legislative scrutiny; deferred voting; timetabling; and carryover motions.

One of the ways we could try to utilise some of these new tools would be to allow much earlier scrutiny of a bill, after its presentation. This would need a change to the timetable for presentation of bills.

My proposal would envisage balloting for Private Members' Bills during the spill over session in October before the new session starting in November. Bills would be formally presented immediately after the Queen's Speech debate. This should give successful Members sufficient time to decide what bills to put forward, and to have their bills drafted, replicating more or less the existing timetable.

I then envisage a new Select Committee for Private Members' Bills, to scrutinise bills after presentation. The Select Committee would look at the purpose of the bill, its drafting, and any unforeseen problems, for example cost implications or practicalities. The Government's view is very important in this respect, as in the end it would be for the Government to implement the measure, should it succeed. This would be an opportunity for the Government to express any reservations of a practical nature.

I would suggest that the Select Committee should have the power to make recommendations broadly along these lines. Firstly, to recommend that the bill should proceed as it stands, with a timetable.

Secondly, to recommend that the bill should proceed, but with amendments in principle, with a timetable. It would then be for the promoter to decide whether or not to accept the recommendations of the Select Committee. If the promoter did not accept those recommendations, then the bill would simply take its chance without a timetable, as at present.

Finally, the Select Committee could recommend that the bill has no merit, and should not proceed, in which case under my proposals the promoter could either drop the bill and start a new one, at the back of the queue, or proceed with the bill and let the bill take its chances without a timetable.

In the second option, assuming that the promoter accepts the recommendations of the Select Committee, the Chair of the Select Committee would table a timetable motion before the House, to take the bill through to the end of the Committee Stage. The timetable motion would not be debatable, and if opposed should be taken on a deferred division.

By giving more time at the start of the Parliamentary session for this process through a much earlier presentation of the bills, there should be sufficient time for the Select Committee to get its work done on the first bills of the new session, and continue its work as bills come up for later dates, as the session proceeds.

Timetabling would enable two bills normally to be taken on a Second Reading day, assuming both have been timetabled. Normally, two to two and a half hours should be sufficient for any Private Members' Bill on Second Reading. The advantage of this would also provide the last half hour of the session to be reserved for Ten Minute Rule Bills (to which I will return later).

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At the end of the Second Reading debate, I believe that there should still be a vote on the floor of the House, as at present. I considered whether this should be done by deferred division, but I think it is important that the House's opinion is tested at this stage, conventionally.

I would not envisage the need for a closure motion (assuming the bill is timetabled), but the quorum should remain at the usual quorum for the House, so that the promoter would have to make sure that there were still sufficient Members available to protect the bill, if it was controversial.

Assuming the bill receives its Second Reading, it would be committed to Standing Committee in the usual way, subject to the timetable set by the Select Committee.

At the conclusion of Committee Stage, the Select Committee would review the bill again, to check for example, whether any amendment in principle which it recommended had been properly considered in Standing Committee. Assuming that the Select Committee were satisfied, it would then set a further timetable for Report and Third Reading.

Report and Third Reading would be taken, according to the timetable, on the floor of the House as at present. However, the vote on Third Reading in my view should be a deferred division, to make sure that the bill in its final form has the support of the House.

I would suggest that the procedures which I have recommended would provide better and earlier scrutiny of Private Members' Bills, would weed out those which have little merit at a much earlier stage, and would allow the House still to express its view in perhaps a more democratic way than the existing Friday lottery provides, relying as it does so often on pressure groups trying to unofficially whip Members to come to the House.

As for Ten Minute Rule Bills, the only change I would suggest is that they should have time set aside at the end of a balloted PMB session for Second Reading, of say half an hour or so. This would mean that any modest Ten Minute Rule Bill could still have an outside chance to succeed. Having myself taken a Ten Minute Rule Bill all the way through to become law (it took three attempts), I think that if the Ten Minute Rule Bill procedure is to remain (and I see no reason why it should not), Members should have the outside hope that it could succeed. If a Ten Minute Rule Bill was able to secure Second Reading, then it would take its place behind balloted bills which have secured a Second Reading, as to the availability of Committees. Should it complete its Committee stage, then it would go into the same review process by the Select Committee and would take its place, as a Ten Minute Rule Bill does now, on the floor of the House, getting the same precedence as it would now, for Report and Third Reading.

I also think we should consider carry over motions for Private Members' Bills. There has been a longstanding procedure for carry over of Private Bills; we now have carry over motions for Government Bills; it seems to me that a similar procedure ought to be available for Private Members' Bills. There is always a big cull at the end of the last PMB session, and I think that better timetabling and carry over would overcome this problem.

I hope that these ideas do find some favour, and I would be happy to discuss with the Committee my ideas at greater length, based as they are on the experience of contributing to and sitting through many fruitless debates on Fridays!

Finally, I would suggest that with the adoption of this procedure, there is no reason why Fridays should not still be reserved for Private Members' Bills, leaving the floor of the House available for other business during the remainder of the week, providing as my system does, for appropriate scrutiny and for Members to express their views through deferred divisions if they are not able to attend the House.

8 January 2003

Memorandum by Chris Grayling MP

I am writing to you following our recent conversation and the letter you sent out on behalf of the Committee. There are a number of points I would like to make.

1. I think the current EDM system is being grossly abused and is devaluing EDMs as a concept. There are far too many, and often they are trivial. I think in future an EDM should not be tabled without 25 signatures of Members. This would create a quality threshold for motions which would improve the credibility of them.

2. Given the change in hours, I think there should be more opportunity for backbenchers and opposition MPs to initiate adjournment debates—perhaps subject to a quality check by the Speaker. The freedom to call an urgent adjournment debate at 7 pm or 7.30 pm would be valuable—perhaps with a minimum 24 hours notice. As a junior frontbencher, I have relatively little opportunity to call a debate on a subject in my area—I have to seek third parties to do so for me in Westminster Hall. I would like the ability to do this myself.

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3. I would allocate specific time to Private Members' Bills, and make them subject to deferred divisions—so they have a real chance of making progress. At present, even those that have popular support can be forced out by the Government. A 90 minute programme for each Bill at the top of the list would mean more had a chance to make progress.

22 January 2003

Memorandum by Norman Lamb MP

Thank you very much indeed for your letter. I would like to make the following points for consideration by your Committee.

1. I strongly support the use of time limits on speeches and think that this should apply both in the main Chamber and in Westminster Hall. I think that there may be a case for limiting the length of frontbench speeches as well as backbench speeches. Time limits on speeches provide the discipline so as to ensure that the key points are put across in a coherent and precise way.

2. I would prefer more openness about lists of speakers, but I think that this could well be combined with a requirement to be in the Chamber for the debate prior to being called to speak. I can see that there could be a risk of Members simply turning up to give their speech and not being present for any of the rest of the debate.

3. With regard to Ministerial question time, the existing rules do not give a fair share of time to the Liberal Democrats compared to the Conservative party. The balance between the number of questions from the Conservative Front Bench and the Liberal Democrat Front Bench cannot any longer be justified and I hope that this can be looked at again.

4. I believe that Members should have a mechanism for requiring the recall of Parliament in circumstances where the Government may not want this to happen. There clearly needs to be a threshold of numbers of MPs requesting it—perhaps with a requirement for backing from MPs from all of the main parties represented in Parliament.

5. I certainly support the case for extending the rights of opposition parties and backbenchers in initiating debates in Parliament. This must be part of a process of reform that strengthens the role of Parliament in effectively holding the Government to account.

18 February 2003

Memorandum by Ann McKechin MP

I thank you for your recent letter on behalf of the Procedure Committee regarding the proposed inquiry on a number of key topics concerning Parliamentary procedure.

I very much welcome the inquiry, and I certainly would be happy to provide oral evidence, if required.

With regard to the conduct for debates, I do consider that there is some merit in having a speakers' list, providing this is not published. I am aware that there is concern that such a measure may be used by the media to test/examine a Member's performance in the House and this I am sure would not be welcomed by most Members. The list would be used simply to provide guidance to Members as to an approximate time when they are likely to be called and their chances of success in being called. However, the current practice of expecting Members who speak to be present for opening and closing speeches together with the speech directly after their own should be retained. I would suggest that this measure could be tried out on an experimental basis first before consideration is given to changing the practice permanently.

I appreciate that it is important to maintain as far as possible some degree of balance in the views being expressed. I do consider however, that the usual strict practice of calling Members from alternate sides does produce a degree of unfairness where the Government party has a substantial majority as has existed for the last six years. On this point I think there should be two principles. One is that each Member should have the same right and entitlement to speak in the Chamber as any other Member—we are acting as representatives of our constituents and there is no reason why their representatives should be discriminated against in deciding who should speak simply based on their party membership. The second principle should be that as far as possible within this limitation is that there should be an opportunity to ensure that as many views as possible in a particular topic may be expressed during the course of that debate.

I am not in favour of printing undelivered speeches as I consider the correct manner in which to deal with the problem of Members who are not able to speak is to improve existing procedures, but at all times to encourage Members to actually physically take part in a debate.

With regard to Private Members' Bills, I feel strongly that Friday is no longer a suitable day, particularly for those Members whose constituencies are considerable distances from the House. Now that we have introduced new hours for compulsory business, particularly on Tuesdays and Wednesdays, I consider that say a Tuesday or Wednesday evening should be devoted to the consideration of Private Members' Bills, which

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in most weeks would allow a discussion to take place between say 7.30 pm and 10 pm in the evening. This would certainly allow for a much better attendance and possible debate at Private Members' Bill business whilst at the same time providing a clear day on each Friday to allow MPs to concentrate on their constituency business.

I think some consideration should be given as to how backbenchers can initiate debates within the main chamber. One suggestion I would offer is that if there is a specific EDM with say over 150 signatures, then this would be put forward as a possible backbench debate within the House and where necessary could be answered on a cross-departmental basis. The recent cross-departmental debate on Youth Policy in Westminster Hall was very successful, and I would hope that this idea could be expanded upon in the main Chamber itself.

I have already stated my support for allowing the Speaker to have the options to recall the House during a recess if he/she is of the opinion that the public interest requires that the House should meet. Given recent events I believe that this matter should be looked at with a degree of urgency by the House.

Although my comments are fairly brief I hope they may be of assistance to the Committee, and I look forward to receiving your report in due course.

29 January 2003

Examination of Witnesses

MR ANDREW DISMORE, a Member of the House, CHRIS GRAYLING, a Member of the House, NORMAN LAMB, a Member of the House, and ANN MCKECHIN, a Member of the House, examined.

Chairman

268. Can I welcome our witnesses this afternoon? You are very welcome indeed to help us with our inquiry. We have Andrew Dismore, the Labour Member for Hendon, who has submitted a very lengthy and detailed paper to us, for which we thank him; Christopher Grayling, the Conservative Member for Epsom and Ewell, and again he has submitted a very useful paper; Ann McKechin, the Labour Member for Glasgow Maryhill. My mother-in-law, who is now very elderly and not well, was born in Maryhill. That was when there were farms in Maryhill.

(*Ann McKechin*) There still are.

269. And Norman Lamb, the Liberal Democrat Member for North Norfolk who again, like all the Members who are before us this afternoon, has submitted a paper. We consider this a very important inquiry. It is all about the relevance of Parliament and how it can be made more effective and more relevant to people both inside and out. Can I from the Chair ask the first question and on this clearly I would expect an answer from all our four witnesses? What attributes in your view make a debate a very effective use of parliamentary time and how can the procedural rules, which clearly are very important to this Committee, contribute to making Parliament more effective and producing a more effective use of parliamentary time?

(*Mr Dismore*) I think the answer is to make sure that the debates are properly timetabled and that people have sufficient time to take interventions and have a genuine debate. I also think that there is importance in having a speaker list. I know that I have not dealt with that in my submission but I know other people have. There is nothing more frustrating than sitting for hours and hours not knowing when your turn is going to come up. If people knew that they were going to get a fair crack of the whip eventually they would be prepared to sit for a while. I remember last year, I think it was, during one of the international crises, I sat through nearly 20 hours of

debate before finally getting called and that, frankly, with the workload of MPs now, cannot be justified. It is a waste of time.

270. Are you saying to us that the way that legislation is timetabled and the production or use of a list of speakers you believe is the best way to make more effective use of parliamentary time to make debates more relevant to people both inside and out?

(*Mr Dismore*) Yes. I also think it is appropriate to get a fair balance between the parties as to which speakers are called. As the Labour Party has such a huge majority in Parliament I know that I and other colleagues feel somewhat disenfranchised in that. Because it goes turn and turn about and because we have such a large majority the chance of a Labour Member getting called is far less than that of an Opposition Member and if we are going to have a proper balance within Parliament we may have to think about not necessarily going turn and turn about between Government and Opposition benches when the majority is so large.

271. But you are a great democrat, Andrew Dismore, or I believe you are. Do you not think that the ability of the Opposition to have a fair amount of time is a way to ensure that there is democracy and not a dominance by the party in government?

(*Mr Dismore*) Yes, but the question is whether it is a fair amount of time. I remember when I was Leader of the Labour Group on Westminster City Council this issue did come up in that context, in that we were outnumbered—I will not say precisely why but I think everybody knows why—in 1990 two to one and the majority party then had the same problem. They came to the same conclusion that we should not go turn and turn about. In fact, in opposition we still were able to get our point across within the timetable that was allowed for debates there.

(*Norman Lamb*) The first thing to say is that informed contributions make for a good debate. If people have something of value to say and have experience and it may well be known that they have

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something of value to say then being able to get that across beforehand as an indication as to why they should be called is worthwhile.

272. Are you therefore supporting a list that Andrew Dismore puts forward?

(*Norman Lamb*) Yes. I checked out the way the Scottish Parliament works, which of course has been very recently designed, and, as I understand it, everybody who wants to speak at the beginning of the debate presses a button to indicate their desire to speak and the time is then allocated to ensure as much as possible that those people who want to speak are able to speak. Sometimes that means fairly short contributions but I think time limited contributions are incredibly important. I have sat on many occasions and heard half-hour speeches, rambling speeches, which really say very little and leave other people totally frustrated that they cannot have their say. That applies as much in Westminster Hall. You might have a group of five or six backbenchers who all want to contribute to a debate, they have all notified the Speaker in advance, and one person can keep talking and prevent others from making their contribution. A strict time limit is a very valuable thing to do and it focuses the mind. It is usually possible to get across what you need to say in a relatively short space of time. It forces the speaker to get organised beforehand about what they want to say.

273. Mr Lamb, you have provoked one of my colleagues.

(*Norman Lamb*) I noticed the shaking of the head.

Chairman: By the way, he actually obeyed the Deputy Speaker in Westminster Hall last week when Mr Deputy Speaker hectored Members, in order to get them all in, to be fairly disciplined in their remarks. I will ask him to put a question to you before I call Chris Grayling and then finally Ann McKechin.

Mr Luke

274. I appreciate your comments on a list. In the Scottish Parliament the lists for speakers are submitted by the parties to the Speaker and even though they can indicate a time, that is, the officer of the debate who deals with that, in the end the Member will be allocated a time by the party.

(*Norman Lamb*) I do not like that.

275. It is not as free-flowing as it is here.

(*Norman Lamb*) I am not advocating that we copy that aspect because I would not want the parties to have more control. I want individual Members to have more control.

Mr Burnett: I am very sympathetic with Andrew's point about the list and have persuaded our Committee to take evidence from Members of the House of Lords where they have a list. Do you agree with me, Andrew, and Norman and the rest of you as well, that there are compelling reasons to have lists, not least for the points that Andrew made, that there are so many other calls on a Member of Parliament's time, frustration at wasting one's time on going to a great deal of trouble to make an abortive speech, but do you not agree also that if we operated a system like

the House of Lords and if you did not comply with the etiquette of the House and the conventions of the House, ie, you did not turn up for the debate, then you would just get struck off?

Chairman

276. Let us deal with Norman Lamb first because Andrew can come back but I would like our other witnesses to comment on it. Would you like to respond, Norman, to John Burnett's question?

(*Norman Lamb*) I certainly support the idea of a list but I think it needs to be combined with requirements to be in the debate.

Mr Burnett

277. That is the etiquette point.

(*Norman Lamb*) Absolutely. There is a great danger, if you went to just a list, that people would turn up at the appointed time to give their speech and it would be a wholly unco-ordinated debate, so one must retain the value of genuine debate, so requiring people to be there but at least giving them the indication that they are likely to be called would be a valuable reform.

(*Chris Grayling*) I have to say I do not agree with lists and I do not agree with Norman and John, simply because what you are doing is creating an incentive for people not to be there and participate in debates.

278. If you are not there you get struck off.

(*Chris Grayling*) You say if you are not there you get struck off, but what we actually want is for people to look upon a debate as an occasion in which they participate in its entirety. On that basis there is no practical reason to have a list. What matters is that if somebody has points they wish to make they participate in the debate, they intervene on colleagues. I do think, Sir Nicholas, that there is a strong logic in extending the extra time provided for interventions to allow for two or three interventions rather than the one or two at the moment but we have rather curtailed too much, I think, the interaction that takes place within Members' speeches. If you were a Member with an interest in a bill or an interest in a topic then you should be there for the debate. Whatever the etiquette situation may be, the moment we follow the road of having a list we are saying to people, "We do not expect you to be there for the debate. We expect you to be there for enough time to tick the box to say you have observed the etiquette", but you are not saying to somebody, "We expect you to be part of the entire occasion". Where I would make a change is that the Speaker is mandated by the House to tend to pick people in terms of seniority. Certainly my experience as a new Member has been that even where you may have a particular or professional expertise in a debate you are still at the bottom of the pile when it comes to be called. I would like to see greater scrutiny by the Chair of the particular knowledge and expertise of Members seeking to participate in a debate and that being reflected in the order in which they are called, so it is simply not the oldest first through to the youngest. The moment you pursue the speaker list avenue you

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[Mr Burnett Cont]

change the nature of debates and that would be a shame. Can I make a couple of other points? I have to say that I think long motions for the adjournment debates on subjects of the Government's choice are a waste of parliamentary time and I think that the time the Government has for those debates should be used more flexibly and should be used for subjects that are not simply Government generated. An example of that might be that they provide an opportunity possibly for a debate on two early day motion subjects where you have a particularly large number of signatures. Simply having that block in the timetable where the Government decides that we are having a debate on the motion of the adjournment seems to me to be wrong. The House ought to have greater control over the deployment of its own time.

Chairman

279. You are aware, Mr Grayling, that generally the motions that are taken on the adjournment, which means that there is unlikely to be a vote at the end, are decided with consultation through the usual channels?

(Chris Grayling) But that takes place through the usual channels. There are other avenues for parliamentary expression such as early day motions. The individual Member, or indeed individual groups of Members, frankly have precious little say over what use is made of parliamentary time. I remember Mrs Gwyneth Dunwoody saying during the debate on the change to the hours and to the changes in the procedures of the House that when she first became a Member of Parliament there were vastly more opportunities for individual Members to shape the proceedings of the House than there are today. I think that if you were to take a block of time that exists within the timetable of the House that could be used to give Members greater opportunity to shape what is debated in the House, then that time is certainly one area of potential for Member involvement.

280. I am not wishing to put you in a difficult position but how would that be achieved? I share your view. I think the House should take more control of its own time but how would the House as a whole take control of its own time which in recent decades has been taken over primarily by the Government of the day, the executive, but also to a smaller extent by Her Majesty's Opposition?

(Chris Grayling) It could be done through a formal process that said that every month, for example, the two early day motions that attracted the most Members' signatures during that month were allocated two hours of parliamentary time as a matter of course. It could be done through a committee like your own, Sir Nicholas, having an arbiter role to allocate a proportion of parliamentary time to Member issues as opposed to Government or Opposition issues. There are a number of mechanisms through which you could do it but I would like to see an element of parliamentary time available for the issues that are the topics of the day.

281. I am going to call Ann to make her opening statement.

(Ann McKechin) I think it is important that we differentiate between contentious debates and non-contentious issues. Last week the House debated Iraq but it debated on Thursday the Waste Management Bill. There is a need for a list system when it comes to contentious debates when it is linked to a very large number of Members wanting to contribute and where their constituents will have a particular interest in what they have to say. I have concerns that the current system of calling Members is very much based on seniority and, given the fact that we are probably entering a political age where there is greater volatility in voting patterns, it discriminates frankly against those who are younger Members. In the Iraq debate I am only aware of one new Labour Member who was called in all the six debates about Iraq. It discriminates against constituencies which are marginal because their Members may not be lasting. The average membership of a Member is about ten years. It discriminates against them and it discriminates against those Members who belong to the majority party who may from time to time have a large majority in the House and accordingly they are very unlikely to be called and I do not see why their constituencies, and at the end of the day we are representing constituencies, should be discriminated against. We need a proper level of balance. A list system is appropriate, as I said, in contentious debates. I think there should be time limits on debates, sensible time limits. The Scottish Parliament, to which my colleague Mr Luke referred, sometimes sets limits of three minutes or two minutes which I think is not adequate to provide a reasoned argument on complex issues. On the other hand, like my other colleagues and like everyone round here, we have heard some very long speeches rambling on for 40 minutes at times and you really wonder what the point is. I frankly think that unless you can get your argument across within the first ten minutes you have lost the debate.

Chairman: Are you referring to Front Bench spokesmen or are you referring to your own backbench colleagues? If you are referring to Front Benchers do you think therefore there should be a restriction, as there is on backbenchers sometimes in a debate, on the length of Front Bench speeches?

Mr Luke

282. And interventions that can be made on Front Bench speeches.

(Ann McKechin) I would agree, Sir Nicholas, that some Front Bench speeches could certainly be curtailed, particularly on some non-contentious issues. You do wonder why you have to spend a whole afternoon talking about the Waste Management Bill which clearly was a non-contentious issue but yet took up a whole day of debate in the main chamber in a week when we were not exactly short of current and topical issues which the House could have discussed.

(Norman Lamb) I agree with the case for limiting, certainly in some circumstances, Front Bench speeches. I do not think there is any reason why they should be exceptions.

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Huw Irranca-Davies

283. Mr Grayling, you made the point about the importance of having as much as possible a full debate in chamber with people participating and listening and contributing. What I would put to you is that it is very rare that that happens at the moment. What tends to happen is that there is a full chamber at the beginning when protocol would dictate that you need to be there for the opening speeches and then there is, if not a mass exodus, something of an exodus and then people come back in when they feel they are just about to be called. If you are not going to be up for a list, and with all the provisos you have put in about a list, that people would simply slip in and out, how would you get round the situation that we currently have, that I would say is not your ideal, that you do not have people sitting in for the complete debate, even on something that is of great interest to them, to hear what contributions there are? Do you have some other way round it?

(Chris Grayling) I accept the need for time limits on major occasions, for example, the Iraq debate, but the problem with time limits and the very strict limitation on interventions that you have today, and I have been a Member for 20 months, is that even in that time the character of the debate has changed. Before time limits were there and on days when time limits are not there, there is quite a lot of interaction between Members, there is quite a lot of discussion between Members, interventions flow freely and I think you get a higher quality of debate than you do on a day when people simply stand up and speak in rota. It is not really a debate; it is just a bunch of people making a speech. The moment you lose the ability to interact in the debate you devalue the debate, which is why I would not favour limitations on interventions on Front Bench speeches because I think they are a key point of the debate. There is a case for saying that sometimes our debates are too long; I would agree with Ann McKechin that for non-controversial bills six hours and struggling to find enough speakers to fill them up makes no sense, but the more we structure and restrict the debate the less interaction we have and the less the quality of the debate is and the more it becomes simply a sequence of speeches. I would back away from imposing structures except where numerically you have to, as in the Iraq debate, where there were so many Members who wanted to speak.

Chairman

284. Do you not think, Mr Grayling, that the Iraq debate was an extremely good debate? I have to say from the Chair that I do. Speeches were limited to eight minutes. Some 52 Members of the House got in and there was a good exchange but people were focused and knew that they had limited time and therefore concentrated on the issues that were particularly important to them. Do you not think that that particular time limitation played to the advantage of the quality of the debate and to the Members of the House in so far as a very large number were able to participate?

(Chris Grayling) On a particular occasion like that when the demand to participate is very widespread, where the issue is of high importance and where the

House will inevitably be full and active, I agree with you, Sir Nicholas, but when one is debating the second reading of a middle level profile bill, the only way you are going to encourage active debate within the chamber, a discussion about the contents of the bill and the challenges over the contents of the bill, is to have a debate structure that is not too regimented. The ability to challenge an Opposition Member twice, for example: you intervene, if you do not get a decent answer you leap to your feet again. The current structure with the speech limits means that it is not in the interests of the other Members to take the second intervention. In my view that curtails debate.

(Norman Lamb) I disagree with Chris on this point. There have been some examples since the rule came in about allowing two interventions with an extra minute for each intervention. I have witnessed some examples of where Members are not aware of that rule and so refuse interventions because they think they are losing time, but as knowledge and understanding of that rule increases Members can use it to their advantage to gain a little bit of extra time. I would not mind at all if that was extended to three interventions but under three minutes. I think it is absolutely essential that we have a system that encourages interventions but, as you, Sir Nicholas, point out with regard to the Iraq debate, you can have a very good exchange of views with plenty of challenges within a structure that time-limits speeches provided you have a rule that allows and encourages interventions.

(Mr Dismore) When we are talking about a speaker list: I think it is important that we know what we are all talking about because we may be talking about different things. When I talk about a speaker list I do not necessarily mean a list where everybody knows where they are in the pecking order. I mean a list which says, "You are going to get called in this debate". That is an encouragement for people to turn up and if they are not there for the majority of the debate then they go to the back of the queue. At the moment what happens is that you make your speech and then you are off to the tea room. You are not seen again until the closing speeches so if you are at the end of the debate there is hardly anybody left anyway until the closing speeches.

285. Can I just remind you that Speaker Martin has issued a letter to the House indicating that the traditions of the House are that you stay on for at least three to four speeches after your own?

(Mr Dismore) Two.

286. Oh, is it two? I personally think it should be four. I am putting my own prejudice forward. He has indicated that you should stay for two speeches after your own and therefore to an extent there is guidance given by the person who represents the best interests of backbenchers, Mr Speaker.

(Mr Dismore) But that does not militate against having a speaker list where you know you are going to get called in the debate. That is the key test. I would not mind sitting around for a couple of hours if I knew in the end I was going to get my turn. The problem is if you sit around for two, three, four, five hours and you then do not get your turn at the end of it, and printing an ungiven speech in Hansard is a nonsense. I certainly agree with those who have said

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[Continued]

[Chairman Cont]

that you have got to have proper injury time for interventions and Norman is right: that is going to get better known. I certainly agree with Chris about the seniority rule and the experts rule. I think if you have got a particular expertise then generally speaking the Speaker will take that into account if you write a letter and leave it with the Speaker's secretary when you ask to speak. The problem is that a lot of people do not know that they can put in a special pleading as to why they should be called. Seniority *per se* should not be a reason. Obviously, if somebody has been a minister of a department then that would be a reason for special expertise, but I think it is right that people often get called simply because they have been here longer than everybody else. On adjournment debates set by the Government, I think we need to be very careful about those. For example, we had an annual policing in London debate and I will be very sorry to lose that because it is the only opportunity we have to scrutinise the local Metropolitan Police. There is the annual defence debate and things like that. They have to be on the adjournment because there is no motion to vote on.

David Wright: I have three points. First, we did not get a comprehensive response from all of you about whether we should have a double hit if you like on the Government side in terms of speakers being called, whether we should continue to go back and forth across the chamber or have a double hit. I think there is an issue here particularly, as Ann McKechin said, about government backbenchers who are recently elected, and quite frankly, many of us who would like to have contributed on the Iraq debate did not even bother to write to the Speaker because we knew we would never get called.

Chairman: Hold on. I feel I must come in here in defence of the Speaker. He has indicated that it is very critical to write in to him to indicate that you want to speak and advance your case. I do think we should realise that. Otherwise we may be misleading some of our witnesses.

Sir Robert Smith: If you are not called that time it counts.

Chairman: It is to your benefit that you have written in previously and not been called.

David Wright

287. I accept that. I am just expressing a view that I have taken as an individual about the running of the House and the way it operates and I think that is a legitimate thing to say. It is not a criticism of the Speaker. It is something that I have felt necessary for me to do in terms of optimising my time and my work in the House. I would welcome some comments about that double hit arrangement. I am broadly supportive of the idea of publishing lists but I suppose one of the difficulties is that the list may ultimately leak out, and leak out to possibly the press and outside agencies. The question then that we will get back from constituents is, "Why did you not submit your name? Why did you not put your name forward to speak?", so that may result in the list becoming ridiculously long where everybody feels

compelled to submit their name. What processes could you see operating to ensure that that does not happen and how would that work? Finally, Mr Grayling said something about adjournment. Do you think that we ought perhaps to look at longer adjournment debates in the House than the restricted 30-minute adjournment debate which takes place at the end of the day within the main chamber? Clearly, there are longer adjournment debates in Westminster Hall. Maybe we should be looking to put longer adjournment debates into the main House, sponsored by an individual Member.

(*Mr Dismore*) On the adjournment debate, frankly, I do not see that there is a great deal of need to change there unless perhaps, with the minister's consent, the debate could last longer if it turns out to be something which, because it is after all the votes are finished, the minister also feels should have more time. Maybe that is a way round it. I do not really think that is a problem. On the double hit for the Government side, I think the problem is this, that if the Opposition run out of speakers and you get to the stage where there is still more debate to go, you have a whole train of maybe half a dozen Labour Members one after the other which looks far worse than having a couple of Labour Members and then an Opposition Member and then a couple of Labour Members. I think that will at least produce a bit more balance in the debate. As far as speakers are concerned, I would not be too worried if it was published because what is not published is the names of people who put in and did not get selected. That is a way round that. All we know is that these people have been selected by Mr Speaker to speak in this debate. We do not know the reasons why or we do not know who has applied and been refused.

(*Norman Lamb*) Again, taking the reverse order, the adjournment debate issue, I think the earlier finishing in mid week presents Parliament with a great opportunity to make more constructive use of the time that has now been freed up in the evenings. I voted for the reform but I find it rather depressing wandering through the building at eight o'clock on a Wednesday evening with the place virtually empty and I think that is a great opportunity to use this building for more imaginative effect, to possibly use it for debate for Lords and Members of the House of Commons to join together in debates on specialist issues. There is an awful lot of expertise on both sides which could very easily come together onto the evening sessions and it could also be used to bring to life the EDM. We all have a view that the Early Day Motion system has been brought into disrepute. When you have got an EDM about the history of Marmite it rather brings the whole place into disrepute. I do not know whether anyone in this room tabled it.

Mr Burnett: We had one on Coronation Street once, I gather.

Chairman

288. Let us stick to Marmite.

(*Norman Lamb*) I find it acutely embarrassing when members of the public ask you what will happen now you have signed this Early Day Motion or that you have tabled it, and the brutal and honest

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answer is that absolutely nothing will happen. Having the opportunity for debate of those EDMs that clearly have strong support within the House, perhaps being filtered by a committee such as your own for debate, and using those evening sessions, would be a real advance.

(*Ann McKechin*) I would agree with David Wright regarding the double hit problem, being someone who suffers in a similar way, but within the constraints of retaining some sort of balance within the debate I do not think there should be any reason why two Labour Members cannot be called one after the other so that there is a reasonably equal chance as far as possible to speak. We appreciate that we are not going to have the same opportunity to speak as, for example, Mr Grayling, but we should perhaps equalise that to a much greater extent than already exists. I agree entirely with Andrew Dismore's suggestion about the list. I think it should simply be those who are guaranteed to be called so that people do not spend six or seven hours waiting around to be called in a debate and, as it will simply replicate the list of speakers in Hansard, I do not think there is any adverse publicity about it if it leaks out for any reason. I do not see any reason why it should be particularly private as it is for procedural convenience. On adjournment debates, I think the recent innovation of cross-departmental adjournment debates in Westminster Hall is a particularly useful thing and I think it could be extended into the main chamber. If I can give two recent examples, the current negotiations of the World Trade Organisation, which I have a close interest in, involves at least three separate departments and there has been no formal debate in the House regarding that issue, and it is a major subject for much of our trade and industry. Likewise, I had an adjournment debate on Rwanda in December last year and it was the first debate on that country in the House apparently for five years even although the UK Government provides ten per cent of the budget of that country, which is a phenomenal size, it has not yet been the subject of any debate or analysis. That is an issue which involved both the Foreign Office and the Department for International Development but yet of course you have only the opportunity to take one department in that adjournment debate and you do not get to choose which department decides to answer your debate and sometimes of course you can get an inappropriate minister. I think cross-departmental debates within the main chamber of the House is something which I would certainly recommend should seriously be considered.

(*Chris Grayling*) On adjournment debates this was one of the areas that I put in my written note to the Committee. I put this forward as the result of very direct experience. I am now one of the junior health spokesmen on the Opposition side. I identify with a specific issue in relation to ambulance waits outside accident and emergency departments which I very much wanted to lay before the House because it was a matter of particular importance. However, under the current system, unless one takes up a full half day or a whole day of an Opposition day debate or unless one finds another Member to table a motion for a debate in Westminster Hall, as an Opposition Front Bencher your ability to lay something before the

House is quite limited. What I would like to see is some discretion given to the Speaker, in much the same way as he has discretion over urgent questions, to allow a subject called by a Member to be done at relatively short notice for a block of time in the evening after seven o'clock and to give the Speaker the ability to add in either a 30-minute or a 60-minute debate if he deems the subject to be of sufficient importance so that that subject can indeed be laid before the House.

289. Are you talking about the time between seven and ten?

(*Chris Grayling*) Yes. For example, Sir Nicholas, if I went to the Speaker and I sought his guidance as to how I could lay that matter before the House, if he had the discretion to permit each evening either a 30-minute or 60-minute adjournment debate following on immediately from the 7-7.30 debate, given 48 hours' notice so the Minister does not get dumped in it with no notice at all, then I think it would provide not only somebody in my position with a Front Bench role the opportunity to speak but also somebody who has a particularly urgent issue that they want to bring from a constituency perspective which, if the Speaker deems it sufficiently important, he has the ability to allocate time to that subject and to have it debated on the floor of the House.

290. Do you think, and I perhaps ought to address this question to all our witnesses, that you are placing a very heavy burden of responsibility upon the Speaker because if this sort of procedure became popular he may well have to select between any number of conflicting issues from a large number of Members? Currently, of course, in respect of the adjournment debates, not a debate on the adjournment which is different, the Speaker is allowed to pick one once a week but the rest are picked by ballot. Do you think that you are actually imposing a very heavy burden, almost an unfair burden, upon the Speaker of the House?

(*Chris Grayling*) Any Member today has a right to ask for an urgent question to be heard before the House. The Speaker is sparing in his decisions to grant urgent questions and I would not expect him to use this power particularly frequently, but let us take the example of a Member who had had a major factory closure in their constituency, four or five thousand jobs lost. Currently that Member's only option to secure a debate on the floor of the House on the future of the community he or she represents is to put his or her name into a hat for weeks on end until it finally comes out and they get the chance to debate it two months later when the issue is old news. My own view would be that the Speaker should have greater discretion to allow significant issues brought by Members either from a Front Bench perspective or from a constituency perspective, where the Speaker deems that there is enough of a case to be made for an urgent debate to be held to allow some additional time between, say, seven and nine in the evening to be used for that.

291. Do any other of our witnesses wish to make a comment on that?

(*Mr Dismore*) I would simply say that I do not think it is appropriate for Front Bench Opposition people to do that. It is effectively giving them two

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bites of the cherry. They already have the opportunity through supply days and they have to make their choice what they use. I can see that possibly something in relation to urgent backbench business could be done there but I think you are right in saying that you are putting an intolerable burden on Mr Speaker because the moment it got out that this was happening everybody would be writing in for things all the time because there would be an allocated time slot. For urgent questions there is no allocated time slot and he may or may not grant it, but if it becomes a regular feature then everybody will be after it.

(*Norman Lamb*) I broadly agree with Andrew. I think the way to get more issues for debate is to extend the number of adjournment debates that can take place and that is where the evening periods during the week could play a real part.

(*Ann McKechin*) I would agree with Andrew and Norman that I think it is better to try and use up some of the time on Tuesday and Wednesday evenings for these sorts of debates.

Huw Irranca-Davies

292. The first point is elements of seniority to debates which has been touched upon by, I think, all of you in one way or another. We look very often upon them as individual debates on a particular day or a particular evening. What about consecutive debates such as we had on Iraq where there have not only been Iraq debates but defence and world debates as well where you have had senior Members called in consecutive debates? What are your views on that? Secondly, you have all alluded to backbenchers without seniority sitting for a long time. I put to you one of the arguments that has been put to us, certainly by the Speaker as well as others, that there is a value there for those like myself, a relatively inexperienced backbencher, in sitting there and listening to hours and hours of debate and argument. What are your views on that because certainly a couple of you have come up with what seem slightly contradictory arguments, talking about seniority but also saying how does a backbencher then get in because how can I prove that I have got the experience and the kudos and so on to get into a debate? What are your thoughts on the value of the backbencher sitting and learning and listening to the debate? Finally, the point that was raised in Andrew's and certainly Ann's letters of submission: the list beyond the list. Ann made the point in her written submission that the published list could be used for publicity that could be detrimental to some Members. I would put to you that certainly from a Welsh perspective round about the spring of every year there is already a list that is published that is gleaned from library sources and from Hansard. That is a list of people who have spoken. What it fails to recognise is the Members who have put in to speak. What are your thoughts about having a list beyond the list of those who are unsuccessful in achieving a part in any debate?

(*Mr Dismore*) I think a list beyond a list is going to be a list too far. Otherwise every Member would be in for every debate. I think that is going too far. As far as listening to debates is concerned, we are all

experienced politicians by the time we get here and we know what we want to speak on. We have been put here to represent our parties in the first place and if you are putting in for a debate then the chances are you are going to know about it. You do learn by your mistakes as well, obviously.

293. How does that tally with the seniority issue? Does that negate the whole issue of seniority?

(*Mr Dismore*) The point about seniority is that it is overstated. Certainly I take your point about the same people speaking in debate after debate; I think that is unfair, but I think there is a general recognition that if somebody has a particular expertise they will get priority in a particular debate, all things being equal, in terms of the number of times they speak. I think you should work from expertise rather than length of time in the House.

(*Norman Lamb*) I can very much understand the frustration of new Labour backbenchers. If there is a sense of certain knowledge that you are not going to get called that is ridiculous. I think that experience is something that needs to be weighed in the balance. I do not think it should be ignored because experience does sometimes mean that someone has something valuable to say based on that experience. We are, however, ultimately all equal and I think this tendency to base it on the number of years you have served here rather than the amount of relevant experience or expertise you have is really what should count in terms of choosing people for debate.

(*Ann McKechin*) I would agree with that, particularly in the sense that the political landscape is now changing. This sort of system discriminates against Members who are in marginal seats now and are not likely to last more than one session or term of office. It also discriminates against the constituencies and the people of those constituencies who vote for you in terms of your ability to put their views across in Parliament. I think there should be a general principle that each Member is equal subject to the issue of balancing debates and allowing expertise to go forth and not just going on the basis of seniority ruling everything in terms of debate priority.

(*Chris Grayling*) I completely agree with that. One point I would make in terms of the selection of speakers is that whilst I can quite understand why backbench Labour MPs would be frustrated by the current situation, putting a rota on speakers, two Labour, one Opposition, two Labour, one Opposition, is not a burden we should place on Mr Speaker because it is very difficult to quantify if you start weighting speakers on the proportion of seats held in the House. It may be frustrating being a Labour backbencher but at least your party is in power and the fact is that Opposition parties are trying to make their point. It may seem unfair and unfortunate but I do not think it should change.

Sir Robert Smith: A practical point: have those that support the idea of publishing this shorter list of who will speak thought out the mathematics of it? One person I think said that the list should be the same as that published in Hansard but of course how does the Speaker know how long to make the list of who will speak if people are going to take interventions and therefore take longer? If there is a fixed time allocated for the debate is the Speaker

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meant to make a list that is maximum length of everyone that gets in and how does the Speaker then know who is going to be very kind and do a five-minute speech and let more people speak? In the sense of the fluidity of the day how would this list relate to what is going to happen?

Chairman

294. A qualified lawyer is going to reply.

(*Mr Dismore*) I think you could do that relatively easily by making sure that the list was not over-long. If you work on the basis of an average of, say, one intervention you can average a speech out to, say, ten or 11 minutes. Then you could have a reserve list of two or three people at the end who are told, "You are not on the list but you are first reserve if the time goes short"; do it the other way round.

(*Norman Lamb*) I am somewhat nervous about commenting on Scotland knowing that there are people who know much more about it than I do but my understanding is that at the start of the debate an amount of time is allocated for speeches based on the number of people who want to be called and during the debate that can be adjusted if speeches have turned out to be shorter or longer than anticipated. A bit of flexibility seems to me to be entirely sensible.

(*Chris Grayling*) As a cynic I would say that I think this is turning into a deeply complex mathematical exercise for the Speaker. It is requiring an exact judgement to be made on the length of Front Bench speeches and I think it is wholly impractical.

(*Mr Dismore*) I would simply say that that is how we worked when I was on the council. We had timed debates, we had a list of speakers and a couple of reserves in case a debate went short.

(*Chris Grayling*) But the House of Commons is not a council chamber.

(*Mr Dismore*) No, but that system could be expanded to cover that.

Rosemary McKenna

295. I want to move on to the request for substantive motions to be debated. The more we go on in this inquiry the more complicated it becomes. People put forward suggestions but every suggestion brings up a problem and how it will be dealt with and what the mechanics of it will be. All of you have suggested different ways in which there ought to be more opportunity for backbenchers to raise issues of concern to them, whether it be after seven o'clock—that in itself raises an issue because some people have said they would rather see Private Members' Bills moved to between seven and ten. There are as many views as there are Members of Parliament on this. It is going to be very difficult to come to a conclusion. Maybe we could get out of the way this business of the substantive motion. I think the problem there which will be seen by a lot of people is that if we have substantive motions will they be voted on and what weight would be given to the vote, if any, because there has been a suggestion that they ought to be voted on? Even if we do agree that it is 150 signatories on an EDM, if it is the Speaker chooses, whatever way a decision is made, would they be voted on and what weight would be given to the vote?

(*Mr Dismore*) My view is that you would not vote on them because then the whips would start to interfere and you would not get a genuine debate. If we are talking about using the EDM as the basis, say 150 signatures, fine, debate on the EDM but the object is to try and get a backbench interchange to inform Government policy. The moment we start having votes we are getting into the question of the whips interfering.

Chairman

296. So you are saying—and this is important—that you do not greatly value the suggested change for debates being moved from being a debate on the adjournment to a debate on a substantive motion?

(*Mr Dismore*) I think a lot of the time it would be pretty meaningless. For example, if I talk about the policing in London debate we have annually, what would the debate mean? It would not mean a thing. The only motion you could have is, "This House has confidence in Her Majesty's Government's policy towards policing in the metropolis" or something similar, and the whips start to make sure they have got enough people here to vote it through and then it is a bit of a nonsense.

(*Norman Lamb*) I agree with Andrew on that. I think the importance for more time for debates and for individual Members of Parliament to raise issues is all about holding the Government of the day to account more effectively. I do not think that this place does that particularly well. By way of example, on adjournment debates we have had this reform so that departments are grouped into weekly groups. Since then I have had a debate, not on Rwanda but on the Democratic Republic of Congo. It was the week that was set aside for DfID, amongst other departments. No DfID minister was available, so I had the Minister for Europe, Denis MacShane, responding. It is not his fault and he complained himself about the system, but he knew nothing about the subject that I was raising, I had a lot of questions to put to the Government. He was not able to answer any of them. He refused to take any interventions. He simply read the speech that had been prepared for him. That is not holding the Government to account. I had another example of a debate on the Tanzanian air traffic control system where I got not the Minister for Export Licences but the Minister for Small Business, Alan Johnson, or the Minister for Employment responding who again knew nothing about the subject. There ought to be more flexibility here to ensure that we can effectively hold the Government to account. I do not think voting is the answer. I think there should be more opportunities and ensuring that the Minister is available to answer.

(*Ann McKechin*) I would agree with the other two speakers that voting would not be appropriate. As much as our Opposition colleagues want to scrutinise the Government, another important part of Parliament's work is to influence government policy and I think that these debates should be much freer so that they are not whipped, people can give their opinion and the Government can hopefully learn about the mood of parliamentarians or from their own expertise on the subject in that way, so that as well as scrutinising, which of course is an essential

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part of it, it is also influencing government policy. You mentioned things like the DRC or Rwanda. These are areas where a substantive motion would be entirely inappropriate and meaningless but what it could be is certainly a substantial debate on an issue to find out information from the Government about their current policy and in turn to influence it.

(Chris Grayling) I do not agree with Andrew. Andrew made reference to the example of the debate on policing in London. I accept that policing in London is an important area for Members to be able to voice opinions on, but on something like that is the floor of the House of Commons really the best place to have a discussion amongst London Members about policing in London? That could be a perfectly acceptable role for Westminster Hall. Let me give a specific example to the Committee of the kind of area where I think a substantive vote is entirely appropriate. If we look at the current issue of community pharmacies, the House of Commons will not have an opportunity to formally express its views on the subject. The Office of Fair Trading has produced a report to which the Government will respond. The House of Commons will not have a say on the Government's response. It will simply happen. We have to resort to various different means to try and make our voice heard. I have tabled an Early Day Motion on the subject which has attracted 130 signatures. I would like to think that an opportunity existed within the parliamentary calendar for that motion, which sends a signal, although no more, to the Government about the will of the House to be debated and voted upon, and if it is the will of the House that that motion should be passed, which does not commit the Government to doing anything but sends a message saying, "We want you to be extremely careful over this", then it seems to me entirely appropriate that we should have a vote and express our opinions.

Chairman

297. Then you are really tempting us to ask the question of you: how many signatures on an Early Day Motion should trigger the potential for a debate? You talked about the one on community pharmacies, and you have got 130 signatures. Members of the House in making representations to us have talked about a trigger of 200 or more.

(Chris Grayling) I think that is a reasonable target.

298. Is that something that would find consensus with our witnesses?

(Ann McKechin) Agreed.

(Norman Lamb) Agreed.

(Mr Dismore) If you get 200 signatures you are going to have to get cross-party support anyway. To pick up Chris's point, there are other ways of raising these issues. There was an adjournment debate on community pharmacies last week. It was the big showpiece during DTI questions last week. I know because I had the first question and the Minister made a concession that everybody wanted to see during that debate.

(Chris Grayling) But at present, the way we are structured, the House of Commons does not have the ability to formally express its opinion upon an issue that will affect every single one of us and our constituents, and I think we should do.

Rosemary McKenna

299. The danger there is that it is hijacked by the parties and that to me is at the root of the problem. It is not about the parties. It is about ordinary individual Members wanting the opportunity to put something on the record or to hold the Government to account or to inform the Government about their views. Any issue that could be voted on is in great danger of being manipulated by the parties, used by the media. Can you think of a way that we could deal with that without all of those issues?

(Chris Grayling) The simple response to that is if you do not give Parliament the opportunity to express a will it cannot. Simply saying it will be hijacked by the parties is not to me a justification. If you want to create an opportunity for Parliament to have the opportunity to express its opinions then you should do so, whether or not Members choose to do that, whether Members are heavily whipped in motions that express the intent of the House on what are often non-controversial issues but where a broad range of Members want to express an opinion to the Government. Quite clearly, if there was a substantive motion that said, "The Government will reject the OFT report on community pharmacies", then it is going to get into problems with party politics, but if Parliament is putting forward a motion that says, "We are extremely concerned about this and want the Government to take extreme caution about it", and I paraphrase what the motion might represent, and that were passed by a substantial body of Members, then that is a fairly clear indication to the Government of the concern of Members. If you do not provide the opportunity for the House to do that then the House will never be able to express those opinions.

Chairman

300. Do you not think, Mr Grayling, that that could be achieved, which is I think the gist behind Rosemary McKenna's observation, in a debate on a motion on the adjournment rather than on a substantive motion?

(Chris Grayling) I frankly think you give more teeth if you have the ability to pass a motion.

Mr Swayne

301. Perhaps Mr Dismore could tell us what objective criteria could be used to determine the proper length for a second reading debate for a Private Member's Bill.

(Mr Dismore) I think you have to look at that in the context of my overall suggestions for reform of private Members' procedures. The essence of this is pre-legislative scrutiny by a specially appointed Select Committee. In effect, I suppose the easiest way to describe it is to say you have a green, yellow or red light from the Select Committee, which of course

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would be all-party. The green light would say, "There is nothing wrong with this Private Member's Bill. It is a sensible one, it meets the criteria"—which I will go through in a minute—"it should be timetabled, go ahead". The yellow light would say, "The Bill in principle is fine but it needs some work doing to it. It can go ahead". The red light would say, "This Bill is clearly very partisan. It does not meet the criteria. If you want to go ahead with it, fine, but you go ahead with it under the existing procedures and you take your chances as you do now with the risk of it being talked out or the risk of having to find 100 Members to vote for closure. You have to jump all the hurdles". It does not mean to say you cannot let the Bill through because it can be done, but it is not going to be easy if it is that contentious. My objective is to try and encourage people to be sensible about using the private Members' procedures, the sorts of bills which they are really intended for, which are the ones that are going to do a modest amount of good, ones that are not going to cost a lot of money, which are practical to implement and are not party-political. If you want to bring a contentious one forward, fine, but then you take your chances of having major hurdles. You have got a carrot and stick approach. The carrot is that if you are sensible about what you put forward then you get a timetable and you have got a good chance of getting your Bill through, subject to the will of the House. What my suggestion has tried to do is to maintain the checks and balances within the existing system, give the House the final say on a Private Member's Bill which it presently effectively does not, and also get rid of a lot of the procedural practices—I will not necessarily call them sharp practices but people know what I am talking about—that bring the House into disrepute.

302. Would all Members comment on what their thoughts are as to the best time to take Private Members' Bills?

(*Norman Lamb*) I broadly agree with Andrew's proposals, I think they look like a sensible way forward. I would very much prefer Private Members' Bills to be more centre stage than they are at the moment. I am often clearly embarrassed by constituents who ask me to be present for a particular debate on a Friday when I really regard Fridays as a day I have to be in the constituency and very often I say, "I am sorry, I am not going to be there". So I think it would be much better if we could build them into the timetable between Monday and Thursday, that is my preference.

(*Ann McKechin*) I would be the same as Norman, I would prefer it to be built into the timetable between Monday and Thursday, particularly as someone who lives a considerable distance away from Parliament. In effect, if I come in for a Friday morning that is the whole day gone because it takes four and a half hours to get back up to the constituency. Given the pressures on MPs nowadays which have increased considerably in the last decade, it is anticipated that they really will be in their constituency every Friday in session.

(*Chris Grayling*) I agree with that, I think we should use evenings during the week as Private Members' Bill time where you use the 7 pm until 10 pm slot or the 7.30 pm until 10.30 pm slot. At the moment appearance on a Friday is very much down

to individual interest and whether a Member is promoting a particular Bill. So I think you might actually get increased turnouts and increased interest in Private Members' Bills. I can see no benefit in bringing people back on a Friday. In terms of time-tabling, it is very straightforward, if we have a timetable limit in the House on speech lengths why do we not do so for Private Members' Bills?

303. I know you are in favour of keeping them on Fridays. Can you say why?

(*Mr Dismore*) That is in the context of my overall package of reforms. I think the argument for moving it into another evening is that people still will not bother to turn up, I think that is always a risk. I think that debating Bills late at night, going back to original views of reform, is probably not the best thing to do. If you look at what I am proposing overall for a Friday, I think that would actually solve a lot of the criticisms of those who would like to see it shifted to a different day, because in the end my proposals rely on the House expressing a will and for those who say "will you attend on a Friday to make sure we have got the 100 people there for a closure?" you would not have to worry about that unless it was something really contentious, in which case I think it should be difficult to get a closure. If, on the other hand, you have got people saying will you come and support the Bill, you can support the Bill on the deferred division which will be necessary in my proposals for Third Reading, so you can say I will be there to vote for the Bill or not vote for the Bill as the case may be. You will be able to register your support for the Bill one way or the other on that basis and similarly through the time-tabling process. I would prefer to see the time available, if there is time available in the evenings, which is against the whole idea of trying to get family-friendly hours in the first place, used for some of the other debates we have talked about, the EDMs and Adjournment Debates or whatever. I think we run the risk of bringing the House into disrepute by shortening our hours beyond where they are now. I tend to agree with Eric Forth in this respect that Friday should be a sitting day. As far as losing a day in the constituency is concerned, I would lose a day in the constituency the same as anybody else if I come in on a Friday, because of the time we finish I cannot do anything useful in my patch either.

Chairman

304. Do you agree with the view expressed by the immediate past Speaker of the House, now Baroness Boothroyd, that you are, in the case of Andrew Dismore, the Member of Parliament for Hendon in Westminster; you are not the Member for Westminster in Hendon, and the same I would say to Norman Lamb for North Norfolk and for Ann McKechin for Glasgow Maryhill and also for Chris Grayling, the Member for Epsom and Ewell? Are you not the Member for your respective constituencies in Westminster rather than Westminster's Member in your particular constituency?

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[Continued]

[Chairman Cont]

(*Chris Grayling*) Absolutely, Sir Nicholas. If we do not invest the time in listening to the views of our constituents how can we represent them at Westminster?

Chairman: That is a good reply. I am not going to argue with that. I just wanted to get it on the record.

Mr Swayne

305. You have now opened up the question of deferred voting. It would be a very significant expansion in the principle that we have already conceded with respect to deferred divisions. I can understand how deferred divisions could be accommodated with respect to Second Reading and Third Reading, but what difference in principle is there with respect to divisions that might come on amendments at Report which would become entirely impractical if you then had to take into account Third Reading?

(*Mr Dismore*) I am not proposing deferred division at Second Reading, I am proposing deferred division if there is objection to the time-tabling, which is an opportunity for the House to express a view on the Bill at that stage, because if the Bill is not time-tabled it is going to have a lot of trouble. I am proposing deferred division at Third Reading. The reason I suggested Third Reading is by the time you get to deferred division on the Wednesday *Hansard* from the previous Friday will have been printed. If anybody really wants to know what has gone on and the arguments and debates and so forth, they can read *Hansard* to inform themselves before they cast their vote. I do not think it is practical to talk about deferred divisions at other stages. I think there should be an ordinary division, if one is called, at Second Reading, in which case there would have to be a quorum in the House, but that is only if the Bill is opposed. Most Bills are not opposed at Second Reading and similarly at report stage, because in the end what counts is whether the final product has the will of the House in my view. I think what I would put is a reasonable compromise there.

(*Norman Lamb*) I want to go back to this business about Fridays because there is a direct relationship between the closeness of one's constituency to Westminster and one's enthusiasm for Friday sittings. The early finishing on Tuesdays, Wednesdays and Thursdays has nothing to do with family-friendly hours unless you happen to live within commuting distance of Westminster. My wife gets very angry at the suggestion that it makes a difference. If I am down here I cannot get back to North Norfolk, I might as well work while I am here and if there are interesting things and important things to be debated in terms of Private Members' Bills or Adjournment Debates in the evenings of Tuesdays, Wednesdays and Thursdays, that is the time to be doing it, not keeping us here on a Friday.

Chairman

306. I would like to put a question to you about Private Members' Bills. Obviously Andrew has sent us a very well produced paper. Andrew, do you think that the ballot is an appropriate way of allocating the priority and the order in which Private Members'

Bills are taken or should there, as I think maybe you suggest, be a Committee of some sort to do this or a system involving measuring the level of support for a particular measure that is contained within a Private Members' Bill? I would like to get a specific answer from you on this and if other witnesses would like to comment perhaps yes or no or a little bit longer than that it would be helpful. I will put the second question also. How could you regulate a Private Members' Bill Committee to ensure that it did not become, as could so easily be the case, a device to allow the Government of the day, because they would have a majority on the Committee, to get more legislation through the House using what people like myself have got to know as hand-out Bills, ie Bills that are supported by Government?

(*Mr Dismore*) Apart from Ten Minute Rule Bills where I have got another proposal, as far as the ordinary Private Members' Bill procedure is concerned, I think the ballot is as fair a way as you are going to get, but I would bring it much further forward in the parliamentary year. The purpose of my select committee proposal would be to allow a Bill, once it has been produced, to be scrutinised before it reaches the floor of the House. The purpose of the scrutiny is to make sure whether it would work or not. One of the problems we have with the existing procedure is that the Government often does not make its mind up about the Bill until the very last minute and there have been debates in the last session and probably this session where the Minister has only made his mind up on the morning of the debate whether or not he is going to let the Bill go forward. That sort of brinkmanship is one of the things that brings us into disrepute. I think the Government should be expected to put its cards on the table at a much earlier stage and the select committee procedure is the way to do that. If the Government had some objection in principle or a hidden cost which had not been thought of or practical reasons why a Bill could not operate, the Government should make its position known there and then at a much earlier stage. As far as hand-out Bills are concerned, I do not see any difference at all with where we are now because that is what happens at present. When a Member reaches a sufficiently high point of the ballot they are besieged by pressure groups asking them to take this particular Bill or that Bill, but any sensible Backbencher who is keen about it, if he is minded to take a Bill, would check with the Government what the Government's position was going to be on that anyway if they are serious about legislating. My concern is that the Private Members' Bill procedure is used or abused by people who know they have selected a subject which has got no prospect whatsoever effectively forcing an Adjournment Debate and embarrassing the Government and those Bills are then talked out, which I think is a complete shame and waste of time. I am not saying that if you have something controversial you should not be allowed to do it, but you must show you have got the support to get it through. That is where the yellow, red, green procedure comes in.

(*Chris Grayling*) It is an interesting concept that Andrew has put forward. Might I make one suggestion in relation to the ballot and that is at the moment the Bill follows the Member in that I put my name in the ballot next year, maybe I get drawn out,

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[Continued]

[Chairman Cont]

maybe I do not. If I do get drawn out then I have to think about whether I want to do something with it and what. There is a case for reversing that process and for a ballot to be based in reality, it could be a ballot of Members of the House, maybe a secret ballot where Members could actually tick the box against a particular Bill concept. At the moment we pick out a Member. Why do we not actually draw a Bill? We could also pursue the same kind of approach that we do, and we have discussed this, with Early Day Motions of actually requiring signatures to be attached to a Bill before it can be tabled as a Private Members' Bill, so it is not simply somebody has been drawn out of the hat and they can pick a Bill of their choice but it is something that has a degree of interest and support in the House.

307. Could I put that to Andrew? I give him full credit, he has given considerable thought to this. Do you not think there is some sense in what Chris Grayling has said, that perhaps instead of Members' names being put into a hat or a ballot it should be a Bill that is put into the hat or the ballot and it would be the Bill rather than the Member that is drawn out?

(*Mr Dismore*) No, I think that would be entirely contrary to the whole concept of Private Members' Bills. One of the great advantages of the Private Members' Bills procedure is that it enables often a relatively small interest group or a neglected cause to have a chance of getting their wrong put right, and the problem is that if you do it this way then what will happen is that the big popular causes, the big charities, will be able to lobby hard because they will have all the machinery to get people to vote for their particular interest. Perhaps I may give an example. Last year I got through my own Private Members' Bill, in fact it was a Ten Minute Rule Bill, which is rather unusual, on divorce in religious marriages, to put right a very small but important problem with Jewish law. The prospect of me getting sufficient votes round the House to put that sufficiently high up the list would be virtually impossible. Every Friday I look at all these Bills and I think what on earth is that about. Last week we had equine ragwort control, I had not even heard of that.

(*Chris Grayling*) That is because you represent an urban constituency. Many other people will be very familiar with it.

(*Mr Dismore*) Fine, but you would not get urban Members voting for that.

(*Chris Grayling*) I think you would get more voting for it than for Jewish religious marriages.

(*Mr Dismore*) That is exactly the point. It is the one chance that people who are overlooked by Parliament have of having their wrong put right. The Government can legislate on the bigger picture stuff, but I would hate to have this hijacked every year with fox hunting or something else which is always coming top.

(*Chris Grayling*) Maybe you could simply draw the Bill out of the ballot rather than putting names to it. It does not remove the opportunity for a wrong to be righted. The strength of the big lobby groups is there now and they will go banging on the doors of Members to be drawn out number one, number two and number three on day two and they are probably going to be much more effective at getting their case across.

(*Mr Dismore*) I think that Members should be a little bit more experienced than that. Chairman: I think we have exhausted that argument. We have talked about pressure on time for debates, but I know Iain Luke, because he feels he himself has been subjected to discrimination, would like to pin you down on one or two questions relating to how you view the pressure on time for debates.

Mr Luke

308. I share the views that people have made about the actual discrimination and the disfranchising of constituencies through the way the system works. One of the issues I take exception to is during opposition days when you get Ministers speaking you often get so many events that ordinary Members who want to express opinions on the issue get nowhere near being called. Would you agree with me that we should have some restrictions on interventions and debates with time limits? Do you not feel there is a need for limitations on the numbers of times that ordinary Members can intervene on Ministers because sometimes it goes on for hours?

(*Chris Grayling*) Definitely not.

(*Norman Lamb*) I do tend to think that interventions on a Minister is about the most effective way that you can hold them to account because they have to answer the question some way or other, whereas if it is just responding to a speech in a debate they have got a long time to think about it and they can ignore it in its entirety. So I think interventions to Ministers are actually important.

(*Chris Grayling*) I totally agree with that. In an environment where we no longer have an open-ended time for debate then on important days there are no other ways for Members who are unlikely to get called to make their point to a Minister. I think if you curtail that you would have less consultation and debate than you do today.

Chairman

309. Ann, do you agree with that?

(*Ann McKechin*) I would agree that there is a need to allow interventions, although obviously Members should try not to repeat a point that has already been made to the Minister if he or she has already answered the question.

310. I think I know Andrew's answer but by all means give it.

(*Mr Dismore*) I think interventions are important, too. I would add that a lot of Members will be satisfied with an intervention making their point. If they think they are not going to get an intervention they will want to speak in the debate and it may be counter-productive in that you will have more people trying to speak by formal speeches than if they could get their point over in a short intervention.

Mr Luke

311. We have talked about the etiquette of debates. Many people only come in to make interventions, the Minister will take their intervention and they will take no further part in the debate and disappear as

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[Continued]

[Mr Luke Cont]

they know that they have got their name on *Hansard*. They have no intention of making a party debate, all they want is their name on that so they can go back to their constituents and say this is what I have done.

(*Ann McKechin*) I think that is true, but some Members do not even come into a debate at all, they will simply go to the TV or pick up a newspaper and think that is the way of getting their message across.

Mr Luke: I have seen people refuse to take their benches because the people involved have left the House, so they are not even in the House at all.

Chairman

312. I think the problem is, would you not agree as witnesses, that very often the well chosen, well worded intervention can actually get you more publicity than the well considered speech?

(*Ann McKechin*) Yes.

(*Norman Lamb*) Yes, especially if it is near the start of the debate.

Chairman: I have to say, it really is a matter of courtesy to the House not to come in just to have an intervention and then go, but if you do intervene you should stay for at least a reasonable part of the debate.

Sir Robert Smith

313. Obviously recent events have highlighted the procedures for the recalling of Parliament and concerns and most witnesses want to see some kind of change. Currently the Speaker can only recall Parliament if the Government request it. What criteria do you think the Speaker should use to decide whether to recall Parliament, if we were to change it? Should it be a trigger of a number of Members or a spectrum of Members, or should it be up to the Speaker to judge the severity of the situation?

(*Mr Dismore*) I would be inclined to leave it to the good sense of the Speaker.

(*Chris Grayling*) Yes.

(*Ann McKechin*) Yes, I agree.

(*Norman Lamb*) I tend to agree. I think it is very important for the Speaker to have that power to get Parliament back without the Government being able to block it.

314. One question then put is should the Speaker recall Parliament if the Government are not interested in it, what then happens in terms of the agenda or is that not going to happen in reality?

(*Chris Grayling*) It is inconceivable in reality. If the Speaker recalls the House and the Speaker's judgment was that it was a matter of significant severity and the Government said it was not interested, it would reflect so badly on the Government that it will never happen.

315. Currently, procedurally, once the House is to be recalled the Government obviously, as they do with all other days, control the agenda, the number of sittings and the end time. The only flexibility at the moment is the Speaker can do a leap-frogging exercise and start the day earlier to squeeze more time in. How should the number and length of sittings and the agenda be decided for recalls?

(*Mr Dismore*) That would be a matter for the Speaker. If the Speaker is going to recall Parliament then he would formally write to Members by post or e-mail and say, "I have decided to recall Parliament to debate this issue". He would set out what the issue was and if the Government do not table a substantive motion then that is the motion. I would leave it to the Speaker to decide how long Parliament should be recalled for. I think these are issues which would happen very rarely, that the Government would recognise a national emergency if there was one, which is really what we are talking about.

(*Chris Grayling*) I think the Speaker's right should be to recall the House on the same principle as an urgent question. I do not think the Speaker should be in the position of being able to recall the House for a debate. The Speaker should be able to recall the House in order to require a Minister, probably the Prime Minister, to make a statement to the House and the Speaker, of course, has the ability to do that for eight hours if he wishes. I do not think the Speaker has the right to say to the Government, "You shall have a motion".

Chairman

316. Do you think the Speaker should have more say over the recall of Parliament? I do not want to pick on my colleague on the Committee, Iain Luke, but he wanted desperately to speak when the House was recalled last year and he came all the way from his constituency in Scotland, sat throughout the debate with scarcely a minute outside the Chamber and was not called. I think the Speaker himself would have liked to have had a two day recall of Parliament. Do you think the Speaker should have more say over the length of the recall?

(*Chris Grayling*) I think that becomes very difficult because if you think through the process of what you are actually saying, the Government business managers control the business in the House and the Speaker has the discretion to require the Government to make a statement on a particular issue to the House. All we are effectively saying is that that right should be made 365 days a year. If at any point the Speaker deems a subject to be sufficiently important to recall the House he has the right to do it and he has the right to run the statement for as long as he wishes. When you then get the Speaker into a position of requiring a debate to be had on a substantive motion you are causing sufficient problems for the Speaker for it to be a very unwise step to take. All you are doing is developing the rights the Speaker already has to require a statement. I would be very wary of a report that went further than that because you are putting the Speaker into a very difficult position.

(*Ann McKechin*) I would agree with that. I do not think you can require a Government to set a motion, the Speaker cannot do that and I think maybe the statement would be to allow the debate to take place. It would then be up to the Government to have the option of requesting a substantive motion and I think the Speaker should be allowed to take that on board.

Chairman: My question was not on a substantive motion, it was whether, for instance, last September the House should have been recalled for two days

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[Continued]

[Chairman Cont]

rather than one to enable a wider debate involving more Members of the House who clearly had indicated their wish to speak and participate.

Mr Luke

317. It was on a motion for an adjournment and in these circumstances could not actually overturn the adjournment.

(*Mr Dismore*) I think you have got to leave this for the Speaker to work with the usual channels because I think the factor that would influence it is not trying to foresee how many people would want to speak but how many people have applied to speak. If it turns out that Parliament is being recalled for one day, if so many people had put in then the Speaker ought to be able to go back to the usual channels and say, "Look, we have had all these people, shall we not have two days?"

Chairman

318. Do any of our witnesses want to make any further comment? We have covered Private Members' Bills, lists of speakers and choice of speakers, pressure on time for debates, debates on substantive motions, recall of the House. Let us start with Chris first and then Andrew.

(*Chris Grayling*) The one area that has not really been covered significantly is Early Day Motions, it has been referred to. The Early Day Motion system in my view, and I think it is shared by others giving evidence, has been brought totally into disrepute. I have the right to walk out of this Committee room, walk downstairs and table a motion congratulating Sir Nicholas Winterton on his choice of tie at this afternoon's Procedure Committee meeting.

319. I would be very glad if you did.

(*Chris Grayling*) To my mind that is a mockery of a process. My view is that there should be a threshold of signatures which you must obtain before you can table an Early Day Motion and my proposal would be that it should be 25. So before you can table such a motion you have to go out and demonstrate that there is some degree of parliamentary support. That, at the very least, would get rid of a significant number of more trivial motions and give extra weight and substance to the motions. In addition to that, I would like to see motions reaching a particular threshold, we talked about 200, being debated as a matter of course on the floor of the House.

320. Thank you very much. Does any other witness wish to comment on that particular matter? I am going to ask Sir Robert to put his supplementary.

(*Mr Dismore*) I think I have a problem with that particularly for smaller parties who may want to table a motion where they do not have 25 Members in the House, that is not practical.

Mr Swayne

321. They should be bigger!

(*Mr Dismore*) It may be difficult in certain parts of the country. I would not go along with that. With the EDM process some people do take the mickey a bit, but I think it is part of the colour of Parliament that they are not going to get debated unless they have a substantial number of supporters.

(*Norman Lamb*) I think if the EDM effectively becomes a request for a debate and if you hit a particular threshold and you get your debate, perhaps through a filter of this Committee or whatever, then I think that that would give the EDM process much more substance than it currently has.

(*Ann McKechin*) I would not agree to a threshold because I think it would prejudice particularly those people from the smaller nationalist parties, but I do think that there is an argument for several days debate to be reserved for EDMs which reach over a certain threshold and I think that would then encourage Members to think more seriously about the use of EDMs.

Chairman

322. Perhaps a final word from our witnesses. Andrew Dismore?

(*Mr Dismore*) I wanted to mention Ten Minute Rule Bills and I have put some proposals in my paper. There is one further proposal which I have since thought of and that is this: I think there is an abuse of the Ten Minute Rule Bill procedure because people are starting to use them as Adjournment Debates rather than with any intention of presenting a Bill. A lot of people name a Second Reading Debate in July or something and they never produce a Bill and I think that is an abuse of the procedure. Slots for Ten Minute Rule Bills are very sought after because it is prime time and I would suggest that somebody should only be entitled to a Ten Minute Rule Bill slot if they have got a Bill there. Rather than using the dummy Bill procedure, you should produce a Bill before you get your slot.

Chairman: Can I thank Andrew for finishing on a very constructive and positive note and for Chris Grayling's interest in my tie. This is the tie of the Worshipful Company of Weavers which is the oldest company first mentioned on the pipe rolls of the City of London in 1130. On behalf of the Committee can I thank our four witnesses this afternoon, Chris Grayling, Ann McKechin, Norman Lamb and Andrew Dismore, very much. You have been very helpful in the remarks that you have made and it will be most useful to us to have your evidence in producing our report. Thank you very much indeed.

Wednesday 14 May 2003

Members present:

Sir Nicholas Winterton, in the Chair

Huw Irranca-Davies
Eric Joyce
Sir Robert Smith

Mr Desmond Swayne
David Wright

**Memorandum submitted by Rt Hon the Lord Carter, Rt Hon the Lord Cope of Berkeley and
Ms Chloe Mawson**

THE OPERATION OF SPEAKERS LISTS IN THE HOUSE OF LORDS

INTRODUCTION

1. In the House of Lords any Peer can speak on any question before the House. There is no one with authority to stop another Peer speaking (except the whole House itself). However there are conventions about when it is appropriate to speak. One of these conventions is that a Peer wishing to speak in a set piece debate should give notice by signing up to be included on the speakers list for that debate.

2. Speakers lists are then drawn up by the usual channels to determine the order of speakers for the relevant debates. Everyone on the list then has an opportunity to speak.

3. Although Peers should put their name on the speakers list if they intend to speak, there is an opportunity for Peers not on the list to speak after the listed back benchers and before the front bench wind up speeches. A gap is left in the list at that point for this purpose (see attached example). Peers who speak “in the gap” are expected to be brief.

4. The Companion to the Standing Orders of the House of Lords (which is issued by the Clerk of the Parliaments after approval by the House of Lords Procedure Committee) is the printed source of guidance for the House on the operation of speakers lists. The relevant extracts are attached and explained below.

FOR WHICH DEBATES IS A SPEAKERS LIST USED?

5. The Companion to Standing Orders states that a list of speakers is issued for “most debates” (para 4.16). It is the Usual Channels who decide for which debates a list will be necessary. Speakers lists are in practice published for all second readings, for motions to take note or to move for papers¹ and for Unstarred Questions. They are not usually published for the approval of affirmative instruments or prayers against negative instruments, nor are they used for amendable stages of Bills. The reports of the domestic select committees rarely get a speakers list. Debates on reports of most investigative select committees do get speakers lists.

HOW IS A SPEAKERS LIST PREPARED?

Signing up

6. The Government Whips Office in the House of Lords is responsible for drawing up and publishing the speakers lists. Once the date for an item of business has been agreed amongst the Usual Channels, a list is put up in the Government Whips Office. Peers can come in and sign up on the list, or phone the office and ask to be put on the list. Speakers lists close at 12 noon on the day of the debate on Mondays, Tuesdays and Wednesdays (when the House sits in the afternoon) and at 6pm on the evening before the debate on Thursdays and Fridays (when the House sits at 11am).

Determining the order of speakers

7. Once the list is closed the Government Whips Office asks the Opposition Chief Whip and the Liberal Democrat Chief Whip to choose in which order they would like the Peers in their party to speak. The Government Whips Office decide the order of speakers on the Government benches and cross bench benches. Once the list is published, if any Peer is unhappy with his positioning on the list it would be for him to take his grievance up with his own Chief Whip.

¹ A motion for papers is a traditional tool commonly used in the House of Lords to provoke a debate on which no vote is intended. It is roughly the equivalent of an adjournment motion in the Commons.

8. Once each party has chosen its own internal order, a list is then constructed with the Peer in charge of the debate speaking first followed by a Government Peer, an Opposition Peer, a Liberal Democrat Peer and finally a Cross Bench Peer. This rotation of the parties and the cross benches is repeated throughout the list so far as possible; however there are often more Peers speaking from one party than from another so the pattern is altered to get as even a party spread as possible. Special consideration is given to Maiden Speakers.

Dissemination

9. Speakers lists are published by 2pm on Monday-Wednesdays and at 10am on Thursdays and Fridays. The list is issued from the Government Whips Office by e-mail and on paper. Paper copies are also available in the Printed Paper Office and at the entrances to the Chamber. The list is not currently available on the intranet.

Operation of the List in the Chamber

10. Every Peer in the Chamber may have a copy of the speakers list and gets up to speak in their place on the list. No one calls the next Peer on the list. If a Peer does not turn up then as soon as the next Peer realises what is happening he or she starts their speech. If a Peer intends to speak in the gap or intends to scratch their name from the list, it is customary to let the Table and Front Benches know of the intention.

Time Limited Debates

11. The list for a time limited debate also has a note on how long speeches can last within the overall time limit so that all Peers on the list are able to speak. The times allowed to speakers in debates of various lengths are given in the Companion. All time limits on speeches are advisory, but they are usually adhered to. If there is a long speakers list for a non time limited debate that might run later than 10pm (or 7.30pm on Thursdays) guidance is given on the list to indicate how long each back bencher might speak for if they want the House to rise by 10pm (or 7.30pm on Thursdays).

The Rt Hon the Lord Carter

The Rt Hon the Lord Cope of Berkeley

Chloe Mawson

1 May 2003

APPENDIX 1

SAMPLE SPEAKERS LISTS

Sample 1—debate without a time limit

Tuesday, 18 March 2003

MOTION TO TAKE NOTE OF HER MAJESTY’S GOVERNMENT’S POLICY ON IRAQ

[Note: it is considered discourteous for members not to be present for the opening speeches, for at least the speech before and that following their own, and for the winding up speeches. Members who become aware in advance that they are unlikely to be able to stay until the end of the debate should remove their names from the list of speakers.]

- | | | |
|----|-----|---------------------|
| | L | Williams of Mostyn |
| | L | Strathclyde |
| | Bns | Williams of Crosby |
| | Bp | Oxford |
| 5 | L | Wright of Richmond |
| | Bns | Ramsay of Cartvale |
| | L | Howe of Aberavon |
| | L | Redesdale |
| | L | Bramall |
| 10 | L | Richard |
| | L | King of Bridgwater |
| | L | Watson of Richmond |
| | L | Weatherill |
| | L | Beaumont of Whitley |
| 15 | L | Bruce of Donington |
| | L | Jopling |
| | Bns | Northover |

-
- L Rees-Mogg
 - L Maginnis of Drumglass
 - 20 L Campbell-Savours
 - L Roberts of Conwy
 - E Russell
 - L Skidelsky
 - L Judd
 - 25 L Blaker
 - L Phillips of Sudbury
 - Bp Chelmsford
 - L Ahmed
 - Bns Sharples
 - 30 L Mackie of Benshie
 - L Chalfont
 - L Hardy of Wath
 - E Onslow
 - L Chan
 - 35 L Stoddart of Swindon
 - L MacKenzie of Culkein
 - L Elton
 - L Rogan
 - Bns Turner of Camden
 - 40 L Desai

 - L Roper
 - L Howell of Guildford
 - Bns Symons of Vernham Dean

[If back-benchers were to speak for 8 minutes each the House would rise by 10pm]

Sample 2—time limited debate

Wednesday, 30 April 2003

DEBATE ON INITIATIVES TO ENHANCE THE WELL-BEING AND STATUS OF PEOPLE WITH DISABILITIES IN THE CONTEXT OF THE EUROPEAN YEAR OF DISABLED PEOPLE AND THE CHARTER FOR THE NEW MILLENNIUM FOR DISABLED PEOPLE WORLDWIDE

[Note: it is considered discourteous for members not to be present for the opening speeches, for at least the speech before and that following their own, and for the winding up speeches. Members who become aware in advance that they are unlikely to be able to stay until the end of the debate should remove their names from the list of speakers.]

[Time limited to 2½ hours]

- L Morris of Manchester
- L Campbell of Croy
- L Ashley of Stoke
- L Rix
- 5 L Carter
- L Corbett of Castle Vale
- Bns Howarth of Breckland
- Bns Dean of Thornton-le-Fylde

- L Addington
- 10 L Astor of Haver
- Bns Hollis of Heigham
- L Morris of Manchester

[Save for Lord Morris of Manchester opening (15 minutes) and Baroness Hollis of Heigham winding (20 minutes), all speeches should be limited to 12 minutes]

APPENDIX 2

RELEVANT EXTRACT FROM THE COMPANION TO STANDING ORDERS OF THE HOUSE OF LORDS

4.17 For most debates a list of speakers is issued by the Government Whips' Office and is available at 2 pm from that Office, and also from the Printed Paper Office, the Prince's Chamber and Peers' Lobby. This list is drawn up after consultation through the usual channels. Members wishing to speak should put their

names on the Speakers' List at any time before 12 noon on the day of the debate, or 6 pm on the previous day if the House is sitting in the morning. Any Member whose name is not on the published list may still take part, by speaking "in the gap", that is, before the winding-up speeches. They should inform the Table of their wish to do so, and have their name added in manuscript to the list. Any such speaker is expected to be brief (not longer than four minutes). Members are expected to remove their names from the list if they become aware in advance that they are unlikely to be able to stay until the end of a debate (see paragraph 4.23, page 57).

4.23 A Member of the House who is taking part in a debate is expected to attend the greater part of that debate. It is considered discourteous for a Member not to be present for the opening speeches, for at least the speech before and that following their own, and for the winding-up speeches. Members who become aware in advance that they are unlikely to be able to stay until the end of a debate should remove their names from the list of speakers. Ministers may decide not to answer, orally or in writing, points made by a speaker who does not stay to hear the minister's closing speech.

4.123 The House may limit debates to a specific number of hours, where such a time limit is considered desirable. A business of the House motion in the name of the Leader of the House (of which notice is required) must be moved before the start of the debate if a time limit is to be applied. Within the overall limit, the amount of time allotted to particular speakers is calculated in advance and stated on the Speakers' List.

4.124 Speaking time is allocated equally between all the speakers on the Speakers' List, subject to a guaranteed minimum number of minutes being given to the mover of the debate, the two official opposition spokesmen and the minister replying. The Table below shows these guaranteed minimum allocations of time for debates of various lengths.

	<i>Length of Debate</i>				
	<i>4–6 hrs</i>	<i>2–3½ hrs</i>	<i>1½ hrs</i>	<i>1½ hr UQ</i>	<i>1 hr UQ</i>
Mover	20	15	12	10	10
Opposition spokesmen	12	10	8	No guaranteed minimum	No guaranteed minimum
Minister replying	25	20	15	12	12

4.125 If the number of speakers on the Speakers' List is small, the minimum times set out in the Table are waived and every speaker enjoys an equal speaking time (up to the recommended maximum of 15 minutes for any speech), except for the minister in reply who has 20 or 25 minutes depending on the time limit fixed for the debate.

4.126 At the appropriate time, whoever is speaking is expected to give way to the front benches.

4.127 The digital clocks in the Chamber show the number of minutes that have already elapsed since the start of each speech.

Time-Limited Debates: Allocation of Time to Speakers

<i>Length of Debate</i>										
<i>6 hrs</i>	<i>5 hrs</i>	<i>4 hrs</i>	<i>3½ hrs</i>	<i>3 hrs</i>	<i>2½ hrs</i>	<i>2 hrs</i>	<i>1½ hrs</i>	<i>1½ hrs UQ</i>	<i>1 hr UQ</i>	
<i>Number of Speakers</i>										<i>Time Allocation</i>
—	19	15	13	—	—	—	6	—	—	15 mins
—	20	—	14	12	10	8	—	—	—	14 mins
—	21	16–17	15	13	—	—	—	—	—	13 mins
—	22–23	18	16	14	11	9	7	7	5	12 mins
29–30	24–25	19	17	15	12	—	—	8	—	11 mins
31–33	26–27	20–21	18–19	16	13	10	8	—	—	10 mins
34–36	28–29	22–23	20–21	17	14	11	9	9	6	9 mins
37–40	30–32	24–25	22–23	18–19	15	12	—	10	—	8 mins
41–45	36–37	26–28	24–26	20–21	16–17	13	10	11	7	7 mins
46–52	38–42	29–32	27–29	22–24	18–19	14	11	12–13	8	6 mins
—	—	33–38	30–35	25–29	20–23	15–17	12–13	14–15	9	5 mins
—	—	39–42	—	30–35	24–27	18–20	14–15	16–19	10–11	4 mins
—	—	—	—	—	28–35	21–25	16–19	20–23	12–14	3 mins

NOTES

1. Count *all* speakers, but *include the mover only once*; time allocation is in the far right column
2. Time allocations for openers and winders are set out in Table 2
3. Opposition and Liberal Democrat winders must receive at least their minimum time allocation—allowed for in above calculation

Witnesses: **Rt Hon Lord Carter**, a Member of the House of Lords, **Rt Hon Lord Cope of Berkeley**, a Member of the House of Lords, and **Ms Chloe Mawson**, Assistant Private Secretary to the Government Chief Whip, House of Lords, examined.

Q323 Chairman: Can I welcome our witnesses today, our very distinguished guests. We have, of course, the Right Honourable the Lord Carter, who is the former Government Chief Whip in the other place. We have the Right Honourable the Lord Cope of Berkeley, who is the Opposition Chief Whip in the other place; and we have somebody who is extremely important, Chloe Mawson, who is in the Government's Chief Whip's Office in the House of Lords, and who is actually responsible for preparing the list. Can I thank you all for coming. You know the inquiry we are undertaking, there is pressure from colleagues in this House to emulate the House of Lords; whether or not it will, in the end, I do not know, that is up to the House, but we are looking at a speakers list in some depth. Can I start, therefore, with the first question. Normally, I would ask our witnesses to make some opening comment, but I think my opening question to you will enable you, as it were, to present your case in a general way. Can I ask our witnesses, how well does the speakers list system work in the House of Lords, are there any ways in which it has been changed recently, or is currently developing; perhaps, Lord Carter, you would like to bat first?

Lord Carter: I think it works extremely well. I have been in the House for 16 years; there have been some comparatively minor changes over the years, but it works more or less as it always has done. And everybody knows the rules, there is no Speaker, as you know, to regulate us, you rely on the House regulating itself, and I would say that it works very well. The only recent development—it is not recent, I used to do it, as Chief Whip—when there is a very long list on an untimed debate, on a Second Reading, the Iraq debate, things of that nature, I used to suggest an informal time limit, “If Your Lordships like to restrict the backbench speeches to, say, eight or nine minutes, the House is likely to rise by about half-past ten, and if Noble Lords speak for longer then obviously the House will sit later.” And now actually that is put on the speakers list, on the long debates, to indicate that “If you want to finish by half-past ten you need to restrict yourself to eight minutes;” and that works very well.

Q324 Chairman: Can I just ask you, before I pass on to Lord Cope, how well is that observed by Their Lordships?

Lord Carter: Very well. There is a sort of unwritten rule that if you are going to keep the House up you will be very unpopular, and it seems to work, I would have thought, remarkably well.

Q325 Chairman: Thank you very much. Lord Cope?

Lord Cope of Berkeley: Sir Nicholas, I would agree with that and I think it does work well, including the timing mechanism. You have to appreciate that the framework of Lords debates within which this operates is rather different from the Commons. As you know, for a number of years, I was one of your colleagues.

Q326 Chairman: And a whip?

Lord Cope of Berkeley: Indeed. The framework is different, in the sense that every Peer speaks on any motion that he wishes, so nobody is cut out by this system, they may speak a bit later than they hope but nobody is cut out by this system at all; whereas, of course, in the House of Commons, the order in which the speakers come does determine, to some degree, in many debates, whether or not they are all called, or whether or not the individual is called, and that is one of the differences you have to ponder. But, on the whole, it works extremely well. If a Peer does stray way over the eight minutes, people will start harrumphing and coughing and drawing his attention to the fact that he is going over the time, etc. If you are thick-skinned enough you can carry on, but, on the whole, people do draw their remarks to a close, maybe with another paragraph or so, but they do oblige.

Lord Carter: If it would help the Committee, I had the experience actually of telling the Baroness Thatcher that she was going over time on a short debate, when there was a four-minute limit, and we let the clock get to six and then I had to ask her if she would bring her remarks to a close, which she did, rather gracelessly but she did.

Q327 Chairman: Chloe Mawson, as the administrator of this system, could you respond to that question, and indicate how actually they are put on the list?

Ms Mawson: I think Lord Cope and Lord Carter are better placed to say how it works in the Chamber, but from our point of view in the office we get complaints very, very rarely about speakers lists, they seem to work very well. Peers come in to sign their name on the list, or call up and ask us to sign for them, and then on the day we go to the Usual Channels, get each Chief Whip to order their speakers and print the list accordingly.

Q328 Chairman: I know we have a paper from you, which has been very useful, but it would be helpful to get this firmly on the record during this evidence. Peers will sign in, indicating their wish to speak, and they might be four, five, six, on the list at that time; are you saying then that the order is changed by the whips?

Lord Carter: Yes. The order in which they put their names down is just the list, and it is the next space on the list, there is no significance in the order as written first-hand, as it were, that is just, as they come into the office, it is the next space on the list, so that is completely random, and then the Usual Channels re-sort it.

Q329 Chairman: That puts a lot of power in the hands of the Usual Channels, does it not? If a Member of the House of Lords, like one or two in the Commons, shows a brand of independence, does that affect where they might be placed on the list?

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Lord Cope of Berkeley: Not much. The fact is that the way I and I think others, who are charged with this responsibility on behalf of their parties, go about it is, really, to a great degree, on a question of expertise, who knows a lot about this subject and ought to speak earlier, and that can be anybody. There is a very high level of expertise in the Lords, as you know, and so you do get a very high level of speakers, and one tries to arrange them, but sometimes it is quite tricky to do it; but, on the whole, we seem to manage it to the satisfaction of most of our colleagues, at any rate.

Q330 David Wright: One of the issues, I suppose, though, is programming of business, because, quite clearly, in the Commons, there is a far more well-developed, and some would argue, unnecessary, at times, programming system, and clearly that is not reflected in the Lords. How do you think it would impact if there were a very, very draconian programming process going on?

Lord Carter: Actually, the debates, things like a Second Reading, or what we call our Wednesday Debates, when, from the Queen's Speech until the end of June, we do not have any legislation on Wednesdays, except today, for example, when we have the Northern Ireland Bill, which is an emergency, but normally we have only the Wednesday Debates, as we call them, with speakers lists, etc., so it does not impact. I had to work out, as Chief Whip, I had only Mondays, Tuesdays and Thursdays until the end of June for legislation; so, in a sense, that was how we looked after that. There are also speakers lists for what we call Unstarred Questions, either in the dinner hour, which we have in the Lords, for an hour, or at the end of business for an hour and a half, so that solves itself also, and there is a time limit for the dinner hour, the end of business means that the whips are off. So I do not think that really it has that much effect on the programming, which proceeds, in a sense, almost independently, because we know that the debates will not be coming on a Monday, Tuesday or Thursday, they will be coming on a Wednesday, for example.

Q331 Huw Irranca-Davies: I wonder whether Lord Carter and Lord Cope could answer this. At the moment, as a backbencher, I can go to the Speaker here, in the absence of lists, and argue my case for some level of expertise, or constituency interest, and so on. How does somebody do that when, at the moment, they come in, they put their name down on a list, and then you determine the order based on your knowledge; do they approach you to say they have a specific interest?

Lord Cope of Berkeley: Sometimes, yes. Obviously, we reckon to know the expertise of most of them and the interests, but sometimes there is something we might not know about some relatively obscure matter we might not know about; and, yes, they do come occasionally to say that, or why particularly they want to be called early in a debate rather than later in a debate. There is also, I may say, a strong presumption, which is written into the rules actually,

that a Peer is expected to stay for substantially the whole debate, and particularly for the wind-ups, etc., and the speeches immediately after his own, and this is followed very fully. For example, yesterday, we had the Second Reading of the Northern Ireland Bill, and Baroness Park of Monmouth put down her name to speak, and she knows a good deal about it, but she was delayed, for some reason I do not know, and was not there at the start of the debate, so she withdrew her name. That is what the House expects, but also it is what normally happens on these occasions.

Lord Carter: You would get the example occasionally, I can think of one, where a Peer said, "I know that a colleague will be making these particular points," on something they had been working on, "I would like to speak after him, not to reply to them but I think it would be better for the balance of the debate if he put the case and I put the other side," or something like that. And you do get those requests. And occasionally, I have to say, we have had examples, we had one particular example, of a cross-bencher who invariably did not stay for the wind-up speeches (because the Government Whips' Office do the cross-bench lists as well), and he found then that invariably he was the last backbench speaker in subsequent debates. So there are ways of organising it.

Chairman: I think I can say to Your Lordships that this whole matter of tradition, custom, courtesy, is featuring in this inquiry that we are undertaking; the Speaker himself has indicated that he hoped we would look at it because he is rather concerned, and, I have to say, I think many members of this Committee share his view.

Q332 Sir Robert Smith: Can I clarify on timings. We have got the impression, I suppose, although we are in the same building, we have very different cultures, and everything, from what you have said, these other debates which have a fixed time limit, actually then, more than just convention or politeness, do people have to stop speaking at the end of a fixed time?

Lord Carter: Yes. In a timed debate, once the clock, and I argued for a long time that the clock should start at one and not nought, so that you were actually on the minute, that when it says six actually you are in the seventh minute. And what normally happens is, if a speaker in a timed debate is drifting over, first of all, the Government Whip will start to look at the clock and there will be the odd point, like that, or they will look to the Opposition Whip to turn round and glare at their colleague; that usually works. And then, if it does not work, normally the Government Whip will come to the Despatch Box, not the Speaker, not the Deputy Speaker, it is the job of the Government Whip, with the support of the Opposition Whips, if necessary, to suggest that the person is over their time, and almost invariably they stop.

Lord Cope of Berkeley: There is a nuclear option, as it were. Any Member of the House can propose that the Noble Lord be no longer heard; but this is exceptionally rare.

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Lord Carter: Yes, very rare.

Q333 Sir Robert Smith: Right; so there is a back-stop?

Lord Carter: I have heard it threatened three times, actually I have never seen the motion moved; unfortunately, the motion itself is debatable without timing. We used to use it as a threat.

Q334 Sir Robert Smith: So can I explore a bit further on timings, because we have got in the paper an example of a list, and you have touched on it already, in answering the Chairman, about the notional time limit that is shared amongst people. And one of the things we were wondering is that, I suppose on those debates there is no time limit, so you could go through the night, or whatever, if enough people sign; but how do you work out the length of the list versus trying to finish at a civilised time?

Lord Carter: There is an agreed limit on the opening speeches and the wind-ups; then you work out how much time you have got, to finish by half-past ten¹ and divide it by the number of backbenchers. But there is always a margin of slack in it, because what we do, if you divide by the number of backbenchers and it comes out to 8.5 minutes, the limit will be eight minutes, and if you have a long list, with 40 backbench speakers, you have got 40 times half a minute, actually you have got 20 minutes spare. It has been known, for wind-up speakers, particularly on the Opposition benches, to try to steal some of those spare minutes; normally, if they steal two or three, that is all right, but not if they try to use it all up. I have replied to a debate, when I have stood up as the Minister replying, with 45 minutes to make a 25-minute speech, because that was the spare time, that had not been used; there is always that amount of slack in the actual timing.

Q335 Sir Robert Smith: And have you ever had the situation where there were so many people wanting to speak that the time limit would have been too short, down to four minutes, or something like that?

Lord Cope of Berkeley: Yes. In which case, when we saw this situation developing, as the lists were written down a day or two ahead, we would suggest to the Government that we needed another half a day, or whatever it was, to accommodate the debate; and this happens occasionally.

Lord Carter: Also, in a sense, it is self-regulating. If you can see you are getting down, I think the smallest I have ever seen is three minutes, to three or four minutes then people just do not put down their names, or they scratch.

Q336 Sir Robert Smith: Can people within the convention share the time?

Lord Carter: No.

Q337 Sir Robert Smith: So you cannot say sort of, "I'll do only two, my colleague can do . . .?"

Lord Carter: No.

Q338 Sir Robert Smith: It is strict. So it is a couple of days, you get a good feel where it is going to go?

Lord Cope of Berkeley: Yes; because, you see, particularly with a large debate, Iraq, or something of that sort, then obviously people are putting down their names from when the debate is announced, the week before, or whenever. And so, if you see a lot of names building up, you begin to see, "Oh, goodness, we're going to have 40 speakers, 50 speakers," something like that, "we're not going to accommodate it in one day, can we have another half day?" or something of that sort, and then we have to try to negotiate a change in the business to accommodate that.

Q339 Sir Robert Smith: And is the demand for speaking increasing, are you noticing an increase?

Lord Carter: It depends on the subject. Obviously, on Iraq, we have had some excellent debates, with long lists; other debates, on really quite important subjects, have not attracted an awfully long list. It is hard to speculate.

Q340 Eric Joyce: You said that the whips get together from both sides; what about the cross-benchers, do they have some say in the nature of the list?

Lord Carter: No; the cross-benchers, they are done by the Whip's Office, but often they will indicate not a particular order they would like, but an individual cross-bencher is entitled to say to the Whip's Office, or indeed to whoever is doing the list, "I would like to be on early because I have to speak before so-and-so," or something. But, no, usually they accept the place they are given, actually.

Q341 Eric Joyce: There is not a high degree of complaining, in general, about where people find themselves on the list?

Lord Carter: I can think of just one example recently, when I was Chief Whip, when somebody pointed out, and it was purely accidental, that he had been towards the end of the list in the last three debates he had spoken to, and the next time round we just made sure he was higher up the list. And, I am sure, John would do the same, if that happened by accident, as it were, and you had not quite realised that they were farther down the list, and the next time round that their name was down you would have a mental note to put them in higher.

Chairman: Eric, before you proceed, can I say to Chloe, if there is any time you want to come in, if you would indicate; sorry, we are sort of concentrating upon Lord Carter and Lord Cope, but if you have something you can add, please indicate and come in.

Q342 Eric Joyce: The final point I want to ask is does it affect attendance, do people look and say, "Well, lots of people have signed up for this so not only will I not put my name down, I won't turn up for the debate"?

¹ Note by witness: I should have said ten o'clock.

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Lord Carter: Yes. If you see a really long list developing then you will tend not to put your name down. That is why, in fact, if people are anxious and they know it is a big topic, they will tend to try to come in fairly early on, because they know, as the list gets longer and that other speakers then will tend not to put their names down, so there will be some more time available for those who do.

Q343 Eric Joyce: But will they be likely to turn up for the debate and observe that?

Lord Carter: Yes; on a thing like Iraq, or something of that nature, yes, of course.

Lord Cope of Berkeley: There must have been instances, but it is very rare for a Peer whose name is on the list not to appear. But if somebody realises it is going to be a very long list quite often they do scratch. You can go and take your name off the list any time up till it is actually finalised, at lunchtime on the day of the debate. So people do that, particularly if suddenly they realise they are going to have to be hanging about until midnight and they do not want to, or cannot, for the wind-ups, then quite often they will scratch, or someone anyway will scratch.

Lord Carter: Or, indeed, will scratch after the debate has started, sometimes we have the situation, for a family reason, or whatever, and all that they need to do is tell the Clerk, and it is a courtesy to tell the two Front Benches, and usually the door-keepers will tell the speaker who is on the list after them, to realise that they will not be there, so he will be on the next spot, as it were.

Q344 Eric Joyce: I suppose, finally, one of the things that sometimes people say about having a list system in the Commons is that it might affect attendance at the debates themselves; so you find that that does not constrain the amount of people who actually attend debates, having a list?

Lord Carter: It depends on the topic. If the House is not that interested in a topic and it concerns only the people who are speaking then you will not get the House overfull; on things like Iraq, or something, then the House will be very full.

Lord Cope of Berkeley: It depends on the subject, also it depends on who is speaking, of course. Some Peers, when their name is seen to be on the list, people will go in especially to hear them speak on this particular subject. And so it does have an advantage that you can see who is speaking, and if you want to hear a certain Peer particularly then you can go into the Chamber at that point to hear him, or switch on your monitor, or whatever you want to do, to hear that particular Peer speak. So, in that sense, also, it does improve it.

Q345 Huw Irranca-Davies: The protocol that you have established within the Lords, does that mean that people who have put their name down for the debate, or those who might want to speak "in the gap" later, attend longer during the debate? You mentioned earlier the protocol of being there for at least the opening speeches and the closing; from your experience both in the Commons as well, Lord

Cope and Lord Carter, do you find that there is a greater attendance by those who are interested in the specific debate, they stay there longer, they listen, it is this issue over the quality of the debate?

Lord Carter: If they know they cannot be there for the wind-up speeches, they should remove their name from the list, you should not speak on the list if you know you cannot be there for the wind-ups. And, the convention is, you should be there for the opening speeches, a substantial part of the backbench debate and for all of the wind-ups; that is a clear convention.

Q346 Huw Irranca-Davies: So you do not find that this criticism that is often levelled at lists where people dip in, they know they are on the list, and then disappear, dip in to speak?

Lord Carter: We have had that once or twice, but I think that the whips, between them, or the positioning on the later lists when they put down their name again, when we made them, when that person was on at the very end, so they had to wait for the wind-ups, and so forth; that works quite well.

Lord Cope of Berkeley: I have observed that practice in the European Parliament, when visiting it.

Q347 Chairman: That is slightly different, is it not?

Lord Cope of Berkeley: Yes, they have a different arrangement.

Q348 Chairman: That is not a debate; really, that appears to me to be more making a public statement?

Lord Cope of Berkeley: Because sometimes they have extremely short time limits; but also they put on a screen the list of speakers, with the chap who is speaking marked on it, and it goes up. So you can see your name coming up, two or three before, so you wander in, you do your two minutes and then come straight out again, and it is extremely easy to do that, and putting it on the screen makes it even easier.

Q349 Sir Robert Smith: The one thing we did not take in on time limits was, is it fixed for the opening and wind-ups then for all debates, or is that decided depending on . . .

Lord Carter: No, only for timed debates; but there is an understanding, on a Second Reading debate, for example, there is no time limit, but if the Minister went on for 40 minutes he would be pretty unpopular.

Q350 Sir Robert Smith: But you must put some kind of limit in to get the eight minutes out?

Ms Mawson: The Companion suggests that usually the openers and wind-ups should not take more than 20 minutes, except for in exceptional circumstance; so when we are trying to calculate the informal timing advice for a non-time-limited debate we count on the openers and wind-ups taking 20 minutes each.

Q351 Chairman: So that Government spokesmen, Opposition spokesmen, in the Lords actually are able to do their job in 20 minutes?

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Lord Carter: Not quite; because the Minister replying normally gets about five minutes more, they probably get 25, compared with 20 for the Opposition. But I think I am correct in saying that the Liberal Democrat frontbencher is treated as a backbencher for this purpose.

Ms Mawson: Not for when we are working out timings for speakers on debates.

Q352 Sir Robert Smith: The only other thing on times is, when the timings get short, do you notice a difference in the willingness of people to take interventions in their speeches?

Lord Carter: That was an important point I was about to make. We do not have interventions in the House of Lords, there is a total difference. When we say we debate, we make a series of set speeches, and certainly on a timed debate it is very, very occasionally somebody will intervene very, very briefly, knowing it is a timed debate. But, on the whole, that is very, very rare, on a timed debate you will never get interventions, and you do not get them that much, indeed, on Second Readings.

Q353 Chairman: Can I just raise a point here. I have listened to some speeches in the Lords and I have read the Lords Hansard; quite often, in making their speech, because you talked about coming with a prepared speech, Members actually will make quite regular reference to those that have spoken before them?

Lord Carter: Yes.

Q354 Mr Swayne: In paragraph 8, you tell us of the way in which the speakers are alternated with a Government Peer, Opposition Peer, Liberal Democrat Peer, and finally a Cross Bench Peer, but then say that that is altered to take account of the proportions in which the parties have put in to speak. How does it actually work out in practice, are the parties generally represented in proportion to their strength, does it vary very much from debate to debate?

Lord Carter: For example, on the rota, we have a Labour Party debate from the back benches, then you would tend to get more Labour speakers, probably, and the same for the Conservatives.

Q355 Mr Swayne: Would you actually get into the situation where two Labour speakers would be called one after the other?

Lord Carter: Yes; the list goes round the House, but, at times, if there are six more Labour speakers than the others then they will come together.

Q356 Mr Swayne: On the business of the gap, which you talked about in paragraph 3, how often do people come in on the fly, as it were, and who are they, are they people who did not apply to speak in the debate, or who?

Lord Cope of Berkeley: Some of them will be people who did not get round to applying and meant to, as it were, and may come in at the last minute and say, "I do want to speak, and I want to speak 'in the gap'." Another will appear who has heard

something said in the debate which he wishes to refer to, disagree with perhaps, or refine, or whatever, and may be moved to speak as a result of something he has heard in the debate. In which case he will put his name down for the gap.

Lord Carter: Actually, we had an example, on the debate that you have got there, the time-limited debate, the example of the speakers list, Wednesday 30 April, we had a debate on disability, and Lord Hussey was sitting there to listen to the debate, and he spoke "in the gap", for only two or three minutes, because he had heard something in the debate which referred to the time when he was disabled in the war, etc., and he was minded to get up and share that with the House. And even though it was time-limited, there was enough slack, as I referred to earlier. In the Companion, it says actually that if you speak "in the gap" you should not speak for more than four minutes. If any Peer makes a habit of speaking "in the gap", that is frowned on, and we used to get, I do not know if it still happens, in the Whips' Office, the Peer who claimed that he phoned in and his name somehow did not get put down, and therefore feels compelled to speak "in the gap"; if the same Peer tries it on three times, well we know that actually he has forgotten to put his name down.

Q357 Mr Swayne: I want to come now to the potential political consequences for the Commons, which has a different culture from your own House, of having a list. And I suppose it comes down to, crucially, how widely circulated the list is and how available it is to journalists, because would political opprobrium be attached to those who withdrew from the list, for example, as to why they had withdrawn their names? And, equally, would the list be artificially inflated so as to reflect deliberately the proportions of speakers, so that, if the Opposition saw that they had not got that many speakers down for a debate they would agitate amongst their flock to make sure that they had got the names on the list to beef it up, it might be a way of inflating the list? What might work for you might not work for us necessarily; but does it work for you at all, in that respect?

Lord Cope of Berkeley: Yes, I think it does work for us. In practice, I do not recall any amount of criticism at all of the balance of debates as between the parties; sometimes, we may look around and say, "Oh, dear, there's nobody speaking for us on this important matter," and try to suggest to one or two appropriate people they should do so, sometimes effectively and sometimes not. But, on the whole, almost every debate is unbalanced, in one way or another, in one direction or another, sometimes in favour of the Government, sometimes not. Yesterday, we had the Second Reading of the Northern Ireland Assembly Bill, and I noticed, on that, there were on the list six Conservative speakers, two Cross Benchers and two Liberal Democrats and only the Minister speaking from the Labour point of view, but I do not think anybody criticised that in the slightest. And one of the Conservatives actually withdrew, as I mentioned before, because she was not there in the opening stages, and one Cross

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Benchers spoke “in the gap”, whose name was not on the list. This was, of course, a debate arranged at quite short notice. In the nature of things, it was completely unbalanced, but nobody complained.

Q358 Chairman: Was that because of the expertise of the individuals? The House of Lords is known for its experience, its expertise, not quite so much for its party political content; was that debate, therefore, balanced because of the expertise of those who participated in it?

Lord Cope of Berkeley: I do not know whether you would say it was balanced, it was, as you rightly say, a fairly expert debate, we had two former Secretaries of State for Northern Ireland speaking, plus Lord Tebbit, Baroness O’Cathain, who is herself Irish, and Lord Glentoran was speaking from the Front Bench, who is Irish also and comes from Northern Ireland, and the Cross Benchers were Unionists, Lord Rogan and Lord Kilclooney, and Lord Brookeborough came in as well, who are all Northern Irish Peers, they all live there. So, yes, there was a high level of expertise, which is fairly normal, really.

Lord Carter: There is one thing that we do for the Labour Party debates, which are backbench debates, but anyone who puts a subject in, and we are warned three weeks in advance, “The next Labour debate is so-and-so, we want a topic from the backbenches,” when they submit the motion to the Committee, they are supposed to add the names of four or five Peers who have agreed to speak, which is quite a good device, because then you do not get somebody with a particular hobby-horse and they put down their own name, then it gets no support from our side, or whatever. And that works reasonably well, because that makes sure that, in a short debate, which probably will have only perhaps ten or 15 speakers, that will be a reasonable representation from our side.

Q359 Chairman: Can I say to our guests that there is a division in the Commons. I do not have to go as I am chairing the Finance Bill, therefore I do not participate any further in its deliberations, but my colleagues on the Committee will be back and we will commence again in ten minutes’ time. Thank you.

The Committee suspended from 2.42 pm to 2.52 pm for a division in the House.

Chairman: I can see three; therefore we can proceed. The questioning was with Desmond Swayne; would you please continue.

Q360 Mr Swayne: First a factual question and then a value judgment. The factual question is, how widely circulated is the list, is it available to journalists, or is it available just to Peers? Now, the second question, the value judgment, given that, in our House, we are accountable, to what extent do you think that the availability of a list similar to your own might put pressure on Members simply to put down their name, so that it could be seen that they had been on the list and they could answer

constituents and say, “Well, I tried, I tried to speak on this important issue,” where they might otherwise simply not have done so? Will you inflate the lists artificially?

Lord Carter: On the first point, the list is widely available, in fact, all round the House, in the Prince’s Chamber, in the Lobby, in the Whips’ Office, whenever. I know we send Future Business down to the Press Gallery, I do not think we send speakers lists, and we could do easily, because they are freely available from 2 o’clock, when the debate will be starting at a half-past three. The list is freely available, but I do not think actually it is circulated to journalists, but if they are interested enough they can get one easily.

Ms Mawson: We have e-mail, we would send it out. We do not send it directly to the Press Gallery, but we do get requests sometimes, if it is for example a set-piece debate, the BBC, or someone, will call up and ask for a faxed copy of the list and we will fax it to them. So they do get hold of it.

Q361 Mr Swayne: Your Lordships have been in both Houses, so how would it work for us; my second question?

Lord Cope of Berkeley: I think you are right to think that some people would feel obliged to put down their names because of a constituency pressure, or whatever, but what you have to judge is whether they would do that more than at the moment they seek to speak. Because, sometimes, if something comes up which is relevant to one’s constituency, you do feel obliged to try to speak in it, unless you have got a reason why you cannot, so that you can defend yourself to a constituent who says, “Why didn’t you?” But it would make it more apparent that you had tried or not tried to speak, if you see what I mean. So I think there would be a slight increase in people trying to speak, perhaps, or, at least, putting down their names.

Q362 Mr Swayne: In debates, for example, such as the war in Iraq, I would have thought it entirely conceivable that, if there were to be a list published, every Member would have put down their name, rather than the 80 that actually wrote to the Speaker, under our current rules, simply to cover themselves?

Lord Cope of Berkeley: Maybe; but, on the other hand, if you go into the Chamber, for most debates, not a very big debate like that but for most debates, you can see who is there and who is seeking to speak without spending much time there. If you are the representative of a local paper, for instance, you can see whether the MPs from your area are there, seeking to speak, or not, and if they do not turn up for the debate you can draw attention to this in the local paper, now, under the current system. Obviously, you would be able to do it in a more systematic way, because, as I say, it would be more obvious that that had happened. So I think that is something that would happen as a result of adopting it.

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Q363 Chairman: So perhaps just indicate whether or not, therefore, you think the procedures of the Lords, in respect of the speakers lists, could be beneficial to the Commons?

Lord Cope of Berkeley: I do not think you should see it too much as whether or not you are adopting the procedure of the Lords, in this respect, because, as I think has come out in the discussion, and I hope in our paper too, it is part of a different culture to quite an extent. So it is related closely to this question of the timing of speeches, it is related closely to the question of how many people want to speak and them all getting in, them all having the opportunity to speak, and that sort of thing, and you need to think it through in your terms. Also, there is the very big difference, of course, that, as we have described, the Chief Whips arrange the order of the list, whereas the Speaker would do it in your House, one would assume, just as he does now. That is, in itself, a reflection of the Commons culture and is a difference in the way it would be applied at this end, if you did do it. I think you would need to see it in the round, as it were, the whole of that.

Lord Carter: I think the time that, in a sense, we feel closest to the Commons, in a funny way, is, we had a debate, for example, on an important Order, now normally these are of interest only to the Minister, the Opposition and perhaps one or two backbenchers, but you have a big important Order, you very rarely have a speakers list on an Order, and if you wish to speak on that Order you have to be in the House, and, in a sense, you do not catch the Speaker's eye but you keep standing up, and the House says, "Our turn, your turn," it works it out. And then the House begins to feel that it has had enough and you start to hear the call, "Minister, Minister," in other words, the House is indicating it is time for the Minister to wind up, that the thing has run its course, and normally that will be perhaps an hour, an hour and a half, or something; it is untimed and there is no speakers list, there is no Speaker, but the House itself actually works it out. Virtually everybody speaks who wishes to speak; just occasionally we will have a backbencher up at the end, and the Minister will get up, and the sense of the House is either to hear that backbencher, in which case the Minister will sit down, or not, and the House just knows, and the person knows, and they will sit down and just let the Minister wind up.

Chairman: How magnificently civilised.

Q364 Huw Irranca-Davies: The point that was just made by my honourable colleague about the nightmare scenario of 660 Commons MPs putting in for one debate, would I be right in assuming, on an issue of paramount importance, such as Iraq, that you would also have had a series of debates running up to, if you like, the final, major one? We had, for example, defence in the world, we had two or three opportunities, which I was fortunate to come into, there were other ones on humanitarian issues within Iraq, before we got to the final day, before troops were committed, 24 hours later.

Lord Carter: We had debates on every occasion the Commons debated it.

Lord Cope of Berkeley: I think we did. I think our debates mirrored yours almost exactly; except that we had a two-day debate, because there were a large number of speakers, instead of a one-day debate, and that was a reflection of the fact that we anticipated, and indeed there were, whatever it was, 50 or 60 who spoke.

Q365 Huw Irranca-Davies: And did you find then that there was some element of self-regulation amongst your fellow Peers as to who would wish to speak in that, and who were thinking perhaps, "Well, I've had an opportunity previously"?

Lord Carter: Yes; well then we would know, would we not, if that was their decision they would just not put down their name.

Lord Cope of Berkeley: You were saying self-regulation, and I think there is a bit of self-regulation about it, yes; but, also, somebody seeing huge numbers of names going down would say, "Well, I've said most of what I wanted to say in the previous debate, I'll scratch my name off," and take it out.

Q366 Huw Irranca-Davies: When you have time-limited debates, and I understand from your earlier comment that normally the smallest amount of time would be three/four minutes?

Lord Carter: That is the least I can remember, three or four minutes, yes.

Lord Cope of Berkeley: It would not be usually.

Lord Carter: Yes, that is very unusual.

Lord Cope of Berkeley: It is not usually less than about eight.

Q367 Huw Irranca-Davies: What would be your evaluation of the effectiveness of such very short speeches, not necessarily the eight minutes, or perhaps you would like to comment on that, but when they get down to the four, five, six minutes, how effective are they?

Lord Carter: You get just two or three points made, and they can be done just as well in four minutes as they can in eight.

Lord Cope of Berkeley: We have a book called the "Companion to the Standing Orders", which is published with the authority of the Procedure Committee in the House of Lords and is the very full guide to what is expected. We have very few Standing Orders, but everything is in here, and this is what happens. It is expressed in polite terms but, in effect, they are rules. The section on the length of speeches begins, paragraph 4.26: "The House has resolved "That speeches in this House should be shorter"." It resolved that in the 1964-65 session. And it goes on to say, and this is the Procedure Committee's opinion, in effect, "Long speeches can create boredom and tend to kill debate." And then it goes on into the detail.

Q368 Huw Irranca-Davies: Which is the converse of some of the opinions we have heard within this inquiry, where people have said you need the extent of the debate in order to explore the logic of your arguments, and so on; but that is interesting. Can I ask you then which short, time-limited speeches, we

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have already touched on the aspect of interventions, which is much more common within the Commons, what about the protocols of things like the reading of set-piece speeches then, is it much more common in the Lords?

Lord Carter: You are not supposed to do it, it is frowned on, I think the words in the Companion are “are frowned on,” the reading of speeches is frowned on. And, of course, that does tend to make it boring; we all know the good speakers, they will have a prepared speech but will be glancing at it and extemporising as they go and it just sounds better. We have got some extremely good speakers in the House, but some who do just read out prepared speeches.

Lord Cope of Berkeley: The Companion is of invaluable assistance in these matters; paragraph 4.29: “The House has resolved that the reading of speeches is ‘alien to the custom of the House and injurious to the traditional conduct of its debates’.” That was a quotation from 1935.

Lord Carter: You can say, reading, it is often done.

Lord Cope of Berkeley: “In practice, some speakers may wish to have ‘extended notes’ from which to speak, but it is not in the interests of good debate that they should follow them closely.”

Q369 Huw Irranca-Davies: That is very helpful. My final point to you would be, we have already touched on the lack of interventions, in comparison with the other place, is this a function of the time limit on some debates, or is it a function of the list system?

Lord Carter: I think probably it is a function of the culture of the House, more than anything else. When we say debate, to be pedantic, I often say to people, the only time we really debate in the House of Lords, in the true sense of the word, is on the Committee Stage of a Bill, where you are up and down all the time, you can be up as many times as you like, and the Ministers have to reply on their feet, sometimes two or three times, and that is a genuine debate, as we understand debate. We tend to make extremely good set speeches, and it is not really debate. This is a true story; we had a colleague from the Commons who came onto the Front Bench immediately after the election, and he had to make his Maiden Speech in the Queen’s Speech, because he was the Minister for a particular subject, and he had to open the speech. And I said to him, “You should make the opening speech, you should not make the wind-up because you won’t know the Peers to respond to,” and he said, “Fine,” and I said, “You’ll say, for just a few minutes at the beginning, about how pleased you are to be in the House and then you’ll make your speech,” he said, “Fine; well how do I handle interventions?” I said “There won’t be any.” He said, “What?” I said, “There won’t be any;” and he said, “I can’t make a speech without interventions.” And I went in at about six or seven o’clock and sat beside him, and said, “How’s it going?” He said, “It’s surreal,” he said, “It’s completely surreal,” and he said, “I’m sitting here hearing excellent speeches without a single intervention.”

Q370 Huw Irranca-Davies: So is the list system incompatible with interventions?

Lord Carter: No.

Lord Cope of Berkeley: Not necessarily. I think it is a separate issue, really. I think Lord Carter exaggerates slightly, there are some interventions, but they are many, many fewer than the Commons.

Q371 David Wright: I think one of the reasons we get so many interventions in the Commons is that, if you have put in to speak and there are a lot of speakers in there, sometimes you want to get on the record in the opening remarks, also you want to make a political hit, clearly, on your opposite number, but also you want to put down a marker that actually you have been in there, because if you are going to spend six hours then you want to be in Hansard, at the end of the day, to say you have been there. And probably one of the things that flows from speakers lists is there would be less pressure, as we would say in the Commons, on putting a marker down than there is now; a comment rather than a question. Your thoughts though, please?

Lord Cope of Berkeley: Yes; but sometimes, after all, people intervene in speeches in the Commons instead of making a speech, either because they think they are not going to be called or because they do not want to hang about any more, and they make their point in an intervention. Certainly that increases interventions; and there is no excuse for doing that in the Lords, because everybody who wishes to can speak, so that must be one of the reasons. But a lot of the reason also is that the politics is not nearly so sharp, and the scoring of political points, in the way that happens in the Commons a lot, in interventions, and trying to throw the speaker off his stride, as it were, by interventions, whoever it is, particularly a Minister, effectively, does not happen, or very rarely. Occasionally it can happen but it is very rare, and, if it did happen much, people do not like it. But, again, that is to do with the culture.

Q372 Chairman: But could we probe just a little further on this. At one moment, you said really it did not happen, then you said, yes, it does but very infrequently, that is an intervention. If a Member stood up to intervene, would the speaker who had the floor automatically give way, or would it be up to the House to indicate whether or not they were happy to hear the intervention?

Lord Carter: It is up to the speaker.

Lord Cope of Berkeley: It is up to the speaker, but normally he would give way.

Lord Carter: Normally he would give way, absolutely.

Q373 Chairman: But what you are saying is that Their Lordships seek to intervene only very infrequently?

Lord Cope of Berkeley: Yes.

Lord Carter: I think it is part of the culture of the time-limited debate. You know that if you have an exchange over an intervention that will take perhaps a minute then you have stolen that from the other speakers, in a sense. So I think that probably there is

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much less intervention. Perhaps on a non-time-limited debate there might then be intervention, but when also you get it is towards the end of a Second Reading speech, when the Minister has wound up and there could be a considerable exchange at the end of that speech. I can remember one occasion, I think it was Lord Whitty on the Countryside Bill, and it covered about two pages in Hansard of the exchanges at the end of that debate, and those were interventions from people who thought that they wanted a question answered, or whatever; so there you did get an exchange of views, but it is comparatively rare.

Ms Mawson: Again, the Companion to the Standing Orders has useful guidance on this, and after saying that people can make interventions it says: "It is, however, recognised that a Member may justifiably refuse to give way, for instance, in the middle of an argument, or to repeated interruption, or in time-limited proceedings when time is short."

Chairman: Thank you very much indeed.

Q374 Mr Swayne: I do not want to be unpleasant, but I think it was Peter Riddell who said, in his evidence to us, rather rhetorically, "Have you ever read a Lords' Hansard?" and said how boring they were, "The speeches are all turgid, there's no debate whatsoever." And that perception which he has, I stress that that is his perception, he put down to the fact that there were speakers lists and everybody knew when they were going to speak, and they came in only to make their speech and pushed off again, and consequently there was no debate. I suspect, from what you have said, if the reports are less exciting than our own, if, indeed, that is the case, it might be put down to the lack of interventions, rather than the speakers list?

Lord Cope of Berkeley: Reading Commons Hansards these days, as I do occasionally, or from time to time, I find it extremely difficult sometimes to follow the argument the speaker is making, because there are so many interventions and he is diverted so frequently into other courses that the thread of the argument gets much more difficult to follow. It is easier to follow it if actually you are listening and you hear the interventions somehow, but reading it I think makes it actually very difficult to follow when there is a huge number of interventions, as there is in many speeches now, particularly Ministerial Front Bench speeches. With regard to Peter Riddell, obviously, he is entitled to his opinion of the quality of Lords debates, and, of course, they vary, but I think that the quality of debates actually is high, because of the expertise that is there. But, of course, it is not at the tabloid end of the market at all, on the contrary, it is not newspaper-type debates, and, on the whole, it is not designed to appeal to journalists at all, whereas a lot of the Commons proceedings are designed to appeal to journalists, obviously, because you want publicity for the views you are expressing, if only in your constituency, and so on, at the time. But that is not what is happening in the Lords, if you see what I mean.

Lord Carter: If you read the Lords Hansards of the debates on Iraq, for example, which were very, very well-informed, the former Ministers, Chiefs of the Defence Staff, people with a lot of knowledge of the Middle East. An outstanding debate was on stem-cell research, and we had the medical view, the theologians, the laymen, people speaking on ethics, and so forth, and that was first-class. Now there are other debates which are not quite so interesting, I would be the first to agree, but on the whole they are.

Q375 Chairman: Would you suggest, Lord Carter, that the debates in the Lords, in the main, are very well-informed, you might even say well-researched, the ones in the Commons are more political, because of the two Houses and the different roles of the two Houses?

Lord Carter: Yes; but, having said that, if we are debating the Health Service, there will be some healthy exchanges on a political basis, points will be made in the debate of a political nature, without a doubt.

Q376 Chairman: I read the debates on the Health Service from the Lords because of my ongoing interest, and likewise on Zimbabwe, and I think the debates on Zimbabwe have been excellent and very well-informed, and I think they are valuable for that reason.

Lord Carter: Yes; an excellent example.

Q377 David Wright: I am just going to follow up your point, really. I get the sense this afternoon that also Members of the Lords, Peers, have a much greater control over the scope of debate going on in the Chamber than perhaps do Members in the Commons. Clearly, you can secure an Adjournment Debate; it is very difficult in the Commons. The Opposition clearly have days that they can designate, but certainly, as a Government backbencher, you are going to want to speak on Government Bills, but there is less capacity, perhaps, outside of the Adjournment, than you seem to be indicating that you have in the Lords, within the Commons, there is more capacity for Peers to have a broader debate on a wider range of subjects. Would that be fair to say?

Lord Carter: If we are dealing with legislation, every Peer can speak at any stage of a Bill, there is no Standing Committee system, or anything of that nature, every Peer is entitled to attend all stages of the Bill and speak, so you can speak as much or as little as you want to. For example, at the moment, we are doing the Communications Bill, which is going quite slowly because there are a number of people who wish to speak. But on the time-limited days, for example, there is a rota and there will be Labour, Conservative, Lib-Dem., Cross Benches and, the balloted debates which we have, you can enter a ballot for a debate, as a backbencher, so that you know you will be coming round once in five with your own Party's day, and then you have the chance to put your name down on all the other days, if you wish to. So the chances to speak are not restricted in any way.

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Lord Cope of Berkeley: Since you have introduced the Westminster Hall debates then I think, obviously, the chances of raising an issue of an Adjournment Debate type are much increased. I think probably you have overtaken us, if you include the Westminster Hall debates, in terms of time devoted to private Members' own initiatives of that sort. But, of course, there is less pressure for them from Peers collectively than there is from Members, there is quite a lot of pressure but it is containable within the time that is available.

Lord Carter: The other device would be the Unstarred Question, which is an hour in the dinner break, or an hour and a half at the end of business, and there will be about, how many have we got on the list at the moment?

Ms Mawson: At the moment, there is about a two-and-a-half to three-month waiting list to get an Unstarred Question, but if you are prepared to wait that long you have got it.

Q378 Chairman: Chloe, can you tell the Committee just what is an Unstarred Question, just so that we have got it on the record?

Ms Mawson: An Unstarred Question literally is a question that there is a debate on for either one hour or one and a half hours. It is just a question to Her Majesty's Government as a whole on any matter of Government responsibility, with a speakers list and advisory time limits to keep it within the hour or an hour and a half.

Lord Carter: But it is called Unstarred because the questions at the beginning of the day for oral answer are Starred Questions, it is as simple as that, it is an Unstarred Question, so it is not for a short, oral answer, it is for an hour, an hour and a half, as I have said.

Chairman: Thank you.

Q379 Huw Irranca-Davies: On something slightly different, if speakers lists were to be transferred in some form to the Commons, albeit with modifications perhaps, would one of those essential modifications be, in your opinion, that the power of drawing up the order of the list be wrested from the

hands of the whips and reside in the hands of either the Speaker or within something like a business committee?

Lord Cope of Berkeley: Yes. I think the Usual Channels in the Lords do certain things that the Speaker does, of which this is one, because we do not have a Speaker in the sense that the House of Commons has. But, in the House of Commons arrangements, clearly, the Speaker, I think, would continue to draw up the speakers lists, just as he does now, presumably, or it might go to a committee.

Lord Carter: I think really it is a question, as John says, of convenience, because there is not anyone to go to to do it and it is easier for the whips to do it, they know the people, they know the subjects they are interested in, and it takes perhaps half an hour, or less, or perhaps only ten minutes, just to jot the names down. It is not an awful lot of your weighing up of who speaks, where, and all of that.

Q380 Chairman: Does Chloe, in the office, keep a database, a register of who has spoken and when they spoke, the debates they spoke in, when they last spoke?

Ms Mawson: No.

Lord Carter: No, you would have to look at the index in Hansard if you wanted to know; we have never kept that, have we?

Ms Mawson: Our office certainly does not keep such databases.

Chairman: Of course, the Speaker's Office is a mine of information, as to how many people have been called at Question Time, on their own question, on a supplementary, what Adjournment Debate they have had, when they last spoke in a debate, because he does have this difficult job of trying to provide an opportunity for all people, bearing in mind expertise, and everything else. Do any colleagues wish to put any further questions to our courteous witnesses, and informed witnesses? If not, can I thank Lord Carter, Lord Cope and Chloe for the very helpful information that you have provided and the very full and frank way you have dealt with every question. I can only apologise for the slight lack of attendance, but Members do have a lot of calls on their time currently in Parliament; but I hope you think that the questions which have been put have been relevant, I know the answers are very helpful to us. Thank you very much indeed.

Wednesday 11 June 2003

Members present:

Sir Nicholas Winterton, in the Chair

Mr Peter Atkinson
Mr John Burnett
David Hamilton
Huw Irranca-Davies
Eric Joyce

Mr Iain Luke
Rosemary McKenna
Mr Tony McWalter
Sir Robert Smith

Memorandum by Rt Hon Eric Forth

Thank you for notice of the Procedure Committee's inquiry into procedures for debates, Private Members' Bills and powers of the Speaker.

My observations are as follows:

- (a) I believe that the present procedures for speakers in debates are broadly satisfactory. Publication of lists would simply encourage participants to absent themselves (even more than at present) and remove any pretence of "spontaneity." Retaining the discretion of the Chair is most important. Calling Members from alternate sides *must* be retained—it is one of the few protections afforded to opposition members.
- (b) There can be no question of printing 'undelivered speeches.' This would be a recipe for filling the Official Report with material written by researchers, outside interests, or Government. The discipline of the Member delivering the material orally is vital. Soon, there will be no reason for Members to attend at all!
- (c) The present procedure and arrangements for Private Members Bills is about right—providing the correct balance of facilitation and difficulty. Is it too much to ask of Members to attend 13 Fridays in the year if they believe the legislation is worth supporting?
- (d) There is a case for the Speaker being able to recall the House—perhaps with the support of a certain number of Members or Parties?
- (e) Consideration should be given to using the period from 7–10pm on Tuesdays and Wednesdays for balloted or 'urgent' debates applied for by Members (including Select Committee Chairmen). If it is felt that there is inadequate time for such debates—perhaps the House could re-consider sitting on Fridays—to give Members a choice of doing constituency or Parliamentary work!

I hope the Committee will find these observations helpful.

Eric Forth
December 2002

Witness: Mr Eric Forth, a Member of the House, examined.

Q381 Chairman: Mr Forth?

Mr Forth: I must apologise most profusely to you and the Committee. I have no real excuse other than that I had to delay to make a point of order in the Chamber and then chose to attempt to have lunch which delayed me unnecessarily but I hope you will accept my apologies for my late arrival.

Q382 Chairman: I did not have to prompt you and I think both myself and the Committee will accept what we will take as an abject apology with an explanation which we accept. May I welcome you as Shadow Leader of the House to this meeting of the Procedure Committee? I think you fully understand the inquiry that we are undertaking and of course we are in receipt of the letter that you sent to the clerk of our Committee, expressing your views on a range of issues. We appreciate that you need to leave at 3.30. What, in your view, makes for a good debate

in the House of Commons and to what extent can the rules and standing orders of the House contribute to a good debate?

Mr Forth: My belief is that the viability, the effectiveness, of the Chamber depends on the extent to which Members wish to and are prepared to participate. Therefore, I always look at proposals for change and the existing rules in that light. My desire would be that Members would want to be in the House, would find it interesting and stimulating and would see that as the main basis by which they can hold the Government to account and express views on behalf of themselves and their constituents. Therefore, anything which removes that incentive from them I would have thought would be a retrograde step. To my mind, Members should want to listen to what is being said. They should certainly want to listen to ministers; they should equally want to listen to other participants in the debate. One of the things I regret about what seems to have

 Mr Eric Forth MP

happened in the last few years is a tendency for Members, certainly I would hope, to be there for opening speeches but very often perhaps then to leave the Chamber occasionally, not to hear other contributors, barely to stay for people who spoke after and even, I regret to say, often not being there for the winding up speeches. To my mind—and I make no apology for taking a traditionalist view of the House and of the Members' role in it—anything that we do, anything that your Committee might consider or propose, which would diminish the incentives for Members to be in the House I would find regrettable. What I want to see is a vibrant Chamber with Members in it, wanting to participate in speeches, in interventions and the like, in order the better to bring the Chamber to life and to make ministers of the day realise that they are accountable to the House and to the Chamber.

Q383 Chairman: Thank you. Coming on to one of the issues that you are not terribly happy about should it be proposed, in the letter which you sent you suggest that publishing lists of speakers would “encourage participants to absent themselves even more than at present and remove any pretence of spontaneity”. How much of a debate should those hoping to speak be expected to attend? You have given some indication already but can I ask you to be more specific?

Mr Forth: Yes. The short answer is all of it. My ideal position is that all Members of Parliament should be attending debates, in my view, but short of that certainly those who expect and want to speak should be. Ideally, there should be an over-subscription of speakers and not everybody should get called in every debate. The reason I say that is that simply to have a predetermined procession of people standing up, reading their speeches rather badly, which have probably been written by someone else, accepting no interventions, completely kills the whole point of the Chamber because I always thought the debate was an exchange of views, an interchange of ideas, mutual criticism or praise between one Member or another and an exchange with ministers. To have a list published in advance saying that you are on at number seven would I think encourage people not to attend maybe at all and barely to be there for the preceding speaker, possibly not to bother staying for the succeeding speaker. I would also have thought that that would diminish the power of the chair in a significant way which I would also regret, because I think that debates to a large extent are influenced by the way in which the occupant of the chair can recognise in all sorts of different ways the worthiness of different Members and may want to change the order of speaking, according to the way the debate was going. If you have a strictly predetermined order of speaking which takes no account of the way in which the debate may be proceeding, the way in which people are speaking, the knowledge of the occupant of the chair or the chemistry between the Members, it is yet another thing which seems to diminish spontaneity and the incentive for people to be there and, frankly, diminish the enjoyment of the occasion. I would wish that Members looked as if

they were enjoying the Chamber a bit more than some of them do at the moment. It is not a penalty or a penance; it is a privilege and a pleasure.

Q384 Chairman: If a speakers' list system were coupled with the rule that those not attending a sufficient part of the debate would be removed from the list and not called, would this rule lessen your objection to such a system of a list being published? We have obviously taken evidence from the House of Lords and in the House of Lords those speaking are expected to attend “the greater part of a debate including the opening speeches, those before and after their own and the winding up speeches”. Would a rule stipulating those particular expectations and guidance make your view less or harder against the publication of a speakers' list?

Mr Forth: It would mitigate my objections but in a sense I see less and less point of doing it the more effectively you introduce these requirements. I would want if I could to turn the question round to the Committee and say why do you want to do this? My darker suspicion is that this is yet another thing which makes life easier for MPs. It makes it easier for them to be elsewhere rather than in the Chamber. It gives them more excuses to find something else that is of greater importance. I struggle to find anything I can think of that is more important to a Member of Parliament than being in the Chamber of the House of Commons. That is perhaps a rather minority view these days but I do cling to it. I am not sure I see the necessity or the point of the list but to the extent to which you are saying—who am I to argue with it?—that their Lordships might aver that these conditions help to make the list work, good for that. If we were ever to have the published list, which I hope we do not, at the very least I hope we would seek to make the same conditions, but what is the point of the exercise?

Q385 Chairman: If the House of Commons did introduce a speakers' list system would you prefer one where Members were listed in the order in which they were to be called to speak or an alphabetical list of those likely to be called in the time available? We are trying to explore all aspects of this because I am sure you will realise from your experience in the House that there are many Members, quite a lot of them perhaps who have come into the House in the last two or three elections, who genuinely feel that they are not getting a fair crack of the whip and that they are spending a tremendous amount of time in the Chamber, some coming a great distance, in order to speak in an important debate, for instance, when the House was recalled and they were not called. How would you deal with that last question that I put? Would you prefer a list where Members were listed in the order in which they were to be called to speak or in an alphabetical list of those likely to be called in the time available?

Mr Forth: Certainly the latter, which I think would follow from what I have been saying. It does interest me because I, as a privy councillor, waited for a long part of my parliamentary career for the remote possibility I might become a privy councillor

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because that would at the very least give me precedence in the order of speaking; only to find that as soon as I became a PC that was removed. I see it all from a rather different perspective. I could only say this to someone who has recently celebrated 20 years in this place, a huge privilege which I still savour, but all one can say is that in our day we had to wait at the end of these lists and we had to sit in the Chamber for quite a long time. Often we were not called but that surely is part of the learning experience and part of the contribution that one makes to the parliamentary process.

Q386 Mr McWalter: Speaking as a back bencher and by the way one who has not always got the ear of the Whips—

Mr Forth: Congratulations!

Q387 Mr McWalter: It does follow when you have the ball bouncing to and fro and there are 420 on one side and 140 on the other and in the 420 you are always junior, at the back, do not have whip support and a variety of other things, you can see you could spend an enormous amount of your life just going to things, doing all the work that is required to understand the business before the House, attending the full session, only to find that while you may have enjoyed the debate and you may even have got in an intervention or two if you were lucky, that is entirely the limit of it. Over time with the demands that are on us as Members to represent our constituents, it is felt by a large number of Members that we could represent our constituents rather better if we spent less time in the Chamber not being called and more time lobbying the ministers or meeting the delegations or putting the other parliamentary questions or doing all the other things that you can do in this job. As someone who shares your passion for debate, I feel that we have a system which really makes it difficult to get spontaneity. You always have to put in to speak. Then, when you are called, you are saying something that somebody else has said before. There seem to be a whole load of reasons why we need a systemic change to give people more opportunity for spontaneity but also to give people the opportunity to dispose of their time in a way which is satisfactory as well. Do you still feel that there is no argument at all for a list?

Mr Forth: I would not have a list at all. I would have, in an ideal world, complete spontaneity where Members walked into the Chamber and sought to catch the Speaker's eye. That would be my ideal and I suspect that some time ago that probably was the case but maybe we cannot go back. I understand the point that Mr McWalter makes all too well because that describes exactly the position I was in, in the period 1983 to 1988 when I was a government back bencher in the glorious days when the Conservatives had 390-something Members. The difference was that I never got away before 12 midnight or one in the morning because I did not have a pair. I spent a lot of time in the Chamber and almost as much in the smoking room and the dining room. That was part of the learning process. If I could share with the Committee a little trade secret: how else does one

expect the Whips to notice the talent, the ability, the drive, the enthusiasm, and identify future government ministers if Members are spending all their time in rooms with delegations, in dark corners and in their offices, doing all the other things that modern Members apparently do, rather than displaying their talents in the Chamber? It is a very interesting question that Members might want to ponder because the young, thrusting and ambitious like Mr McWalter would do well to think how they can best attract the attentions of the Whips. These things do have a way of finding their level and they all do fit together in the end.

Q388 Mr Atkinson: Mr McWalter was talking about the other distractions in the life of an MP but a lot of the other distractions are ones which Parliament have introduced themselves. For example, here we are in a select committee in the afternoon when really most of us ought to be in the Chamber on a very important matter, the referendum on the new European treaty. Do you think that one of the problems with things like select committees and all these other all-party groups all meeting in a condensed parliamentary timescale now is that it is having a serious effect on the ability to get Members into the Chamber and have a lively debate?

Mr Forth: I do. We may not want to get too distracted on that but I think there is growing evidence that the new hours that we have recently adopted are creating problems of a conflict of the very different legitimate matters that Members wish to pursue, greater than existed before. There will always be a conflict between committee work, standing and select, between work in the Chamber, between dealing with delegations, between dealing with one's correspondence and the like. That is simply the nature of things but I do think we have made it worse by re-ordering the day in the way that we did recently. That is something to which we may have to return.

Q389 Mr Iain Luke: I appreciate your historic perspective but I was under the belief that every Member of Parliament on his election to the House of Commons had an equal, inalienable right to express the views of his constituents. The view you have put is still in place but we need now to serve an apprenticeship of 20 years before we can be heard. I have sat through all the debates on crises such as Iraq and I was not once called, not even close to the top of the list probably. If that is the system we operate in the House, it is disenfranchising large tracts of the British population on the basis that I am a relatively new Member. People do not want to wait for 15 or 17 years before their Member of Parliament can make their views known on the floor of the House of Commons. That is why we are asking would you not think it would be a bit more transparent and fairer if there was a list on the basis that people attended and sat through debates and were there to be called when asked?

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Mr Forth: I do not think the list itself would change these circumstances unless the Committee's interpretation of a list is different from mine. We all know that a list exists at the moment. It is semi-secret and in theory it does not but we know that Mr Speaker has a computer. We know it computes very exactly how often you have spoken, for how long and when. We know that when people write in and apply to speak in debates, which I rather deprecate but that is the way it is, that the computer is consulted and it then allocates time, which of course Mr Speaker and the others can override, but it has a very large influence. Given all of that, simply to have a list published would not make any difference to the selection of those who were going to speak and how far seniority is factored into that I genuinely do not know. I wish it were. I wish it overrode almost everything else but I am not sure that it does. It has never been the case that Members could speak in a particular debate especially something like Iraq but there are many occasions—and I spend as much time in the Chamber as I reasonably can—when debates are under-subscribed and there are many other subjects on which Members can find it easier to express an opinion on behalf perhaps of some of their constituents or a particular interest that they may have; or simply to practise how to speak in the Chamber. Part of the problem that we have now, if I may say so, is that many Members choose for their different reasons to spend very little time in the Chamber and frankly when they do they tend to make a bit of a mess of it because they have not done their apprenticeship. It is like any other job. Being effective in the Chamber, unless you have a great natural talent for it which few of us do, is a matter of being there, seeing how it works, getting a feel for it, building relationships not least with the occupant of the chair. In that way, one could find that one could be much more effective, perhaps even in interventions, who knows, the odd point of order or supplementaries and in any other number of different ways. Of course one sympathises with the fact that an individual Member often cannot get to speak in the debate that he or she really wants to speak in. The obvious answer to that, by the way, would be to reduce the numbers of Members of Parliament but that is for another day.

Q390 Sir Robert Smith: You touched earlier on how rules cannot dictate culture. In many ways perhaps many of these things are outside the rules and more to do with the way people are induced into the House when they first arrive. I wondered, even if we were not changing any rules, if through this Committee's report and through the way the House responds if the chair felt it had the strong authority of the House to enforce the rules about being there for the opening speeches, about listening to debates and therefore just not seeing people who came in late, would that help recreate some of the culture?

Mr Forth: Yes. I very strongly agree with that. It would indeed if the occupant of the chair were prepared to indicate. Mr Speaker could give warning of it and it would have to happen on a few occasions, to make it very clear that Members were expected to

respect the Chamber, the Chair and their colleagues by taking a debate seriously and by participating in a very full way.

Q391 Sir Robert Smith: One major cultural change that has been put to me by older hands—in a sense we can never probably turn the clock back—is that now Members of Parliament have their own offices and they have a live feed of the debate in the Chamber. Has that not probably made a greater impact than any of the other reforms or changes?

Mr Forth: Yes. I would unplug all the televisions as a starting point because it has been one of the things which has drawn people away from the Chamber. The other is this building in which we now sit. Portcullis House is a great success. I think all of us who are lucky enough to have offices here would say that. Its very success is diminishing the role and the importance of the Chamber because a Member can now spend all his or her working day in Portcullis House, performing all these different tasks quite happily, drinking capuccinos and doing all the other things that we can now do. All of these factors, not least the screen and the live feed, diminish the incentives to attend the Chamber.

Q392 Mr Burnett: I cannot say how much I agree with Mr Forth about fewer Members and of course fewer ministers. There are far too many Members of Parliament. You sound a little like a hospital consultant 10 or 15 years ago. I am sure Mr Forth agrees that all Members of Parliament are equal and that there are many other calls on MPs' time. I think a list that is not published but open to MPs to know unofficially if they are going to be called would be a great help to MPs given that they have so many different calls on their time. I hope that on reflection he will agree that not everything that is important for a Member of Parliament takes place in the Chamber. As to talent spotting, he obviously does not subscribe to the old view that the greater a Member's theatrical ability in the Chamber the worse his or her potential as a minister.

Mr Forth: Since I was never privileged to be a whip, the one job I always really wanted but was never allowed to do, I cannot really judge with certainty how the Whips go about looking at these things. I would have thought that now, as indeed 20 years ago or perhaps even further back, to a large extent, the Whips have to rely on what they see their colleagues doing in the public domain. That is not exclusively the Chamber. Very importantly it will also be in committee or these days, sadly, in Westminster Hall. I say "sadly" because, Chairman, you know my views on Westminster Hall, even though you yourself play such a distinguished part in it. That, by the way, does provide another opportunity for Members to speak, for example, and indeed to display their talents. I will leave it to Members of the Committee to judge what makes a good minister but I would have thought that the ability to put a case effectively, to answer questions effectively, to hold the attention of those in the Chamber or in the standing or select committee were all pretty important characteristics in a minister. The only way

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that one can judge a Member of Parliament's potential for that is by seeing them doing these sorts of things. I do not think that is any less the case now than it was before and I see nothing wrong with that either. This, after all, is our place of work. This is what we do. We are Members of Parliament. We are not primarily dealers with post bags, letters or meeters of delegations in secret rooms or whatever. We are public people who should be doing a lot of what we do in the public domain. To slink away with it on the pretence that my name is not on the list and therefore I do not see why I should participate, I am not sure even in the year 2003 is the right way to look at things.

Q393 David Hamilton: I agree about televisions. I would not unplug the televisions; I would just take off the parliamentary channel. At some point it is frustrating when you want to get into certain areas and you cannot do it. Although Mr Speaker says there is not a priority listing system, there obviously is somewhere along the line. You mentioned earlier that we should be spending more time in the Chamber itself. As a relatively new Member, I sit on three select committees and I find I do not get very much time to get into the Chamber for some of the good debates that are on. How would you turn that around, or would you do what some of the other Members do? The Honourable Member for Bolsover, for example, does not sit on any committee. There are a number of other Members who do the same. There is a temptation for some of us to come off everything and go into the Chamber and start to work the system. How do you get the balance? It is a very delicate balance if you are trying to serve your apprenticeship in committees and in the Chamber itself.

Mr Forth: That is a very important question and it is one that all Members have to think through. The obvious and rather glib answer is that that is in the hands of the select committees because select committees, as you know, Chairman, better than almost anyone, have it within their own power and control to determine their own sitting times. Therefore, to an extent, they can work their way around the Chamber times. This has been made more difficult because of the new hours and there is another avenue of possibility. Part of the other difficulty is that we have created a culture in which it appears at least on the surface that Members are reluctant to come to Westminster until as late as they can get away with it on a Monday, are eager to get away from Westminster as early as they can on a Thursday. Therefore, we are collectively as Members of Parliament putting increased pressure on ourselves in terms of making the choices. It has been put to me more often recently that if one looks at the weekly calendar of parliamentary events more and more of what we do has been concentrated into Tuesday and Wednesday because Members do not want to be here on a Monday, by and large, and they want to get away on a Thursday. We are creating even more pressures than ever we used to do. Mr Chairman, you and I remember that in those balmy days of the 1980s the House sat most Fridays, for

example. We sat until 10pm on Mondays, Tuesdays, Wednesdays and Thursdays and I do not remember the same pressures or constraints of time then. I make no apology for saying that the problems Mr Hamilton has highlighted are largely of our own making. It is in our hands to deal with them if we want to do so.

Q394 Rosemary McKenna: If you do not believe that we should be working in our constituencies, spending time with delegations, sitting in committees, doing all the hundred other things and the demands that are made on us, how on earth can we inform ourselves of what is happening outside in the country, what is happening in our constituencies, that helps us to change our government's view or the opposition's view, in your case, about what they ought to be doing and responding to? I think we live in quite different times from 20 years ago. Our constituents are much more demanding. They are much more aware of what is going on. How on earth do you inform yourself as to what is going on outside of this building and use that to bring it to bear on how you make decisions?

Mr Forth: I have always thought this was a very odd distinction to make. The truth is that this is our place of work. We come here and we do our job but most of us go home to our constituencies. When we are in our constituencies we go to the supermarket like everybody else and we socialise like everybody else. We have the same family problems and difficulties that other people have. This idea that I always resist very strongly that we are a breed apart because we happen necessarily to spend most of our working time here at Westminster I do not think makes us immune from knowledge about what affects other people. We are other people in that respect. We pay a mortgage; we fall ill; we have family problems; we have all these other things. Being here does not immunise us from any of that. It is quite proper for us to say to our constituents, "You elected me to go to Westminster to represent you there, to support or harry the Government of the day, depending, and that you understand I do". Then I make myself available in other ways on the telephone or by holding surgeries or living amongst you at weekends and during the recesses. I do not accept the conflict that you have set up, which you are saying appears to exist between Members of Parliament at Westminster and Members of Parliament living real lives as real people. I just do not think that distinction exists.

Q395 Huw Irranca-Davies: You have been very frank and provocative already. I would expect no less. Perhaps if you could indulge me for a moment, without going over the ground that has already been covered, I could be equally frank and provocative and perhaps invoke some sort of comment from you. You mentioned prepared speeches and reading and reluctance on interventions in some debates, leaving the Chamber periodically, lack of genuine debate and so on. If there was a list system, that probably

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happens to a large extent at the moment as well in a number of debates. The list might not have a great effect on that in particular.

Mr Forth: On spontaneity?

Q396 Huw Irranca-Davies: Spontaneity, leaving the Chamber, reluctance on interventions. I see a lot of that happening already.

Mr Forth: All these things interplay. If you look at all the different factors that relate to the Chamber in particular, whether it is live feed to offices, whether it is some Members feeling that they have no chance anyway, whether it is some feeling intimidated by the Chamber or whatever, all of these tend to interplay and feed on one another in either a positive or a negative way. What I would hope this Committee would want to have in its mind is to say "How can we help to make the Chamber more effective as an instrument of Parliament and in its relation with the Government of the day principally?" That is how I always try and look at it. Of course the perspective is different if your party is in government than if you are in opposition. We all understand that. I have described already how back in the 1980s with the very different hours we worked then there were different perspectives and things worked in a rather different way, but the fundamentals remain the same. That is the question we have to ask ourselves. How can we as Members of Parliament, on the one hand, serve our constituents but, on the other hand, act as good parliamentarians in every sense of that word.

Q397 Huw Irranca-Davies: In terms of speech limits and the arrangement of business, one of the issues that perhaps we should look at is the use of time limits on speeches for backbenchers or ministers or opening statements. What are your feelings on that?

Mr Forth: Again, I think one cannot look at this in isolation. I am relatively relaxed about it. I can make as short or as long a speech as you might want me to. I know there is some evidence on the record for that. From my own point of view, I can handle it either way but let us think about it this way: I am rather keen on the idea that instead of us having predetermined lengths of debate we should be much more prepared as the House of Commons to have debates finding their own level. I think I would be content with saying as a matter of rule that ministers should only have 20 minutes and back benchers should only have ten. Then a debate would run for as long as there were participants who wanted to participate. If it finished, there should be reserve business on the order paper that would come up next, if the first debate ran short. One of the more absurd things that we have all participated in is the desperate desire of the government of the day to keep the debate going. Remember why they have to do that. They have said to all of us, "Do not worry. There will not be a vote until seven o'clock. Therefore, you can all go off and do these other very important things that you feel inspired to do." They know that if we changed that and said, "We do not know when the debate will finish; it will find its own level and therefore you must be available to vote at

any time", if Members accepted that, we could move on to a much more flexible system where the debates found their own length and level, where other debates could then come in and where people might have a much greater chance of speaking in many circumstances. It does require that *quid pro quo* and I do not think therefore that you can simply say in isolation, "Are time limited speeches a good thing?" Probably, on balance, they are. There are not many subjects on which most Members cannot say most of what they want to say in about ten minutes. I worry about the diminishing of interventions and I am not sure that injury time solves that problem. We all have sat in the chamber and we have seen people getting up and starting a speech. Someone seeks to intervene and they say, "I am sorry; I do not have enough time." It becomes a convenient excuse not to allow for interventions. I always take interventions because I think they are the most enjoyable part of a speech. That is where you get the interplay and the spontaneity. We would have to find a way round that but, failing that, I have no objection.

Q398 Huw Irranca-Davies: In one of the evidence sessions with peers in the other place we looked at the system they have which is, in essence, self-regulatory. The Lords will put down the names on a list and when they see it arriving at 20, 30, 40 or 50 it does not arrive there because peers pretty soon self-regulate themselves and there is an implicit request at the beginning of the proceedings that if Members will speak for only five or six minutes we will be finished by ten. If not, we go further. How do you feel about that? I know it does link back into lists of one sort or another but it is self-regulatory.

Mr Forth: My admiration for their Lordships is almost unbounded for a number of reasons, not least that the Government of the day does not have a majority there and nor does the Government control the timetable, which is the crucial point. It relates to what you are suggesting because nor do their Lordships have constituents that they are pathetically desirous to please, if they think that the speech in the Chamber influences their constituents to vote for them—a connection which I have never quite made in my own mind, but some colleagues do. I think that in order to achieve the result that you are seeking one would have to make the Commons much more like the Lords. I would love that. That would be great, but it would mean the Government of the day relinquishing a large part of the control that it presently exercises over the timing of what happens in the Chamber.

Q399 Huw Irranca-Davies: In that situation, that reform would include an element of a list?

Mr Forth: I think I might trade the list if I could have the other things that go with it. You and I might be able to do a deal. If I say the list and time limits but you also give me a sharp reduction in the amount of control that the Government exercises over the timetable of the House, we might get somewhere.

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Q400 Huw Irranca-Davies: Everybody who gets to this House comes here with a certain amount of ego and a certain presumption: why do they not call me in debates? From a back bencher's point of view or from anybody here, do we have an unrealistic expectation or are we right to demand more opportunity to speak, more transparency and more fairness? Are we unrealistic in our expectations?

Mr Forth: I would not want to embarrass any Member of the Committee by saying to that Member, "Did you vote for the new hours?" because the answer is in our hands. If Members regard it as a priority to have more speaking time, the answer is perfectly simple. Why should we finish at 7pm? Most of us may not have families to go home to at 7pm and therefore this family friendly thing does not apply to most of us. It is either Soho or the Chamber. I put this to the Committee as something that I hope you are considering seriously: if Members of this Committee and their colleagues really believe that they are being denied reasonable speaking time, reasonable opportunities to speak in debates, the answer is very simple. Loosen up the restrictions that we place on ourselves at the moment on debating time and the time will be there. Already we have done away with all the Friday sittings except the Private Members' Bill Fridays. In the good old days we sat on Fridays. Fridays were a parliamentary day. We occasionally legislated on Fridays, not just Private Members' Bills either, Sir Nicholas, as you will remember. Let us not look at this, I would plead to the Committee, in terms of saying that what we have now is absolutely fixed and given and we must work within that. If the Committee were able to free its mind up and say, "Let's get radical about this. If we are really saying to ourselves that speaking time is something that we value very greatly"—I rather hope that you would—then all things become possible.

Q401 Mr Luke: I was listening to your point of order in the House about opposition days. Although it obviously affects the opposition, it does affect backbenchers who come along hoping to make an important contribution. Obviously the Speaker said that he did not believe that on opposition days the Government should put down statements and I welcome that. I take the point you made about extending the hours, having no cut off time so that opposition days can go on until 12 o'clock. That may be a way around the situation we find ourselves in. Would you see an advantage in having a dual system whereby there was a written statement tabled and the question and answer took place following that or do you feel it would be a useful way to take off the limits of debate on opposition day and allow that to go on as long as it takes?

Mr Forth: That is a very interesting idea. One of the difficulties I would imagine that the Committee has to consider is how far you value and you think the House values predictability, in the sense that being able to say that we finish at seven o'clock every evening except for Mondays is something that Members value on the one hand; or saying when there is an opposition day or in other circumstances

we will be prepared to consider going later than that in order to accommodate a large number of speakers, government statements or whatever. It is perfectly possible but I think it does require Members to sign up to the proposition that life may no longer be so comfortably predictable as we now seem to want it to be. That is a trade-off that has to be acknowledged. It is either predictability or it is flexibility to accommodate all the different, varying circumstances that we have. I suspect you cannot necessarily have both. That has to be taken into consideration.

Q402 Chairman: Today we had a minister reading a statement the total text of which was handed out to Members of Parliament in the Chamber as soon as the minister had sat down. Do you not think it was a waste of time for him to deliver that statement? Should not the statement be available, say, half an hour before that particular piece of business is to be taken so that all that should be asked on the floor of the House, because the statement could be written into the official report, would be questions on the statement?

Mr Forth: On the face of it, that is a very interesting proposition but I would guess you would have to talk to Alistair Campbell about how he thought that would go down because no doubt the Government of the day, he says picking his words carefully, rather values the idea of the televisual possibilities of ministers making statements. What would be missed by your very interesting and constructive suggestion would be the dramatic publicity effect of the dynamic personality of the minister making the statement because that would disappear. All that would happen would be that you would have the written ministerial statement distributed and then immediately questions on it. I have no objection, as a member of the opposition for the time being, to what you are saying but I would imagine that from the government's point of view it might seem a lot less attractive.

Q403 Chairman: The counter to that is to extend the subsequent debate for the length of time that the statement is allowed to run in the House of Commons by the Speaker.

Mr Forth: I agree but that is a different matter. Cutting the minister out of it is something that the Government would not want to do, I imagine. It is so long since I was in government I always find it difficult to recall what the government thinks.

Q404 Mr Atkinson: On the question of flexi-days, it may be possible in this Parliament but when you have a situation with a majority of about eight or nine, do you think any Whips' office is going to allow a flexible day? They would have to guarantee people to be there at a particular hour and if you were told to be there any time between seven and ten you might lose your majority.

Mr Forth: I do not see that as a problem. Asking Members of Parliament to be in their place of work I do not see as something that is unacceptable. If, as I repeatedly am told, Members of Parliament want

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to spend their whole day either in their office drafting letters or speeches or in meetings, they can do that on the premises and still be available to vote or to participate in a debate if it happens at a surprise time.

Q405 Mr Atkinson: Had you been in the Whips' office, you might have had a slightly different view of what Members of Parliament do in their spare time.

Mr Forth: Since I have never been in the Whips' office, I can take a generous view of Members of Parliament.

Q406 Mr Burnett: On the observation that Mr Forth made about statements being read in and the dramatic possibilities for ministers, I suspect he would not have welcomed erratic timing for voting when he was a minister.

Mr Forth: When I was a minister, which was for nine glorious years, a large part of which was in the Parliament of 1992–97 when we effectively had no majority, what ministers could and could not do was extremely restricted. We could very rarely travel overseas, for example, and had to be on call at all times with the old hours. If one did not have a pair, as I never had, one had to be available to vote as well. I recall managing it tolerably well and I think I even enjoyed it. Again, I think one can take a rather delicate view of all this rather too easily. We are in a robust business. We are all volunteers. We know pretty much what we are taking on. We should be enjoying it and doing it with gusto. We should not be saying, "How can I make this easier and easier for myself?" We should be saying, "How can I do this job as effectively as possible?"

Q407 Mr McWalter: I want to go back to the deal that you offered Huw because I think that is the essence of what we are doing this afternoon. If you have a list system, you could not just have Members putting themselves on the list. They would have to make a bid to go on the list because after all if a Member previously was on the list, just turned up, gave their own speech, disappeared and had a habit of insulting other Members and the Speaker in the Chamber in that way, they may put a bid in and be deleted by the Speaker on the grounds that they are not worthy of a place in the list. You would also have to presumably have some kind of scope for people to bid to put themselves on the list in the Chamber because, like you, I believe in spontaneity and I do not want to speak in the Chamber unless there is a point that needs to be made that has not been made in the debate and I am getting increasingly of the view that that point needs to be made. You want two ways of bidding. One is through a list which you may or may not succeed in getting on. The other is on the floor of the House when a debate is going in a certain way and a certain point is not being made. If we could get that far, you would in the end get an indicative end time. That might be enough to keep the Whips happy, to achieve spontaneity and to try and bring a greater sense of commitment to the

Chamber on the part of Members who are seeking to catch the Speaker's eye. Might that be a way forward?

Mr Forth: It is a little like the airlines over-booking aircraft. You can always have a list which is a bit longer than the time permitted, allowing the occupant of the chair to delete some people or people who simply did not show up, people who misbehaved or whatever, and perhaps bring others in. If you wanted to have a list, which I hope you do not, and if you wanted to have it published, which I certainly hope you do not, it would have to be a flexible list where the occupant of the chair could use the list as a basis but then still try to have that element of spontaneity along the lines you are suggesting.

Q408 Mr McWalter: It could help you and me achieve what is a shared end, which is to improve the quality of debates.

Mr Forth: It might.

Q409 Chairman: Would you share the view that if one did distribute the statement before that business was taken on the floor of the House to enable people to read it before the minister was there to deal with their questions, there is a danger that it might encourage the leaking of statements before the matter was dealt with on the floor of the House or is that something you think the House can deal with?

Mr Forth: I am not sure leaking becomes terribly meaningful or problematic in these circumstances. It would have to be factored in that it was available in advance, that we knew that, and that became part of the process.

Q410 Rosemary McKenna: There are some members of the public who watch the parliamentary channel and for them to come cold to questions on a statement that has not been made but has been distributed to the Members would mean nothing to them. It would make no sense at all. I think that is one that we really would have to say—

Mr Forth: Kick into touch, yes.

Q411 Rosemary McKenna: Absolutely. You keep talking about the good old days. You are beginning to sound a bit as if you envy the freedom that some of our ministers have at the moment to get about the country, which I actually think is a good thing. I do think our ministers ought to get about the country, find out what is going on and find out how their work or their decisions, are impacting on people. So I do think that we should value that. Also, you implied that the new hours reduced the time for debate, which is not true in actual fact. The new hours we voted for did not reduce the time. It changed the time that we sit, but it did not reduce the number of hours that there are available for debate, and I think it is important to say that. Also, you said that it was important for Members to be anxious to participate. One of the things that stops our Members—the backbenchers on the Government's side—from participating is the backwards and forwards turn and turn about. You have said you are

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absolutely opposed to changing that. Given the size of the Government's majority at the moment, and the number of backbenchers, and also the fact that a lot of those backbenchers have come in since 1997, it is extremely difficult for them to be called in a debate if there is a continued back and forward, back and forward. How would you answer that?

Mr Forth: I did it; they can do it, is the very short answer. I do not recall that back in the 1980s when we had almost the same numbers—unbelievably, there were nearly 400 Conservative Members in that Parliament and, from memory, 209, or thereabouts, Labour Members—we may not have liked it, but I do not remember us saying we must change the rules because it is part of the checks and balances within the House. The Government has huge advantages in almost every way. My argument is that these advantages are greater and greater but, nevertheless, the Government has huge advantages. One of the few things that the Opposition has is a somewhat larger share of the parliamentary cake in the way that you are describing, and that is all it is. Yes, it is frustrating to be a Government backbencher, but look at all the things you get in return. You get greater access to ministers in the lobby or elsewhere; you get the chance to become a minister; you get all these other things; you get tea and cakes at Number 10, I have no doubt. So there are compensations. Frankly, I think to say Government backbenchers should not only have all that, but should also have an equal share of speaking time with the Opposition, I do not think is on at all.

Q412 Rosemary McKenna: In actual fact, what happens is that Government backbenchers sit there all day waiting to be called, Opposition Members can come in and out willy nilly, be called, go off and do what they like, they are seriously at a disadvantage.

Mr Forth: Yes.

Q413 Rosemary McKenna: The other point that I think is important is the average length of time that someone is a Member in this House is something like nine years. So really, are you of any value at all? Is it of any value at all if you are only going to be here nine years, if it takes 15 years for you to have any credibility at all and build up any seniority with the Speaker as a Government backbencher? I do not agree with the list, I am not supporting that, but what I am saying is there are very good grounds for Government backbenchers saying there has to be something done to achieve more parity for them.

Mr Forth: It is always invidious, Chairman, to mention individual colleagues, but I think I am forced to do so on this occasion to try to make my point. There is surprising scope for backbench Members of a Government Party to make an impact in the Chamber. The classic case, I suppose, is the Honourable Member for Bolsover who, as a Government backbencher, an Opposition backbencher and many years now a Government backbencher, has never failed to make an impact. To take a more up-to-date example, I will single out the Honourable Member for Thurrock, who seems to be

able, pretty adequately, to get across his point of view not just necessarily in debates—although he does his share of that—but in the interventions, in Points of Order, in supplementaries and in a number of other ways. So I would suggest, with the greatest respect to colleagues on the Government's side, if they feel that they are not getting their fair share of the cake, go and have a word with their colleague, the Member for Thurrock, and get some tips from him and they might find their life is suddenly improved.

Q414 Chairman: Thank you. I do see we are running out of time. I do not know whether Mr Forth might be prepared to stay just a little bit longer if we can get a message to the Shadow Cabinet.

Mr Forth: Yes, I am more than happy to, Chairman.

Chairman: Thank you very much indeed, Mr Forth. Eric Joyce would like to come in on that question.

Q415 Eric Joyce: Thank you, Chairman. Does Mr Forth not think that what he has just said about contributions from backbenchers is another slavish adherence there to the parties for one thing, and then seeing the problem through the prism, if you like, of Members rather than, as we should, our constituents? It is quite clear that some constituents, ie constituents of Government backbenchers, have their views represented in debates half as much as constituents who happen to be constituents of Opposition backbenchers. Is that fair on constituents, regardless of the effect it may have on careers, or personal experiences, or even the interests of parties? Should we not be placing the interests of constituents first?

Mr Forth: Come on now, this really will not do. You can make the same argument about constituents of Government ministers. Why should they be deprived of the attention of their Member of Parliament, who is spending his whole time—or her whole time—in a department and not being able to give as much time to the constituents. The way the system here works is that everybody is not equal in any way. Every Member of Parliament does the job in their own distinctive way. They all undertake other responsibilities. Members of the Chairman's Panel, Chairman, spend a very large amount of time unpaid, and largely unsung, chairing Standing Committees, without whose dedication this place would grind to a halt. Members of Select Committees choose to spend time not just here, but, dare I say it—although not in the case of this Committee—abroad, to a very large extent. What attention are their constituents getting while they are swanning about fact finding in far flung parts of the world? So I really think that we can get a bit precious about all of this in saying: "Oh, dear, some constituents are getting a different level of service than others". Yes, that is correct. There is a wonderful parliamentary prism of all sorts of different aspects, and I am not aware that constituents look carefully at the amount of time that their Member of Parliament is spending with

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them, on them, speaking on behalf of them, abroad, in a ministerial car or anywhere else, I just do not think it works that way.

Q416 David Hamilton: Mr Forth is very entertaining in some of the comments he makes. Some of them are quite blunt but some of the comments are rubbish. One of the things that you said earlier on is we have got to accept, as Government backbenchers, that we have an advantage. Can I assure him that many of the Government backbenchers do not have an advantage. They do not go to Number 10 and they are not in that category. Indeed, going back to your earlier comments, it is very important for that learning curve for the backbenchers to be able to enter into debates when they are allowed to be able to go into those debates. The ratio, as it stands, is one to one at the present time and is completely unfair on those backbenchers and, indeed, from a Scottish perspective, where you have five Nationalists MPs who are able to speak 13 times to my one or two, that is a complete unfairness. I do not care what happened before, and you have referred to it before so many times it is unreal, but things change; there is 24-hour television nowadays and the Chamber is now televised. These things are important to our constituents, and they are not sad anoraks who actually tune into the parliamentary programme. I understand Prime Minister's Questions is one of the most watched programmes politically throughout the western hemisphere. These are important times, there are important changes and backbenchers are entitled to develop their skills, as you would want them to do, within the Chamber. If they are not being picked on a fair ratio, which is one of the things that does not happen at the present time, then that should be altered.

Mr Forth: I am afraid, Chairman, that we will just have to agree to disagree on that. I have offered at least a part solution, and that is that we loosen up the time and increase the amount of time available to us all collectively. Perhaps within that there may be an opportunity to look more at the sort of balance that is given. If I do tend to dwell on the past, I make no particular apology for that. I am a traditionalist. I do believe that many of the things that we do here have lasting value, and I do think that endless tinkering with what we do here is often counterproductive and absolutely laden with unintended consequences, and the change of hours is a perfect example of that. I will take some persuading that what was good enough in the relatively recent past should not be good enough now. If we keep changing the rules in order to suit the party with the majority of the moment, then Honourable Members might want to ponder, just for a moment, the implication of that, because come the day when another party might just be in government, then the boot would be very much on the other foot and one has to be careful about that.

Chairman: Seeking to present the balance, because I think that Rosemary McKenna and David Hamilton have raised a matter of concern that has been brought to our attention about whether the Speaker has to go from one side of the House to the

other, there are occasions when the Speaker will call two, or on occasion even three from the same side, particularly if there is nobody on the other side to be called, or if he does not see somebody who clearly has only just come in. So there is an element of flexibility in the discretion of the Speaker and his deputies, which can go to a very modest extent to meet, I think, the point that my two colleagues on the Committee have raised.

David Hamilton: Chairman, can I make one observation. If you go back to the Iraqi debates, on one of the debates that we had there were at least 25 people standing in the Labour ranks, and on the other side they were scurrying about trying to get people to come in to speak. That is the type of thing that infuriates, I think, backbenchers on the Labour side. The only thing I am asking about is, as there is such a big majority, if that ever happens again, irrespective of what side it is, that should be taken cognisance of and an adjustment could be made on the size of the majority.

Chairman: Mr Hamilton, I think you have made a very good point, but I can assure you, from my contact with the Speaker, that he does appreciate that. There are occasions when the occupant of the Chair will be blind to somebody who has clearly come in purely at the request of the Whips to speak and the Speaker may well then continue to call a Member from the Government, or it could be the Opposition side. Sir Robert Smith and then Peter Atkinson.

Q417 Sir Robert Smith: If I can raise PMQs. Does Mr Forth feel that perhaps that time that is available to Government backbenchers, if it was actually used to hold the Prime Minister to account, might create more sympathy on this issue about the amount of time for Government backbenchers?

Mr Forth: The obsequious or fawning question, or the planted question, is a tradition of the House, to which I take no objection, as I do not object to the others. It was fun today, was it not, with a reshuffle allegedly imminent, to see the nature of some of the questions that were being asked? I think we have to take the good with the bad and the rough with the smooth on this. Again, I do not think we should get too precious collectively about these things happening. They are part of the warp and weave of Parliament and long may they prove to continue.

Q418 Sir Robert Smith: If they do, we will have even more time for fawning questions.

Mr Forth: It comes and goes, it changes. I remember there was one, I think, notorious occasion under the last Conservative Government, Chairman, as you may remember, when the Prime Minister returned from a European negotiation and for a moment not a single Government backbencher was standing to ask anything, so stunned were they with what the Prime Minister was saying. That was a parliamentary moment which broke all the conventions and all the rules, but it made its own statement. I think we have got to allow for these things to happen, because I can still remember it and so can the Chairman.

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Chairman: Peter Atkinson. We are going to now move on to Private Members' Bills.

Q419 Mr Atkinson: Yes, an issue which has been close to your heart, I think, over the years. One of the complaints that was raised by us was the sense that the people's Private Members' Bills, which are very worthy, often get destroyed by one or two individuals who talk it out at report stage. It has been suggested—however, not by me—that priority between Private Members' Bills should be allocated by a committee rather than by ballot. What do you think about that?

Mr Forth: No. I do not see how that would add value to the process at all because it would politicise them in a way that they should not be. The trouble is that Private Members' Bills are often politicised, in the sense that they are more and more often Government Bills in very thin disguise being sneaked through the Private Members' Bill procedure, which is one of the things I deprecate. I think the ballot, at the very least, gives an element of even handedness, albeit randomness, which makes it neutral and impartial at the starting point in the selection of the Members. What the Members then choose to do is up to them, and if they choose to please the Government, or take one off the shelf, or whatever, that is a matter for them. It is then for the process to judge that Bill, and aware of its provenance, or its background, to take a view of it. I think it is legitimate for Members of the House to say: "If I think the Government is trying to sneak what should be part of its programme through as a Private Members' Bill, then I, as a Private Member, will take a dim view of that and may want to seek to examine it rather at length".

Q420 Mr Atkinson: Do you think that more Bills should be allowed to succeed?

Mr Forth: No.

Q421 Mr Atkinson: No.

Mr Forth: No, I do not, because I think Private Members' Bills are sometimes iniquitous in that they are driven by single interest groups, often overly financed, they can often be poorly thought out and misdirected, and there is a danger of them not receiving enough scrutiny. At least with a Government Bill one can make the general assumption that it has been through a pretty heavy filtering process before it reaches the House. That does not apply to Private Members' Bills. The idea that somehow because they have come high in a ballot and then are produced by a well-meaning interest group through a Member of Parliament, that therefore they have got some right to get onto the Statute Book, I think is entirely misdirected.

Q422 Mr Atkinson: You think there should be more time given to Private Members' Bills?

Mr Forth: No, I think the time limit is an extremely important part of the process. Also, I think that having them on Fridays is a very important part of the process, Chairman, because it does test, in a rather crude but effective way, the true extent of the

support for Private Members' Bills. I can remember Private Members' Bills failing because the House was not even quorate, and Bills that I had been told had wide-spread support and a large number of signatures from Members around the House, could not even muster 40 Members of Parliament on a Friday to support them. So I think that the fact that they are on a Friday is proper, the fact that we can test the support in that rather elementary way is relevant and important, and the fact that there is a time limit within which they operate is also a safeguard for the hapless citizenry against a Bill being sneaked through by a small but powerful interest group.

Chairman: Do you want to touch on the resources available?

Mr Atkinson: I do not believe we have much time.

Q423 Chairman: No, Mr Forth has been very generous in being prepared to stay on.

Mr Forth: I did arrive late, Chairman.

Q424 Chairman: I was not going to use that phrase.

Mr Forth: No, I did, before you.

Q425 Mr Atkinson: I have just got one further point, which has also been raised. Private Members have complained that it is very difficult actually for them to do a lot of drafting on the Bills, they do not have the expertise, and apparently there is an allowance of £200 towards drafting expenses. Do you think that should be increased?

Mr Forth: Yes, I think there is a strong case for it being increased to a realistic figure. Equally, if one looks at most Bills these days, and we have kind of settled at the moment on an average, I think, of six, or seven, or eight, or nine Bills getting through each parliamentary year, and we are heading roughly in that direction this year again, and I think that is probably about right, if they are sensible, they are limited in scope and uncontroversial, and with the neutrality and support of the Government, they will all probably get through. The Government drafts a lot of them anyway, well-financed interest groups draft others, but I think in the cases where there is a genuine Bill from a Private Member without that sort of backing, then some sort of proper resource should be made available in order to make it a proper parliamentary procedure.

Mr Atkinson: Thank you.

Q426 Sir Robert Smith: If we can move on to the recall of the House where you touch on in your written evidence that you see a case for the Speaker being able to recall the House. Have you any more thoughts of what sort of threshold, or what sort of support there would have to be for the Speaker to do such a thing?

Mr Forth: I think there are a number of different ways that one can tackle this. In my mind, the proposition is this: it is absurd that the Government of the day should decide when the House of Commons or Parliament sits and deliberates. That surely is the wrong way round. The House should have its own means of deciding. That must be the

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proposition. After that, then it is simply a matter of saying what is the best means of doing that. The simplest way would be to leave it to Mr Speaker's discretion, and I would have no difficulty with that at all. I think one could have perhaps another complementary route that said that if a certain number of Members—I think one would probably have to say of all parties, or of a minimum spread of parties—were prepared to sign up to a motion for a recall, that that would either do it, or it would hand it to the Speaker to do it, or something. So I think a combination of these would be an entirely proper way of doing it, but I hope that the Committee will say very strongly that to leave this entirely at the discretion of the Government is a renunciation of the most basic principle of parliamentary accountability.

Q427 Sir Robert Smith: Have you thought about an actual threshold if you were going down the number route?

Mr Forth: I can only take a figure off the top of my head, but I would have thought that something of the order of 150 or 200 Members would be appropriate. I think if you pitch it too low, it would then be subject, or potentially subject, to abuse. So I think one would want to set the threshold at a fairly high figure, and then have a requirement about a spread of Members that struck a reasonable balance as well, although even then one has to have proper recognition of what are called the minority parties, but parties other than the official Opposition, if I can put it that way. If you set the threshold too high and there is an occasion which is really for those parties with regional representation—I hope that is a proper term—then one has to take account of that. So I think I could be argued down in my figure, but I would not want to go too low either.

Q428 Sir Robert Smith: You would be tempted to argue, from your point of view, that if the Speaker judged it that the will of the House was there, then the Speaker should have that power?

Mr Forth: Yes, I would have thought that was an entirely appropriate role for Mr Speaker.

Q429 Sir Robert Smith: How would you view the risk that the Speaker recalls the House against the wishes of the Government? What exactly happens then? Do you think the Government would feel duty-bound to turn up?

Mr Forth: I think they have to because the Government must always defend its position in the House. If, for example, there were motions, or resolutions, highly critical of the Government, and I think you are hinting at a boycott of some kind, or whatever, if it chose, or decided, to do that, I think the consequences would be pretty severe in a whole number of ways. I think the Government of the day has to accept that it is accountable to Parliament, and if we move away from that as a proposition, we are all completely lost. So this does seem to me to follow very naturally on that. I think, in a way, I am rather surprised that this matter has been allowed to continue for as long as it has unchallenged. It may be

only, as in recent years, Chairman, that we have seen more recalls, I think, than perhaps for a rather long time, that this matter has achieved a greater salience. Maybe it will not happen again now for quite some time and it might then fade into the background.

Q430 Sir Robert Smith: It would be useful to sort out the procedure.

Mr Forth: I agree. I hope the Committee will take this matter up and pursue it because I think it is something that should be resolved.

David Hamilton: Chairman, I am just wondering because I am mindful of the time. There is an important distinction and that is the 150 Members of Parliament who would maybe be recalled, would that be including the Government Party?

Chairman: The Government Party hold it.

David Hamilton: The reason I am saying it is it is very important that the Opposition does not just call a recall at any given time. That is the point.

Chairman: I think, as Mr Forth has suggested, and also Sir Robert, that the level at which such a request would be considered by the Speaker, I would even pitch it higher than the 200–250 and it must comprise Members of all parties, including the Government Party. Clearly, in addition, the experience of some of those who are applying might also be taken into account by the Speaker. I think what we are trying to get from the Shadow Leader of the House is that this is a matter that the House should have within its own authority, and that the person to exercise that authority on behalf of the House is the Speaker.

Q431 David Hamilton: Yes, I agree, Chairman.

Mr Forth: Yes, Mr Hamilton has made a very interesting and important point, and that is would this specify that a certain number of the Members had to be from the Government benches. Now, that I think is quite a difficult one, because I think one could argue that there is nothing wrong with all the Opposition parties being able to recall Parliament, even over the Government's objections. I think that would be a quite proper position to take. It makes it somewhat more difficult, but not impossible, if one then introduced a requirement that it had to include even a relatively small number of Government Members. That leads to all sorts of potential difficulties with Government Whips presumably trying to stop the Government Members from signing up to this and preventing a recall of Parliament. Now, I think I almost hesitate to make my own judgment in this, but obviously it is one that the Committee will have to think about. I think I am inclined at the moment, off the top of my head, to say that to require Government Members to do it would again introduce a potential limitation that I would want to resist, although I can very well see why it has been put.

Chairman: I think that David Hamilton has indeed raised an important point, but also we have to look back, and clearly this Committee is going to do it, Mr Forth. The occasions upon which the House has been recalled, and I cannot myself—and I can be criticised for this—think of an occasion when it has not had all party support. The most recent occasion,

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of course, was the recall because of Iraq, and there were as many people on the Government's side seeking to recall the House as there were in other parties. So, again, this is research that we will be undertaking and will form part of our report. Sir Robert Smith?

Q432 Sir Robert Smith: On the part of the procedure, at the moment the Speaker decides the date and time of the recall, but the Government controls the business, including any sittings motion governing how long the recall lasts. Do you think any of that should be changed?

Mr Forth: Yes. I think the concomitant of what I have been saying is that it would be equally unacceptable if, the House having been recalled, the Government had total control over what happened. I think one would have to make a certain amount of allowance for the equivalent of an Opposition Day, or an urgent question at the very least, or something of the kind to be incorporated into that recall in order to make sense of it. If you simply had a recall with the Government totally in control, then it abrogates a lot of the point of doing it.

Chairman: Thank you. Can I ask from the Chair that if you feel it appropriate, if you would like to let us have a short paper on any suggestions you have about the recall of Parliament, as Shadow Leader of the House, I know the Committee would be very pleased to receive such a paper. Thank you. Tony McWalter.

Q433 Mr McWalter: We have had calls for debates on selected Early Day Motions and Private Members' Motions, and you have suggested Tuesday and Wednesday evenings could be used for such debates between seven and ten. That is a suggestion, by the way, which I think goes some way to obviate some of the problems we were discussing earlier. Should those seven to ten sessions be on substantive Motions, which might lead to a division, or would you expect them to be Adjournment Motions?

Mr Forth: I have no objection to them being substantive at all, because I think that if one can demonstrate a sufficient level of demand to have the debate, it is not unreasonable to expect Members to be here to participate in a vote on such a matter. I think that tends to follow fairly naturally. There is a place for Adjournment Debates, for an exchange of views to inform Members, the Government, and the public and so on, but I think there is equally a place for something which has almost fallen into disuse—apart from Opposition Days—and that is the good old substantive Motion with a vote at the end of it. So I would have thought that it would give it more bite and more relevance if a motion of the kind that was placed on the Order Paper because it had a certain amount of support expressed through an EDM, or a motion, or whatever, would then have a vote at the end of it. I would have thought that that would make it much more meaningful in a parliamentary sense.

Mr McWalter: As an alternative to a ballot, could those EDMs which have achieved most support be debated? Would you like to see some sort of automatic trigger, if they get 250, or something like that, they automatically get in line for the debate?

Chairman: Either in the seven until ten slot that Tony McWalter mentioned, or in Westminster Hall?

Mr McWalter: I wanted to avoid, Chairman, any mention of Westminster Hall in my question.

Chairman: All right. I apologise.

Q434 Mr McWalter: For fear, if it was a supplementary, that the lions would tear it apart.

Mr Forth: As someone who, myself, rarely ever signs Early Day Motions because I regard them as parliamentary wallpaper, or worse, I am, however, not inimical to the suggestion that if they were seen as a vehicle to spark a debate they would then have much more meaning, and I might be prepared to start signing them again because it would give them a result which at the moment simply does not exist with EDMs, other than mentioning them at business questions and getting them in *Hansard*, which I have always thought was fairly futile. So, yes, if it could be agreed that an Early Day Motion attracting, let us say, I do not know, a fairly high threshold, but more than half the House, or certainly more than 250 members, or something of that kind—again from all parties—that that would automatically command parliamentary time—let us not say where—then I think that would be something of use, and it would give bite to that procedure which at the moment is completely lacking.

Mr McWalter: If I may just say as a footnote. I think if Members signed the wallpaper variety, congratulating Wolves on their promotion or something, obviously that does bring them into disrepute. I tend to only sign the ones that are actually serious and would make for good parliamentary debates. Maybe we should agree on that.

Q435 David Hamilton: I have the benefit of asking the final question about Westminster Hall and we will see what the reaction is in relation to that. Can I make one observation. I take the point about Early Day Motions, that if we did have a position where there was a set number, and if you achieved that number you could have a debate, maybe then people would be more selective in signing Early Day Motions.

Mr Forth: Yes.

Q436 David Hamilton: I think there would be a spin-off from that position. As a relatively new Member, everybody has got to learn their craft and not everyone is a great orator. I have found Westminster Hall has been a good place to be able to learn your craft in some ways and utilise Westminster Hall in that fashion. The Chairs invariably are much more supportive and, indeed, it is a much better atmosphere to learn how best to go there. What would be your views about expanding

Mr Eric Forth MP

the role at Westminster Hall either to allow for Adjournment Debates or, indeed, Substantive Motions?

Mr Forth: That touches on my worry, Chairman. Although I thought it was a bad idea, I think I have probably softened my views slightly because of its delightful irrelevance and, given that, then I am very happy with part of what Mr Hamilton is saying, that if Members enjoy Westminster Hall, and want to continue using it and find it useful, then I find that perfectly acceptable. What always worried me from the start—and one has to go back to the provenance of this—was the Government got the idea from the Australian Parliament because they have a parallel Chamber, but what they do there is they legislate in that parallel Chamber. My worry always was that the Government had a hidden agenda, that it wanted a dual track legislative process in order to smuggle yet more Bills through the parliamentary process in addition to the Private Members' Bills. The way they do it there is very interesting. What they say is uncontroversial Bills will go through the parallel process, and when I said to them: "Surely, if only one Member objected, it would no longer be uncontroversial?", they told me that so tight is the party discipline in the Federal Parliament in Canberra, Australia, that nobody ever objects. If the party signs up to a Bill, no Member dares object to it, so therefore they can deem them to be uncontroversial and legislate with no votes. Now, that was, and is, my fear, that the Government will one day return to us and say: "Now, Westminster Hall is working very well, let us do more substantive business in it, maybe starting with Substantive Motions and then, who knows, moving on to legislation". So, providing Westminster Hall's role remains as it is now, for Adjournment Debates and so on, then I think that is fine, but my worry and my fear always is that someone, some day, will want to use it for legislation and that really would bother me.

Q437 Chairman: Even, Mr Forth, if a debate ended with a demand for a division, that that division should, of course, be transferred to the floor of the House of Commons itself, does that alter your view?

Mr Forth: That is even worse because, Chairman, that then makes it akin to the ghastly deferred division, where we are now accepting the proposition that you were not in the debate, you did not hear the debate, but you can still vote on it. So you detach completely the people who were prepared to be there for the debate, and listened to one another and expressed a view, on the one hand, and the others who are sitting in their offices, watching television, and come along and vote on a different occasion. No way.

Q438 Chairman: Thank you very much. Are there any other questions that any Member would like to put to the Shadow Leader of the House, Eric Forth? If not, as Chairman, Mr Forth, can I thank you for the very positive way in which you have responded to all the questions that have been put to you. I think there was not a single Member of the Committee who did not think, before you arrived, that you would add greatly to the inquiry which we are undertaking, and I know I speak on behalf of all my colleagues when I say we have not been disappointed. You have certainly given extremely entertaining and positive responses to a variety of very important questions. Can I thank you very much, and can I say to colleagues we just want to stay back for a couple of minutes after Mr Forth has left. Can I say to the Shadow Leader of the House, once again, thank you very much for the help which you have given to us in the course of this important inquiry.

Mr Forth: Thank you. Chairman, may I thank you for the opportunity of appearing before your Committee and wish you well in your deliberations, and apologise, yet again, for my late arrival, which I regret.

Q439 Chairman: All I can say is you gave us extremely generously of your time and we are grateful for that.

Mr Forth: Thank you.

Wednesday 17 September 2003

Members present:

Sir Nicholas Winterton, in the Chair

Mr Peter Atkinson
Mr John Burnett
David Hamilton
Mr Iain Luke

Mr Tony McWalter
Sir Robert Smith
David Wright

Memorandum submitted by the Government

INTRODUCTION

1. The Government welcomes the Procedure Committee's wide-ranging inquiry. This memorandum sets out how the issues the Committee is addressing are seen from the Government's perspective.

LISTS OF SPEAKERS IN DEBATES ETC

2. Whether lists of speakers should be published before debates is a matter for the House. As the Procedure Committee will be aware, the former Leader of the House suggested the possibility of published lists of speakers in his memorandum to the Modernisation Committee in December 2001. The Government believes that many backbenchers would welcome such a change. However, it notes that the Speaker has outlined a number of disadvantages in evidence to the Modernisation Committee.

3. The conventions by which Members are selected to speak are a matter for the House. There is a strong tradition that the Chair should seek to ensure balanced debate by calling Members from alternate sides. The Government notes simply that this tradition causes particular difficulties for Government backbenchers when the Government has a large majority.

4. The Government hopes that, in considering procedures for debates, the Committee will consider whether more can be done to make parliamentary proceedings more accessible to the electorate. The Government notes that the Modernisation Committee is currently examining ways of better connecting Parliament with the public and looks forward to its report in due course.

PRINTING UNDELIVERED SPEECHES IN THE OFFICIAL REPORT

5. Whether undelivered speeches should be published in the Official Report is a matter for the House. The Government is nevertheless concerned that it would have implications for the cost, length and speed of production of Hansard. It also notes the considerable procedural and practical problems involved, as set out in the memorandum from the Clerk of the House.

PRIVATE MEMBERS' BILLS

6. Private Members' Bills are an important part of parliamentary proceedings. The opportunity for individual Members to introduce legislation is greatly valued. They provide a useful route for worthy, and relatively uncontroversial, legislative proposals to become law. They also provide a useful mechanism for testing support for more controversial proposals.

7. The Government recognises that there are perceived to be problems with the current procedures for Private Members' Bills. These problems are not always well-defined but they include the uncertainties facing sponsors of bills, the difficulty of ensuring 100 supporters are present on a Friday to ensure a closure, and the seeming unfairness of a popular measure being blocked by only one Member objecting after 2.30 pm. For the Government too, current procedures pose problems: the short time available for Departments to decide their response to bills, which may be published only very shortly before their Second Reading debate; the uncertainty about which bills will be reached on a particular day; and the need for Ministers to be available, even if it is unlikely that a Bill will be reached.

8. There is no doubt that the procedures for Private Members' Bills impose a considerable burden on the Government. In 2001–02 there were 123 Private Members' Bills, 5 of them brought from the Lords. For each of these Bills the Government had to decide whether to support or oppose the Bill. This is not an arbitrary process or a decision made lightly. The relevant Department has to study the Bill and analyse its implications. Advice has to be given to the Department's Ministers. Policy issues raised in Bills may require collective agreement with other Departments. The lead Minister then has to apply to the Ministerial Committee on the Legislative Programme for its consent to the proposed line. This application has to be considered first by officials, then by Ministers. The Leader of the House then has to write to the Department

with LP Committee's view. Furthermore, if a Private Member's Bill includes material within the competence of the Scottish Parliament and the Government proposes to support the Bill, a Sewel motion in the Parliament will be required. This means timing issues in obtaining the consent of the Scottish Parliament have to be taken into consideration. Extensive background briefing and speaking notes then have to be prepared for the Minister in advance of the second reading debate. Because of the uncertainty about the length of proceedings on a PMB Friday, Ministers have to be available and prepared even if the bill is way down the list on the Order Paper.

9. While some bills are published well in advance of second reading, the Standing Orders require only that the bill should be published the day before. This causes considerable difficulty. The Ministerial Code and the Cabinet Office Guidance on Cabinet Committee Business require that at least ten clear working days be allowed for correspondence seeking collective agreement.

10. If the bill gains second reading, the demands are greater. The Minister and his bill team have to attend Committee and consider the implications of each amendment tabled. Parliamentary Counsel have to be deployed to examine the bill in detail and draft amendments when required. Frequently the bill will require almost complete rewriting in Committee. Given the limitations on Government drafting resources, this can divert Parliamentary Counsel from other drafting work, and can contribute to delays in publication of Government legislation and the need for more amendments during passage of that legislation. This continues for remaining stages and in the second House.

11. Sometimes the Government will not be able to support a Private Member's Bill for policy or implementation reasons. Although the Government will of course consider issues raised in Private Members' Bills very carefully it will not always be possible for the Government to support them. It must be remembered that Government has a responsibility both for the integrity of the statute book (by ensuring that ill-thought out legislation is not passed) and for maintaining its programme and policy priorities (by preventing measures which may compete for resources with Government priorities).

12. There is no secret in the fact that some Private Members' Bills are drafted by government draftsmen. Members successful in the ballot will consider a range of options. Outside pressure groups will make suggestions for bills. It is reasonable that Ministers should also make suggestions. In some cases, these are bills, already drafted, which are small and often focused on a single subject, and thus suitable for taking forward as a Private Member's Bill. Frequently they have cross-party support. This is a mechanism used by Governments of all persuasions. An example from the current Session is High Hedges which has been warmly welcomed on all sides of the House.

13. The Government is aware of a number of options for change in the procedures for Private Members' Bills and looks forward with interest to seeing the Committee's conclusions on the best way forward.

14. Some suggestion has been made that Private Members' Bills which do not find time to complete their stages in one session might be carried over to the next. While the temporary Standing Order on Carry-over of Bills does not exclude Private Members' Bills, the Government believes that carry-over would be incompatible with current Private Members' Bills procedure. If a Bill with widespread support lapses at the end of the Session, it ought not to be difficult to persuade a Member high in the ballot in the following Session to introduce it, and, though it would receive no special procedural treatment, it could expect a fair wind.

THE RIGHTS OF OPPOSITION AND BACKBENCHERS IN INITIATING DEBATES

15. The Government has increased the opportunities for backbenchers to raise matters of topical interest. The introduction of Westminster Hall, first on an experimental and now on a permanent basis, has greatly increased the number of opportunities for backbenchers to initiate adjournment debates, as well as for debate of select committee reports. The reduction of the notice period for oral questions has increased the topicality of question time. The experimental cross-cutting questions sessions in Westminster Hall provide a further opportunity for Members to raise matters of concern.

16. The opportunities presented by Westminster Hall place a heavy, though uneven, demand on Ministers, with a particularly high proportion of debates falling within the responsibility of the Departments of Transport and of Health. The rota introduced from January, by which each Department is available to answer debates on every alternate week, has been helpful.

17. The Government would be willing to consider different ways of apportioning Opposition and backbencher time, if there were clear support for this in the House.

SUBSTANTIVE MOTIONS IN WESTMINSTER HALL

18. The Government notes that the Chairman of the Science and Technology Committee has raised with the Procedure Committee the possibility of Committee Reports being debated in Westminster Hall on substantive motions recommended by the Committee. The success of Westminster Hall has been in part due to the more informal, and less adversarial, nature of debate there, and the Government is concerned that introducing substantive motions into Westminster Hall would fundamentally change its atmosphere.

THE SPEAKER'S ROLE IN THE RECALL OF THE HOUSE

19. The Government notes that there have been some calls for the Standing Order relating to the recall of the House to be changed. The Government doubts that such a change is necessary. In practice, the Government has agreed to a recall whenever some major development has required it. Since 1997, the House has been recalled six times: in September 1998, following the Omagh bombing; three times in September and October 2001 following 11 September; on 3 April 2002 following the death of the Queen Mother; and in September 2002 on Iraq. The need for emergency recall during the Summer recess should be greatly reduced by the introduction of September sittings. The Government would be resistant to any change which increased the pressure on the Speaker or politicised his role, or which led to recalls in circumstances which did not merit it.

THE ROYAL PREROGATIVE AS IT AFFECTS PARLIAMENTARY PROCEDURE

20. The royal prerogative is the residue of royal or executive authority which is not founded on statute law.

21. In most cases acts involving the royal prerogative are exercised by Ministers, who are answerable to Parliament. It is open to Parliament to abolish or restrict a prerogative power by statute.

22. The Government shares the view of Wade and Bradley, in their work on constitutional law, that it is not possible to give a comprehensive catalogue of prerogative powers. In home affairs, the prerogative has to a great extent been constrained by statute law. In foreign affairs, it remains significant: the Crown has the power to conclude treaties, to declare war and to make peace, to recognise foreign states and governments and to annex and cede territory.

23. The fact that an act involves the royal prerogative does not prevent parliamentary scrutiny. Treaties, for example, though made under the royal prerogative, are subject to parliamentary scrutiny, being laid before Parliament for 21 days before they are ratified under the Ponsonby rule. (The Committee's 2000 Report on the Parliamentary Scrutiny of Treaties discusses this matter in detail.)

24. Recent interest in the royal prerogative has been largely focused on the Government's power to commit armed forces in military engagement overseas without the prior consent of Parliament. This Government has given repeated assurances that Parliament will be given the opportunity to debate decisions about the deployment of British forces in armed conflict overseas. It might not always be possible to hold a debate in advance of a deployment, if the effect of that would be to give the enemy advance notice of our military activities and endanger the lives of our troops. In the case of the recent military activity in Iraq, it was possible to hold a debate, and vote on a substantive motion, in advance of the military deployment. Whether the circumstances allow prior debate or not, the political reality is that a Government cannot go to war without the support of Parliament.

Leader of the House

12 June 2003

Witness: Peter Hain, a Member of the House, Leader of the House of Commons, examined.

Q440 Chairman: Can I warmly welcome the Leader of the House, the Rt Hon Peter Hain, to a meeting of the Procedure Committee as part of our inquiry into the report on procedures for debates, private Members' bills, and the powers of the Speaker. Can I say, Peter, that you are very welcome. I know that you have to get away. I fear that we may well be interrupted by divisions in the House. If we are, I hope that we can be away for the minimum period and get back in order that we can complete our evidence from you because both you and I have another meeting at quarter-to-four. Having welcomed you, can I start from the chair with the first question. What, in your view, makes for a good debate in the House of Commons and to what extent do you believe that the rules of the House and Standing Orders can contribute to this?

Peter Hain: Firstly, can I thank you for inviting me and I am delighted to appear before you. It was however with some trepidation as the coming date of this appearance came nearer because each of my two predecessors were moved just before. So, having arrived here, I feel much more secure. Obviously, good debates with good attendance with an

interesting subject with good speeches and perhaps a bit of excitement if the Government are under challenge. I do think that rules of procedure can make a difference. I am in favour of limits on length of speeches. I think that we ought to encourage concise contributions.

The Committee suspended from 2.36 pm to 2.44 pm for a division in the House.

Q441 Chairman: Can I apologise to the Leader of the House for what happens on the floor for which he is more responsible than I, let us establish that! Minister, if you continue your evidence dealing with what makes for good debate in the House of Commons and to what extent the rules can contribute to this, I would be grateful and so would my colleagues.

Peter Hain: I think I may well have finished what I have to say at this stage.

Chairman: You are being succinct and I hope that my colleagues will be similar in the evidence that we are taking.

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Q442 Mr Luke: Building on that, one of the areas we are looking at in the structure of debates is the actual issue of the speakers' lists. Many of us have felt that the actual nature of the debate and the way people are called has caused considerable concern. I wish to raise this point and I think that David Wright would also like to raise this point because, we both being new Members coming in in 2001, we felt certainly discriminated against and one of the areas about which I would like to ask you a question is, do you think that seniority should have to play a part or do you think there should be a much more detailed letter being given to the Speaker giving evidence of experience in a specific area in order that you can make a case for being called? So, the issue is really the speakers' list. Do you think it could work and do you think that experience should play a part and seniority should be discounted?

Peter Hain: Obviously, this is a matter for the House rather than the Government and there are certain restraints in that respect. I can see the case for a speakers' list and indeed it has been put to me very forcibly by many of our own Government back-benchers who felt that they have been squeezed out on many occasions. On the other hand, there are good reasons advanced by others in the House at a senior level who feel this is not a sensible way to proceed. I think that it will be very interesting to see what the Committee decide and I hope you will not feel that I am dodging the issue in saying that. It is fairly finely balanced and I think this would be a matter for the House to decide and a matter for the Committee to consider.

Q443 David Wright: In relation to lists, do you think we could perhaps display lists? How do you think that could be handled in terms of making them available? Clearly there is an issue if the press get hold of the list and clearly we have had some discussion with other people who have appeared before us about the difficulties of managing lists because people almost feel obliged to submit for every debate and then they become almost worthless in themselves. How do you think that could be managed? Do you think we could look at potentially knocking out some of the priority perhaps that certain key Members get in debates? I know that it is common practice for Select Committee Chairmen to get called on a regular basis. Do you think we need to start removing some of that privilege from the system?

Peter Hain: I know it is a particular source of frustration, especially to newer Members who do not hold a position of seniority or have not held a position of seniority that they seem to have, as many have said to me, second-class status. On the other hand, Members who have had a lot of experience often have a lot to contribute. I think again the Committee's views would be very interesting on this and again I am sitting on the fence, to be quite frank about it, because I think it is a very, very difficult issue to be very clear about, wearing my particular hat.

Q444 David Wright: What about a system of potentially moving contributions because at the moment we have a ping-pong between the two sides of the House? Do you think it is important to preserve that? Clearly when the Government have a very large majority, there are a number of back-bench people wanting to speak who find it very difficult to get in. The alternative argument of course is that, in those circumstances, it is even more important that the opposition gets a voice and is able to put forward its perspective. Do you think we should move away from the ping-pong across the Chamber, perhaps if we have a large majority, we could have two Government and one Opposition, or a different type of arrangement?

Peter Hain: Again, a number of my back-bench colleagues have made their view strongly to me that they feel that, with the large number of Government supporters under this Government and the previous Government, effectively they are prevented from speaking in numbers which would not have been the case if they had been a Member of an opposition party. There are fewer members of the opposition and I think this is something that perhaps needs to be looked at. On the other hand, if I were to advocate on behalf of the Government a change that would effectively benefit the Government—

Q445 Mr Burnett: You would be sure that there would be quite a lot of opposition!

Peter Hain: You said it, if I may say so. On the published list, I am struck by how some Deputy Speakers are quite open with who is on the list and others are not. It is not for me to pronounce on that but it struck me there that there is a difference of approach. I certainly think, from my own point of view having been in this predicament for many years before we got into Government, it is always comforting to know whether you are likely to be called or not, particularly since we are busy people and a lot of effort, in my experience, goes into making speeches.

Q446 Chairman: That leads me to add to what my colleagues on the Committee have asked you. Would you not accept that the current courteous conventions of the House, namely that you need to be there and must be there for the opening front bench speeches and certainly for the speech before you are called and two speeches at least after you have spoken and for the wind-up speeches, they are an essential convention which must be honoured whether or not we have lists?

Peter Hain: I think that is a convention that should be honoured. Obviously in some circumstances, I have had a position where a Member might come to me and say, "Look, Peter, I am really sorry but I cannot be at the wind-up because I have an urgent constituency matter to deal with" and I fully understand that. We are all sensible about these things. If you are saying that is a convention which should, if at all possible, be preserved, then, yes, I think it should.

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Q447 Chairman: Surely you would accept, as an experienced Member of this House, not just a Minister and Leader of the House, that normally if people cannot be here, they write a note not only to the Speaker but also to the Minister and the Shadow Minister winding up indicating that, for whatever valid reason, they cannot be there, and that is the way to deal with that.

Peter Hain: Yes or at least to speak verbally; I do not mind whether it is oral communication or a written communication.

Q448 Sir Robert Smith: In your memorandum in paragraph 4, you say, "The Government hopes that, in considering procedures for debates, the Committee will consider whether more can be done to make parliamentary proceedings more accessible to the electorate." Do you have any suggestions in mind that we might consider?

Peter Hain: Yesterday, I made a speech on the overall accessibility of parliament to the public because I think there is a real issue about the conduct of our parliamentary democracy but, if I stick specifically to your point in respect of debates, I think our jargon is outdated. Calling visitors and citizens of Britain strangers seems to me to be pretty odd. Referring to the House of Lords as the other place in the twenty-first century, again I do not think the average television viewer—and of course more people view Parliament now than ever before in our history because of television—understand what the other place is—they might think it is Heaven, who knows? Phrases like "the party opposite" when there are a number of parties opposite. So, I think we should look at this. Again, I can understand—and I think this was looked into on a previous occasion—the term "honourable" and "right honourable Member". I think speaking in the third person actually stops aggression, and I have seen the other side of this in the Welsh Assembly which is a kind of mateyness where I might say "Nick" and you might say "Peter" and that somehow seems odd really, but perhaps that is just because I am used to this place. On the other hand, if you have to say that whole thing about the "right honourable and learned gentlemen", the learned side of it seems to me to be rather a mouthful.

Q449 Chairman: Or the "right honourable and gallant".

Peter Hain: I have not come across that.

Chairman: You should have been here with Rear Admiral Morgan-Giles; he was always addressed as the "honourable and gallant Member for Winchester".

Q450 Sir Robert Smith: Do you think rather than ranking people, the "honourable Member for" could be cut through?

Peter Hain: Yes. I am open minded on this. I think the less that we can encumber our proceedings with all these ancient rituals whilst at the same time having a proper sense of protocol and a proper sense of respect for Members of the House, the better.

Q451 Sir Robert Smith: I suppose one important thing to look at is what impact it might have. I do not think that those specific suggestions would have much impact on this question, but where is the priority in terms of the role of debate in the main Chamber of Parliament between communicating proceedings to the electorate, holding the Government to account or scrutinising legislation, or hopefully convincing colleagues to change their mind on the force of the argument presented to them? There is just the question that we have to be cautious in terms of when we are looking at making it accessible that we do not actually forget those other primary functions.

Peter Hain: I think that is probably wise. I do not know how many speeches genuinely convince people across the floor of the House. Sometimes you listen to a speech and you think, from whatever party it might have come from, that was a very fine speech and well delivered and pretty convincing in its own terms, and sometimes you listen to Members of your own party and you think, that was not much cop, and I am not just saying this for Labour Members, I am saying this for all parties. There are two other things in terms of accessibility which make a real difference. I attach quite a lot of importance to the language and the whole image of this place that it presents to the outside world. I think the fact that we do not have a proper visitor centre that makes members of the public really welcome ... At least we can give visitors a cup of tea now. I remember when I first came here 12 years ago, coach loads of citizens were coming up from Neath and they could not get a cup of tea and they could not use the toilet. At least we have got somewhere on that, but I find it extraordinary that there is even a debate about whether we have a visitor centre right in the precinct of the Palace.

Q452 Sir Robert Smith: And there is no covered waiting area for queues.

Peter Hain: Absolutely and I think we are not treating our voters with the respect they deserve. I also happen to think that the dress of officials and officers of the House is too old fashioned; I do not think it is in keeping with the modern parliamentary democracy.

Q453 Sir Robert Smith: Short of someone changing the jargon, the actual nature of the debate itself, you do not think the procedure there could be changed to make it more—

Peter Hain: I would be very interested to know what precisely you had in mind.

Q454 Sir Robert Smith: It was more that we were asking you what you had in mind. You hoped that we would do this but I was just wondering if you had any more concrete proposals. In your submission, you hoped that we would open up the debate and make the proceedings more accessible to the electorate and I just wondered if, looking at proceedings, debates are too long or is there

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anything to do with the standing orders and the structure of the debate that is a barrier to accessibility or is that something we have to listen to?

Peter Hain: Chairman, I would rather that you looked at it as a committee because anything I say in this respect, other than what I have said, is likely to be seen as partisan and I would genuinely be interested if there were consensus for all of . . .

Q455 Mr Burnett: I understand the invidious position you are in commenting on these matters and I think most of us are sympathetic for some modernisation, if I can borrow an expression which I have heard before from the Government front bench. I suppose it is not an earth-shattering suggestion to make that, for example, Members do not necessarily . . . I agree with what you say about third party, that does defuse aggression, but to refer to another Member as Mr Hamilton or the Member for such-and-such or Mr Hain or the Member . . . Surely that is not an earth-shattering change to make.

Peter Hain: No, it is not earth shattering. If it were the view of the Committee, it would be very interesting.

Mr Burnett: Sir Nicholas Winterton or the Member for Macclesfield. Chairman, would you mind being called Sir Nicholas across the floor of the House?

Q456 Chairman: You are putting the Chairman of the Committee in some difficulty!

Peter Hain: I must say that, if the Leader of the Commons can be put in difficulty, then the Chairman can as well!

Chairman: On these matters I am somewhat conservative and I believe addressing a Member of this House by his or her constituency does reduce the aggression and the ability to insult directly, as appears to me to have occurred certainly in the Welsh Assembly and elsewhere. So, I am myself very much in favour. I think the Leader of the House has been pretty fair that he is relaxed on this and that, while he is not in favour of the "right honourable and gallant" or the "right honourable and learned" or the "honourable and learned", the third party mode of address is appropriate to the dignity of the House of Commons. That is my view and I was asked, but we are here actually to ask the Leader of the House for his views.

Q457 Mr Luke: The Leader of the House has mentioned his experiences in the Welsh Assembly and I know that the Scottish Parliament accepts a more informal approach to its proceedings and I take the point the Leader of the House makes about making the scenes of Parliament more accessible, but would he accept, obviously putting how you address people to one side, that the Petitions Committee of the Scottish Parliament does indeed actually allow members of the public to have access to legislators and to have their views fully expressed on issues that concern citizens and the community they live in and would that not be plausible and possible for this Parliament to adopt given the

procedures currently in place concerning petitions with the bag behind the Speaker's Chair and whatever?

Peter Hain: I do agree that the bag behind the Speaker's Chair has, in a sense, if not fallen into disrepute . . . It is very difficult for the average citizen to see a connection between the signatures they have collected diligently and some kind of outcome. In the speech I made to the Parliamentary Press Gallery yesterday, I did ventilate this as an idea and worthy of consideration. On the other hand, I was told yesterday that the Scottish Parliament, and particularly the Executive, has hit one of the problems with this, if I am right in saying this, in that one particular individual has put in 800¹ petitions and demands a right of hearing literally every time, and I think we would need to consider this matter carefully.

Q458 David Hamilton: I think it has already been expressed within this Committee about a visitors' gallery and we would support such a venture. One of the good things in the Scottish Parliament is that when the new Parliament building is finally finished, two years late, the accessibility of the Scottish Parliament will be one that has to take account of security but it will be one that can be easily dealt with and I think it is something we can learn from. Can I just address one problem that you have touched on. One of the great problems I had when I first came here was that I was held in check twice by the Speaker because I kept on speaking to the person opposite me as opposed to going through the Speaker and indeed, in committees, it is exactly the same. I find that really quite strange. I agree with you if that is what you are saying. In television terms, somebody looking at the television does not understand why you are talking to the Speaker when you are actually addressing the comments to a Member on the other side to your right. It does not make sense and it does not follow very well when you are looking at the television.

Peter Hain: I understand that.

Q459 Mr McWalter: I suppose one aspect of the feeling that many back-benchers probably get is the feeling that actually the Government are not really interested in hearing what back-benchers have to say, so almost whenever there is an opportunity to cut down the contribution, particularly of course in committees where very often government members are told to be completely silent throughout.

Peter Hain: No!

Q460 Mr McWalter: But also on the floor of the House. It would be really good if the House had a Leader who made it very clear that he wanted to hear what back-benchers have to say and that he valued both their experience within Parliament and indeed the experience they had gathered outside Parliament and of course the experience they gathered of their constituencies, so that they really want to hear representations. I think there could be a change of

¹ *Note by Witness:* I now understand that this is an exaggeration: the figure is around 40.

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emphasis there. As part of that, very often of course back-benchers just do not get listened to. Should there be a more stringent use of time limits so that at least instead of having 15 minutes of hearing all about Glasgow but nothing about Hemel Hempstead, we actually had six minutes of Glasgow, six minutes of Hemel Hempstead and maybe a bit of Macclesfield as well? I wonder whether it is in a sense an expression of the desire of the Government to hear the state of the nation in all its aspects should be really such that that is part of the motivation of time limits and, secondly, I would like you to think about whether you favour limits on speaking time for the front benches as well because obviously very often that is what eats into the time . . . You have allocation of time motions and you then have a huge amount of time for Government and Opposition and the Liberals and all of that and, by the time the back-benchers get in, there is almost no room left. Would you favour both those options, time limits for back-benchers and front benchers?

Peter Hain: I am predisposed towards time limits from my own back-bench experience and the front bench experience.

Q461 Mr McWalter: For us and not for you?

Peter Hain: No, I am predisposed to the principle of time limits for all debate in the House. I remember as a back-bencher being very frustrated and have seen as a front bencher equal frustration behind me, and in front of me for that matter, when Members on either side of the House, and sometimes both, in a debate where there is not a long list and therefore there is no time limit, make long and other rambling speeches and particularly if they are senior Members, perhaps Privy Councillors, squeeze out colleagues who only planned to speak for perhaps ten minutes. I think that a regular use of the time limit is a useful discipline. I would be happy to have that considered for the Government as well except in this respect and I think this is the tricky part. I think it is very important—and I will always seek to take them myself—for ministers to take interventions. If you could put a time limit on which, as it were, was a global time limit for speech and interventions, I can see a case for that. I was thinking before this session of whether you just put a time limit on the list of speeches, I say 20 minutes for the sake of argument, and then left interventions to the discretion of the Chair and the discretion of the Minister and the mood of the House. Sometimes there is such a feeling about an issue that interventions are actually the main part of the proceedings. So, if we can work our way round these issues and we can give the Chair some discretion as well, especially in terms of interventions but accepting that ideally time limits are a good idea, then I think we may well make progress.

Q462 Chairman: Can we just be right and current on this because if you take the Opposition half day in relation to the EU Constitution, the Shadow spokesman, Mr Ancram, spoke for 28 minutes and the Foreign Secretary spoke for 48 minutes, or it might have been 49 minutes. Having studied

Hansard, a great deal of the Foreign Secretary's speech was clearly taken up, as you have indicated, Mr Hain, with answering interventions. Do you have any idea how the spontaneity of debate can be maintained within stricter time limit criteria?

Peter Hain: I think this is the nub of the issue and that is a very good example because the European Constitution is a hot issue in the House and I know, because I happened to be speaking to him about it this morning, that the Foreign Secretary is as an individual who is very keen to take interventions and I think it is terribly important for the atmosphere of the House and the quality of our debates and our parliamentary democracy that there is full scope for Government Ministers especially to be held to account in that fashion because you can often hold a Government Minister more accountable, in my experience, through an intervention than through a speech which he or she may have spoken beforehand and then the wind-up is often—

Q463 Chairman: Following this up with your ability—I am not sure if I am coming in on anything Tony McWalter may well have said—clearly, from time to time, the Government need to have statements about something important that they feel should be drawn to the attention of the House and I am all in favour of that. Do you think automatically the House should be permitted to proceed beyond the time of interruption by precisely the time that that statement or statements have taken on the floor of the House?

Peter Hain: On Opposition days?

Q464 Chairman: With respect, I think on any day because there are so many Bills today that are programmed—and I am not referring necessarily just to second reading, I am referring to the main stages—that it does seem quite wrong that there should be limits on debate when there are already limits on debate, particularly supply day debates for the opposition parties?

Peter Hain: In a sense, from a Government's viewpoint, you are damned if you do and damned if you don't. Clearly, the House expects, and rightly, that Government Ministers make statements on key issues today and, if we did not—and indeed in the past this Government have been criticised for not making enough statements and this is something we have remedied certainly over recent years—and if that were not the case, then the House would feel shortchanged. On the other hand, let us be frank, if the moment of interruption went past ten o'clock on a Monday night, then I guess that Members would feel less keen on the moment of interruption fleeing past than if it were past seven o'clock. I would not like to see the House's decision which was taken last year to reform the hours undermined, as it were, informally by an automatic practice of extending time for statements.

Q465 Chairman: But what about the importance of scrutiny?

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Peter Hain: Scrutiny happens in statements as well, so I think that scrutiny for legislation and scrutiny for statements are different kinds of scrutiny, I understand that, but it is accountability as well as scrutiny that is important.

Q466 Sir Robert Smith: There is one part of the question that I would like to follow up. Given that when the Ministers make a statement, they basically read a pre-written statement that is already available into the record before taking questions, would it be possible to pre-issue the written statement and just go straight to questions? Therefore, that would reduce the amount of time taken up in the House by the amount of time it takes to read that into the record.

Peter Hain: I understand what you are saying but I really think that would devalue the whole nature of proceedings in the House. I think that people would not hear the argument being put and be able to listen to it and maybe people would not have read it. Statements are often not available as early as everybody would like them due to the pressures of government and so on. I am not a fan of the idea of things being read into the record, to be perfectly frank.

Q467 Sir Robert Smith: In effect, that is what is happening when a statement is made because they tend to stick to the . . .

Peter Hain: Yes and, to be frank, it is important that we do as ministers because you often have a very considered and tightly argued and maybe, dare I say it, carefully negotiated line to take in a statement.

Q468 Mr Burnett: I wanted to agree with you when you highlighted the importance especially to opposition parties of interventions at the start of debates, during ministers' speeches especially, perhaps even crucially from the point of view of opposition parties, and of course I wonder if it has occurred to you whether, if you had some artificial curtailing of ministers' speeches, 20 minutes per speech plus whatever it is for the add-ons for interventions, that would give an excuse effectively for less scrupulous ministers to say, "I will not take interventions."

Peter Hain: If that were to be followed by any minister, I think they would soon be found out by the House. Those ministers who are generous at taking interventions I think gain more respect in the House. So, it is not in their interests to be unscrupulous in the way that you put it.

Q469 Chairman: Can I just come back on this matter of particularly opposition day debates because can I say, Leader of the House, you yourself I think are very courteous and helpful because on a recent opposition day when the statement was due to be made, the Government tabled a motion extending the debate for an hour. Can I ask whether you would give serious consideration to this becoming a practice, perhaps a regular practice, that would only

be used when clearly the subject was of considerable importance and it could be agreed through the usual channels.

Peter Hain: Thank you for the acknowledgement of what I have said and implemented in respect of opposition days. I am very reluctant to make this a hard and fast rule. It may seem less of an issue if you are going from, let us say, quarter-past seven to quarter-past eight or to eight o'clock rather than seven o'clock. I think it becomes more of an issue if you have two statements on a Monday and you are going to midnight rather than ten o'clock. So, I think I would rather keep this as discretionary rather than set a hard and fast principle because I think we could get ourselves in a strait-jacket from which there would be pressure to escape from the House itself.

Q470 Chairman: I am grateful for that modest concession. In short, you are saying that you would not want a hard and fast rule but you would, as it were, be prepared to be approached, particularly on a Tuesday or Wednesday when a lengthy statement had occurred which had reduced the debating time available to opposition parties and you might be sympathetic. I am not seeking to tie you down but what I am saying is that, with discretion, such an arrangement would be very acceptable to opposition parties and I suspect to the House at large.

Mr Hain: As I say, I do not want, and I would not be willing, to lay down a hard and fast rule, either for Opposition day debates or for Government day debates. We are in a quite unusual position because Opposition days have been compressed towards the end of the session, due to a lot of business from Iraq, from the fire-fighters' dispute and from Northern Ireland and other things that we are all familiar with. Therefore, it does seem to me and to the Chief Whip to be unreasonable to keep putting out statements on Opposition days when they are all crowding in together. When Opposition days are more spaced out then I think it is perhaps less of a problem, but obviously we will seek to avoid it.

Q471 Chairman: Because, of course, you do have two duties: one, clearly, to the Government to get its business through but, secondly, you have to stand up for and bat for the interests of the House of Commons and back-benches on both sides of the House.

Mr Hain: Indeed. Back-benchers' interests are in getting the hours that they voted for respected as well, and in hearing statements too. Whatever individuals may think about that decision that was the decision of the House.

Q472 Mr McWalter: I do welcome the flexibility you have shown here but I am wondering whether we can somehow tailor it to the actual number of people who have indicated they have a desire to speak. If you have got an Order Paper and there are 40 people who have indicated a desire to speak and it is quite clear that about seven are going to be called and the others are not, that is obviously very much against the interests of those Members and, indeed, the interests of the House and of the Government.

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Mr Hain: Do you mean the extension of the moment of interruption?

Q473 Mr McWalter: Yes, that is right. You would then be able to take more people. The second thing about that is that we have currently an informal rule that they will have a limit of eight minutes at the minimum, whereas if there was a lower limit potentially the House itself could decide: do you want to sit to midnight and have most of the people that have indicated a desire to speak speak for, say, six minutes maximum, or do you want to have a moment of interruption of ten, in which case very nearly everybody who has indicated a desire to speak will not be able to and all we will hear from are Privy Councillors and other, possibly, interlopers.

Mr Hain: I would be very reluctant for the House to start making decisions on a kind of week-to-week basis or, the implications would be, almost on a daily basis (when Mr Speaker makes it known how long he wants to sit) because I think people would start playing games with the hours. It might be in the interests of a particular Opposition to run it late in order to run the Government ragged—say a Government with a small majority. There are various issues at stake here and I would be very opposed to institutionalising that, but I hope I have said enough in terms of reform that would allow us to get to where you want to get, which is that a Member who wants to speak should have the chance to speak.

Q474 Chairman: Can I just be a little provocative from the Chair? Would you agree with the philosophy that the Chair—whether it be in Standing Committee, whether it be in Westminster Hall or whether it be in the House itself—could exhort Members to be as brief as possible in debates and to speak for less than eight minutes (that is already in Standing Orders, of course) in order to ensure that as many Members as possible got in, with the sanction that if they are not courteous and understanding of the interests of other colleagues in the House there may be quite a period before they catch the Speaker's eye again? Is that a sort of philosophy which would meet your inclination?

Mr Hain: I think the Chair's discretion is, in some ways, the solution to a lot of these problems. So, in general, I would be interested if the Committee were to recommend that, and I cannot see any violent objections to it.

Q475 David Wright: Obviously I would not expect you to answer this on the basis of your current role, but do you think there has been a tendency for Governments to try and push too many bills through in sessions? Historically, there were more examples, I think, of second reading debates running over, perhaps, two days, whereas now with most bills the second reading debate is handled in a day. Do you think this is symptomatic of too much legislation in a programme? I know you are going to be defensive about the current Government's position, and I would expect you to be, but taking perhaps a 10, 15 or 20-year view of it?

Mr Hain: I have not looked at it historically but my impression is there is more legislation these days. Whether it is transposing European legislation or whatever it might be, I think there probably is. As you implied, I could not possibly comment on whether there is too much legislation or not, my job is to try and frame the legislative programme and get it through the House. If I may make one other brief addition, I am in favour of brevity and I think most speeches are too long. My officials draft me speeches that are usually double the length they should be, and I get on my word processor and cut them down.

Q476 Chairman: Are you successful in doing so?

Mr Hain: Yes, by and large. Not my current officials, I should add (the ones sitting behind me), but in my previous department there was a tendency for civil servants to stick slabs of information into speeches.

Q477 David Hamilton: There is an old saying in Scotland "If you cannot say it in five minutes it is not worth saying". Do you understand that many interventions are now being utilised by people like myself who know they are not going to get picked under the listing system and the only way you are going to get a comment in or make a point is by intervention? If you rectify the question that allows people to get in by redressing the balance of the number of speakers from each side and you reduce the amount of time to speak, that may indeed reduce the number of interventions taking place also.

Mr Hain: I think that is a very good point.

Q478 Chairman: We have got three topics to cover before we finish. I think we have 12 minutes, because I anticipate that you do not need a quarter of an hour to get from here to the next meeting, which is just up one floor. We have private Members' bills, recall of the House and private Members' debates, which, as you know, Minister, were phased out as a result of the Jopling Committee and Report. Dealing with private Members' bills, it has been suggested to us that priority between private Members' bills should be allocated by a committee rather than by ballot. What are your views on that?

Mr Hain: The advice I have had is that the Canadian experience of this committee approach to sifting and ordering has not been particularly good. Each of the alternatives I have looked at carry their own difficulties, so I am interested in what your alternatives might be. Some suggest that an Early Day Motion might be an automatic trigger. I can see the pros and cons of that, but the ballot is random and it is fair; everybody is equal under it. I think, for the moment at least, subject to a good argument in your report which would provide convincing reasons to the contrary, that is probably what I would favour.

Q479 Chairman: In your paper, paragraphs 7 and 8, you point out that the Government needs a certain amount of time to decide whether to support or oppose a private Member's bill. I think all of us can understand that. Well, can they? Do you think that this need is actually understood by the average

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Member of the House of Commons? Would they really have a better chance of Government support if they ensured that the bill is published some weeks before its second reading? That, of course, is not the case at the moment.

Mr Hain: I would not be in favour of a rigid, obligatory requirement for that but I think if it could be good practice that became part of the House's normal behaviour it would be to the considerable advantage of the Government in terms of preparation and, also, to the advantage of the sponsoring Member as well.

Q480 Chairman: Currently—and, please, colleagues, come in as and when you wish—the top ten Members in the ballot can claim a very modest fee of something like £200 for drafting assistance, a figure which, I would remind you, Mr Hain, has not changed since the allowance was introduced literally two months after I came into the House in 1971. Is absence of drafting assistance an impediment to those introducing private Members' bills, and do bills really fail because they are actually badly drafted? Secondly, you say, in paragraph 10, that frequently bills "will require almost complete rewriting in committee". What can be done about this? Are you going to increase the drafting assistance grant available to back-bench Members or are you going to offer help from Parliamentary Counsel at an earlier stage?

Mr Hain: The pressure on Parliamentary Counsel is enormous and Ministers anxious to get legislation through fight for that resource. The £200, I think, is rarely taken up. As I understand it, most private Members' bills have assistance with drafting from, perhaps, groups outside Parliament that are keen on them. In terms of detailed Parliamentary Counsel resources on bills, I think once they have passed the second reading hurdle then that is the time to do it, which is, I am afraid, when you get a lot of amendments in committee. The difficulty is that you can devote an enormous amount of Parliamentary resources before second reading and then it does not get through, so that is a waste of resource.

Q481 Chairman: You do not think, for instance, that the figure that is available might be increased, without damage and to the great assistance of back-bench Members, to, say, £500?

Mr Hain: I am not sure what that would buy you. From my knowledge of lawyers they are pretty pricey.

Chairman: We have our resident lawyer.

Q482 Mr Burnett: Instead of half-an-hour's time you might get an hour's time.

Mr Hain: There you are. There is also the point that outside lawyers very rarely draft bills in anything like the discipline that Parliamentary Counsel requires.

Q483 Chairman: So you are saying, are you not, that Members of Parliament should have made available to them Parliamentary Counsel?

Mr Hain: I am saying that after second reading that is something that could be looked at. I think prior to second reading there are enormous difficulties, for the reasons I have explained—the waste of resource.

Q484 Mr Luke: The point has been raised earlier about whether we extend Opposition day debates on the basis of interventions made to get the full time allocated. On private Members' bills there has also been an issue raised where Fridays can often be very sparsely inhabited in this House when listening to a private Member's bill. It has been suggested that we take private Members' bills on a Tuesday and Wednesday from half-past-seven onwards to allow them to become part of the body of the actual workings of the House, which many people, myself included, use as constituency time. I wondered what your views are on that.

Mr Hain: I have given some thought to this. I have got an open mind on this; I think there are arguments for and against. I think it would be a big mistake to say both the Tuesday and the Wednesday. I do not think the Government could agree to that; that would leave no flexibility for the kind of circumstances that we have today, for example—or very little flexibility. If you look at the situation at the moment, we would need around 22, say, Tuesdays to be the equivalent of the 13 Fridays and still stop at around 10 o'clock (according to the computations that my officials have done, and we can pass these to the Committee if that would help) to get around the same kind of hours. Thirteen Fridays is 13 times 5 hours, which makes 65 hours; 22 evenings would be 22 times 3, 66 hours. So you are talking about roughly the same amount of time. That would still leave—because there are round about 36 Tuesdays, let us say, in a session—quite a number of Tuesdays which are free to respect the hours decided by the House for normal business, and also any flexibility that might need to arise at the end of the year, and so forth. If the Committee looked at that I would be interested in the arguments for and against. I have heard arguments both for and against strongly expressed, so I would like to know what you decide.

Q485 Chairman: If your officials, Minister, have, as it were, produced some statistics, if you could let us have them it would be very helpful and would save us duplicating what has already been done by your department.

Mr Hain: We are certainly happy to work with you on a factual basis. There are not reams of statistics, it is just some helpful information.

Chairman: The recall of the House. David Hamilton.

Q486 David Hamilton: In your memorandum you indicate that in practice, the Government has agreed to a recall of the House whenever possible. On the recall of Parliament, was it not through considerable pressure that the recall of Parliament in 2002 took place?

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Mr Hain: I am just trying to remember what the issues were. 2002 would have been Iraq, I guess, and, obviously, with the death of the Queen Mother there was no question on that, it was pretty automatic.

Q487 David Hamilton: The point I was going to make is that the current system does not allow the Government to avoid the recall. Should I say, when the Government had the recall it was due to political pressure that was coming on at that time. Should that not lie with the Speaker?

Mr Hain: The situation changed, I think, in the 1940s, if I am right, and I am not in favour of a change, especially with September sittings now. I do not remember a demand to recall the House despite the Hutton Inquiry and all that was going on over the summer recess, because we knew we were coming back in September. I think when you look at when the House has been recalled, and given the inconvenience and the difficulties that result from recalling the House, I think the way it has been done has been broadly that when there has been enormous public and enormous political pressure from within the House then it has happened.

Q488 David Hamilton: The recall of Parliament is currently made by the Speaker but the terms on which the recall can take place and the debate and length of the debate is taken by the Government. Would that not be better left to the Speaker? If you take the Iraqi issue, for example, the debate could have lasted a lot longer. Indeed, during that period there were many, many Members of Parliament who were recalled during that period who could not get in. A good example being that nearly 30 or 40 Labour MPs could not get in on that whole debate. I never met one single person that would not have liked that recall to have lasted longer. It was not in the power of the Speaker, who intimated that he agreed with that point because one of the people during the debate made that point, it was for the Government to determine the length of the recall. Surely that should lie with the Speaker as an independent source?

Mr Hain: I am not in favour of a change to the existing system, which as you know is governed by Standing Order No 13(1), which defines it very clearly. I think we can learn from experience. The particular point you are making about a lot of Members being unable to speak ought to be borne in mind in the future.

Q489 David Hamilton: I have only been here since 2002 and the first recall I was involved in—I happened to be in Washington when the plane hit the Pentagon and New York and I came back for that recall—I understood the sombre attitude and felt that recall was long enough, just one half-day. On the Iraq issue—and I say this as a Labour Member—there was a great deal of embarrassment by the Government who did not want a great deal of debate. That is the way I felt during that period. If it had been a Conservative Government on an issue of such magnitude I would hold the same principle,

that it should not be left to a Government to make sure that they stifle a debate when they know there is great feeling throughout the country about that.

Mr Hain: I understand the point you are making and I understand your frustration about being squeezed out of the debate. On the other hand, nobody could say that the debate on Iraq did not reflect the range of opinions; there were some very strong opinions.

David Hamilton: I would disagree. It is not a question of me not getting into the debate, I think there was an overwhelming amount of people who did not get into the debate on one view that was not expressed in Parliament. There was an uneven divide—going back to the ping-pong description that you gave earlier—there were substantial numbers of people who had a view who did not get it expressed. I do not raise it as an individual, but that was not reflected in that debate because it was a limited debate. The Speaker is impartial.

Q490 Mr McWalter: Supplemental to that, the probability of you being called for that debate if you were elected in 1997 or subsequently was 2%—one person right at the last knockings from that contingent and nobody else at all.

Mr Hain: Really.

Mr McWalter: So unless there was nothing of value that those people could have added then, to be honest, whatever collectively those people could have added was not made available to the House. I think it just reflects what we said earlier, which is that actually the current procedures do not allow us to organise business in response to what Members feel the business ought to be. If 280 go into the Speaker's office to speak and they say "Four of you are going to speak", nothing can be done about that. I do think that we need to have a system that is more flexible, that says "There is clearly a lot of support for extending this debate, we respect the fact that some of those people will have things to say that may well be valuable and we should try and respond to that expression." So it is that issue all over again. You did not take it terribly seriously when I last raised it and I am hoping that what David has said gives another dimension to that argument.

Q491 Chairman: Before you answer that question briefly, Minister, can I sum it up? Is there not a good case for the House of Commons to take power over the House of Commons and for the Speaker as the representative of the House of Commons to have the right, if there is widespread—from all political parties—pressure for the recall of Parliament, on behalf of the House of Commons, to approach the Government to bring about a recall of Parliament and for the Speaker again to decide the length of that recall to take account of the excellent points made by my Committee colleagues, David, Iain and Tony McWalter? Surely the House of Commons does have the right—it is the House of Commons it is not the Government; Parliament is not the Executive, Parliament is Parliament, comprised of 659 elected Members—to approach the Government if the Speaker is convinced of the case and that it is widespread, from experienced Members and newer

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Members, that there is a need to recall Parliament, and for the Speaker himself to make the decision as to how long that recall should be?

Mr Hain: I appreciate the strength of feeling on this and I await the outcome of your Committee's report. In the end, Governments are elected to govern and the House's duty is to hold that Government to account. We have to find a balance between those. In respect of Iraq, notwithstanding the frustration which must have been very real, and I appreciate the points that have been made, that particular debate that we were recalled for was a very long day (I have just been reminded it was between 11.30 and 10.00 at night) and there were many other debates on Iraq. I just think recalling Parliament has got to be done very sparingly, because it causes huge disruption to servants of the House, to everybody concerned, Members recalled from wherever they may be. So I do not think it should be done lightly. The Speaker, of course, does have a very important role, and representations are being made to the Speaker and, I can tell you, are made to Government Ministers as well.

Mr Burnett: Can I say very quickly that though these views have been asserted very eloquently by Members of the Leader's own party, I should add they are held very, very strongly by Members of the other two main Opposition parties. I would like to put that on the record.

Q492 Chairman: From the Chair, can I ask you to give what has been said in the last period further consideration because I think it is something that this Committee feels very strongly about. Finally, literally—and hopefully in about 30 seconds—private Members' debates. We have had calls for debates on selected—as you implied earlier, Mr Hain—Early Day Motions or private Members' motions. What would be your view on allowing private Members' debates on substantive motions rather than merely on, as is at the moment, adjournment motions? Could adjournment debates in Westminster Hall, which I know well, be linked to an existing EDM by means of a note on the Order Paper?

Mr Hain: Again, I would be interested in any proposals you made. If you had a debate in Westminster Hall you would, presumably, have to have a deferred division. I do not know what Opposition parties would make of deferred divisions. I do not think it would do it in any other

way. On the other hand, if you put votes into Westminster Hall then perhaps you change the particular climate of debate, which has actually been quite an impressive feature of Westminster Hall, as you will know presiding over them. I think these are the issues you will have to weigh in the balance and it will be interesting to see what you have to say.

Q493 Chairman: Do you remember, for instance, the private Member's motions that were debated on Friday mornings and, occasionally, on a Monday in the House of Commons? It was, of course, in the main chamber and they did, from time to time, end in division. Do you think that this is the sort of debate that might involve more people and allow issues that are of concern to Members—often as a result of approaches from constituents and others—to be more meaningful and relevant to people out there?

Mr Hain: That is an important argument. If the Committee was to recommend a reapportioning of private Members' time between bills and motions, then that is one thing. If we were talking about more time for private Members' motions at the expense of Government business then that is another. I am told that the old private Members' motions days were not very well attended, though of course they allowed for issues that were live in the public arena to be ventilated, which I think is a very important duty of this House, and perhaps we are not fulfilling that as we ought to.

Q494 Chairman: You made a point about some of them not being well-attended, and I think you are quite right, some of them were not. Many of them, of course, took place on a Friday. Do you believe that Fridays might be made available if Members wanted it for private Members' motions?

Mr Hain: I think with the 13 Fridays that Parliament sits for and the 23-odd that it does not, I do not know that there is a great vote for taking up the rest of the Fridays, Chairman, but I may be wrong.

Q495 Chairman: You have been good enough to stay longer, because we had hoped to finish by half-past three. Can I thank you, Leader of the House, on behalf of the Procedure Committee for the open way and full way in which you have dealt with our questions. Leader of the House, thank you very much indeed.

Mr Hain: Thank you.

Written evidence

Memorandum by Derek Wyatt MP

It is perverse that MPs have no idea how many have put in to speak, and then when they sit for hours they still have no idea who will be called though the Speaker has both the numbers and the list—publish it daily; we should follow the Lords system; divide the time by the number of speakers with a minimum of five minutes; less when it is a matter of major importance like 9/11 or Northern Ireland when we have been recalled (then everyone should be able to speak who wants to, so limit the time to two or three minutes except for say five major speeches).

MPs not called or who have to be away on parliamentary business (tightly defined) should be able as they do in Washington DC to have their speeches recorded in *Hansard*; if the first suggestion above falls then MPs not called should have their speeches placed in *Hansard* for the record; after all they have done their homework; it is the system that has failed them.

Early Day Motions should be retitled Early Day Debates; each week the top two should be given one hour each in Westminster Hall on a Monday afternoon, say 4 pm to 6 pm.

MPs should have the right to recall the House; 100 signatures on either a petition or a letter to the Speaker (so 100 letters asking for the request); it is our House, not the Executive's.

Prime Minister's questions: only questions for which the PM is responsible for should be asked; departmental stuff should go to ordinary Question Time; PM should have to appear in front of the House for Questions as many times as he does for the Press (so monthly) and not always in front of the select committee chairmen and women; we can shuffle for those MPs who get the chance just as we do for Prime Minister's Questions.

I could go on.

Derek Wyatt MP

Founder, Hennessy Seminars

December 2002

Memorandum by Mark Lazarowicz MP

I am writing to submit brief comments on the Procedure Committee Inquiry into "Procedures for Debates and Private Members' Bills and the Powers of the Speaker".

My comments are restricted to the procedures for Private Members' Bills.

I can speak with some personal experience on this aspect of the inquiry, having drawn sixth place in the Private Members' Bill ballot within a few weeks of my election to the House in June 2001.

Although I was fortunate to see my Bill pass all its stages in the Commons and eventually become law, it is clear that the current procedure whereby the Commons deals with Private Members' Bills is haphazard and not conducive either to effective law-making, or to efficient use of the time of the Chamber.

I would suggest that the Committee consider a number of changes to the ways in which Private Members' Bills are currently dealt with.

The new sitting hours of the Commons offer an opportunity for Private Members' Bills to regain their place as a significant part of Parliament's business. Most members now undertake substantial activity in their constituencies, and for members who represent constituencies at any distance from London, Fridays represent an important opportunity to meet with organisations in their constituency, and the only real opportunity to do so during those bodies' working week. Members with family commitments are unlikely to wish to spend the entire weekend on constituency business, nor is it right that they should be required to do so.

As a result, it is difficult for many such members to attend in the Commons on a Friday, and the attendance on Fridays is often low. That fact in itself tends to encourage practices such as "talking out" a measure, or encouraging time to be used up on one measure, even if it is uncontroversial, to ensure that insufficient time is available to debate a later measure set down for that day, which is opposed, by Government, opposition parties, or indeed a single member.

Now that the main business will normally finish between 7–7.30 pm on most Tuesdays and Wednesdays, the opportunity exists to use some of the time made available during one of those evenings for Private Members' Bills, instead of taking those Bills on Fridays. Such a move would lead to many more members being able to take part in the debates and votes on such Bills, and that opportunity would in my view be taken up by members.

In more detail, I would suggest:

1. Every Wednesday evening be allocated as available for Private Members' business. The first 12 evenings would be allocated to second readings, and the remainder for final stages of Bills until all outstanding Bills were dealt with.
2. Private Members' Bill business would start following the completion of the main business at 7 pm, and would be timetabled for discussion for up to two hours. Closure would be automatic at the end of that period of two hours, unless there was a positive vote to require further discussion in which case the second reading would be continued to the first available date at the end of those evenings already allocated to Private Members' Bills. This would still allow business to finish at a reasonable hour. Very few Private Members' Bills could not be dealt with within a two hour period at second reading. In the event that a Private Members' Bill dealt with a subject of such importance or controversy that a longer period of time was reasonably required to deal with it, the proposal above would give an opportunity for a majority of members to vote for debate to continue at a later date. However, the arrangement proposed above would mean that such continuation could not be brought about by an attempt to "talk out" a measure, but would only result from a positive decision so to do.
3. Only one Private Members' Bill would be allocated on each evening. This would allow greater certainty as to what subject would actually be debated. It would also reduce any incentive to extend a debate on one measure so as to reduce time available for debate on a later Bill with a view to "talking it out".
4. It can be expected that the above proposals would result in more Private Members' Bills reaching committee stage. Accordingly, more capacity would have to be found within the Standing Committees to allow for such Bills to pass through committee stage.

The above scheme would guarantee that 12, instead of the existing seven or eight, Private Members' Bills would gain a second reading, with a real possibility of them completing their Parliamentary passage, if there was sufficient Parliamentary support. The proposals above would also mean that any measure which did not have the support of a majority of members would require a positive step to be taken to prevent its passage, rather than to be disposed of through procedural devices. It would also mean that a measure which *did* have the support of a majority of members would be much more likely to complete its passage through the House of Commons, and could not be obstructed by such procedural devices.

I consider that the proposals I make above would be likely to enhance the role of back bench members, of all parties, in the law-making process, and I hope that the committee will give them favourable consideration.

January 2003

Memorandum by Mark Field MP

Thank you so much for taking the trouble to drop me a line asking for representations as part of your wide-ranging inquiry entitled "Procedures for Debates and Private Members' Bills and the Powers of the Speaker".

I have only a few minor contributions to make:

1. I believe that as an essential part of the continuing modernisation of parliamentary procedure there should be a list of speakers in debates which should be published in advance. The current system may be convenient for the Whips' Offices and the Speaker, but the policy of giving preference to more senior members to speak earlier is a classic example of the outdated and inward looking approach of the House. The notion that the constituents of a junior member are of less importance than of those of someone more senior is, of course, patently absurd although that is precisely the implication of the current arrangements.

I would favour a system similar to that in the House of Lords where there is a batting order announced in advance and certainly I feel the policy of time limits on back bench contributions has proved a great success.

2. I would oppose the idea of printing undelivered speeches in the *Official Report*. I appreciate that this method applies in the United States Congress, but clearly the importance of the parliamentary chamber would be reduced even further if this were to be adopted here. In any event with the advent of parliamentary websites it is possible for any Member to post his views on important issues of the day for constituents or other interested parties to read.
3. I am concerned at the enlargement of the Speaker's role in the recall of the House. Above all, I think it is essential that any Speaker avoids being accused of partiality. It is easy to foresee a set of circumstances where in a highly contentious matter of public importance the Speaker found himself drawn into the teeth of a party political dispute. That would surely be nothing short of disastrous, both for the Speaker concerned and for the institution of the Speakership.

January 2003

Memorandum by Barbara Follett MP

Thank you for your invitation to submit written evidence to the Procedure Committee for their inquiry into “Procedures for Debates and Private Members’ Bills and the Powers of the Speaker”.

Of the six points you raised, I would like to respond to three of them:

1. Availability of Speakers in Debates

I feel very strongly that these should, at the very least, be made available to members who have expressed an interest in speaking in the debate. I cannot understand why, when this is an everyday occurrence in the House of Lords, we cannot do the same in the House of Commons.

On the related issue of which members are called and when, I would like to see a relaxation of the “tennis court rule” which obliges the Speaker to call members from opposite sides of the House in turn despite the fact that one side has many more members. This disadvantages members on the majority side and makes it far harder for them to represent their constituents’ views in Parliament. I would like to see a system based on the relative strengths of the parties in the House brought in.

2. Printing Undelivered Speeches in the Official Report

I am in favour of this.

3. Private Members’ Bills

I would like to see these debated on Tuesday and Wednesday evenings at the close of main business. This would ensure greater attendance than the Friday morning debates and might mean that some of these cherished and worthwhile bills actually pass into law.

January 2003

Memorandum by Dr Nick Palmer MP

Thank you for your “call for papers” for your enquiry into “Procedures for Debates and Private Members’ Bills and the powers of the Speaker”.

A few comments:

1. SPEAKERS’ LISTS ETC

On balance, I think this would be desirable. The present system effectively means that I need to commit six hours or so of almost continuous presence to have a chance of being called. While this might appear to encourage attendance, in practice the main effect is to deter participation at all. Unless I feel very strongly about a subject, I just can’t spare six hours to make a contribution, especially if there is a fair chance that I won’t in fact be able to make it.

What I would suggest is this:

- Members wishing to speak should indicate in advance whether they expect to make a substantial contribution (say five plus minutes) or make a short point (one to four minutes);
- the order in which Members were likely to be called would be published in advance;
- Members making substantial contributions would be expected to adhere to the current conventions—attend both starting and winding-up speeches, as well as the two following their own; and
- Members making short points would only be expected to attend the introductory speeches.

This would encourage prolonged presence from those who were playing a major part in the debate, but also encourage short speeches by those who wanted to go on record on a certain point. By interspersing short points with major speeches, the pace of the debate would vary, adding to the interest.

2. DURATION

I do not think that speeches over 10 minutes by back-benchers should be allowed except under exceptional circumstances. There are few things that can be said in 20 minutes that cannot be said better in 10. I am tempted to suggest that the same applies to front-bench introductions (though not to wind-ups, where they need more time to respond).

3. FILLING TIME

The practice of backbenchers on both sides being asked to make long speeches to “avoid the debate collapsing” is pernicious and should be discontinued. If a debate does not attract sufficient interest to last its allotted time, we all have other things to do. Having a published speakers’ list and 10-minute limits would help Ministers to judge when they might be called upon to reply. If the problem relates to ensuring availability for votes, the option of deferred voting for such debates (which since they attract so little interest cannot be very controversial) is available.

4. UNDELIVERED SPEECHES

The demand for this is probably linked to the difficulty in ensuring that one is called. If this can be addressed on the line above (or in other ways), I don’t think we should enlarge *Hansard* with undelivered thoughts: Early Day Motions are available to enable Members to express their views on anything they wish. I do however, note the possibility in Congress of “reading into the record” outside documents (such as evidence from a charitable or campaigning group): this saves time on the floor of the House and might be helpful for reference, up to some reasonable limit.

5. PRIVATE MEMBERS’ BILLS

The very limited availability of time for these seems to me a serious defect in our democratic system. Governments and Oppositions of all colours sometimes block Bills procedurally by talking them out, even when they are not particularly contentious. It would be highly desirable for more time to be given for PMBs. If parties wish to oppose a proposal, they should do so openly, not through procedure.

6. RIGHT TO INITIATE DEBATES

As has been widely observed, it is now more difficult for Opposition parties to make life difficult through procedural measures such as filibustering. I don’t regret this, but think that it should be made correspondingly easier to raise substantive issues. I suggest that any 50 backbench MPs should be able to require (as opposed to enter a lottery to obtain) a half-hour debate in Westminster Hall, subject only to availability: the hours of meeting in the Hall could be expanded as necessary.

I’m happy to give oral evidence if desired.

January 2003

Memorandum by Martin Salter MP

Thank you for your recent letter inviting representations from members elected in 1997, or later, regarding your inquiry “Procedures for Debates and Private Members’ Bills and the Powers of the Speaker”.

I would like to make the following comments.

After lengthy discussions on the subject of speakers’ lists with other colleagues on the Modernisation Committee, I am still of the opinion that a published speakers’ list could be introduced on the day of the debate. The only realistic objection would be a concern that this might affect attendance in the Chamber of members not on the list. On the other hand it may encourage members to stay and make their points through interventions. The Speaker could also make it clear that he would note those members who persistently left the chamber when not called to speak.

Like many members of the 1997 and 2001 intakes, I feel strongly that the current practice of giving preference to seniority should cease. Our constituents have an equal right to have their concerns raised in Parliament irrespective of the age or status of their MP. There is also no reason to maintain the convention that speakers in a debate are drawn from alternate sides of the chamber, particularly when one party has a large majority. This only serves to limit the opportunities to speak for government backbenchers.

I am not convinced of the value of allowing for the printing of undelivered speeches in *Hansard*. Members can, after all, always use an undelivered speech in a press release or newspaper article—they seldom go to waste! However, I would like to raise one obvious anomaly which I feel needs addressing. Currently an MP can inspect the draft of his or her speech or question in the office of *Hansard*, within an hour or so of speaking. Alterations can even be made as long as the sense is not substantially changed. However, we are not allowed to take a photocopy of the contribution, which remains the property of the House, until the Speaker “officially” signs off the Official Report in the early hours of the morning. This is complete nonsense as the broadcast media can replay the Member’s contribution within minutes and journalists can report it in the press within hours. Yet the Member cannot “own” his or her words and the accompanying Ministerial response until the next day. This can cause a problem in preparing a press release for use in a local paper or for providing visiting constituents who have come to lobby on a particular issue, with confirmation of a relevant exchange that may have taken place at Questions early in the day. I hope that the Procedure

Committee will look at this point and recommend that a copy of any parliamentary exchange can be given to Members concerned after two hours, once there has been opportunity for the drafts to be inspected and approved.

Finally, I hope that the Procedure Committee will support further measures to allow backbenchers from all parties to initiate debates and for more opportunities to be given to allow debates on Select Committee Reports and Early Day Motions that have attracted cross-party support, from say, a third of MPs.

I hope that this is helpful and I would, of course, be willing to give oral evidence if requested.

January 2003

Memorandum by Dr Rudi Vis MP

Thank you for your letter concerning the wide-ranging inquiry entitled “Procedures for Debates and Private Members’ Bills and the Powers of the Speaker”. I think it would be interesting for the Procedure Committee to look at the procedures adopted by other institutions such as the Council of Europe, who print undelivered speeches in the Official Report, or the Western European Union where you have to sign in if you wish to speak and a printed list is made available before the debate commences.

January 2003

Memorandum by Dr Ian Gibson MP, Chairman, Science and Technology Committee

In response to the Procedure Committee’s current inquiry into the “Procedures for Debates and Private Members’ Bills and the Powers of the Speaker”, I would like to draw attention to one point relating to debates in Westminster Hall, which the Science and Technology Committee raised in our recent Annual Report 2002 (paragraph 29).

Last Session, in line with a suggestion from the Liaison Committee, the Committee proposed in its Report on the Research Assessment Exercise the terms of a substantive Motion for the debate on the Report in Westminster Hall. You will see from the correspondence included at Annex D of the enclosed Report¹ that the Leader of the House was not willing to give serious consideration to the debate of substantive Motions in Westminster Hall. This was in spite of the fact that the existing sessional orders, now enshrined in Standing Order No 10, set out a procedure for dealing with opposed substantive questions.

My strong view is that the influence and prominence of select committees and of Westminster Hall as a parallel chamber would be enhanced if debates there on Committee Reports could be held on substantive Motions proposed by Committees. Such a procedure might encourage the Government to provide sharper responses than the often vague written Replies that are sometimes received and would also serve to enable Committees to focus debates on the issues which they judged to be of prime importance.

I hope that you are able to explore this possibility in the course of your current inquiry and look forward to the Committee’s Report.

January 2003

Memorandum by Julia Drown MP

Thank you very much for your letter inviting comments on your inquiry “Procedures for Debates and Private Members’ Bills and the Powers of the Speaker”. None of the following reflects on the current Speaker, who interprets the rules he works with in the same way as the previous Speaker did. They reflect my view on what those rules should be in a mature modern democracy.

Of course the list of speakers in debates should be published, as should the conventions about which members are called and when. These conventions should be up for discussion and it should be the members of the House who should decide on what convention should be used and not what seems to be happening at the moment which is that it is some past practice which is continuing. This practice seems to benefit those who have been here for a long time—those who have already had a chance to make their views known—and makes it harder for those more recently elected. It also has an interesting effect of giving a bigger say to those who represent less marginal constituencies whereas you could argue that those who represent more marginal constituencies—or necessarily have been in the House for less time are more sensitive to the differing needs of constituents as they change over time.

I would generally support members being called from alternate sides although this should be slightly altered because this disadvantages members when there is a large majority on the Government side and gives an unfair advantage to those on the opposition side. There should be a slight adjustment to take into account the percentage of votes that the public made nationally for the different parties. So to take an extreme example if 67% of the public voted Labour and only 33% of the public voted Conservative actually rather than it being alternate sides it should be two from Labour, one from the Conservatives. Within this who should be called I would like the following factors to be taken into account in this order:

¹ Not printed.

- (a) whether you have something new to say;
- (b) whether there is a relevant constituency issue to raise;
- (c) whether you have spoken recently in debates and on this subject in particular—records on this should be publicly available;
- (d) whether your involvement in an All Party Group or Select Committee means you have a particular interest in the subject; and
- (e) while we have an imbalance on sex and ethnic minority representation and ethnic origin.

It seems similar rules are also used to call the speakers after Ministerial statements—again an unfair practice. To take an example: having noted that Tam Dalyell as Father of the House is called regularly and very early in debates and after statements, I compared the three months from November 2002 to see how many times he had been called in debates and after statements compared with me. The results were that we had each been called once in a debate—Tam in the Chamber, me in Westminster Hall and that whilst Tam had been called six times for questions after statements (on average as the sixth person), I had only had one question after a statement being called thirteenth. It would be interesting to know if our attitudes are similar. I have ended up only rarely applying to speak in the main chamber because I have spent too many wasted hours never being called.

For questions after statements unless I have a Select Committee, constituency or All Party Group interest that I can communicate to the Speaker again I rarely try and get in—I wonder if those elected before 1992 feel similarly. Given most of us want to encourage more women and ethnic minorities to come forward to be MPs we should be making the ones we have more visible, so in debates where MPs fall in the same criteria the woman or ethnic minority MP should be called first, and similarly for example after statements when the Speaker generally does not know what people will want to say ethnic minority MPs and women should be given priority over others.

In terms of debate speakers I would also like us to experiment with allowing members to get together beforehand and decide themselves who should be called and in what order, either as Government or opposition or altogether. There have been a number of debates when I would have been willing to withdraw my request to speak if I had known other members were going to put similar points and had additional constituency views or examples that they needed to raise as part of the debate. Similarly I would like to have some influence over where people are speaking in debates and are not addressing actually the point of the debate in question or who are just repeating those points that have already been made.

The ruling on not reading questions or speeches should be abolished as it should be up to MPs how they present their case. This is a representative democracy and people should be able to speak with their notes if they choose to do so. It also seems odd that interventions are frowned upon, in particular in Westminster Hall. If we are about debating should not interventions be more welcome than speeches?

I would like to see both opposition and backbenchers having a fair chance to initiate debates. I would like to see a majority of signatures or an Early Day Motion really resulting in a debate and experimenting with getting MPs to vote via e-mail on a selection of topics for debate and perhaps some slots in Westminster Hall could be reserved for this to see if this was popular.

On Private Members' Bills the ballot should only pick out the number of people for whom it is realistically possible to get bills through the House. Bills should be debated on Tuesday and Wednesday evenings rather than Fridays because of our pressure to be in our constituencies on Fridays. It would be better only to have one or two a year but to have proper time available to get them through the House if that is what members wanted rather than have more Bills, none of which have any chance of getting into law.

On the recall of the House I do not think the Speaker should have a role except to decide a suitable date. A recall of the House should occur when a majority of MPs get in touch with the Speaker by e-mail or other means that they want the House to be recalled. It may be difficult to manage when a Government has a very low majority but nevertheless it should happen.

I would particularly like to take this opportunity to thank the Procedure Committee for its work on the new procedure on tabling questions. It is a real delight to be able to table a number of questions at once and is already saving me a huge amount of time. I am also looking forward to using the facility to e-mail the questions to the Table Office which will save them from the difficulty of reading my handwriting.

January 2003

Memorandum by Paul Stinchcombe MP

With regards to your letter about the inquiry entitled "Procedures for Debates and Private Members' Bills and the Powers of the Speaker", my main concerns are:

- a full list of planned speakers in a debate should be put up behind the Speaker's chair;
- the list should contain the name of every Member who has written to the Speaker requesting to speak in the debate;
- the running order of the list should be determined without reference to seniority;

- if a Member on the list is not present when it is his/her turn, the next name on the list on the same side should be called;
- undelivered speeches which are in writing and handed in to the Speaker's Office at the close of the debate should be printed in the *Official Report* on different coloured paper; and
- water fountains are needed in the lobbies.

I hope this is helpful, and will be monitoring the inquiry's progress closely.

January 2003

Memorandum by Valerie Davey MP

Thank you for writing to invite contributions from the 1997 and later elected Members. I do have a general concern about the uncertainty as to whether or not a Member is to be called to speak in debates. Sometimes, via the duty whip, it is possible to find out the likelihood of being called, on other occasions there is little or no information available. A consistent approach, with the Speaker's list available at the beginning of a debate, would be valuable.

However, the main issue I would like to raise relates to adjournment debates. The system for the selection of topics is opaque and little consideration seems to be given to the range of subjects debated. In my own case, I first registered a request for a 90 minute debate in Westminster Hall on "Dignity at Work: Bullying in the Workplace" in July 2001. A member of staff in the Speaker's office has told me that I put it down 20 plus times in the last session. I have continued to put in a request for each Tuesday and Wednesday for which I have been available, but still without success.

The convention of congratulating honourable members for securing an adjournment debate has always seemed quaint, but now increasingly seems perverse. Either Members have no control over the process or they know how to work the system, but in neither case are congratulations due.

Please will you include the selection of adjournment subjects for debate within your Committee's inquiry and ensure that the process is fair, understood and openly monitored.

January 2003

Memorandum by Parmjit Dhanda MP

I welcome the inquiry into "Procedures for Debates and Private Members' Bills and the Powers of the Speaker" and the opportunity to respond.

Even in my short experience as a Member, it is already clear that small changes to the procedure of the House can have a significant effect. The Speaker's role; the procedure for Private Members' Bills; the rights of opposition and backbenchers; and the Royal Prerogative: even the most minor amendments to these matters might lead to unforeseen and disproportionate changes.

As regards the publication of the list of speakers in debates, my feeling is that *Hansard* already provides a highly satisfactory service.

The proposal to print undelivered speeches in the *Official Report* seems to me to be a very good idea. There is nothing quite so frustrating for a new Member than to prepare a speech that one never gets the opportunity to deliver. The option of printing an undelivered speech in the *Official Report* would reassure new Members that the time spent preparing a speech was not wasted, and would create a new forum for reasoned and serious arguments that might not otherwise be publicly expressed in Parliament or in the media.

I wish the committee every success with their inquiry.

January 2003

Memorandum by Ross Cranston QC MP

I certainly favour publication of lists of speakers. Names would need to be in to the Speaker's Office by a certain time and the lists would then be published. If necessary, given the number of names, Front bench speeches would be time-limited, as would those of Back benchers. Since everyone on the list would be called except in the most popular debates, there would be no need for *Hansard* to publish speeches not delivered. The convention would be, as at present, that those who are yet to speak must be in the Chamber (unless excused by the Speaker). Importantly, the conventions used by the Speaker to determine the order of speakers must be transparent. (Even quite senior members I've spoken to can't explain these conventions.)

My only comment on Private Members' Bills is that, if the Government opposes a bill, that should be made explicit and a vote called (not necessarily on the day—deferred voting could be used). This would avoid the unseemly "talking out" of bills or use of other procedural devices, and give more time for other bills. In my view, Private Members' Bills should be timetabled.

Unlike some of my colleagues, I don't have strong views on the other matters mentioned in your letter.

February 2003

Memorandum by Sir Alan Haselhurst MP, Chairman of Ways and Means

The Procedure Committee's current inquiry covers a number of matters on which I would wish to comment from my experience as Chairman of Committees of the whole House and as Deputy Speaker in the Chamber over the past six years. For the purposes of this note, I have addressed the issues set out in the Committee's press notice of 9 December.

LIST OF SPEAKERS IN DEBATES

As far as the Chair is concerned, this is a matter for which the Speaker has prime responsibility. I would simply observe that to publish a list of speakers in advance of a debate would constrain the Chair in exercising the responsibility of calling Members to speak. In particular it would remove the flexibility which enables the Chair to organise a balanced debate, and to adapt to changing circumstances (as other Members withdraw their names, for example). It might create embarrassment when individuals scheduled to speak are not present. In such circumstances, the Chair may feel bound, or indeed be asked, to explain why changes in the list have occurred. A pre-arranged list might lead to a further reduction in the attendance in the House as Members confined their attendance in the Chamber to their predictable speaking time.

PRINTING UNDELIVERED SPEECHES

If this were introduced, it would remove the spontaneity which derives from speeches being delivered in the Chamber where they are open to immediate challenge, to reply or rebuttal during debate and to appropriate response from Government and Opposition spokespersons. It would be unfortunate if speeches were deliberately prepared for publication without the test of the critical audience that the Chamber can provide.

THE RIGHTS OF OPPOSITION AND BACKBENCHERS TO INITIATE DEBATES

The Opposition already has 20 days set aside each session under Standing Order and can also choose subjects for debate within the Queen's Speech and Budget debates—on each of which occasions their Motions or amendments are before the House.

For backbenchers, the position is different. Opportunity to initiate debate of specific motions has been forgone as part of the successive changes which have led to more hours of backbench debates on the adjournment in Westminster Hall. The former procedure for Private Members' motions was not particularly well regarded by the House and it may not be appropriate to reinstate it.

Nonetheless, backbenchers can still initiate or press for proceedings in the House. Currently, they can express views through EDMs and press their parties to use their time for debates in Government or Opposition time. There are also nine hours of debating time per week in Westminster Hall. It is not unusual for backbench debates in Westminster Hall to be followed relatively soon after by full debates in the House as political pressure builds up for a debate on the floor of the House. I recall recent examples of debates on Foundation Hospitals and on fishing both in Westminster Hall and in the main Chamber.

Currently, there are four one and a half hour debates in Westminster Hall, but should the demand be there and, subject to the agreement of the Speaker, it would be possible to allocate the whole of the afternoon sessions on Tuesday and Wednesday afternoons (two and a half hour sessions) to a single debate.

PRIVATE MEMBERS' BILLS

A number of issues may be drawn to the attention of the Committee in relation to Private Members' Bills.

Ballot

The current procedure for precedence to be accorded to Private Members' Bills by a ballot is as fair a way of according priority as can be devised and is one of the traditional ways of allocating scarce opportunities for initiating proceedings used by the House.

Drafting Assistance

It is not apparent that Bills do not make progress because they are inadequately drafted. Indeed, interest groups undoubtedly offer Members successful in the ballot their assistance in drafting and in other ways. But the current allowance of £200 for drafting the first ten bills in the ballot is clearly unrealistic and could well be substantially increased. Alternatively, the Government could be invited to undertake to offer to provide the services of their own draftsmen when a Bill has been given a second reading.

Timing of debates

Some suggestion has been made that the time for taking Private Members' Bills should be moved from Fridays to Tuesday or Wednesday evenings after 7 o'clock. It is for the House to determine the daily timetable but the Committee might wish to bear in mind a number of factors:

- proceedings and votes on Government business after 7 pm frequently go on till 7.30 pm or 7.45 pm, limiting time available; and
- to provide time to 10 o'clock would ensure a maximum of only three hours instead of almost five at each sitting.

Total time available for debate

It has also been suggested that more time overall should be available each session. While this would be welcome, it is not clear that provision of extra time would necessarily increase the likelihood of most Private Members' Bills becoming law.

Single objection blocking progress

As the occupant of the Chair on many Fridays, I am aware of the irritation caused by a bill failing to make progress because of a single objection. I would make the point that many of the House's procedures allow a single objection to prevent business continuing—business motions taken after the moment of interruption for example. If a greater number of objections were required for them to be effective, I have no doubt that in most cases such objections would be organised.

Carry-over

The current Standing Order on carry over of Bills provides for a carry-over motion to be moved by a Minister of the Crown and so does not readily apply to Private Members' Bills. But, in any case, I would not necessarily wish to see Bills carried over from a previous session reducing the opportunities of Bills introduced following the ballot in the current session. It is not uncommon for Bills which made progress but did not finally pass in one session to be presented by another Member successful in the ballot in the next.

TEN MINUTE RULE MOTIONS

In looking at the opportunities available to backbenchers, it has come to my notice that at the beginning of the session Ten Minute Rule Bills cannot be introduced (notice being impossible till after the presentation of the ballot bills); and at the end of the session Ten Minute Rule Bills are presented after all the time for considering Private Members' Bills has been exhausted. If, while preserving the right of Members to present a bill formally under SO No 57, the Standing Order was amended to remove the right to give notice of Ten Minute Rule motions *after* the last day allocated to Private Members' Bills, the time thereby released *and* the time at the beginning of the session before such motions can be given could be allocated to a new proceeding—for urgent questions; or proceedings drawing attention to select committee reports for example could be introduced.

CONDUCT IN THE CHAMBER

There is concern in the Chairmen's Panel about a number of issues which I share from my experience in the Chamber. I would like to think that the customs and courtesies of the House will be observed unless and until it is formally decided to dispense with them.

I am sure that many of the informalities stem from the fact that more than half of the House has less than six years' service. It is not for me to propose that formal guidance be offered to Members. But I am sure that appropriate guidance will be offered to new Members in the next Parliament, which would be available to returning Members too.

February 2003

Memorandum by Claire Curtis-Thomas MP

Thank you for allowing me the opportunity to respond to your enquiries concerning Procedures for Debates and Private Members' Bills and the Powers of the Speaker.

On the list of speakers and conversations on which speakers are called, the current protocol for these matters are exclusively reserved for members of our "Speakers club" and appear to combine a mixture of patronage and points for long service. So where does this put a backbencher on a tiny majority? Someone like me, regularly humiliated by waiting for five hours never to be called or called right at the end only if I

agree to cut my speaking time in half? I know that even though I do not sit on the related government or backbench committees, I know as much as those colleagues who find themselves in those positions; indicated by my PQs, adjournment debates, etc. Moreover, when I am finally called there is absolutely nobody sitting where the Minister should be.

The debating chamber is almost irrelevant to me now. I see no reason why there should not be a speakers' list—it would not preclude people from participating, indeed just the merest whiff that you might be called (“wait and see”) deters me from intervening currently because I know that I am eroding my measly minutes. If I knew where I stood, I would be happy to go into the chamber and have a real go and challenge some of the breathtaking claptrap that flows from people just like myself!

Clearly I am in favour of printing undelivered speeches, which now constitute the biggest part of my filing system: where is my chance to put on the record my distaste for government or opposition policy? Only through PQs and most of my replies are sent to the Library!

My apologies for not getting this reply to you any sooner. I have been sitting in the House waiting to be called!

February 2003

Memorandum by Neil Gerrard MP

I understand that the Procedure Committee is undertaking an inquiry into a number of issues connected with Procedures for Debates, Private Members' Bills and the Powers of the Speaker.

There are a number of issues which I wish to comment on.

I note that one proposal which may be discussed is the printing of undelivered speeches in the *Official Report*. I can understand the apparent attractiveness of this proposition. It is extremely frustrating to Members when after spending time preparing for a debate, and perhaps sitting in the Chamber for several hours, a Member does not get called.

However, I have serious doubts about such a proposition. I am aware of course that some Members have speeches which they read, and which could then easily be handed in if the Member was not called. Many of us, however, do not do that. My personal practice has always been to speak from notes, and during the course of a debate I almost always find that I have made many adjustments to those notes as a result of what other Members have said. I certainly do not have anything which could be handed in at the end of the debate and easily transcribed. I do not wish to be put in the position of being virtually forced into having a fully written speech to be handed in, just in case I am not called.

I would also query how abuse of the process would be prevented. What is to stop a Member applying to speak in debate after debate, knowing there was little chance of being called, but confident of having the speech reproduced? What will prevent a Member leaving the Chamber early in a debate, with the excuse of a vital call to attend to, but knowing that the speech will still appear in *Hansard*?

Publishing lists of speakers for debates has some obvious advantages. The reasonable certainty (not always but in many cases) that a Member was likely or unlikely to be called would remove the frustration of hours spent hoping to be called, when in reality there was little chance. I do have some doubts about its effect on attendance in the Chamber. I also feel that if all the occupants of the Chair adopted a common view of giving Members who approached the Chair a clear idea of their chances of being called this would help just as much.

Backbench opportunities to initiate debates have grown considerably with the Westminster Hall procedures for adjournment and general debates. What disappeared some years ago was the opportunity for a backbencher to initiate a debate on which there was a motion which could be voted on. The restoration of that right, via ballot from time to time, would be a valuable tool for backbenchers.

I would be willing to give oral evidence if this would be helpful.

February 2003

Memorandum by Sir Nicolas Bevan CB, Speaker's Secretary

Following the Procedure Committee's informal meeting with the Speaker you asked for information on the methodology used by this office to record back-bench Members' contributions to debates etc.

So far as debates are concerned, we record all contributions with the following exceptions:

- speeches in Westminster Hall;
- end-of-day adjournment debates;
- speeches on Private Members' Bills or Private Business;
- speeches in Committee of the House;
- speeches on the Report Stage of a Bill or on consideration of Lords Amendments or Reasons; and
- speeches of less than three minutes.

We also record occasions when a Member has applied to speak and has been unsuccessful; and we make a note of speeches that last more than 25 minutes.

If a Member was a Shadow Frontbench spokesperson but later moved to the backbenches, our records distinguish between the number of times they have spoken from the Frontbench and from the backbenches.

All this information is made available to Mr Speaker prior to debates in the Chamber.

So far as Ministerial statements are concerned, names of those called and not called are noted on each occasion. For subjects that come before the House regularly, eg Iraq, Fire Service Dispute, EU Councils, a running record is maintained covering an appropriate period and this is available to the Chair in determining whom to call. Similarly, at Business Questions the Chair will be aware of which members were not called on a previous occasion.

Records are kept of the number of times Members have been called at Prime Minister's Questions and these figures are available to the Speaker to assist him in deciding whom to call.

You also asked whether I could make available any statistics on the number of times back-benchers are called. Our records for the 2001–02 Session indicate that *on average* Government backbenchers were called three and a half times and spoke for an average of 39 minutes in total, while Opposition (all parties) backbenchers were called 5.6 times and spoke for an average of 68 minutes. The number of contributions by Government back-benchers ranged from nil (37 Members) to 13 (one Member) and by Opposition backbenchers from nil (three Members) to 17 (one Member). Of these 37 Government backbenchers, 32 did not seek to be called.

March 2003

Letter from Andrew Turner MP

I have two proposals which I hope your committee may consider.

1. That in adjournment debates (other than in Westminster Hall or end-of-day debates in the Chamber) the moment of interruption be automatically deferred to the natural end of the debate unless a Member has given the Speaker notice of intention to divide the House, and that no division may take place unless such notice has been given.

2. That a reserve of half an hour adjournment debates be kept which may be taken if the normal business collapses (or alternatively an open topic adjournment debate of the kind that usually considers the dates of the recess) but which is concluded at the moment of interruption. It would be answered by the Leader of the House.

March 2003

Letter from Candy Atherton MP

I understand your committee is conducting an investigation into adjournment debates and other related topics.

It seems to me an unfair system that allows some backbenchers to “win” a debate seemingly week after week which others apply to unsuccessfully.

This is particularly so as some political parties use adjournment debating to show how active they are when in fact it merely reflects what they know or are.

April 2003

Memorandum by the Hansard Society

INTRODUCTION AND SUMMARY OF KEY POINTS

1. The Hansard Society is very pleased to be able to submit evidence to the Procedure Committee inquiry into Private Members' Bills. We have previously submitted evidence to this inquiry on the procedures for debate and the powers of the Speaker in the recall of Parliament. As part of that evidence we indicated that the Society was working on a paper on Private Members' Bills. This supplementary evidence is based on that forthcoming paper and is divided into two sections: (i) an introduction and summary of key points and (ii) the main evidence: Private Members' Bills; concerns and possible reforms.

2. The Hansard Society, as an independent, non-partisan organisation, works to promote effective parliamentary democracy and provides a forum for views and discussion on parliamentary reform. The Society has begun a review of its 1993 Commission report, *Making The Law*, which did not consider Private Members' Bills in any detail. This evidence does not make formal recommendations. Instead the paper outlines the difficulties and concerns with the current system and identifies options for change including:

- (i) A Private Members' Bill procedure that allows even strong, well-supported Bills to fail is against the public interest and arguably brings Parliament into disrepute.

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- (ii) It is possible to devise mechanisms to allow certain PMBs, which can command a majority in the House, to have the advantages of timetabling. One way would be through the decision of specific Private Members' Bill Select Committee (either through unanimous or overwhelming vote). A PMB Select Committee could be constituted in a number of ways; possibly by nomination of the whole House or by appointment of the Liaison Committee.
 - (iii) The requirement to have all-party support would ensure that the interests of the governing party, and indeed other parties, could not be abused and that only Bills which commanded wide support could make use of a timetabled passage.
 - (iv) A different method to test support for a Bill and smooth its passage would be to introduce certain thresholds at Second Reading. Procedures could be introduced that moved a Bill towards a timetabled passage if it received clear backing at Second Reading. However, if a certain number of votes were cast against the Bill this would prevent the Bill from being timetabled.
 - (v) A number of specific changes could be considered to improve the PMB process including:
 - the introduction of carry-over motions to prevent Bills being lost at the end of the session;
 - greater use of draft Bills to allow for some form of pre-legislative scrutiny;
 - introducing methods for MPs to sponsor PMBs in addition to the Ballot, by submission to the PMB Select Committee to allow individuals to table their proposals along with evidence supporting their case. If the Bill had wide support, it might get a slot;
 - select committees could also take a role in legislation. If a Committee wished to put forward a Bill, they could find a sponsoring MP who would submit the proposal to a Private Members' Bill Committee;
 - changing the timing of the Ballot to the spillover period in October to allow more time for drafting and pre-legislative scrutiny;
 - the allowance for drafting support should be increased to meet the current cost of legislative drafting;
 - using Westminster Hall as a forum for PMBs;
 - taking the Report Stage in Standing Committee to allow all 13 Fridays for second and third readings; and
 - PMBs could be considered in the time available on Tuesday and Wednesday evenings.
 - (vi) The House of Commons should evaluate the Scottish Non-Executive Bills system to ascertain whether it might strengthen its own PMB process.
 - (vii) Any changes to the PMB process should be introduced on a pilot basis and then fully evaluated to ascertain whether they have improved the operation and outcomes of the PMB process.
 - (viii) Very few Ten Minute Rule Bills and Presentation Bills make progress and ever fewer become law. If greater opportunities for PMBs to become law are introduced, it should also be recognised that Ten Minute Rule Bills and Presentation Bills are not primarily used for legislative purposes and can take up considerable parliamentary and government time and resources. Reforms might consider introducing other ways for MPs to formally draw attention to issues of their choice:
 - the time for TMRBs could be used to allow MPs to raise issues formally on the Floor of the House in "prime-time";
 - reforms could include using the time for short speeches advocating a law change, votes on Early Day Motions or consideration of Petitions; and
 - presentation Bills could be replaced by allowing each MP to publish one draft Bill a year at public expense.

PMBS: PRIVATE MEMBERS' BILLS: CONCERNS AND POSSIBLE REFORMS

1. *The purpose of PMBs*

PMBs represent a form of law making which is distinct from the Government Bills, which make up the vast majority of legislation that passes through Parliament. The system of PMBs began in its current form in the late 1940s and enshrined the notion that certain parliamentary time should be made available for legislation by individual MPs. In the 1960s PMBs were used (with the Government's active co-operation) to change the law in ways which have since had profound and lasting impact.² The reluctance of governments (of both parties) in the past 25 years to provide significant extra time in the parliamentary timetable means that it is unlikely that a succession of such important Bills could now be passed in this way. The more common approach to such "conscience questions" (for example fox hunting and the age of consent) is for these matters to be introduced in Government Bills and for MPs to be given a free vote.

² Such measures included the initial experimental abolition of capital punishment in 1965, the Abortion Act 1967 permitting legal abortion, the Sexual Offences Act 1967 abolishing criminal penalties for homosexual acts and the Divorce Reform Act 1969.

2. In much analysis of PMBs there is discussion about their position within wider executive and legislature relationships. The 13 days each year formally set aside for PMBs signifies a commitment to provide some freedom from the normal constraints that “government business shall have precedence at every sitting”. PMBs have a variety of purposes:

- issues of social reform on which public and parliamentary opinion may be too sharply divided for the Government to wish to take the initiative (for example, abortion law);
- matters of special interest to particular groups (for example, animal welfare); and
- technical changes to existing laws that the Government may not have time to introduce; often known as “Handout Bills”, the Government seeks a willing MP to take through a Bill.

However, the passage of legislation is not the sole determinant of the success of PMBs:

- they can be ways of attracting publicity for a proposed change in the law. Sometimes a PMB’s sponsor will know that the Bill has no chance of becoming law but will proceed solely for the publicity and raised awareness; and
- PMBs can be a way to ensure that the Government reveals its intentions in a specific area. Ministers sometimes promise to bring in legislation to avoid the passage of a Bill with which they are not content. For example, a succession of PMBs on rights for disabled people from 1992 onwards eventually led to the Government passing the Disability Discrimination Act 1995.

3. The central test of any legislative process should be whether law is actually produced. Over the past 20 years or so approximately 39% PMBs introduced into the Commons have become law. This proportion applies solely to PMBs introduced through the ballot and this figure is much reduced if other methods of introducing PMBs are included. Furthermore, a significant number of these Bills are either very minor or government “handouts” and this success rate is obviously far below that achieved by government bills, (which is well over 90%).³ Nonetheless, there are those who are content with the current PMB system and believe that the alleged obstacles and difficulties are in fact its virtues. The proponents of this position argue that governments and legislatures have an in-built tendency to over-produce law and that new mechanisms to make even more are not needed. Furthermore, with particular reference to PMBs, they fear that legislation might become driven by populist instinct or by agendas dictated by pressure groups or the media.

4. *An outline of the current system*

A PMB can be introduced by a member of either House who is not a Minister. The most effective route is through the Ballot held early in each Session, which selects 20 Members to have first claim on the time available. Key points include:

- on many Fridays debate on the first Bill will take nearly the whole of the sitting so that not even all 20 Ballot Bills have the chance to be debated;
- a Member who is placed lower than seventh in the Ballot will have to put the Bill down for Second Reading on a Friday on which it will not be the first to be debated. If the Bill listed first on that day is not controversial a debate during the remaining time available may be possible. Otherwise, the MP may hope to have the Bill given a Second Reading without debate at 2.30 pm but with this option, if a single Member shouts object, the Question cannot be put on Second Reading—even if no other Members are opposed;
- another major hurdle for Bills at Second Reading and also at Report stage can be the necessity to secure the Closure, which requires the support of at least 100 Members. This requirement can be difficult to meet, especially on Fridays when many MPs have constituency business. A Bill that gets a Second Reading will be committed to a Standing Committee;
- a further procedural trap on a PMB Friday is when opponents of a Bill test the quorum of the House. If fewer than 35 Members are recorded as voting in the division, then the quorum has not been achieved and the House moves immediately on to the next Bill;
- at Report Stage, small numbers of opponents can table a series of amendments designed to take up time and ultimately block the Bill’s passage;
- the Third Reading stage is usually a formality and no PMBs have fallen at this stage in recent years;
- once a PMB has passed through the Commons, it must be taken up by a Peer and pass through all stages in the House of Lords. Although the Lords may make amendments of detail and clarification, it is extremely rare for a Commons PMB to be defeated in the Lords; and
- the thirteenth Friday allotted for PMBs—colloquially known as “the slaughter of the innocents” on account of its attrition rate—is largely taken up with Lords’ amendments. By this point a complex order of precedence dictates which Bills can make use of the remaining time.⁴ Tactical manoeuvres can be used to push a Bill into legislative oblivion with little effort and no debate.

³ See *The Success of Private Members’ Bills*, House of Commons Information Office Factsheet, Revised December 2002.

⁴ The order of precedence includes consideration of Lords amendments, third readings, new report stages, adjourned report stages, adjourned committee proceedings, bills appointed to committees of the whole House and second readings.

5. *PMBs: different methods*

Aside from the Ballot Bill procedures outlined above and PMBs introduced in the Lords, there are two other methods of introducing PMBs: Ten Minute Rule Bills (TMRBs) and Presentation Bills.⁵ A considerable amount of both parliamentary and government time is expended on these types of PMBs which rarely make progress or reach the Statute Book. Both TMRBs and Presentation Bills are in reality used mainly as means of attracting publicity and raising public and parliamentary awareness for an issue. Reforms might recognise this fact rather than continue with the fiction that the procedures are there primarily for legislative purposes:

- the time for TMRBs could be used to allow MPs to raise issues formally on the Floor of the House in “prime-time”;
- reforms could also consider using the time for short speeches advocating a law change, votes on Early Day Motions or consideration of Petitions; and
- Presentation Bills could be replaced by allowing each MP to publish one draft Bill a year at public expense.

6. *The effects of Government control*

The Government’s attitude is probably the major determining factor in the success of an individual PMB. Few Bills with any controversial element now pass into law, mainly because the Government rarely provides any extra time. Furthermore the Government has in recent years used PMBs as a means of getting “Handout Bills” on to the Statute Book. Because such Bills come with government assistance and support in their preparation, and because the Whips will allow them through their various stages without objecting, they stand a good chance of becoming law. A significant proportion of PMBs are “Handout” Bills; for example, in 1998–99, 11 out of the 20 presented under the Ballot were reckoned to be in this category.⁶ The Government may have a number of legitimate reasons for objecting to the passage of a Bill. For example, it may disagree with its objectives, or it may intend to introduce similar legislation itself. It may not wish the Bill to pre-empt financial resources, although the Government has the exclusive power to move money resolutions.

7. *Procedures and Tactics*

There are a number of specific procedural hurdles that any PMB must pass successfully if it is to stand any chance of becoming law. These difficulties, in conjunction with the time constraints and the reluctance of the Government to grant extra time, mean that any PMB is effectively subject to the veto of a single determined opponent. Success can often depend on luck or clever tactics as much as the merits of the Bill or the level of support from fellow MPs. Even those MPs placed towards the top of the Ballot will have no certainty that their Bill will be able to complete all the necessary stages within the prescribed time and must recognise that the Bill may ultimately be unsuccessful even if it has overwhelming majority support.

8. *The absence of a timetable*

The only way to alter the situation whereby the procedures can destroy a Bill would be to develop some form of timetabling for PMBs. It is possible to devise mechanisms to allow certain bills which can command a majority in the House to have the advantages of timetabling and therefore the likelihood to pass all stages, if both Houses consent. It should be the ability to secure a majority, not the ability to be so inoffensive as to attract no opposition, that should be the hurdle that a PMB should have to surmount.

9. *A complicated and unsupported process*

The PMB process is highly complex and “would baffle an intelligent alien.”⁷ There is a considerable element of chance involved: firstly in getting a good position in the ballot. Thereafter, securing time for second readings and subsequent stages can depend on factors over which an individual MP may have little or no influence.

- A list of precedence determines which Bills and which stages are taken in particular order. As a result tactics, rather than the merits or level of support, can determine a Bill’s fate.
- A great deal of parliamentary time and MPs’ effort is put into PMBs each year, wasting valuable resources that could be more effectively used. MPs can find the procedure mystifying and frequently have to rely on the support and expertise of pressure groups for drafting, legal and tactical advice.

⁵ For further information on Ten Minute Rule Bills and Presentation Bills, and all other procedural matters on the PMB process, see *Parliament: Functions, Practice and Procedures*, Second Edition, R Blackburn and A Kennon, Sweet and Maxwell (2003).

⁶ *ibid*, page 544.

⁷ *Private Members’ Bills*, D Marsh and M Read, Cambridge University Press, (1988).

- The 10 Members placed highest in the Ballot may claim up to £200 expenses for help in drafting their Bills. This figure was fixed in 1971 and inexplicably has not since been revised. If it had been uprated for inflation it would now be worth around £1,700.
- In Scotland a Non-Executive Bills Unit has been established to address the support needs of MSPs. Distinctive features of the Scottish Parliament’s approach are outlined below. Westminster should evaluate whether elements of the Scottish system could strengthen its own PMB process.

Procedures in the Scottish Parliament

There are 129 MSPs, of whom 20 are members of the Scottish Executive, and one is the Presiding Officer. The remaining 108 MSPs are each entitled to introduce two Members’ Bills in every four-year parliamentary session.

In Edinburgh once a Member has received sufficient support for their proposal and they table a Bill, it will remain “alive” until the Parliament is dissolved.

Bills are timetabled by the parliamentary business bureau, and are subject to the same scrutiny by parliamentary committees as legislation proposed by the Executive. Thus, the opportunities for “killing off” a PMB that exist at Westminster do not arise in Edinburgh. A Bill’s failure to progress is usually the result of insufficient parliamentary support for a proposal, that the Bill has met insurmountable legal or drafting hurdles, or that another member has introduced a Bill on the same issue that has received greater support.

There is considerable support for Members wishing to introduce Bills from a non-Executive Bills Unit which assists with drafting, procedural, technical and legal advice. The Unit looks into the background, current law, the Executive’s position, competence and European issues and helps identify any research that has been carried out on the subject.

Members wishing to initiate legislation have two options. The first is to propose the introduction of a Committee Bill. The mechanism for this is by submitting a draft proposal to the Parliamentary Bureau, who then refer the proposal to the relevant Committee. After consideration the Committee decide whether or not to make a proposal for a Bill. The second, and generally favoured, option for a Member is to lodge an individual proposal for a Bill.

10. Proposals for Reform

An improved success rate for PMBs will not occur without some form of fundamental reform. For this to happen, Government as well as Parliament must consent to change. It is inevitable, and understandable, that the Government will wish to be able to stop PMBs to which it is fundamentally opposed. It will not wish to allow its mandated programme to be derailed or be forced to implement measures with which it disagrees. Any reforms should seek to put into place mechanisms that recognise this reality. In this paper, we do not make formal recommendations but instead present options, which appear to address the difficulties identified.

11. Improving perceptions

The principal benchmark of the PMB process should be the ability to command a majority in the House of Commons. A procedure that allows even strong, well-supported Bills to fail is surely against the public interest and arguably brings Parliament into disrepute. According to Marsh and Read, the PMB process and the loss of Bills which have achieved clear majorities at Second Reading leads:

“not merely, or mainly, to a dissatisfaction with the private members’ bills procedure, which few understood, but to a more general disillusionment with Parliament, and the legislative process.”⁸

12. Devising a mechanism to timetable a PMB

Many of the procedural devices that can be deployed to destroy a PMB derive their potency from the fact that PMBs are not timetabled:

- One obvious method to provide a PMB with a timetabled passage would be through the provision of a specific Private Members’ Bill Select Committee. A PMB Select Committee could be constituted in a number of ways; possibly by nomination of the whole House or by appointment of the Liaison Committee.
- If the Committee decided—through unanimous or overwhelming vote—that a PMB had merit, it should have the power to present the Bill for timetabling.

⁸ *British Private Members’ Balloted Bills: A Lottery with Few Winners, Small Prizes but High Administrative Costs*, D Marsh and M Read, Essex Papers in Politics and Government, University of Essex, 1985.

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- The requirement to have all-party support would ensure that the interests of the governing party, and indeed other parties, could not be abused and that only Bills which commanded wide support could make use of a timetabled passage.
 - Select committees could also take a role in legislation. If a Committee wished to put forward a Bill, they could find a sponsoring MP who would submit the proposal to a Private Members' Bill Committee.
 - A number of commentators have made proposals of this sort. For example David Marsh in *Private Members Bills*⁹ suggests that a Steering Committee should be used to plot the course for a Bill to prevent it being talked out. Under this proposal if a Bill was non-controversial and no MP (or perhaps just a small number of MPs) registered opposition, then a Steering Committee could place it in a different category from Bills which were opposed.
 - Additionally under these proposals there would be the power to introduce the guillotine and Bills would have a clearer order of priority, whereby the first Bill out of Committee would have to complete its remaining stages before any other bill could be considered on the floor of the House.
 - Such a committee could also programme Lords' PMBs so that they did not run out of time at the end of the Session.
 - Alternatively if a Steering or Business Committee were established to formalise the organisation of parliamentary business including the legislative programme, such a body could take on this role.¹⁰

13. *Introducing a threshold*

A different method to test support for a Bill and smooth its passage would be to introduce certain thresholds at Second Reading. Procedures could be introduced that moved a Bill towards a timetabled passage if it received clear backing at Second Reading. However if a certain number of votes were cast against the Bill (say, 40 votes reflecting party balance or 80 votes without party balance) this would prevent the Bill from being timetabled. As the Procedure Committee noted in its 1995 Report, that "it is a matter of debate whether a majority in the House, not supported by an electoral mandate, should be allowed to overcome serious objections from a minority of Members on one issue."¹¹

14. *Procedural changes*

A number of changes would improve the PMB process, regardless of whether other major changes were adopted, including:

- the introduction of carry-over motions to prevent Bills being lost at the end of the session;
- greater use of draft Bills to allow for some form of pre-legislative scrutiny;
- taking the Report Stage in Standing Committee to allow all 13 Fridays for second and third Readings;¹²
- introducing methods for MPs to sponsor PMBs in addition to the Ballot, by submission to the PMB Select Committee to allow individuals to table their proposals along with evidence supporting their case. If the Bill had wide support, it might get a slot;
- changing the timing of the Ballot to the spillover period in October to allow more time for drafting and pre-legislative scrutiny; and
- using Westminster Hall as a forum for PMBs.

15. *Increasing the time for PMB business*

At present PMB business is normally confined to Fridays, a difficult day for many MPs to attend. Since the change to the Commons' hours in January 2003 extra time exists on Tuesday and Wednesday evenings, which could be allocated to PMBs. There are a number of different options. The existing Fridays could remain for uncontroversial Bills. These often take up very little time and there is usually no need for many MPs to attend proceedings. A specific number of evenings could be allocated to more complex but timetabled Bills. Extra time could also be granted where a specific Bill was felt to need more consideration or the extra time could be granted to prevent logjams at the end of a Session.

⁹ See *Private Members' Bills*, D Marsh and M Read, Cambridge University Press, (1988), p 190.

¹⁰ See *Opening Up the Usual Channels*, Rush, M and Ettinghausen, C, Hansard Society (2002) and *The Challenge for Parliament: Making Government Accountable*, the Report of Hansard Society Commission on Parliamentary Scrutiny, Chairman, Rt Hon Lord Newton of Braintree (2001).

¹¹ See Note ix para 16.

¹² Standing Order No 92 allows for this.

16. Improving support

If MPs are to undertake their role efficiently and effectively, they need to be fully supported in these tasks:

- the Scottish Parliament's Non-Executive Bills Unit should be examined to establish whether it might be suitable for Westminster;
- the allowance for drafting support should be increased to meet the current cost of legislative drafting; and
- MPs should have access to training courses and updated resource materials on PMB procedures.

17. Making the process more simple and transparent

The PMB system at present is remarkably complex. Even informed commentators, and MPs themselves, find the procedures arcane in the extreme. The public must be mystified as to why and how apparently well-supported Bills can be defeated. The procedures should be made much more straightforward and open. It is important that if the Government, or some other party, wishes to oppose a Bill there should be an assumption that the reasons for this position should be stated openly rather than hidden behind procedural subterfuge.

18. Conclusion

There has been very little change to the PMB system in recent years, despite evidence of dissatisfaction with the way it operates. The procedures exist for parliamentarians to express themselves in a legislative capacity, regardless of who is in government. But relatively few PMBs succeed, especially if the minor, technical and handout Bills are taken out of the equation, because the procedure makes them so easy to oppose and ultimately destroy. As a result considerable resources and time are wasted in every session, affecting the individual sponsoring MP, the government which has to respond to Bills which have little prospect of success and the House of Commons which could use this time in more useful ways. An overall aim should be to devise a system that has certain principles:

- it would allow a limited number of well-supported Bills to pass through Parliament without the need for active government support;
- such Bills should not be able to be hijacked by minority opponents;
- by having all-party committee input or voting thresholds party political manipulation should be avoided;
- reforms should provide for legitimate objection by a significant minority;
- other reforms, such as increasing the time available and improving support to MPs, could be introduced without other fundamental changes to the current system. The limited time available means that only a relatively few MPs will be successful under any system; and
- balanced against the need for MPs to reflect public concerns and develop greater autonomy within the legislature, there should be the underlying principle that the PMB system must avoid the passage of legislation is poor quality or has unintended consequences.

The drawbacks in the current PMB process appear to outweigh the benefits. Therefore the time is right to consider new approaches and new ways to allow individual parliamentarians to make law. This paper has identified a number of reforms; some are relatively minor, others are much more far-reaching in their implications. If new methods are considered to have merit, they should be implemented on a pilot basis and then fully evaluated to ascertain whether the changes have improved the operation and outcomes of the PMB process.

Alex Brazier

Senior Researcher

Parliament and Government Programme

Hansard Society

April 2003

Letter from Tony Banks MP

May I ask the Committee to look at, or look at again, the desirability of a speakers' list for debates? Such a list exists in the Lords and operates successfully in the Parliamentary Assembly of the Council of Europe. It's not simply about the frustration of not being called after sitting in the Chamber for hours. It is as much about the lost work time involved. If a list is not acceptable, how about telling Members if they are likely to get called?

I welcome the more frequent use by Mr Speaker of time limited speeches. Frankly it should apply to all debates. However, it would be of great use to Members if the two digital clocks in the Chamber were capable of being set at the specified speaking time and then running down to zero. They could be adjusted by the clerks to take account of interventions.

April 2003

Memorandum by Michael Fabricant MP

I understand that the Procedure Committee are investigating the procedures by which debates are conducted. I write to you as a back-bencher to express the frustration felt by many of us with regard to one aspect of the procedure and a possible solution which would also serve to improve the level of debate in the House.

Although the Speaker has the power to—and does—set time limits on back bench speeches, some back-bench colleagues are inevitably disappointed when they are not called. Whether it is because front bench speeches last longer than anticipated or more people wish to take part in a debate than predicted, the time limit is rarely short enough to allow all those wishing to participate to do so. With the change in hours making demands on our time even more difficult, it can be immensely frustrating to sit through an entire debate and then not be called.

I would commend that we adopt a system similar to, but not exactly like, the system employed in the Lords.

Unlike the House of Lords, the Speaker enjoys huge prestige in our House. As a consequence, I propose that to participate in a debate, Members would be obliged to write to the Speaker (though there is nothing to stop colleagues informing their whips too) who would then produce an order of speaking which would be published. A time limit may then be agreed with the whips for front bench speeches and a more realistic time limit than that at present may then be set by the Speaker for back bench speeches. However, those participating in debates must be present for opening speeches, winding up, and the speech prior to and after their own. If they are not, they would be struck off that list.

The advance publication of such a list would not only provide greater certainty for colleagues hoping to participate in a debate, it would also minimise the possibility of a no-show by an individual who had previously written to the Speaker requesting to participate in a debate. It would bear greater “shame” than even the current procedure whereby when someone is listed on the Order Paper for an Oral PQ, but fails to notify the Speaker that he or she will be absent, and is then called but is not present in the Chamber, is greeted by cries of “Where is he”? It would not be necessary to publish the list much earlier than the start of Oral Questions. The list could be displayed in the voting lobbies.

I believe that such a system would be suitable and transparent. It would increase the number of people interested in participating in debates and enliven the Commons. If it leads to shorter speeches, then so be it. After all, shorter speeches focus the mind and are often the most pithy.

I do hope my proposal might be given consideration. Please copy this letter to the Modernisation Committee if you think it appropriate.

May 2003

Letter from Mr Ross Johnson

With regard to the current inquiry of the Committee into Debates, PMBs and the Speaker’s powers, I hope that it will be possible for me to make the following suggestion to the Committee. I am afraid that I have only recently become aware that the Committee was conducting the inquiry, which is coincidentally on a subject I am currently interested in.

My suggestion is that the Committee consider the procedure used in these matters in the Scottish Parliament. There, PMBs can only be introduced after receiving 11 supporters. Rationalising the four types of Bill into one, scheduling them in some way that reflects their relative support, allowing them to be programmed and establishing a PMBs unit with access to Parliamentary counsel are all ways in which the procedure could be considerably improved. On debates, there should be reserved time to allow for the most popular EDMs to be debated and voted on.

On a separate matter, I would like to recommend to the Committee that it conduct an inquiry into the need to establish a Business Committee to propose a business programme to the Chamber. This is also the system used by the Scottish Parliament, in which the Parliamentary Bureau periodically moves an amendable business motion in the Parliament. Such a move could have desirable consequences for the Commons: the public perception of the House is often one in which shady dealings are sewn up by powerful people, and this leads to the impression that Parliament cannot make its own decisions and must always rely on the Government.

The current inquiry is a good move by the Committee and I am pleased that it has been initiated. A future inquiry on a Business Committee during the remainder of this Parliament would be a strong indication of the Committee’s desire to introduce further reforms to make the Commons work much more effectively. As the Chairman said at a recent hearing, the Committee is anxious to allow the House greater control over its business, and this seems like a very worthy choice of inquiry which I sincerely believe would be of real and lasting effect and which I commend strongly to the Committee.

I apologise about a very late submission on the current inquiry, but hope for the indulgence of the Committee.

Committee may also wish to consider the possibility of allowing select committees to initiate legislation.

July 2003

Reports from the Procedure Committee since 2001

The following reports have been produced since the beginning of the 2001 Parliament:

Session 2002–03

First Report	Delegated Legislation: Proposals for a Sifting Committee	HC 501 (<i>Reply: 2nd Report</i>)
Second Report	Delegated Legislation: Proposals for a Sifting Committee: The Government's Response to the Committee's First Report	HC 684
Third Report	Sessional Orders and Resolutions	HC 855
Fourth Report	Procedures for Debates, Private Members' Bills and the powers of the Speaker	HC 333

Session 2001–02

First Report	Making Remedial Orders: Recommendations by the Joint Committee on Human Rights	HC 626
Second Report	Appointment of Deputy Speakers	HC 770 (<i>Reply: 2nd Special Report, HC 1121</i>)
Third Report	Parliamentary Questions	HC 604 (<i>Reply: Cm 5628</i>)
First Special Report	Major Infrastructure Projects: Proposed New Parliamentary Procedures	HC 1031