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# Departmental Select Committees

The House of Commons will debate a motion to approve the First Report of the Modernisation Select Committee for 2001-02, *Select Committees*, on 14 May 2002, along with a number of other motions relating to select committees. Part I of this paper provides background to the Committee's proposals, concentrating in particular on reports of the Liaison Committee and outside bodies such as the Hansard Society and the Norton Commission. Part II of the paper gives brief historical background to the development of select committees and a review of the current system, including recent changes to standing orders. It also gives an evaluation of the select committee system. This paper does not analyse the Motions, although they are included in the Appendix.

More detail on the historical development of select committees is available in Library Background Paper 298, *Select Committees*, of September 1992, and Library Research Paper 00/92, *Shifting Control*, of December 2000.

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## Summary of main points

The work of select committees has come under increasing scrutiny in recent years. A number of bodies have looked at the system and suggested ways in which it could be made more effective, and various House of Commons committees have also produced reports on the subject. On 14 May 2002 the House will debate a Motion to approve the First Report of the Modernisation Committee for 2001-02, on *Select Committees*, as well as a number of motions relating specifically to the operation of select committees. The full text of the Motions is given in the Appendix. However, they are not analysed in the main body of the paper.

The commitment from Members to reform the system was shown clearly by the House in July 2001. Motions to appoint the members of the Transport, Environment and Regional Affairs and Foreign Affairs Committees were defeated on the floor of the House amid controversy about the proposal to remove Gwyneth Dunwoody and Donald Anderson from Committees which they had chaired in the previous Parliament. The assertion of the Commons' rights to scrutinise the executive led to a promise from the Leader of the House, Robin Cook, that the system would be reviewed by the Modernisation Committee.

The Modernisation Committee proposals were published in February 2002, and built on the work of a number of other reports, particularly the Liaison Committee report, *Shifting the Balance*.<sup>1</sup> This was followed by a further report from the Liaison Committee, which commented favourably on the Modernisation Committee's proposals. The following are some of the more influential reports which have led the debate on the role of select committees:

- Liaison Committee, *Shifting the Balance: Select Committees and the Executive*, HC 300, 1999-2000<sup>2</sup>
- The Government's Response to the First Report from the Liaison Committee on *Shifting the Balance: Select Committees and the Executive*, Cm 4737, 1999-2000<sup>3</sup>
- Liaison Committee, *Independence or Control*, The Government's Reply to the Committee's First Report of Session 1999-2000, HC 748, 1999-2000<sup>4</sup>
- Liaison Committee, *Shifting the Balance: Unfinished Business*, HC 321, 2000-01<sup>5</sup>
- Modernisation Select Committee, *Select Committees*, HC 224, 2001-02<sup>6</sup>
- Hansard Society Commission on Parliamentary Scrutiny, *The Challenge for Parliament: Making Government Accountable*, Hansard Society, 2001

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<sup>1</sup> See Library Research Paper 00/92 for further background

<sup>2</sup> <http://www.publications.parliament.uk/pa/cm199900/cmselect/cmliaisn/300/30002.htm>

<sup>3</sup> <http://www.archive.official-documents.co.uk/document/cm47/4737/4737.htm>

<sup>4</sup> <http://www.publications.parliament.uk/pa/cm199900/cmselect/cmliaisn/748/74803.htm>

<sup>5</sup> <http://www.publications.parliament.uk/pa/cm200001/cmselect/cmliaisn/321/32102.htm>

<sup>6</sup> <http://www.publications.parliament.uk/pa/cm200102/cmselect/cmmodern/224/22402.htm>

- Commission to Strengthen Parliament, (the Norton Commission), *Strengthening Parliament*, Conservative Party, July 2000<sup>7</sup>

Liaison Committee, *Select Committees: Modernisation Proposals*, HC 692, 2001-02<sup>8</sup>

Part I of this paper discusses the recommendations of the Modernisation Committee in the light of these other reports. Part II of the paper gives a brief historical background to the select committee system, including pressures for change during the 1960s and 1970s and the fundamental reform of the system undertaken in 1979. Developments since then are also discussed, as well as the some of the more important issues which faced select committees during this period. It also analyses the effectiveness of the select committee system in the light of academic comment in the subject.

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<sup>7</sup> <http://www.conservatives.com/pdf/norton.pdf>

<sup>8</sup> <http://www.publications.parliament.uk/pa/cm200102/cmselect/cmliaisn/692/69202.htm>

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## **PART 1: The Modernisation Committee and the current system**

### **A. Introduction**

On 14 May 2002 the House of Commons will debate several Motions relating to *Modernisation of the House of Commons* and *Select Committees*. The first Motion is to approve the First Report for 2001-02 from the Modernisation Committee, on *Select Committees*:

That this House approves the First Report of the Select Committee on Modernisation of the House of Commons relating to Select Committees, House of Commons Paper No 224-I, and in particular welcomes its commitment to more specialist and support staff for select committees; is of the view that the package as a whole will strengthen the scrutiny role of the House; and invites the Liaison Committee to establish common objectives for select committees, taking into account the illustrative model set out in paragraph 34 of that report, namely

- to consider major policy initiatives
- to consider the Government's response to major emerging issues
- to propose changes where evidence persuades the Committee that present policy requires amendment
- to conduct pre-legislative scrutiny of draft bills
- to examine and report on main Estimates, annual expenditure plans and annual resource accounts
- to monitor performance against targets in the public service agreements
- to take evidence from each Minister at least annually
- to take evidence from independent regulators and inspectorates
- to consider the reports of Executive Agencies
- to consider, and if appropriate report on, major appointments by a Secretary of State or other senior ministers
- to examine treaties within their subject areas.<sup>9</sup>

The Modernisation Committee made 22 recommendations. The main ones are considered below on pages 9-42.

The second motion relates to select committees, and in particular the establishment of the Committee of Nomination. It also relates to the nomination of select committees, referring particularly to the size of committees - the Motion would allow an increase from 11 to 15 for the departmental committees and alterations to the size of other committees.

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<sup>9</sup> <http://www.parliament.the-stationery-office.co.uk/pa/cm/cmfbusi/20510c01.htm>

There then follow two motions relating to the payment of committee Chairs for the House to decide upon, one offering no payment for Chairs, the other providing for remuneration.

Amongst the other Motions are one allowing the Liaison Committee to take evidence from the Prime Minister and one giving select committees the power to exchange papers with devolved legislatures.

The Motions for debate are not analysed in this paper, but are included in the Appendix.

The first report of the Modernisation Committee of 2001-02, published in February 2002, concerned itself with the reform of Select Committees.<sup>10</sup> This has been the subject of considerable interest in Parliament and in academic circles for many years.

There had been considerable discussion of these issues prior to the Modernisation Committee report. Major contributions to the debate had come from the Liaison Committee of the House of Commons, the Hansard Society Commission, and the Conservatives' *Commission to Strengthen Parliament (the Norton Commission)*. However, on 16 July 2001, government motions to appoint the Foreign Affairs and Transport, Local government and the Regions Select Committees were defeated by the House in a major demonstration of the House's feelings about the involvement of the whips in the selection of committee members. This demonstrated considerable pressure for reform upon which the Modernisation Committee was able to build.<sup>11</sup>

The debate on 16 July 2001 to approve motions relating to the membership of Select Committees became an opportunity for Members to express concern about the role of select committees, and in particular the committee membership. Douglas Hogg, for example, commented:

...the appointment of Select Committees is one of the most important acts carried out by this Chamber. We are appointing the method by which it is generally agreed that the Government of the day are most effectively scrutinised and called to account. As he [Mr Forth] and my hon. Friend the Member for Tiverton and Honiton (Mrs. Browning) said, that is essentially a House of Commons matter. We are seeing an attempt by the Government to control the ability of the House to select the Select Committees. In other words, the ability of the House properly to perform its functions on a House of Commons matter is being curtailed.<sup>12</sup>

The motion setting-up the Foreign Affairs Committee was negated by 301 votes to 232, and the motion setting up the Transport, Local Government and the Regions Committee was defeated by 308 votes to 221.

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<sup>10</sup> HC 224 2001-02,

<http://www.publications.parliament.uk/pa/cm200102/cmselect/cmmodern/224/22402.htm>

<sup>11</sup> HC Deb vol 372 c35-80

<sup>12</sup> HC Deb vol 372 c28

Underlying the debate, the various reports and the media comment were questions about the effectiveness of select committees in their scrutiny of the executive. In particular the Liaison Committee report *Shifting the Balance*<sup>13</sup> and the Government response to it<sup>14</sup> exemplified this tension between executive and Parliament. Bruce George, for example, wrote last year that ‘The Liaison Committee has sought to push forward an agenda for change, to bring the select committee system into the 21<sup>st</sup> century. It is a great pity the government’s response has been so negative. But we cannot, unlike a saloon bar bore, blame it all on the government.’<sup>15</sup>

In tandem with the discussions on the proposals for reform of the Select Committee system, the House of Commons in July 2001 agreed to a number of changes to Standing Orders affecting the administration of the Committees.<sup>16</sup> These changes were in part a response to some issues raised by the Liaison Committee and the government response, and covered four areas – quorums, joint working with other committees, changes to select committees to reflect government departments and powers to appoint sub-committees. In April 2002 the Prime Minister announced that he would be giving evidence to the Liaison Committee twice a year in an effort to improve his accountability to MPs.<sup>17</sup> This is against the precedent set over the previous 60 years that Prime Ministers do not give evidence to Committees (and previous instances of the Prime Minister giving evidence to select committees were in any case in his capacity as Leader of the House).

The history of select committees is discussed in more detail in Part II, including an evaluation of the effectiveness and purpose of select committees.

## **B. Recent influential reports**

There have been a number of influential reports, which have led the debate on the role of select committees. This section of this Research Paper examines some of the proposals from these and shows how they compare to the main proposals of the Modernisation Committee.

### **1. The Liaison Committee**<sup>18</sup>

Recent relevant reports from the Liaison Committee include the following:

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<sup>13</sup> Liaison Committee, *Shifting the Balance: select committees and the executive*, HC 300, 1999-2000

<sup>14</sup> *Independence or Control, The Government’s Reply to the Committee’s First Report of Session 1999-2000*, HC 748, 1999-2000

<sup>15</sup> Bruce George MP, ‘Reaching out to the world beyond beyond Westminster’, *House Magazine*, 12 February 2001

<sup>16</sup> HC Deb 5 July 2001 vol 371 c478-512

<sup>17</sup> HC Deb 29 April 2002 c535W

<sup>18</sup> The Liaison Committee is a select committee of the House of Commons, and consists mainly of the chairmen of all the other select committees. Its role includes considering general matters relating to the work of select committees, and advising the House of Commons Commission on this.

- Liaison Committee: *Shifting the Balance: Select Committees and the Executive*, HC 300, 1999-2000, March 2000<sup>19</sup>
- The Government's Response to the First Report from the Liaison Committee on *Shifting the Balance: Select Committees and the Executive*, Cm 4737, 1999-2000, July 2000<sup>20</sup>
- Liaison Committee, *Independence or Control*, The Government's Reply to the Committee's First Report of Session 1999-2000, HC 748, 1999-2000, July 2000<sup>21</sup>
- Liaison Committee: *Shifting the Balance: Unfinished Business*, HC 321, 2000-01, 15 March 2001<sup>22</sup>
- Liaison Committee: *Select Committees: Modernisation Proposals*, HC 692, 2001-02, 19 March 2002.<sup>23</sup>

The March 2000 report set out a programme of reform and modernisation of the select committee system. The Government responded in July 2000, and it addressed each of the areas raised by the Liaison Committee, although not many of the specific proposals were accepted. The Liaison Committee was disappointed by the Government response and took evidence from the Leader of House on 26 June 2000.<sup>24</sup> It then published a reply to the Government's response, called *Independence or control?* Almost exactly a year after the publication of its first report on the subject, just before the general election, the Liaison Committee published *Shifting the Balance: Unfinished Business*. This report reiterated the Liaison Committee's position and their dissatisfaction with the Government's response to their proposals and looked at each of the areas where the Committee had recommended reform in its original report of March 2000.

Further details of these reports can be found in Library Standard Note SN/PC/1318.<sup>25</sup>

The Liaison Committee report of March 2002 was a response to the Modernisation Committee's report of February 2002.

## 2. The Norton Commission Report

William Hague, then Leader of the Opposition, established the *Commission to Strengthen Parliament* in July 1999 chaired by Lord Norton of Louth (the Conservative peer and academic, Philip Norton). The Commission reported in July 2000 with a range of proposals designed to counter what it saw as the over-dominance of the executive over

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<sup>19</sup> <http://www.publications.parliament.uk/pa/cm199900/cmselect/cmliaisn/300/30002.htm>

<sup>20</sup> <http://www.archive.official-documents.co.uk/document/cm47/4737/4737.htm>

<sup>21</sup> <http://www.publications.parliament.uk/pa/cm199900/cmselect/cmliaisn/748/74803.htm>

<sup>22</sup> <http://www.publications.parliament.uk/pa/cm200001/cmselect/cmliaisn/321/32102.htm>

<sup>23</sup> <http://www.publications.parliament.uk/pa/cm200102/cmselect/cmliaisn/692/69202.htm>

<sup>24</sup> This was the first time the Liaison Committee had used its power to take oral evidence (Liaison Committee Press Notice 3, 1999-2000, 26 June 2000)

<sup>25</sup> *Select Committees: the Liaison Committee reports and proposals for change.*

Parliament.<sup>26</sup> On Select Committees, the Norton Report endorsed the proposals of the Liaison Committee in *Shifting the Balance*.<sup>27</sup>

### 3. The Hansard Society

In September 1999, the Hansard Society established a *Commission on Parliamentary Scrutiny* chaired by Lord Newton of Braintree, a former Leader of the House of Commons. The Commission reported in June 2001.<sup>28</sup> The report set out seven principles for reform, one of which was that “committees should play a more influential role within Parliament”.<sup>29</sup>

### C. The Modernisation Committee and its proposals of February 2002

The debate to agree the appointment of Select Committee members for the first session of the new Parliament in 2001 was held on 16 July.<sup>30</sup> In the light of considerable opposition from MPs to what was seen as manipulation by the Whips of the membership of the Committees, the Leader of the House announced that the new Modernisation Committee, which he was chaired, would produce proposals for modernising certain aspects of the Select Committee system:

I have repeatedly said that it was my intention to review in the autumn the system by which nominations to Select Committees are made. I would be the first to agree that the events of the past few days have given greater urgency to the search for a more transparent system. I intend to invite the Modernisation Committee, when it meets for the first time on Wednesday, to make the system of nominations to Select Committees the first priority for its programme.<sup>31</sup>

Mr Cook added:

The Modernisation Committee can address the procedures of the House, but it cannot make any recommendations about the internal process by which political parties decide which of their members to put forward.<sup>32</sup>

A number of other bodies looking into the issue of Select Committee reform had already published their findings. Throughout the latter half of 2001 the Modernisation Committee took evidence from a number of people, including some of those who had

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<sup>26</sup> Conservative Party, Commission to Strengthen Parliament, *Strengthening Parliament*, July 2000 (the Norton Commission) <http://www.conservatives.com/pdf/norton.pdf>

<sup>27</sup> Ibid, p29

<sup>28</sup> Hansard Society Commission on Parliamentary Scrutiny, *The Challenge for Parliament Making Government Accountable*, 2001.

<sup>29</sup> Hansard Society Commission on Parliamentary Scrutiny, *The Challenge for Parliament Making Government Accountable*, 2001, p xi

<sup>30</sup> HC Deb 16 July 2001 cc35-88

<sup>31</sup> HC Deb 16 July 2001 c46

<sup>32</sup> Ibid

contributed to these enquiries. The witnesses were Lord Sheldon (former Chairman of the Liaison Committee), Lord Newton of Braintree (Former Leader of the House and Chair of the Hansard Commission), Lord Norton of Louth, Peter Riddell and Anna Coote of the Hansard Society, and Alan Williams (Chairman of the Liaison Committee); in addition the Committee received a large number of written submissions from Members and from the chairman of the Selection Committee, from the Plaid Cymru/SNP joint group, the leader of the UUP, and a comparison by *Democratic Audit* of Commons select committees with those of other parliaments.<sup>33</sup>

Among the written submissions was a letter from Graham Allen, supported in principle by several other Members, proposing that the legislature should elect its own Select Committees, without, as he put it, ‘the intervention of the government (which they are meant to scrutinize) or “Wise Men”’.<sup>34</sup> The final Modernisation Committee report however commented that ‘we decided not to pursue this option because election would be unlikely to produce a committee which was balanced according to experience, gender, geographical spread or of the range of opinions within parties.’

The Modernisation Committee Report on *Select Committees* was published on 12 February and contained 22 recommendations, the first of which was to replace the Committee of Selection with the Committee of Nomination chaired by the Chairman of Ways and Means.<sup>35</sup> In many ways the role of the Selection Committee was crucial to the other reforms recommended, including scrutiny matters, nominations, appointment of chairmen, clarity of objectives, a more coherent committee structure and greater public awareness.

The recommendations are grouped below, according to subject, along with relevant comment from the Liaison Committee and others. The Motions to be debated by the House on 14 May are available in the Appendix.

## **1. Membership of select committees and the new Committee of Nomination**

The debates on 16 and 19 July 2001 concentrated specifically on the selection of members, after Gwyneth Dunwoody and Donald Anderson were omitted from the membership of committees they had previously chaired. The publication of the motions listing the provisional membership had caused an outcry both in parliament and in the press. It was clear during the debate on 16 July that the House was not disposed to accept the nominations because of what it saw as undue interference by the whips. The role of the Committee of Selection was also questioned, as it had not sought to make any changes to the parties' nominations. This was shown in an exchange between Eric Forth,

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<sup>33</sup> Modernisation Select Committee, *Select Committees*, HC 224-II, 2001-02, February 2002

<sup>34</sup> *Ibid*, Appendix 4

<sup>35</sup> Modernisation Select Committee, *Select Committees*, 12 February 2002, HC 224, 2001-02 pp 5-7. The Chairman of Ways and Means is the Deputy Speaker.

then on the Conservative backbenches, and John McWilliam, Chairman of the Committee of Selection:

**Mr. Eric Forth (Bromley and Chislehurst):** How many changes did the Committee of Selection make to the recommendations made by the representatives of different political parties?

**Mr. McWilliam:** None. I reasonably thought that the representatives of the various political parties had sorted the recommendations out with their members before they put them to the Committee. The parties have different systems for doing that.<sup>36</sup>

Following a number of interventions, Mr McWilliam clarified his view of the duties of the Committee:

**Mr. McWilliam:** May I finish my point? Selection is a matter for the individual parties. When I was Chairman of the Selection Committee during the last Parliament, I was perfectly happy to acquiesce with all parties - perhaps when a mistake was made in a change or something similar. I have not moved motions - sometimes late at night - in order that such things can be sorted out. Those selection processes are a matter for the individual parties.

The duty of the Committee of Selection is to ensure that the balance of the House is kept in terms of membership of Committees, that the motions for nomination are properly made and that the procedures are properly adhered to.<sup>37</sup>

The then shadow Leader of the House, Angela Browning, said that Government must accept that select committees will sometimes criticise:

**Mrs. Browning:** We are hearing confirmation from all parties of unhappiness with the current system, which needs to be changed.

I want to consider the amendments that we shall debate and especially the chairmanship of the Transport, Local Government and the Regions Committee and the Foreign Affairs Committee. Like many other hon. Members, I received an e-mail from the right hon. Member for Swansea, East (Donald Anderson). It states:

"It is essential for our democracy that watchdogs are allowed to bark and occasionally to bite."

I agree. Any Government must accept that Select Committees will scrutinise and sometimes criticise. As the hon. Member for Crewe and Nantwich (Mrs.

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<sup>36</sup> HC Deb 16 July 2001 c38

<sup>37</sup> Ibid

Dunwoody) pointed out on "Woman's Hour" today, that helps to create the checks and balances in our democratic procedures.<sup>38</sup>

Robin Cook, Leader of the House, reiterated that there would be a wider review:

Regardless of the outcome of tonight's votes, a wider issue must be addressed and I shall address it now. To get the Select Committees up and running before the summer recess, it was necessary to adopt this procedure. If we had embarked first on making major changes to the procedure and amended Standing Orders, there would have been no prospect of the Select Committees being established until October or November. Even with no such changes, only in the last week before the recess have we been able to put nominations to the House.

I have repeatedly said that it was my intention to review in the autumn the system by which nominations to Select Committees are made. I would be the first to agree that the events of the past few days have given greater urgency to the search for a more transparent system. I intend to invite the Modernisation Committee, when it meets for the first time on Wednesday, to make the system of nominations to Select Committees the first priority for its programme.<sup>39</sup>

Gwyneth Dunwoody, former Chairman of the Transport Sub-Committee, argued that:

What the Select Committees do matters. It matters because the House of Commons must never become a great morass of people doing what they are told not by the electorate, but by the Executive. That is why it is important that we vote tonight on who serves on which Committee. That is why it is important to say to the electorate as a whole that we do a vital job. Give us more powers. Give us more support. Do not give us more money. As Chairman of a Committee, I do not want money: what I need is the right to question, to examine and to produce reports on what Her Majesty's Government are doing in the name of government.<sup>40</sup>

Donald Anderson, former Chairman of the Foreign Affairs Committee, emphasised the importance of the independence of select committees and welcomed Robin Cook's announcement of a review:

The key factor is not the personal, but the principle. Parliament is falling into some disrepute. Coverage in the newspapers has plummeted. The public has switched off, as was shown by the apathy during the general election. What signal are we giving to the public? The last century was extremely hard on Parliaments because the professional civil service was far more expert, and because of the secrecy, the speed of events and globalisation. Select Committees are by far the

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<sup>38</sup> Ibid, c42

<sup>39</sup> Ibid, c44

<sup>40</sup> Ibid, c58

best instrument for Parliament to be expert in dealing with experts. They must be seen to be independent if Parliament is to enhance its role.<sup>41</sup>

Most of the motions setting up the committees were agreed without a division at the end of the debate. However, the motion setting-up the Foreign Affairs Committee was negated by 301 votes to 232, and the motion setting up the Transport, Local Government and the Regions Committee was defeated by 308 votes to 221. Robin Cook made a business statement immediately after these decisions at which he announced the time-table for a review of the Committee of Selection's motions for these two committees. He announced that the Committee of Selection would meet on Wednesday 18 July with a view to debating the new motion on Thursday 19 July. All parties welcomed this announcement, and when the new motions were tabled (which included Gwyneth Dunwoody and Donald Anderson in their respective committees), they were agreed without division.

The Modernisation Committee's first recommendation concerned the replacement of the Committee of Selection with a Committee of Nomination. The Committee recommended:

15. One person who by definition is available at the start of the Parliament and who enjoys the confidence and respect of the House is the Chairman of Ways and Means. **We recommend that at the start of each Parliament the Committee of Nomination should be set up under the Chairman of Ways and Means. The Chairman of Ways and Means should chair proceedings, but in order to preserve the impartiality of his office have no vote.**

16. The criteria for the other members of the Committee of Nomination are clear. They should be Members of seniority in the House with a proven ability to perform with impartiality and a broad knowledge of the strengths and special interest of back-benchers. All of these criteria are met by the Members on the Chairmen's Panel, who provide the pool of chairmen for Standing Committee and Westminster Hall debates. We therefore propose that the bulk of the membership of the Committee of Nomination should be drawn from the Chairmen's Panel. In taking this view we are influenced by the independent appointment of the Chairmen's Panel on the authority of the Speaker. **We recommend that appointment to the Chairmen's Panel must remain firmly in the hands of the Speaker and not subject to any party interest or lobbying.**

17. The Chairman of Ways and Means should inform the House of the names of the members of the Committee of Nomination. Any election of members of the Committee of Nomination must bring some risk that the vote will be on party lines. Therefore, in order to preserve its independence from party influence **we recommend that membership of the Committee of Nomination should be prescribed in Standing Orders. We recommend that the Committee of Nomination should consist of the Chairman of Ways and Means and nine other members:**

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<sup>41</sup> Ibid, c72

seven Members of the Chairmen's Panel chosen with broad regard to the party balance, reflecting gender balance and based on length of service as members of the Panel. Those seven would consist of:

- the four most senior Members of the Government party on the Panel including the most senior woman Member of that party;
  - the two most senior Members of the official Opposition on the Panel, including the most senior woman Member of that party; and
  - the most senior Member of the second largest opposition party on the Panel.
- the most senior back-bencher on the Government side of the House; and  
the most senior back-bencher on the opposition benches.

The quorum of the Committee when nominating committees afresh at the start of a Parliament should be six, and three when filling subsequent vacancies, not including the Chairman of Ways and Means. In the unavoidable absence of the Chairman of Ways and Means the First Deputy Chairman or in his or her absence the Second Deputy Chairman shall act as chairman.<sup>42</sup>

The Modernisation Committee did not recommend any specific changes as to how members should be nominated for committee service.

Since 1979, the Committee of Selection has had the task of nominating Members to serve on departmental select committees, subject to the approval of the House.<sup>43</sup> Members are nominated for the whole of a Parliament. Motions to nominate them and members of the domestic committees may only be made on behalf of the Committee of Selection by the Chairman or another member of that committee,<sup>44</sup> although other Members may table amendments. Before 1979, the motions were tabled by the Government Deputy Chief Whip after consultation with other parties. The idea of the reform was that as these committees were to be independent monitors of the Government, their membership should be controlled on behalf of the House as a whole.<sup>45</sup> However, various commentators have expressed concern that, in practice, the whips retain considerable control over this process.

In recommending Members for nomination, the Committee of Selection follow three general principles:<sup>46</sup>

*first*, that the Government should have a majority on each select committee;

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<sup>42</sup> Modernisation Committee: *Select Committees*, 12 February 2002, HC 224, 2001-02

<sup>43</sup> The Committee of Selection is a committee of senior Members, including the whips of the main parties. It also nominates members to the domestic select committees and to standing committees, the grand committees and private bill committees. Only in relation to select committees are the nominations subject to the approval of the House.

<sup>44</sup> S. O. no. 121(2)

<sup>45</sup> see Liaison Committee *Shifting the Balance: Select Committees and the Executive* HC 300, 1999-00, p ix and *The Government's Response to the First Report from the Liaison Committee on Shifting the Balance: Select Committees and the Executive*, Cm 4737, May 2000, para 7

<sup>46</sup> set out in a letter from the then Chairman of the Committee to the Procedure Committee in 1990, HC 19, 1989-90

*second*, that the overall number of Members from each party nominated by the Committee of Selection to select committees should reflect the party strengths of the House as a whole; and  
*third*, that no Ministers, Whips, PPSs or principal Opposition spokesmen should be nominated to select committees.<sup>47</sup>

Some of these principles have not always been followed, since the Shadow Leader of the House currently sits on the Modernisation Select Committee and the committee is chaired by the Leader of the House. In the 1990s Sir James Kilfedder chaired the Northern Ireland Select Committee as leader (and only Member of) the Ulster Popular Unionist Party. In 1994 a Government Whip, Andrew Mitchell, was appointed to the Select Committee on Members' Interests, although a subsequent report from the Standards and Privileges Committee in 1997 recommended that this precedent should not be followed in future, noting as follows:

We conclude that it is inappropriate for whips of the main parties to be appointed to any Committee considering the conduct of individual Members or which otherwise sit in a quasi-judicial capacity<sup>48</sup>

Having agreed the overall balance of parties and given consideration to the allocation of chairmanships,<sup>49</sup> the Government whips and the Opposition whips on the Committee of Selection each independently select the members from their own benches. The selection of members from the smaller parties is dealt with by the minority party representative on the Committee.

The system for selecting members of select committees had been recommended originally by the Procedure Committee.<sup>50</sup> That Committee conducted a review in 1990, which included endorsement of the Committee of Selection's criteria as being:<sup>51</sup>

...sensible and probably the fairest, or least unfair, to all parts of the House which are available [...]. We do not believe that any alternative system would have such obvious advantages as to outweigh its disadvantages.

The Committee of Selection, it was stated, was intended to act as "a necessary buffer" between the whips and the House, but "it would be idle to expect the whips to play no part in the process." The Procedure Committee deprecated any practice which sought to influence the election of a committee chairman through offer of appointment to a specific committee.<sup>52</sup>

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<sup>47</sup> the Chairman also indicated that the second principle, relating to party proportions, is the one that proved most difficult to apply

<sup>48</sup> HC 226, 1996-97, Para 13

<sup>49</sup> although it is for each committee, once nominated, to elect its own chairman

<sup>50</sup> HC 588 1977-78

<sup>51</sup> HC 19, 1989-90, para 177

<sup>52</sup> Ibid, paras 179-9

Principal Opposition spokespeople are normally excluded from membership of select committees by convention rather than by standing order. The Standing Orders are not explicit about the membership of select (or indeed domestic) committees.<sup>53</sup>

The Liaison Committee report on departmental select committees in 1997<sup>54</sup> contained in the evidence of its Chairman, Sir Terence Higgins, a recommendation that whips should not be involved in deciding the choice of the individual chairmen for departmental select committees. The subsequent Liaison Committee report, *Shifting the Balance: Select Committees and the Executive*, was critical of the process:

11. In practice, however, the Committee of Selection - itself heavily influenced by the Whips - has nominated Members to serve on select committees in the same way as Members to serve on standing committees or private bill committees - primarily on the basis of lists supplied by the Whips.

12. This has had three unwelcome results:

- on some occasions there have been long delays - whatever their cause - in setting up select committees at the beginning of a Parliament, at the very time when committees need to put in maximum effort to establish their approach, plan their programme and begin work. These delays are of course convenient for the government of the day.
- when a Member decides to leave a committee there have been long delays - for no good reason - in making the change of membership. Some committees have been as many as three Members short for a matter of months, when there has been no shortage of volunteers.
- Members have undoubtedly been kept off committees, or removed from them, on account of their views. Oppositions as well as governments have been guilty of this, but of course if committees are to be effective scrutineers of government it is the influence of the governing party that causes us the greater concern.<sup>55</sup>

The Liaison Committee's report proposed a fundamental reform of the Select Committee system:

14. The Liaison Committee should be renamed and reconstituted as the *Select Committee Panel*, mirroring for select committees the role of the Chairmen's Panel for standing committees. It should have a crucial additional task: proposing to the House the names of Members to serve on select committees.

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<sup>53</sup> Some indication of how the Committee of Selection carries out its responsibilities in relation to select committees is contained in section B(iii) of Library Background Paper 298 on the select committee system. See in particular pp22-29

<sup>54</sup> HC 323 1996-7

<sup>55</sup> Liaison Committee *Shifting the Balance: Select Committees and the Executive*, First Report, HC 300, 1999-2000, para 11-12

15. In the early weeks of a Parliament there has been no Liaison Committee because there have been no committees and so no Chairmen. Just as the House appoints the Chairman and Deputy Chairmen of Ways and Means at the very beginning of a Parliament, so it should, at the same time and after similar consultation, appoint a *Chairman of Committees* and two *Deputy Chairmen of Committees*. The Chairman of Committees should not serve as a Chairman of any other select committee, but the Deputies should not be so restricted. All three would be senior and respected Members of the House, prepared to work in a wholly non-partisan way.

16. Immediately upon appointment, the Chairman and Deputies would invite names for membership of committees, with a deadline for submissions. They would propose to the House the membership of each committee not more than a fortnight after that deadline.

17. Members would be free to propose themselves, or others, with information about qualifications and suitability; and the Whips could make their own suggestions; but the final decisions on nomination would be made by the Chairmen and Deputies. The party managers would also be free to give their views on the division of Chairmanships; but, once again, it would be for the first three members of the Select Committee Panel to decide how to reflect those views in their proposals. It is, after all, up to each committee independently to elect its Chairman.

18. The proposals would be put to the House in amendable, debatable motions, as is already the case.

19. During the course of a Parliament, the Panel would maintain lists of those who wanted to serve on particular committees. A Member of the House would be able to put forward his or her name at any time, again with any supporting information. When a vacancy occurred, the Chairman of Committees would consult the Chairman of the relevant committee about a replacement; names would be considered by the executive sub-committee; and the necessary motion would be tabled in the name of the Chairman of Committees. There is no reason why the replacement should not normally be made within a week of the vacancy becoming known.

20. We are sure that this system would be transparent and fair, and that it would protect the independence of select committees.<sup>56</sup>

In its response, the Government rejected these proposals:

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<sup>56</sup> Liaison Committee *Shifting the Balance: Select Committees and the Executive*, First Report, HC 300, 1999-2000, p x

10. It is in this context that the Government are unconvinced that the Committee's proposal for a Select Committee Panel would provide a better alternative. The appointment of members to serve on Select Committees is not straightforward. Some committees are so popular that there may be ten or more Members prepared to serve for every place thereon. It is necessary to balance the competing claims of new and of experienced Members; of long established committee members with those who desire to broaden their experience; and to balance membership from different geographical regions and of the sexes. A certain amount of negotiation is often necessary, and Members may need to be persuaded to accept outcomes they consider less than ideal. Members might well be inclined to challenge the decision of a Select Committee Panel to a far greater extent than they do the Committee of Selection. If this were the case, disputes over Select Committee membership might regularly take up time on the floor of the House. The Report is concerned with the 22 scrutiny committees - last session every single such committee had a change of membership; some Committees had changes of as many as five or six Members. Each of those changes, if challenged, could result in at least an hour's debate on the floor of the House. The result of the Liaison Committee's proposals could well be that the House spent longer in debating membership of select committees than it did on substantive business. This is a key consideration in the conclusions we have reached.

11. Moreover, such a new system risks jeopardising the long-standing principle that opposition parties are entitled to at least a proportion of Select Committee chairmanships. The report appears to envisage that the Panel would place one person it considered worthy of Chairmanship on each Committee. However, the Committee might not choose to elect that person. The Panel presumably would not seek to influence Committees nor, if all Committees were nominated simultaneously, would it have any means to adjust membership of Committees yet to vote. The Government believe it is right that the opposition should supply the chair of some Committees, and cannot accept a system which might place this in jeopardy. One of the results of this balance of chairs is that the Liaison Committee itself reflects party balance in the House, as it should. There is no indication that a new system would be effective in ensuring that the Select Committee Panel was not disproportionately composed of Members of the Government party.<sup>57</sup>

The Liaison Committee reiterated their concerns in *Shifting the Balance: Unfinished Business*:

10. We believe that the nomination of Members to committees is not satisfactory. It is too much under the control of the Whips, either through the Committee of Selection (Standing Orders give that committee the task of nominating all the departmental select committees) or directly (for those committees whose nomination Motions normally appear in the name of the Government Deputy

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<sup>57</sup> *The Government's Response to the First Report from the Liaison Committee on Shifting the Balance: Select Committees and the Executive*, Cm 4737, May 2000, p2

Chief Whip). We want to see a system which is more transparent and independent; which ensures:

- that committees begin work earlier in a Parliament;
- that vacancies are filled quickly;
- that knowledge of a subject and the readiness to commit time to committee work are in every case key criteria for membership; and
- that Members are not kept off committees, nor removed from them, on account of their views.<sup>58</sup>

Alex Brazier of the Hansard Society Scrutiny Commission, commented:

To flourish, select committees must achieve greater independence from the Whips and effectively from the Government. Members are formally appointed to select committees by the Committee of Selection, but it is widely accepted that the Whips determine the Committee's decisions. The influence of the whips in this regard has long been acknowledged.<sup>59</sup>

The Hansard Society *Commission on Parliamentary Scrutiny*, in its final report in July 2001, endorsed the suggestion that the Liaison Committee should be restructured and renamed, and should play a greater role in determining the membership of select committees.<sup>60</sup>

The *Commission to Strengthen Parliament*, set up by William Hague as Leader of the Conservative Party and chaired by Lord Norton, supported the perception that the appointment of committee members should be taken out of the hands of the whips. It strongly endorsed the Liaison Committee recommendation for the establishment of a Select Committee Panel, stating:

The basis for vesting such power in the proposed Panel is clear and well expressed by the Liaison Committee. It puts the power to select members in the hands of a body of senior, and fairly independent, Members of Parliament, usually quite capable of resisting pressure from the whips.<sup>61</sup>

However, the Government, in its response to the Liaison Committee's March 2000 report rejected the view that the Whips control select committee membership:

9. The Liaison Committee Report characterises the current system as one in which there is a danger that unfettered party management will exercise subversive control of select committee memberships to ensure, on the Government's part, a docile set of select committees. This Government does not accept that any

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<sup>58</sup> Liaison Committee, *Shifting the Balance: Unfinished Business*, HC 321-I Session 2000-01, p xi

<sup>59</sup> Alex Brazier, *Systematic Scrutiny Reforming the Select Committees*, Hansard Society, July 2000

<sup>60</sup> Hansard Society Commission on Parliamentary Scrutiny, *The Challenge for Parliament Making Government Accountable*, 2001, p27

<sup>61</sup> *Strengthening Parliament*, Commission to Strengthen Parliament, July 2000, p29

Government would desire such a state of affairs let alone manage to achieve it if it ever did. Governments of all parties have recognised both the public interest in a properly scrutinised executive, and the party political benefit of being seen to be properly scrutinised.<sup>62</sup>

More recently, the cross-party group of Members calling for parliamentary reform under the name "Parliament First" issued a press statement which included the following:

Just as Parliament elects its own Speaker, we believe that

1. Parliament should elect its own Select Committees
2. Select Committees should be strengthened in tune with the recommendations of the Liaison Committee Report "Shifting the Balance"
3. Specifically, Parliament should elect the members of the Committee of Selection and the Committee of Modernisation of the House<sup>63</sup>

The Group also tabled an Early Day Motion calling on the Government to reconsider its response to the Liaison Committee report.<sup>64</sup>

Further clarification of the Government position was provided during an Opposition Day debate on *Shifting the Balance* on 12 February 2001. The then Leader of the House, Margaret Beckett, commented that Labour party nominations have to be approved by the Parliamentary Labour Party:

**Mrs Beckett:** (...) As the right hon. Gentleman ought to be aware, there is a proper structure of nomination in the Labour party. That structure has to be approved by the parliamentary Labour party. Indeed, the parliamentary Labour party rules state:

"For all Select Committees, the Chief Whip shall consult the Chair of the PLP, the Front-Bench Spokesperson if appropriate, the Chair of the appropriate Departmental Committee"--

the Back-Bench Committee--

"and prepare from the records kept by the secretary . . . a list of names to go forward to the House, or the Committee of Selection, as appropriate. The lists of suggested nominees should be placed before the PLP in good time before any decision is made by the Committee of Selection or Motion taken by the House."

Of course, it is in order for that to be referred back or amended. I simply tell the right hon. Gentleman that that procedure may not obtain in Liberal Democrat party or in the Conservative party, but why should we change the rules of the House because those parties' procedures are totally undemocratic?<sup>65</sup>

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<sup>62</sup> *The Government's Response to the First Report from the Liaison Committee on Shifting the Balance: Select Committees and the Executive*, Cm 4737, May 2000, p2

<sup>63</sup> 19 June 2001

<sup>64</sup> EDM 50 2001-02 - <http://edm.hclibrary.parliament.uk/edmdata/html/motion.html/ref=50>

<sup>65</sup> HC Deb 12 February 2001 c96

The *Liaison Committee* reiterated in both *Independence or Control* and in *Shifting the balance: Unfinished Business* its dissatisfaction with the current system of selecting Members:

There is widespread disquiet, both amongst Members and outside the House, about a system which is not open, and which is not clearly independent of the Government and the party managers. Those being scrutinised should not have a say in the selection of the scrutineers. We believe that the present system does not, and should not, have the confidence of the House and the public.<sup>66</sup>

In *Shifting the Balance: Unfinished Business* it wrote:

The system for nominating members of select committees must be changed. It is also clear that there is widespread support for such a change. Our successors (or we ourselves, if the end of the Parliament is delayed beyond current expectations) should explore the various options, and lay further proposals before the House.<sup>67</sup>

*Shifting the balance: Unfinished Business* made the following comments on the nomination of members in the light of the House's debates on the earlier reports:

***The Select Committee Panel and the Liaison Committee***

22. We suggested that the "Select Committee Panel" (the three "wise persons" plus all the Chairmen of select committees) should take on the existing duties of the Liaison Committee, plus a broader responsibility for other matters affecting select committees: for example, the format and presentation of select committee reports. We also suggested that the Panel (because of its size) should have power to appoint an executive sub-committee.

23. Our proposals for the nomination of members of select committees were originally linked with the composition and duties of the Panel. However, following the House's rejection of the "wise persons" proposal there is no reason why the Liaison Committee as at present constituted should not carry out the additional functions.

24. We welcome the Government's tabling of an amendment to Standing Order No. 145 to give us power to appoint a sub-committee. We hope that the Government will give this practical effect by finding time for its approval before the end of the Parliament.

25. We expect that our successors in the next Parliament will wish to discuss with the new House of Commons Commission how the Liaison Committee could have more practical responsibility for a range of matters affecting select committees.<sup>68</sup>

In its report on the Modernisation Committee's proposals, the Liaison Committee said that "we support the Modernisation Committee's proposal as offering sensible new machinery, which is worth trying."<sup>69</sup>

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<sup>66</sup> Liaison Committee, *Independence or Control*, para 28

<sup>67</sup> Liaison Committee, *Shifting the Balance: Unfinished Business*, HC 321, 2000-01

<sup>68</sup> Liaison Committee, *Shifting the Balance: Unfinished business*, HC 321-I, 2000-01

## 2. Staffing of and financial assistance to Select Committees and their chairmen

The Modernisation Committee recommended:

**that the House of Commons Commission should make available the necessary funds for a central unit of specialist support staff to be in place in the next financial year.**

**that the National Audit Office be invited to help assess the need for specialist and other support staff for select committees and to advise on how this could best be provided, and that the House of Commons Commission should look favourably on funding for staffing increases which may be proposed.**

**that within the Committee Office there should be sufficient staff to assist with the function of supporting the administrative workload of the select committee chairmen.**

**that the value of a parliamentary career devoted to scrutiny should be recognised by an additional salary to the chairmen of the principal investigative committees**

The *Liaison Committee's* report *Shifting the Balance*<sup>70</sup> proposed that the Committee Office should establish a unit specialising in public expenditure and pre-legislative scrutiny, able to carry out a preliminary examination of estimates and output and performance analyses for select committees. It recommended secondments from the civil service and the private sector.

The Government response<sup>71</sup> was that this was not a matter for the Government, 'though the House will take note of the fact that, in all, some 250 staff are now supporting the work of the select committees.' The Liaison Committee in turn disputed this figure.<sup>72</sup>

The *Liaison Committee* also recommended in *Shifting the Balance* that the Senior Salaries Review Body should consider whether select committee chairmen should receive a salary or be eligible for a higher Office Costs Allowance.

The Government responded to this suggestion by undertaking to consider the position of select committee chairmen, together with the recommendation of the Royal Commission on Reform of the House of Lords that certain chairmen of Lords committees should be

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<sup>69</sup> Liaison Committee, *Select Committees: Modernisation proposals*, HC 692, 2001-02, para 4

<sup>70</sup> Liaison Committee, *Shifting the Balance: Select Committees and the Executive*, First Report, HC 300, 1999-2000, paras 71-86

<sup>71</sup> *The Government's Response to the First Report from the Liaison Committee on Shifting the Balance: Select Committees and the Executive 1999-2000*, Cm 4737 para 54

<sup>72</sup> Liaison Committee, *Independence or Control, The Government's Reply to the Committee's First Report of Session 1999-2000*, HC 748, 1999-2000 paras 66-68

paid. The Government also made the comparison with Opposition spokespeople, who do not get the same level of staffing or travel facilities.<sup>73</sup>

Norton argued also that select committees should offer an alternative career path to ministerial office, and that the Committee Office should house a central unit of researchers, with each committee entitled to a research budget.

The Hansard Society reported that '...committee service must be made more attractive...key posts on select committees should be paid and MPs chairing committees receive a salary equivalent to that of a minister.' The Society Report also made recommendations on staffing and use of resources.

The recommendations for increasing select committee responsibilities also require a consequent increase in staffing and resources. However, the resourcing of Parliament needs to be examined strategically. The provision of extra resources should be tied to a clarification of the committees' roles and their core tasks. Extra staff or secondments should be related to their agreed functions and duties.

The House authorities should review the work of the clerk's department and levels of support to ensure that committees, and the scrutiny function more generally, are supported in the most effective way possible.<sup>74</sup>

In *Select committees: Modernisation proposals*, the Liaison Committee commented "We are glad that the Report specifically endorses the Liaison Committee's recommendation for a central unit within the Committee Office to support specialist scrutiny functions."<sup>75</sup>

### 3. Function and tasks of Select Committees

The Modernisation committee recommended:

**that there should be an agreed statement of the core tasks of the departmental select committees.**

**the following model as an illustration of what we would regard as the principal objectives of departmental select committees:**

**"It shall be the duty, where appropriate, of each select committee:**

- to consider major policy initiatives**
- to consider the Government's response to major emerging issues**
- to propose changes where evidence persuades the Committee that present policy requires amendment**
- to conduct pre-legislative scrutiny of draft bills**

<sup>73</sup> *The Government's Response to the First Report from the Liaison Committee on Shifting the Balance: Select Committees and the Executive 1999-2000*, Cm 4737 paras 21-23

<sup>74</sup> Hansard Society Commission on Parliamentary Scrutiny, *The Challenge for Parliament Making Government Accountable*, 2001, p45

<sup>75</sup> Liaison Committee, *Select Committees: Modernisation proposals*, HC 692, 2001-02, para 7

- **to examine and report on main Estimates, annual expenditure plans and annual resource accounts**
- **to monitor performance against targets in the public service agreements**
- **to take evidence from each Minister at least annually**
- **to take evidence from independent regulators and inspectorates**
- **to consider the reports of Executive Agencies**
- **to consider, and if appropriate report on, major appointments by a Secretary of State or other senior ministers**
- **to examine treaties within their subject areas."**

The Norton Commission Report suggested that committees should be encouraged to focus on resource estimates, departmental plans and output and performance analyses and that select committees should examine draft bills.<sup>76</sup>

The Hansard Society Commission argued that 'The duties of the select committees should be more closely defined'. The Society indicated what it believed to be the core duties and functions of committees:

To improve the coverage of issues, to utilise the work of the regulators and to give the committees a continuity to their work they should meet pre-agreed objectives over the course of a Parliament. These objectives would provide a set of criteria against which their performance can be judged.

These objectives should be agreed with the reformed Liaison Committee, which would also be responsible for monitoring progress over the Parliament. These objectives might include; balancing inquiries between administration, finance and policy of their department; monitoring all departmental reports, business plans and performance indicators; conducting a regular cycle of work on activities of the regulators, executive agencies, quangos and other associated bodies within their department's purview; and review the progress of the department following the committee's previous reports.<sup>77</sup>

It also suggested that sub-committees with specific remits for examining different aspects of departmental activity would improve 'the breadth and depth of scrutiny.'<sup>78</sup> The Liaison Committee commented in *Select Committees: Modernisation proposals* "We welcome the further ideas on committee objectives and tasks set out by the Modernisation Committee as a valuable contribution to this process" and went on to say:

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<sup>76</sup> Commission to Strengthen Parliament, (the Norton Commission), *Strengthening Parliament*, Conservative Party, July 2000, page 31

<sup>77</sup> Hansard Society Commission on Parliamentary Scrutiny, *The Challenge for Parliament: Making Government Accountable*, Hansard Society, 2001, paras 3.24-3.26

<sup>78</sup> *Ibid*, para 3.31

We would also be glad to develop a framework based on such objectives and tasks as a template for the annual reports which committees now make to our own Committee. The key to the usefulness of a list of core tasks is that it should represent a serious aspiration for committees, not a mechanical checklist. Not every item will be appropriate for every committee, nor will all items be capable of being tackled each year. One other task which we and our predecessors and the Hansard Society Commission considered crucial is the need for committees to follow up previous reports in a systematic way. Although not mentioned in the Modernisation Committee's list of "principal objectives", we continue to believe that reviewing their earlier work is something which the House has a right to expect its committees to do on a regular basis, with assistance from the proposed central scrutiny unit where appropriate.<sup>79</sup>

#### 4. Pre-legislative Scrutiny

As set out above, the pre-legislative scrutiny of draft bills is one of the "principal objectives" which the Modernisation Committee set out in its model remit for select committees.<sup>80</sup>

In *Shifting the Balance* the Liaison Committee outlined a number of suggestions in relation to the roles of select committees in examining draft bills. These were:<sup>81</sup>

- the need for adequate notice of draft bills
- the need for adequate scrutiny time
- the imposition by the House of deadlines for committees to report
- the use of existing select committees where appropriate: option for committee to decline a draft bill
- that ad hoc committees should draw from membership of committees with an interest
- that members of select committees that had examined a draft bill should be able to attend and speak on standing committee

The Committee repeated its view in *Unfinished Business* that 'the benefits in terms of better thought out and properly examined legislation will be out of all proportion to the **modest** expenditure involved.'<sup>82</sup>

There was general sympathy in the Government response with these points; however the specific proposal to allow Members who had been on a committee involved in pre-legislative scrutiny of a bill a right to speak in standing committee was not considered desirable.<sup>83</sup>

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<sup>79</sup> Liaison Committee, *Select Committees: Modernisation Proposals*, HC 692, 2001-02, para 17

<sup>80</sup> Modernisation Select Committee, *Select Committees*, HC 224, 2001-02, para 34

<sup>81</sup> Liaison Committee, *Shifting the Balance: Select Committees and the Executive*, HC 300, 1999-2000, para 61-63

<sup>82</sup> Liaison Committee, *Shifting the Balance: Unfinished Business*, HC 321, 2000-01, para 37-38

<sup>83</sup> Liaison Committee, *Shifting the Balance: Unfinished Business*, HC 321, 2000-01, para 44

Norton endorsed the recommendation for draft bills to be considered by select committees, arguing that it would be better for them to produce fewer reports each year to release time for this.<sup>84</sup>

The Hansard Society Commission came to a similar conclusion, that dual-purpose committees, conducting departmental inquiries and scrutinising legislation, should be established on a pilot basis and their performance evaluated by the re-organised Liaison Committee.<sup>85</sup>

In the Scottish Parliament, the subject committees combine the role of the Westminster standing and select committees, and so part of their function is the scrutiny of legislation. There is a three-stage bill process. Committees undertake consideration of a bill's general principles and prepare a report for Parliament at stage 1 and consider each section and schedule at Stage 2. In addition, Committees may often consider draft bills.<sup>86</sup>

In its March 2002 report, the Liaison Committee made the following observations:

Our First Report noted that a number of committees have taken the initiative in recent months to scrutinise bills in substantive form, as well as in pre-legislative drafts. **Legislative scrutiny requires early notice, adequate documentation and realistic deadlines. These are for Government to deliver.** Pre-legislative scrutiny, if it is to be comprehensive, depends on a regular flow of draft bills. Despite the good intentions expressed in the 1997 Modernisation Committee's report, the number of bills published in draft since then has been disappointing. We look forward to an improvement in this situation.

9. Pre-legislative work imposes extra burdens on Members, and will create a problem of priorities for the committee and for committee staff. So it is welcome to have the endorsement of the Modernisation Committee for the provision of extra specialist support that could help enhance committees' examination of legislation. The staff of the unit could provide briefing to individual committee staffs, or augment a committee secretariat for a particular pre-legislative study.<sup>87</sup>

## 5. Financial Scrutiny

The Modernisation Committee recognised the need for improved financial scrutiny by committees:

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<sup>84</sup> Commission to Strengthen Parliament, (the Norton Commission), *Strengthening Parliament*, Conservative Party, July 2000, p32

<sup>85</sup> Hansard Society Commission on Parliamentary Scrutiny, *The Challenge for Parliament Making Government Accountable*, 2001, pp44-5

<sup>86</sup> A discussion of pre-legislative scrutiny in the Scottish Parliament can be found in Barry Winetrobe: *Realising the vision: a parliament with a purpose. An audit of the first year of the Scottish Parliament*, Constitution Unit, 2001, Ch 6

<sup>87</sup> Liaison Committee, *Select Committees: Modernisation Proposals*, HC 692, 2001-02, paras 8-9

**Financial scrutiny is a good illustration of the need for specialised support to select committees. It is impossible for select committees properly to discharge their job of scrutiny unless they can adequately examine the budget control of the Department they shadow and the priority of its spending plans. The introduction of Resource Accounting and Budgeting has increased both the potential for systematic financial scrutiny and the need for technical expertise to interpret it. We were encouraged to hear from the Chairman of the Liaison Committee that Sir John Bourn, the Comptroller and Auditor General, has indicated that he is willing to consider secondees to provide expert support on financial scrutiny. We recommend that the National Audit Office be invited to help assess the need for specialist and other support staff for select committees and to advise on how this could best be provided, and that the House of Commons Commission should look favourably on funding for staffing increases which may be proposed.<sup>88</sup>**

The proposed central scrutiny unit would be specifically geared to provide assistance to the select committees in their enhanced role of financial scrutiny. The Liaison Committee commented "Greater provision of specialist assistance from the scrutiny unit should enable committees to ensure that Departments are made accountable and transparent in more policy areas."<sup>89</sup>

Commentators have long recognised that select committees have tended to perform the task of financial scrutiny inadequately. This was a concern of the Hansard Society:

The Commission believes that select committees should play a greater role in financial scrutiny. Although Standing Orders establishing the departmental select committees gave powers to examine the expenditure (as well as the administration and policy) of the relevant government departments and associated public bodies, the Commission's research confirmed the low priority given to finance. Only around a third of select committee inquiries considered any form of expenditure issue and only 9.1% examined the Estimates. At present there is little incentive to pursue financial issues and chapter three highlighted the problems that committee chairs have in focusing their members on such issues...Part of the problem is the limited influence of such reports, as by the time a committee had received the Estimates, inquired and reported, it would probably be too late to make any difference. Understandably, the greater likelihood of influencing policy of administration will condition a committee's activity.<sup>90</sup>

In 1999, the Procedure Committee had recommended changes on the procedure for debating Government expenditure plans, which included the formal referral of Estimates,

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<sup>88</sup> Modernisation Select Committee, *Select Committees*, HC 224, 2001-02, para 29

<sup>89</sup> Liaison Committee, *Select Committees: Modernisation Proposals*, HC 692, 2001-02, para 10

<sup>90</sup> Hansard Society Commission on Parliamentary Scrutiny, *The Challenge for Parliament: Making Government Accountable*, Hansard Society, 2001, paras 5.8-5.9

the departmental plan and the departmental report to the relevant select committee.<sup>91</sup> It also proposed changes to the way in which the three Estimates Days<sup>92</sup> should be conducted, although it did not recommend an increase in the number of such days. The Government rejected the Procedure Committee's proposals.<sup>93</sup>

In "Shifting the Balance" the Liaison Committee endorsed the Procedure Committee's recommendations, but wanted the number of days increased to six:

In one respect we would go further than the Procedure Committee: we would like to see the present three days a Session on expenditure, linked to select committee reports, increased to six. The Supply procedure, whereby the Crown proposes expenditure which it is for the House to grant, lies at the heart of the relationship between the Executive and the Legislature. If select committees do not make a serious effort to monitor government expenditure - particularly with the introduction of resource accounting and budgeting - they will forfeit a considerable degree of power and influence. We would like to see a sharp focus on Resource Estimates, departmental plans and Output and Performance Analyses.<sup>94</sup>

The Norton Report endorsed the Liaison Committee's recommendation that the committees should be "encouraged to focus on resource estimates, departmental plans and output and performance analysis".<sup>95</sup>

In *Shifting the Balance: Unfinished Business*, the Liaison Committee described difficulties experienced by the Trade and Industry Committee in seeking to examine and report upon Supplementary Estimates before they were voted upon in the House. The Committee concluded:

128. Select Committees which have the responsibility of examining the expenditure of Government departments must have the opportunity of examining and reporting upon Supplementary Estimates. The Trade and Industry Committee's experience demonstrates that there is now a strong case for building on the Procedure Committee's proposals, and providing that no Supplementary Estimate should be capable of being put to the House for decision until reported on by the relevant departmental committee. In order to provide a safeguard

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<sup>91</sup> Procedure Committee, *The Procedure for Debate on the Government's Expenditure Plans*, HC 295, 1998-89, para 45-47, at:

<http://www.publications.parliament.uk/pa/cm199899/cmselect/cmproced/295/29502.htm>

<sup>92</sup> "Estimates days" are when spending plans are debated on the floor of the House. The Liaison Committee chooses the subjects, and the debates are linked to select committee reports on particular estimates. Details are given in House of Commons Factsheet P6, *Financial Procedure*.

<sup>93</sup> Procedure Committee First Special Report HC 388, 1999-2000

<http://www.publications.parliament.uk/pa/cm199900/cmselect/cmproced/388/38802.htm>

<sup>94</sup> Liaison Committee: *Shifting the Balance: Select Committees and the Executive*, HC 300, 1999-2000, paras 59-60

<sup>95</sup> Conservative Party, Commission to Strengthen Parliament, *Strengthening Parliament*, July 2000 (the Norton Commission), p31

against any unreasonable delay, there could be a stipulation that a Committee had to report no later than a certain number of sitting days after publication of the Supplementary Estimate. There should also be an arrangement whereby, if a Committee drew the special attention of the House to a particular Estimate, that Estimate, and any Motion on behalf of the Committee to reduce, would be voted upon separately and not included in the roll-up.<sup>96</sup>

In its 2002 response to the Modernisation Committee, the Liaison Committee said that it was the fault of select committees that hopes of more thorough financial scrutiny had not been realised.<sup>97</sup> It continued:

**The Modernisation Committee is right to re-emphasise the importance of financial scrutiny within the overall remit of the departmental select committees. The fact that their record so far has been relatively patchy should strike a cautionary note. Committees have to remember that they belong to the House. The House has the right to spell out what it expects of them.**<sup>98</sup>

The Committee welcomed the Modernisation Committee's proposals with regard to the involvement of the National Audit Office:

We are glad that the Modernisation Committee accepted this proposal which our Chairman put forward when he gave evidence. Staffing levels for the new scrutiny unit will need to be agreed by the House of Commons Commission in time for its introduction in the financial year 2002/3. Staffing is to include secondments as well as permanent and short term staff. We understand that the National Audit Office, which already supplies secondees to the Committee Office, is prepared to consider providing further expert staff, particularly to assist with financial scrutiny. We understand also that it would be willing to help assess how extra specialist and support staff might best be provided to meet any needs identified by the House.<sup>99</sup>

## 6. Wider Membership

The Modernisation Committee recommended that the standard size of a departmental select should be increased to fifteen:

47. There have been contrary views expressed in the course of our study. It has been objected that in a larger committee it would be more difficult to ensure that every Member could ask a question at evidence sessions and that there would be greater difficulty in securing consensus on reports. We do not find these

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<sup>96</sup> Liaison Committee, *Shifting the Balance: Select Committees and the Executive*, HC 300, 1999-2000, para 128

<sup>97</sup> Liaison Committee, *Select Committees: Modernisation Proposals*, HC 692, 2001-02, para 11

<sup>98</sup> *Ibid*, para 13

<sup>99</sup> *Ibid*, para 14

arguments conclusive. Not every Member needs to ask a question at every evidence session. Committees with a larger membership, such as the European Scrutiny Committee with a membership of sixteen and indeed ourselves with a membership of fifteen, appear able to function coherently. **We recommend that the standard size of departmental scrutiny committees should be fifteen.** Such an increase would retain the membership of any one committee to a manageable size but would enable up to fifty more Members of Parliament to play a full part in committee scrutiny.<sup>100</sup>

The Committee had considered this because of the controversy which had prompted their inquiry. In their view, this had arisen because of competition for places:

Our investigations were in part the result of the controversy last summer that arose from the competition between a large number of Members for a small number of places on the departmental select committees. We have therefore considered whether some of that controversy could be reduced by providing a wider opportunity for Members to serve on the select committees by increasing their size.<sup>101</sup>

In their 2002 report, the Liaison Committee opposed this change:

34. The 'standard' **size of departmental select committees** is eleven at present. The Report bases its argument for an increase to fifteen on the need to provide "a wider opportunity for Members to serve on Committees", and to meet the problem of excessive demand that it says exists and leads to competition. From our own experience, we are aware that some committees such as Foreign Affairs or Defence are over-subscribed, but not all are.

35. If all departmental select committees were to be so expanded, there would be a number of serious difficulties:

- we doubt that there are reserves of *willing* Members - some fifty - to make up the numbers on *all* committees;
- we are uncertain that - in present circumstances - the official Opposition would easily be able to find a fourth *backbench* member, required to reflect the number of seats in the House in a fifteen-member committee. At present some official Opposition spokesmen or Whips are serving on committees. **We are strongly opposed to this in principle.**
- most fundamentally, the cohesion and ability of Members to play a full part in a committee's work would be weakened, even if use is made of sub-committees
- on a practical level, accommodation problems would be caused in a number of committee rooms.

36. We understand the wish of the Modernisation Committee to meet the demand that exists for places on committees, and indeed to involve more Members in

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<sup>100</sup> Ibid para 47

<sup>101</sup> Ibid para 44

their work. However, **the effectiveness of committees must be the crucial test for any change.** Accordingly, **we recommend that the standard size of a departmental select committee should remain at eleven Members, which we consider is the absolute maximum to retain cohesion - even if committees use a single sub-committee. We are wholly opposed in principle to any increase in this number.** Nevertheless, we would support some flexibility, including the continuation of existing arrangements for the Environment, Food and Rural Affairs and Transport, Local Government and the Regions Committees, to have larger memberships of seventeen to cover the wide responsibilities previously covered by two Departments; and for a membership of thirteen on the Northern Ireland Affairs Committee, which allows for the unusual complexity of the party balance in Northern Ireland.<sup>102</sup>

## 7. Alternative Career Structure

The Modernisation Committee report recommended that “the value of a parliamentary career devoted to scrutiny should be recognised by an additional salary to the chairmen of the principal investigative committees”.<sup>103</sup>

This issue was discussed in a paper prepared for the Hansard Society by Alex Brazier:

If taken seriously, the position of select committee Chairman can be onerous and time-consuming. There are few rewards. There are differing views about the desirability of paying Chairmen of select committees. On the one hand, it would recognise the work of the Chairman, give the status that inevitably comes with money and may discourage Chairmen from taking unpaid PPS jobs. If the pay were sufficiently high, it might discourage Chairmen from taking ministerial positions. On the other hand, it is feared that payment would put the position in the gift of the Whips and might damage the collegiate nature of some committees, encouraging other members to think that the Chairman should do all the work (although some Chairman might say that this happens already). The Liaison Committee’s proposals for an independent Select Committee Panel would have helped mitigate these concerns but the Government rejected them. Its Report also suggested that the Senior Salaries Review Board should consider the matter and offer an independent assessment. **The Liaison Committee should take forward this proposal.** An independent evaluation would highlight the position of select committee Chairman and provide useful evidence to take forward the debate. In the event of Chairmanship becoming paid, a limit of 10 years should be imposed to encourage new blood to come forward.

Alternatives to pay include the allocation of more personal staff, greater allowances, research or travel budgets. All these possibilities could be added together so that committee chairmanship delivered a package of rewards and enhanced status, representing a real incentive to seek and keep the position. If a

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<sup>102</sup> Liaison Committee, *Select Committees: Modernisation Proposals*, HC 692, 2001-02

<sup>103</sup> Modernisation Select Committee, *Select Committees*, HC 224, 2001-02, para 41

genuine career is to be established, with consequent responsibilities and duties, some form of reward is essential. It is indicative of the semi-amateur nature of the Commons that the issue should even have to be discussed in 2000. **The basic system of delivering significant rewards and remuneration for responsible senior positions is common to virtually every sector of professional life; except Parliament.**<sup>104</sup>

The Liaison Committee commented on the Modernisation Committee's proposals as follows:

We fully support the aim of creating an alternative career structure to counterbalance the pull of the prospect of ministerial office. The Report rightly seeks to increase the status of chairmen in order to make committee work more attractive to Members as a long term commitment.

The proposal is that the salary should, if agreed, be payable to the chairmen of the "principal investigative committees". Which committees are to be included needs clarification before the House takes a final decision in the light of any recommendation from the SSRB.

A large majority of chairmen are in favour of the principle of an additional salary. But they also emphasise that those who receive this would have to relinquish outside interests, as now occurs with the Deputy Speakers and other non-ministerial postholders who are paid an additional salary.<sup>105</sup>

However, the Modernisation Committee also recommended formalising the "rule" which had been invoked in 1992 limiting committee chairmen's terms of office to two parliaments. This emergence of this "rule" – known as the "three parliaments rule", as disqualification took place from the third parliament, is described on pages 48-50.

There is a significant demand among back-bench Members to serve on scrutiny committees. There is also a powerful argument in principle to give more Members experience both of serving on and chairing these committees. We therefore favour the introduction of term limits for service as chairmen of committees. The case for such limits is unanswerable if chairmen are to be paid. **We recommend that the House should impose an indicative upper limit of two consecutive Parliaments on service as chairman. We recognise that the House may wish to make special provision in the case of short Parliaments.**<sup>106</sup>

The Liaison Committee rejected this proposal:

The Report proposes a **two-Parliament rule for chairmen**, which it describes as "an indicative upper limit of two consecutive Parliaments", subject to special

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<sup>104</sup> Alex Brazier, *Systematic Scrutiny Reforming the Select Committees*, Hansard Society, July 2000

<sup>105</sup> Liaison Committee, *Select Committees: Modernisation Proposals*, HC 692, 2001-02, para 27-29

<sup>106</sup> Modernisation Select Committee, *Select Committees*, HC 224, 2001-02, para 43

provision in the case of short Parliaments. Here we think it important to remember the fundamental role of these committees. They are to provide effective monitoring of the Executive, which includes career civil servants. **Length of service builds up experience, and so is likely to make a chairman more effective. Thus a limit as short as two Parliaments could reduce the effectiveness of committees. The choice of chairman, including the length of time they serve, should be left to each committee.**

The argument in favour of limits is based on giving more Members experience both of serving on and chairing committees - an argument considered again in respect of size of membership below. Yet that desire has to be weighed against effectiveness. In any case, the newly developing use of sub-committees may provide opportunities for more Members to have experience of chairing committees, and thus weaken the Modernisation Committee's argument.

We reject the claim that 'the case for such limits is unanswerable if Chairmen are to be paid'. This is not self-evident. No such limit applies to Ministerial Office, which is also keenly sought after. Effectiveness must be paramount.

Furthermore, the Modernisation Committee's proposal fails to take account of the healthy competition that now exists for chairmanships. Committees do not passively accept a name chosen by the Whips but have discretion to choose by merit. A less effective chairman is likely to lose his or her job. So **we are opposed to the creation of this highly artificial rule.**<sup>107</sup>

## 8. Rapporteurs

The Modernisation Committee recommended:

**that select committees should experiment with appointing one of their number as a rapporteur on a specific task, such as for example financial scrutiny.**

The Hansard Society had proposed in its report that committees should experiment with the use of rapporteurs who would gather evidence and produce background research for the whole committee.<sup>108</sup> The Liaison Committee in *Select Committees: Modernisation proposals* commented that "Wider use of either sub-committees or rapporteurs would require additional staff support, and the time of Members for consideration of the output by the full Committee in due course".

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<sup>107</sup> Liaison Committee, *Select Committees, Modernisation Proposals*, HC 692, 2001-02, paras 30-33

<sup>108</sup> Hansard Society, *op cit*, para 3.34

In the Scottish Parliament, committees may appoint reporters, for example to research or investigate a particular issue and report to the Committee, or to act as a link person with another Committee. The guidance document for the operation of committees states:<sup>109</sup>

A committee may consider the appointment of one or more of its members as reporters. A reporter may report to a committee on any competent matter, within a time limit set by the committee.

Reporters might fulfil a number of roles, including taking responsibility for researching, investigating an issue, or the drafting of a committee report on a particular subject over a set period of time. This does not necessarily mean that the reporter will carry out these duties but he or she may be responsible for commissioning and monitoring the work to the committee's instruction. Alternatively, a reporter may act as a link person with another committee (e.g. the European Committee) or outside body. It will be for the committee to decide the role of each reporter. The remit of each reporter should normally be agreed at the time of their appointment.

There is no formal process for the appointment of reporters set out in Standing Orders. The nature of the post, which is not a formal office of the committee, and the fact that the duration of the appointment is limited by the committee at the outset, may suggest that an informal approach is desirable. However, this is ultimately a matter for committees to determine.

## 9. Accountability of Select Committees

The Modernisation committee recommended:

**that as part of the process of producing an annual report each departmental select committee should submit to the Liaison Committee a statement of how it has met each core task in the scrutiny of its department.**

The Hansard Society Commission was also concerned about select committee performance and suggested a set of 'objectives and performance indicators' by which they could be judged. This, they said, would provide a public measurement of the effectiveness of reports.<sup>110</sup>

The Liaison Committee, in *Select Committees: Modernisation proposals* (para 16), said:

16. The Modernisation Committee reflects our own approach to **improving the focus of committee work**. Our recent Report was able to draw on the review of committees' work in 2001, and noted the use of seminars, induction programmes, and clear frameworks for justifying an inquiry and assessing its desired output.

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<sup>109</sup> [http://www.scottish.parliament.uk/whats\\_happening/docs/cg-1.htm#reporters](http://www.scottish.parliament.uk/whats_happening/docs/cg-1.htm#reporters)

<sup>110</sup> Hansard Society Commission on Parliamentary Scrutiny, *The Challenge for Parliament: Making Government Accountable*, Hansard Society, 2001, op cit, para 3.28

## 10. Witnesses and privilege

The Modernisation Committee recommended

36. Some select committees have experienced occasional difficulty in obtaining evidence from witnesses whom they considered to be crucial to their enquiries. For example, a former Minister, now a member of the House of Lords, might be the most appropriate person to provide background information on a previous policy decision or executive action. Yet the Standing Orders of both Houses currently leave it to the individual Member to decide whether or not to agree to give evidence to a select committee in the other House. **We recommend that, in the light of the recommendations of the Joint Committee on Parliamentary Privilege, these limitations on the power to require witnesses to give evidence should be reviewed by the appropriate committees of both Houses.**<sup>111</sup>

One of the powers customarily given to Select Committees by the House is the power to send for “persons, papers and records”. As regards the departmental committees, this authority is enshrined in Standing Order No. 152(4). However, select committees seldom use their formal power to summon individuals; the general practice is to issue an informal invitation to potential witnesses. *Erskine May* states:<sup>112</sup>

Nevertheless, when a select committee has the power to send for persons, that power is unqualified, except to the extent that it conflicts with the privileges of the Crown and of Members of the House of Lords, or with the rights of the House of Lords, or with the rights of Members of the House of Commons.

However, if a witness whose attendance is desired is serving a prison sentence the Speaker may be asked to issue his/her warrant.<sup>113</sup> The formal power of summon extends to UK citizens only, although it is not unusual for foreign and Commonwealth nationals (and increasingly, officials of the European Commission, regardless of nationality) to be invited to attend to give evidence before committees.<sup>114</sup>

As noted above, the power to summon witnesses does not extend to Members of either House or to Ministers. *Erskine May* says

Members of the House, including Ministers, may not be formally summoned to attend as witnesses before select committees. When the attendance of a member as a witness is required before a select committee, the chairman sends to him a written request for his attendance. Pursuant to the resolution of 16 March 1688, “if any member of the House refuse, upon being sent to, to come to give evidence or

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<sup>111</sup> Modernisation Select Committee, *Select Committees*, 12 February 2002, HC 224, 2001-02

<sup>112</sup> *Erskine May*, 22<sup>nd</sup> ed, p647

<sup>113</sup> *Erskine May*, 22<sup>nd</sup> ed, pp647-8

<sup>114</sup> *Erskine May*, 22<sup>nd</sup> ed, p655

information as a witness to a committee, the committee ought to acquaint the House therewith, and not summon such member to attend the Committee. On occasion, Members have been ordered by the House to attend select committees. There has been no instance of a Member persisting in a refusal to give evidence when ordered by the House to do so.<sup>115</sup>

This sanction does not apply to Members or Peers asked to attend select committees of the other House. Under Standing Order 138 the House of Commons has given a general leave to attend to any Member requested to attend as a witness before a Lords committee or its sub-committees, if the Member thinks fit. The House of Lords has a similar Standing Order. A Liaison Committee report in 1997 concerned committees' powers to summon Members, Ministers and civil servants, and gave examples of instances in the past where such individuals have declined to attend.<sup>116</sup> Successive governments have taken the view that civil servants attend as witnesses on behalf of their Ministers and it is up to the Ministers to decide which official should represent them for that purpose.<sup>117</sup> However, a committee can request the attendance of a specific official, but Ministers retain the right to suggest an alternative or indeed appear before the committee themselves.<sup>118</sup>

Civil servants give evidence under the "Osmotherly Rules", of which rules 37 and 38 state:

37. Officials who give evidence to Select Committees do so on behalf of their Ministers and under their directions.

38. This is in accordance with the principle that it is Ministers who are directly accountable to Parliament for both their own policies and for the actions of their Departments. Officials are accountable to Ministers and are subject to their instruction; but they are not directly accountable to Parliament in the same way. This does not mean, of course, that officials may not be called upon to give a full account of Government policies, or indeed of their own actions or recollections of particular events, but their purpose in doing so is to contribute to the central process of Ministerial accountability, not to offer personal views or judgements on matters of political controversy (see paragraphs 48-49), or to become involved in what would amount to disciplinary investigations which are for Departments to undertake (see paragraphs 70-74).<sup>119</sup>

Rule 47 states:

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<sup>115</sup> *Erskine May*, 22<sup>nd</sup> ed, p648

<sup>116</sup> *The Work of Select Committees*, HC 323 1996-97, 18 Feb 1997, para 8-13,  
<http://www.publications.parliament.uk/pa/cm199697/cmselect/cmliaisn/323i/lc0104.htm#8>

<sup>117</sup> *Erskine May*, 22<sup>nd</sup> ed, p649

<sup>118</sup> The Cabinet Office guidance to civil servants appearing before select committees is available at <http://www.cabinet-office.gov.uk/central/1999/selcom/>.

<sup>119</sup> The full rules are available at <http://www.cabinet-office.gov.uk/central/1999/selcom/index.htm>

47. Officials appearing before Select Committees are responsible for ensuring that the evidence they give is accurate. They will therefore need to be fully briefed on the main facts of the matters on which they expect to be examined. This can be a major exercise as a Committee's questions can range widely and can be expected to be testing. Should it nevertheless be discovered subsequently that the evidence unwittingly contained factual errors, these should be made known to the Committee, usually via the Clerk, at the earliest opportunity. Where appropriate, a correcting footnote will appear in the published transcript of the evidence.

As such, instances of this nature are not usually a question of a civil servant being 'found guilty' of supplying misleading information, but of inadvertently supplying incorrect information which is subsequently amended.

One recent example of a select committee enquiry where the responsibility of officials to give assistance, even after their retirement, was raised during the Public Administration Select Committee investigations into *Administrative Failure: Inherited SERPS*.<sup>120</sup> Recommendation 28 states:

It is our opinion, certainly in cases such as this, that if Select Committees are unable to question those directly involved, then their investigatory function is severely curtailed. It is clearly important that when retired officials are asked to appear before Select Committees they are provided by Departments not only with the access to papers, to which they are entitled, but also with any further support they might need.

If a witness is formally summoned by a committee and fails to attend, this is regarded as contempt and his/her conduct is reported to the House. The offender would then normally be ordered to attend at the bar of the House.<sup>121</sup> If he/she still declines to attend, this would be dealt with as in other cases of disobedience to the order of the House. The powers of both Houses to punish strangers for contempt have historically included committal (detained in prison or in the custody of Black Rod or the Serjeant at Arms), fines and reprimand or admonition.<sup>122</sup>

The Hansard Society did not consider this specific issue of privilege but did recommend that both House should maintain a central list of all those organisations obliged to report to Parliament. Every departmental select committee should be aware of the organisations coming under their jurisdiction.

The Liaison Committee in *Select committees: Modernisation proposals*, said:

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<sup>120</sup> HC 433 1999/2000, available on the Internet at <http://www.publications.parliament.uk/pa/cm199900/cmselect/cmpublicadm/433/43302.htm>

<sup>121</sup> *Erskine May*, 22<sup>nd</sup> ed, p647

<sup>122</sup> *Erskine May*, 22<sup>nd</sup> ed chapter 9

...we welcome the Modernisation Committee's recommendation of a review on the limitations on the power to require witnesses to give evidence (para 22)

## 11. Attendance

The Modernisation Committee recommended:

**that the scrutiny committees should have the right to report to the Committee of Nomination any member who has a record of poor attendance without good cause and that the Committee of Nomination should have the right to replace that member.**

**a reduction in size of the membership and of the quorum of select committees where there has been a persistent problem securing attendance.**

The *Liaison Committee* recommended that its proposed Select Committee Panel would be able to replace a Member who was no longer taking a full part in select committee activities.

The Government indicated in its response that it was for the House authorities to determine how attendance was recorded. It pointed out that select committee meetings had been moving away from meeting on Mondays and Wednesdays and encouraged the Liaison Committee to consider how clashes with standing committees might be avoided.

The *Liaison Committee* subsequently noted in *Unfinished Business* that the delay in replacing members on select committees was 'evidently causing concern'. The Public Administration Committee had seen a turnover of 64 per cent in Session 1999-2000, while the Education and Employment Committee had seen turnover of 47 per cent in the same period. The Committee concluded that: 'This further emphasises the need for a more rapid and efficient method of nominating new Members to select committees.'<sup>123</sup>

The Hansard Society Commission emphasised its belief in the importance of committee activity to the work of every MP and recommended that every backbench MP should be expected to serve on a select committee. It wrote, '...select committee work is at present squeezed by other functions and duties. Select committee activity is not a priority of MPs and the House as a whole.... To reflect the importance attached to the select committee system, and not to take MPs away from the chamber, one day each week should be devoted to committee activity.'<sup>124</sup>

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<sup>123</sup> Liaison Committee, *Shifting the Balance: Unfinished Business*, HC 321, 2000-01, para 129

<sup>124</sup> Hansard Society Commission on Parliamentary Scrutiny, *The Challenge for Parliament: Making Government Accountable*, Hansard Society, 2001, paras 2.29, 3.36, 4.28

The importance of this issue was demonstrated very recently when a Treasury Select Committee report on the *2002 Budget* was partly re-written by the Conservative and Liberal Democrat members of the Committee, who unexpectedly had a majority on the Committee owing to the absence of four Labour Members.<sup>125</sup>

## 12. Presentation and style issues

The Modernisation Committee recommended:

**that the Committee Office procures the services, either on a consultancy or a salaried basis, of experts in design and layout to ensure that reports benefit from the most modern technology and the most attractive design.**

**that Notes for Visitors should be prepared, setting out in plain language the nature of the proceedings, and that where practical this should be supplemented on the day with guidance on the topics under discussion.**

The *Liaison Committee* had recommended in *Shifting the Balance* that its proposed Select Committee Panel should approve a new format for select committee reports with design advice available from the central staff unit.<sup>126</sup> Also it wanted to see a communications professional in the Committee Office to provide advice and coordinate press relations.<sup>127</sup> Various suggestions were made in terms of improving the parliamentary web site.

The Norton Report also wanted to see reports in a more ‘reader-friendly’ style. This was re-iterated by the Liaison Committee in its *report Select Committees: Modernisation proposals*:

We welcome the endorsement given by the Modernisation Committee to our call for select committee Reports to be made more attractive to the general reader, and its support for the limited changes introduced from the beginning of this year. (para 41)

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<sup>125</sup> HC 780, 2001-02

<sup>126</sup> Liaison Committee, *Shifting the Balance: Select Committees and the Executive*, HC 300, 1999-2000, para 95

<sup>127</sup> Liaison Committee, *Shifting the Balance: Select Committees and the Executive*, HC 300, 1999-2000, para 98

## **PART 2: History and development of the present system**

### **D. Historical background**

A much fuller analysis of the history of select committees up to 1992 than is provided here is given in House of Commons Library Background paper 298, *Select Committees*.<sup>128</sup>

The present select committee system stems from a realisation during the nineteenth and twentieth centuries that the combination of the rapid expansion of the State and the development of the party system had caused Parliament to lose much of its ability to scrutinise the Executive. Sir Ivor Jennings argued that "the only solution of this problem is the extension of the committee system...[which would] make for stronger and more democratic government. They would bring the Government more closely into touch with public opinion without weakening its power to govern".<sup>129</sup> Crick commented in 1970 that the system of select committees then in operation had been "declining in importance and influence".<sup>130</sup> Other commentators were not so sure about the usefulness of a new select committee system. The Procedure Committee had commented in 1959 that:

There is little doubt that the activities of such a committee would ultimately be aimed at controlling rather than criticising the policy and actions of the department concerned. In so doing, it would be usurping a function which the House has itself never attempted to exercise.<sup>131</sup>

Ronald Butt, in *The Power of Parliament*, was also sceptical:

There lies behind the hesitation of the Commons in this matter a persistent instinct that a proliferation of parliamentary committees to examine Government work in progress might impede rather than aid the basic political function of Parliament.<sup>132</sup>

Other arguments against the setting up of specialised committees included the worry that a successful committee system could prove to be a rival to the executive, the fear that the committee system would distract from the work of the proper forum, the Chamber (views held by such as Enoch Powell and Michael Foot), and that it would lead to two classes of Member - those on select committees and those not. There was also a general worry that Members were already overburdened and more work would add to the strain they were under. Added to this was concern about the potential cost of a revised system, with additional staff and accommodation needs.

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<sup>128</sup> September 1992

<sup>129</sup> Sir Ivor Jennings, *Parliamentary reform*, Victor Gollancz, 1934, chapter XI

<sup>130</sup> Bernard Crick, *The reform of parliament*, rev 2<sup>nd</sup> ed, 1970, p98

<sup>131</sup> HC 92, 1958-59, para 47

<sup>132</sup> 2<sup>nd</sup> ed, 969, p350

## 1. The 1960s: Crossman committees

Nonetheless, the House of Commons began to look at the nature of its committees during the 1960's. The Procedure Committee of 1964-65 commented that 'the machinery of Parliament has failed to keep pace with the increase in the scope of Parliamentary activity, and that the problem is that of enabling Members "more effectively to influence, advise, scrutinise and criticise"'.<sup>133</sup> They made a number of recommendations designed to 'provide all Members with the means to carry out their responsibilities, rather than to elevate any Committees of the House to new positions of influence'. As such, it was a cautious development. The Committee specifically recommended that a new Select Committee should be set up to examine the work of government departments. Richard Crossman, the new Leader of the House after the election of 1966, who was keen to be seen as a reformer, introduced a number procedural reforms including two experimental committees, one on agriculture and one on science and technology. During the course of the 1966-70 parliament, four more committees were set up: Education and Science (1967), Race Relations and Immigration (1968), Overseas Aid and Development (1969) and Scottish Affairs (1969). The new committees were known as Crossman committees after their instigator.

## 2. The 1970s: The Expenditure Committee

The Procedure Committee published a report on the scrutiny of public expenditure and administration in 1969.<sup>134</sup> The Committee recommended that the Estimates Committee should be changed to a Select Committee on Expenditure, with eight sub-committees all scrutinising the various areas of government expenditure. The debate on the report in the House on 21 October 1969 showed that there was clear consensus for reform, and the Committee's proposals were agreed. The new Conservative Government, elected in 1970, supported the Committee's proposals, and agreed to retain some of the Crossman committees. The new Expenditure Committee was set up in February 1971, with 49 members and 6 subcommittees:

- General
- Defence and External Affairs
- Environment and Home Office
- Trade and Industry
- Education and Arts
- Employment and Social Services

There were some difficulties with the new arrangements, criticism concentrating on the concerns by some Members, including some Members of the Committee, that it was

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<sup>133</sup> HC 303, 1964-65, para 4

<sup>134</sup> HC 410, 1968-69

reverting to the role of the Estimates Committee. The Labour Government, elected in 1974, sought to address some of the concerns by introducing proposals for a major review of the practice and procedure of Parliament. Following a debate on 2 February 1976,<sup>135</sup> a select committee was established "to consider the practice and procedure of the House in relation to public business and to make recommendations for the more effective performance of its functions". Amongst many recommendations, it reported specifically on select committees and their role.<sup>136</sup>

The committee felt that the balance between the executive and Parliament was "now weighted in favour of the Government to a degree which arouses widespread anxiety and is inimical to the proper working of our parliamentary democracy".<sup>137</sup> The committee felt that the existing system was "unplanned and unstructured", and recommended the replacement of the existing Expenditure Committee and the other specialist committees (but not the Public Accounts Committee) in favour of 12 subject committees, responsible for the scrutiny of government departments (para 5.22). The new Conservative Government of 1979 promised to implement the recommendations of the report, and the then Leader of the House, Norman St John Stevas, gave effect to that in a debate on 25 June 1979.<sup>138</sup> He said "the proposals that the Government are placing before the House are intended to redress the balance to enable the House of Commons to do more effectively the job it has been elected to do".<sup>139</sup> The motion to establish the committees was passed by 248 votes to 12; the new committees were nominated by the Committee of Selection on 26 November 1979, although none of the committees began work until early 1980.

The new departmental committees were:

Agriculture  
 Defence  
 Education, Science and Arts  
 Employment  
 Energy  
 Environment  
 Foreign Affairs  
 Home Affairs  
 Industry and Trade  
 Social Services  
 Transport  
 Treasury and Civil Service

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<sup>135</sup> HC Deb vol 904 c964

<sup>136</sup> HC 588, 1977-78

<sup>137</sup> Ibid, para 1.5

<sup>138</sup> HC Deb vol 969 c33

<sup>139</sup> Ibid, c35-6

These ran alongside the already-established committees, the Public Accounts Committee, the Select Committee on the Parliamentary Commissioner for Administration and the committee responsible for the House's organisation. The Welsh Affairs and Scottish Affairs Select Committees were also established in 1979.

### **3. Reforms in the 1980s**

This fundamental reform of the system has formed the basis of the select committee system since 1979. Since then there have been regular changes to the names of committees, which have invariably mirrored changes to the organisation of Whitehall. Thus, the Social Services Committee was split into separate Health and Social Security Committees to mirror the break-up of the Department of Health and Social Security. Major changes to the departmental structure following the 1992 election led to the creation of the National Heritage (later the Culture Media and Sport) and Science and Technology Committees, but also meant the end of the Energy Committee following the absorption of the Dept of Energy into the Dept of Trade and Industry. This latter change was not universally popular, and led to calls for a sub-committee to deal with specific energy-related issues, calls which were rejected by the then Leader of the House, Tony Newton. The same situation arose with the abolition of the Transport Committee in 2001 and its replacement by a Transport Sub-Committee of the Environment, Transport and Regional Affairs Committee.

Further changes to the departmental structure took place following the General Elections of 1997 and 2001.

### **4. Developments in the 1990s and 21st Century**

The following is a brief resume of some of the major issues which arose during this period which highlighted problems facing select committees and partly led to calls for reform. Several of these issues have been considered by the organisations mentioned in Part 1 of this paper.

#### ***a. The Maxwell pension affair and the summoning of witnesses***

One of the powers customarily given to Select Committees by the House is the power to send for "persons, papers and records". As regards the departmental committees, this authority is enshrined in Standing Order No. 152(4). However, select committees seldom use their formal power to summon individuals; the general practice is to issue an informal invitation to potential witnesses. *Erskine May* states:<sup>140</sup>

Nevertheless, when a select committee has the power to send for persons, that power is unqualified, except to the extent that it conflicts with the privileges of

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<sup>140</sup> 22nd ed, p647

the Crown and of Members of the House of Lords, or with the rights of the House of Lords, or with the rights of Members of the House of Commons.

However, if a witness whose attendance is desired is serving a prison sentence the Speaker may be asked to issue his/her warrant.<sup>141</sup> The formal power of summons extends to UK citizens only, although it is not unusual for foreign and Commonwealth nationals (and increasingly, officials of the European Commission, regardless of nationality) to be invited to attend to give evidence before committees.<sup>142</sup>

As noted above, the power to summon witnesses does not extend to Members of either House or to Ministers. There has been an issue over the position of named civil servants in the past. As to sanctions: if a witness is formally summoned by a committee and fails to attend, this is regarded as contempt and his/her conduct is reported to the House. The offender would then normally be ordered to attend at the bar of the House.<sup>143</sup> If he/she still declines to attend, this would be dealt with as in other cases of disobedience to the order of the House. The powers of both Houses to punish strangers for contempt have historically included committal (detention in prison or in the custody of Black Rod or the Serjeant at Arms), fines and reprimand or admonition.<sup>144</sup>

The foregoing sets out the general position regarding the summoning of strangers, Members, Ministers and civil servants. Members of the House of Lords may give evidence before House of Commons select committees, but as Lords Standing Order 24 states:

Any Lord requested by a Committee appointed by the Commons to attend as a witness before it or before any Sub-Committee appointed by it shall have the leave of this House to attend, if his Lordship thinks fit.<sup>145</sup>

Members of the House of Commons have a similar provision according to Standing Order 138:

Any Member requested by a committee appointed by the Lords to attend as a witness before it or before any sub-committee appointed by it shall have the leave of this House so to attend, if the Member think fit.<sup>146</sup>

The Social Security Select Committee's unsuccessful efforts to question Kevin and Ian Maxwell over the operation of the Maxwell-associated pension funds in the early 1990s highlighted the difficulties Select Committees can have in gathering information. The

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<sup>141</sup> see *Erskine May*, 22nd ed, pp647-8

<sup>142</sup> 22nd ed, p655

<sup>143</sup> 22 ed, p647

<sup>144</sup> see *Erskine May*, chapter 9

<sup>145</sup> Standing orders of the House of Lords relating to the public business

<sup>146</sup> Standing Orders of the House of Commons - public business

brothers declined to provide substantive assistance to the Committee orally or in writing. Extracts from the Committee's report set out the issues:

9. The Committee decided that it was reasonable for the meeting to continue and for questions to be put in public. We were quite clear that the House's *sub judice* rule was **not** brought into play by any current legal proceedings. It is also the case that there is **no** right to silence in front of a select Committee, whatever the position in common law. We also believed that, despite the legal difficulties Mr Ian Maxwell and Mr Kevin Maxwell faced, there were questions that they could answer without there being any danger of them incriminating themselves.

And:

11. Colleagues expressed two opposing points of view to us. There was the concern that either or both of the witnesses might incriminate themselves, or that the televising of the proceedings...would prevent a fair trial...The opposing view was that the refusal of a witness to help a Committee with its inquiry, if it went unpunished, might lead to a weakening of the whole Select Committee system.

12. The Committee kept both of these considerations in mind when making each of its relevant decisions. But against them the Committee saw an even greater threat to the Select Committee system...

And:

17. ...from the outset, the Committee therefore was anxious, not only to play the historic role given to the House of Commons of voicing the grievance of constituents...but also to open these events up to public scrutiny.

18. It is in carrying out this side of its inquiry that the refusal of the Maxwell brothers to give evidence has been most harmful to the Committee's activities...<sup>147</sup>

And:

20. There is no doubt that to refuse to answer questions in front of a select Committee is a serious matter. The House of Commons expressed its view in a resolution agreed *nem com* on 12 August 1947 "that the refusal of a witness before a select Committee to answer any question which may be put to him is a contempt of the House and an infraction of the undoubted right of this House to conduct any inquiry which may be necessary in the public interest.

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<sup>147</sup> Social Security Committee, First Special report, 1991-92, *The Conduct of Mr Ian and Mr Kevin Maxwell*, HC 353 1991-92

**b. *The Trade and Industry Committee and the Iraqi Supergun inquiry***

The Trade and Industry Committee produced a report on *Exports to Iraq: Project Babylon & long range guns* in the run up to the 1992 General Election.<sup>148</sup> The report highlighted a number of ways in which the executive could, if it so wished, obstruct select committees from their work.

The Committee's investigation into the sale of parts of barrels for the Iraqi Supergun was hindered both by an MP and the Government. Sir Hal Miller MP alerted officials to the Supergun, but refused to appear before the Committee, even though he was to give evidence to the Scott Inquiry which was set up after the General Election. Ministers also refused to allow intelligence officers and two retired civil servants to give evidence to the Committees. Lord Justice Scott criticised this refusal in his report,<sup>149</sup> saying that 'the refusal to facilitate the giving of evidence to the TISC by [the two retired officials] may be regarded as a failure to comply fully with the obligations of accountability to Parliament).<sup>150</sup>

Weir and Beetham comment that:

The Committee's perseverance is an important consideration in terms of MPs commitment to taking on inquiries which strike at the secret heart of British Government, but most assessments of their report conclude that it was a failure. For example, Ian Leigh's final verdict was that 'The most obvious conclusion from this experience is that short-term political considerations and limitations on gathering evidence may decisively impinge on a select Committee's work to the detriment of effective scrutiny and accurate reporting'.<sup>151</sup>

**c. *The 1992 controversy: the 'three parliaments' rule***

A rather similar controversy to that of July 2001 arose in 1992, when a new rule was adopted by the Conservative members of the Committee of Selection, limiting Conservative Members to three Parliaments' service on a select committee. There was speculation that this rule was created in order to remove Nicholas Winterton<sup>152</sup> from membership of the Health Committee, of which he had been chair before the 1992 election. This rule also had the effect of removing Sir John Wheeler from the chairmanship of the Home Affairs Committee.

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<sup>148</sup> HC 86 1991-92

<sup>149</sup> Trade and Industry Select Committee, *Report of the Inquiry into the Export of Defence Equipment and Dual-Use Goods to Iraq and Related Prosecutions*, HC 115 1995/96

<sup>150</sup> *Ibid*, para F4.66

<sup>151</sup> Stuart Weir and David Beetham, *political power and democratic control in Britain: The democratic audit of the United Kingdom*, Routledge, 1998, p413

<sup>152</sup> often described in the press at the time as "fiercely independent" and "maverick"; eg see "Committees' row exposes myth of independence", *Independent*, 15 July 1992

The emergence of this rule was not well received during the debate on 13 July 1992.<sup>153</sup> Frank Field, who had been (Labour) Chairman of the Social Security Select Committee in the previous Parliament, defended Nicholas Winterton, and attacked the "three Parliament rule" on the grounds that it would de-skill the select committees and remove the opportunity for an alternative career structure for Members who did not pursue a ministerial career.<sup>154</sup> The senior Conservative Member and Chairman of the Treasury and Civil Service Committee in the previous Parliament, Terrence Higgins, was also critical of the rule, which, he stated, "had been invented at the last minute to justify a series of selections."<sup>155</sup> He also criticised the role of the whips, particularly in relation to the choice of chairmen.

**d. *Premature disclosure of select committee reports***

During the 1998-99 session, three reports were disclosed to Ministers in advance of their publication, reported as follows:

- 2<sup>nd</sup> special report of the Scottish Affairs Committee, HC 368, 1998-99, April 1999 (Mr D Stewart)<sup>156</sup>
- 8th report of the Standards & Privileges Committee, HC 607, 1998-99, June 1999 (Foreign Affairs Committee – Mr E Ross: personal statement<sup>157</sup>)<sup>158</sup>. Debated and agreed by the House, 12.7.99<sup>159</sup>
- 10<sup>th</sup> & 11<sup>th</sup> reports of the Standards & Privileges Committee, HC 747, 1998-99, July 1999 (Social Security Committee – Mr D Touhig: personal statement,<sup>160</sup> 3 day suspension; Ms K Mountford: personal statement,<sup>161</sup> 5 day suspension)<sup>162</sup>. Debated and agreed by the House, 21.10.99.<sup>163</sup>

<sup>153</sup> HC Deb 13 July 1992 Vol 211 cc913-45

<sup>154</sup> HC Deb 13 July 1992 Vol 211 cc918-20

<sup>155</sup> *Ibid*, c921

<sup>156</sup> Available on the website:

<http://www.parliament.the-stationery-office.co.uk/pa/cm199899/cmselect/cmselect/368/36802.htm>

<sup>157</sup> made 12.7.99, HC Deb vol 335 c23

[http://pubs1.tso.parliament.uk/pa/cm199899/cmselect/cmselect/607/60702.htm#90712-06\\_head1](http://pubs1.tso.parliament.uk/pa/cm199899/cmselect/cmselect/607/60702.htm#90712-06_head1)

<sup>158</sup> Available on the website:

<http://www.parliament.the-stationery-office.co.uk/pa/cm199899/cmselect/cmselect/607/60702.htm>

<sup>159</sup> Available on the website:

[http://pubs1.tso.parliament.uk/pa/cm199899/cmselect/cmselect/607/60702.htm#90712-07\\_head0](http://pubs1.tso.parliament.uk/pa/cm199899/cmselect/cmselect/607/60702.htm#90712-07_head0)

<sup>160</sup> made 27.7.99, HC Deb vol 336 c149

[http://pubs1.tso.parliament.uk/pa/cm199899/cmselect/cmselect/747/74702.htm#90727-14\\_head0](http://pubs1.tso.parliament.uk/pa/cm199899/cmselect/cmselect/747/74702.htm#90727-14_head0)

<sup>161</sup> made 27.7.99, HC Deb vol 336 c149

[http://pubs1.tso.parliament.uk/pa/cm199899/cmselect/cmselect/747/74702.htm#90727-14\\_head0](http://pubs1.tso.parliament.uk/pa/cm199899/cmselect/cmselect/747/74702.htm#90727-14_head0)

<sup>162</sup> Available on the website:

<http://www.parliament.the-stationery-office.co.uk/pa/cm199899/cmselect/cmselect/747/74702.htm>

<sup>163</sup> HC Deb vol 336 cc600-5

These committee reports address some of the various rules and conventions which apply in the case of premature disclosure of committee proceedings or reports. Much depends on the situation of the particular parties involved, such as whether they made the premature disclosure, received it or used it in some way. The detailed guidance is contained in *Erskine May*.<sup>164</sup>

The publication or disclosure of debates or proceedings of committees conducted with closed doors or in private, or when publication is expressly forbidden by the House, or of draft reports of committees before they have been reported to the House will...constitute a breach of privilege or a contempt.

The recent Joint Committee on Parliamentary Privilege also looked at the issue from a privilege perspective, listing the divulging or publication of 'the content of any report or evidence of a select committee before it has been reported to the House' as a contempt of Parliament.<sup>165</sup>

*e. Prime Minister's accountability to Select Committees*

In June 2000 the Public Administration Committee released correspondence between the Chairman of the Committee, Tony Wright, and the Prime Minister, Tony Blair, which showed that the Prime minister had refused to give evidence to the Committee on the grounds that constitutional precedence stated that no serving premier had given evidence to a parliamentary committee.

Tony Blair replied:

As you know, evidence to select Committees is normally provided by 'line' departments or via a government memorandum. Prime Ministers have not themselves, by long-standing convention, given evidence to select Committees. That remains the position.<sup>166</sup>

Tony Wright commented in his reply that there was no one else who could account to Parliament for the matter other than the Prime Minister. He went on to say that 'we have long passed the point when Prime Ministers can shelter under the convention that they do not appear.'

In fact, it is only a precedent of fairly recent standing which led to this impasse, The Prime Minister had in fact appeared in front of select committees 1937-38, when Neville Chamberlain appeared before the Select Committee on the *Secrets Act*. This was the

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<sup>164</sup> 22<sup>nd</sup> ed., 1997, pp118-20, 670-1

<sup>165</sup> HC 214, 1998-99, paras 265-7 (<http://pubs1.tso.parliament.uk/pa/jt199899/jtselect/jtpriv/43/4310.htm> )

<sup>166</sup> 'Invitation to the Prime Minister to give evidence on the Ministerial Code'. Public Administration Select Committee press notice 1999/2000/20, 22 June 2000

fourth occasion in eight years that the Prime Minister had appeared before a committee, although each such had occurred when the Prime Minister was also Leader of the House, and it was in this capacity that they made such appearances.

The Prime Minister's accountability to select committees was further questioned by the Transport Select Committee, which commented in its report on *The attendance of Lord Birt at the Transport, Local Government and the Regions Committee* that "Never in peace time has a prime minister gathered around himself such an assemblage of apparatchiks unaccountable to Parliament."<sup>167</sup> By his refusal to give evidence to the Committee, the committee felt that Lord Birt was highlighting the role of special advisers and the government's objection to allowing special advisers to appear before such committees.

In April 2002 Mr Blair announced that he would, in fact, give evidence to the Liaison Committee twice a year. In his answer announcing this decision, Mr Blair said:

I have approached the Chairman of the Liaison Committee with a view to appearing before Select Committee Chairmen to discuss domestic and international affairs every six months. Further discussions will continue with the Liaison Committee and the House Authorities to work out the precise details. These sessions will be held in public and will give Select Committee Chairmen the opportunity to ask me a range of in-depth questions. I will of course continue to account to Parliament weekly on the issues of the day during Prime Minister's Questions on a Wednesday.<sup>168</sup>

*f. Debating select committee reports*

One of the main complaints against select committees following the reorganisation in 1979 was that the committees' reports were rarely debated in the House. In a memorandum to the Modernisation Committee's first report of 1998/99, the Liaison Committee commented that:

We ourselves intend to produce regular Reports which will seek to highlight shortcomings by individual Government Departments and will enable the House and the public at large to judge what progress has been made. In many Commonwealth Parliaments there is a specific Select Committee on Government Assurances or equivalent. We intend to play that role ourselves.

24. Valuable though we believe this reform will be, it can only be fully effective if sufficient time can be provided for Ministers to be forced to justify their actions in debate and if necessary on a vote. In the final section of this paper we make various proposals with regard to debates. **We would urge the Modernisation Committee in any proposals it may have for reorganisation of the**

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<sup>167</sup> HC 655, 2001-02,

<http://www.publications.parliament.uk/pa/cm200102/cmselect/cmtlgr/655/65503.htm#a8>

<sup>168</sup> HC Deb 29 April 2002, c535W

**Parliamentary timetable to take account of the need not only to debate individual Select Committee Reports but also more general issues relating to the relationship between the legislature and the Executive which the proposed Reports from the Liaison Committee will highlight.**<sup>169</sup>

The Modernisation Committee agreed with the thrust of the Liaison Committee's comments, and in their second report of 1998/99, *Sittings of the House in Westminster Hall*,<sup>170</sup> said:

Secondly, we see Westminster Hall as a forum which will provide additional opportunities for **select committees**. That there is a demand for this was made clear in a paper to us from the Liaison Committee published with our First Report. The departmentally related select committees, the Committee of Public Accounts, the Procedure Committee, the Select Committee on Public Administration and the Environmental Audit Committee (and occasionally other committees too) produce many reports each year which are worthy of further consideration by the House, but fewer than ten per cent. of them are debated and more than two-thirds are not even referred to in a motion as being relevant to a debate on something else. Under the existing arrangements a day is made available for the reports of the Public Accounts Committee; there are three Estimates days which can be used for up to six reports provided that they can be linked in some way with a specific Vote or Votes; and since the Jopling reforms there have been three Wednesday mornings available for short debates on a further six reports. The position is better than it used to be but it is still not good enough, and demand — which is not restricted to the members of the committees themselves — still greatly exceeds supply. Regular additional opportunities to debate the work of select committees in Westminster Hall would, we believe, be widely welcomed in all parts of the House.

28. We believe that we should now build on the success of the select committee Wednesday mornings and that there should be regular sittings in Westminster Hall devoted to debates on select committee reports. Such sittings could consist either of two debates of one and a half hours each, on the pattern of the three select committee Wednesday mornings, or of one debate of three hours. Clearly the Liaison Committee would have a major role to play in the selection of reports to be debated.

29. We stress that these debates in Westminster Hall should not be seen as a replacement for, but rather as an addition to, the debates currently held in the House. The Estimates days and the debates on the reports of the Public Accounts Committee would continue and we will be looking, as the experiment evolves, at further opportunities for debate, perhaps on more controversial reports.

Thursday afternoons are now regularly used for debates on select committees in Westminster Hall. The Hansard Society Scrutiny Commission quoted statistics which

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<sup>169</sup> Modernisation Select Committee First Report of 1998/99, *The Parliamentary Calendar: Initial proposals*, HC 60 1998/99, Appendix 4, para 23-24

<sup>170</sup> HC 194, 1998/99

showed that in the three and a half years from May 1997 to November 2000, only 29 reports were debated in the Chamber, whereas 13 were debated in the one session from November 1999 to November 2000 in Westminster Hall.<sup>171</sup>

***g. Revision of the Standing Orders in July 2001***

The departmental committees are established under what is now Standing Order 152 (*see Appendix B*). This Standing Order was thoroughly revised on Thursday 5 July 2001, when the House of Commons debated a number of changes to the Standing Orders related to Select Committees, tabled in the name of the Leader of the House, Mr Robin Cook. Select committee quorums were amended by replacing the individual quorums with a general formula:

Except as otherwise provided, the quorum of a select committee shall be three or a quarter of the number of its members, whichever is the greater; and in calculating the quorum fractions shall be counted as one.

Joint working with other committees was made easier by allowing committees to share its evidence with any other select committee or sub-committee of either House of Parliament. The changes reflected the commitment given in the Government's response to the Liaison Committee's 2000 Report to bring forward proposals for amendment to Standing Orders to facilitate joint working between committees. They also reflected the Government's commitment to implement the proposals contained in the 2000 report of the Performance and Innovation Unit on "joined up" government, *Wiring it up*<sup>172</sup>.

Changes were made to the departmental committee structure to reflect recent changes in government departments. Four committees (Agriculture; Education and Employment; Environment, Transport and Regional Affairs; and Social Security) were abolished, since they no longer had corresponding government departments.

Four new committees were created in their place to mirror departments of the same name: Education and Skills (11 Members); Environment, Food and Rural Affairs (17 Members); Transport, Local Government and the Regions (17 Members); and Work and Pensions (11 Members).

Each of the departmental select committees was given the power to appoint a sub-committee, while the Environment, Food and Rural Affairs Committee and the Transport, Local Government and the Regions Committee were given the power to appoint two sub-committees.

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<sup>171</sup> Hansard Society Commission on Parliamentary Scrutiny, *The Challenge for Parliament Making Government Accountable*, 2001, p34

<sup>172</sup> Cm 4737, para 46. See also *Wiring it up: Whitehall's management of cross-cutting policies and services*, Performance and Innovation Unit, January 2000.

More detail on the amendments to these standing orders is available in Library Standard Note SN/PC/1497.<sup>173</sup>

## **E. Evaluation of the select committee system**

### **1. The purpose of select committees**

The evaluation of the performance of select committees will depend upon an understanding of their purpose. As the academic commentator Philip Giddings pointed out in his 1989 study of the 1979 reforms, this is by no means straightforward:

Any assessment of an institutional development must begin from an understanding of its purpose. For the new parliamentary committees this is peculiarly difficult to achieve...the committees are but part of the institution of Parliament itself, and while to some extent they obviously share its characteristics, in other ways they are in marked contrast with them. Moreover, since in a system of government which fuses rather than separates the legislative and executive branches the purpose of Parliament is itself a matter of considerable debate, it is hardly to be expected that there would be unanimity about the purpose of committees. In assessing the impact of departmentally-related select committees, therefore, we have to keep in mind widely differing expectations about their purpose as well as contrasting perceptions of their function amongst the committees themselves.<sup>174</sup>

One important purpose of committees is to allow a small number of members to focus on and specialise in a particular area and thus improve the quality of scrutiny.<sup>175</sup> This could be regarded as a comparatively modest ambition. However the 1978 Procedure Committee, while it recognised that the changes it recommended would not be revolutionary in terms of powers, did express a grand vision that the new system would be able to redress the balance of power between the legislature and the executive:

We believe that a new balance must be struck, not by changes of a fundamental or revolutionary character in the formal powers of the institutions concerned, but by changes in practice of an evolutionary kind, following naturally from present practices. We have approached our task not in the hope of making the job of Government more comfortable, the weapons of Opposition more formidable or the life of the backbencher more bearable, but with the aim of enabling the House as a whole to exercise effective control and stewardship over Ministers and the expanding bureaucracy of the modern state for which they are answerable, and to make the decisions of Parliament and Government more responsive to the wishes

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<sup>173</sup> *Select Committees: Changes to standing orders*, July 2001

<sup>174</sup> Philip Giddings, "What has been achieved?" in Gavin Drewry's *The New Select Committees*, 1989, p367

<sup>175</sup> Although this purpose can be defeated if there is too much turnover of committee members – see below.

of the electorate. We believe that the proposals set out in this report could go a long way towards achieving that aim.<sup>176</sup>

In a 1994 article, the academic David Judge discusses the scepticism amongst some commentators about the extent with which these views were seriously held.<sup>177</sup> He concludes that they were, citing the evidence Lord St John of Fawsley gave to the Procedure Committee's 1990 report on the 1979 reforms:

The principal reason why I was so keen, along with many other Members of Parliament, to introduce the comprehensive system of select committees was in order to seek to redress the balance between the House of Commons and the Executive. I took the view that over the past century the balance had tilted away from the Legislature to the Executive.<sup>178</sup>

Judge went on to emphasise that neither the 1978 Procedure Committee nor Norman St John Stevas "countenanced a redistribution of *decision making* power to the House. Instead the ability – the power- of the Commons to scrutinise and so to influence the executive was to be enhanced."<sup>179</sup>

Standing Order 152 sets out the purpose of the departmental select committees as being "to examine the expenditure, administration and policy of the principal government departments."<sup>180</sup> The scrutiny of expenditure, administration and policy is obviously part of the role of Parliament as a whole. What, then, is the additional value that select committees can bring? One possibility is the more consensual, bipartisan method of working as compared to the adversarial nature of most proceedings in the House to avoid fragmenting on party lines. However, the implications of select committees having an in-built government majority, even if the Chairman is a member of the opposition, are that the consensual approach can always be overturned in favour of partisan, political pressures. The academic, Nevil Johnson, in a 1988 study describes the processes involved as follows:

...the committees have for the most part recognized that partisan politics have as a rule got to be held in check if they are to achieve anything. This is apparent at virtually every stage of their work: in the choice of the topics for inquiry, in the conduct of inquiries by chairmen, in the efforts normally made to allow all members a fair share of questioning (provided they want it), in the deliberative sessions when draft reports are discussed and finally voted on, and more

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<sup>176</sup> Select Committee on Procedure, *First Report*, HC 588-I, 1977-78 pviii.

<sup>177</sup> David Judge, "The 'Effectiveness' of the post-1979 select committee system: the verdict of the 1990 procedure committee", *Political Quarterly*, 1992 Vol 63, No 1, pp91-100

<sup>178</sup> Select Committee on Procedure, Second Report, *The Working of the Select Committee System*, HC 19-II, 1989-90, 23 October 1990 q645

<sup>179</sup> Judge, Op Cit p92

<sup>180</sup> Standing Order of the House of Commons: Public business 2001, <http://www.publications.parliament.uk/pa/cm200102/cmstords/27501.htm>

generally in the style and tone which committee members seek to maintain before the public. All this is not to say that party commitments are laid on one side, that party feelings never find expression, or that there is no disagreement about the conclusions to be drawn from particular enquiries. Naturally such arguments and differences of opinion do occur, and are them usually resolved by a vote...But disputes within committees are restrained by the presence of Government majorities, and by the realization that the very effort of inquiry itself is likely to be unproductive and perhaps nugatory if members focus chiefly on their disagreements rather than on those matters on which they can agree and therefore report to the House.<sup>181</sup>

A similar point was made in 1990 by Andrew Adonis, then a *Financial Times* journalist:

Departmental select committees are not worlds apart. The governing party has a majority on each committee, and MPs do not mysteriously shed their party colours on entering the committee corridor. But the select committees' modes of operation are fundamentally different from those pertaining in the other forums of the House.<sup>182</sup>

The Hansard Society, in a study of select committees published as part of the work of its *Commission on the Scrutiny Role of Parliament*, distinguishes between scrutiny and opposition:

Our starting point in this paper is that a distinction can be drawn between Parliament's place as a forum for *opposition* and its function as an instrument of *accountability*. The performance of the latter duty is its scrutiny function, and underpinning this paper is the belief that scrutiny is best discharged through Parliament's select committees. *Scrutiny* is bipartisan, evidence-based, rational and aimed at improvement and the avoidance of error. *Opposition* is partisan, prejudiced, is instinctual and generally destructive. Select committees have no useful role to play in opposition – when efforts are made to recruit them to that cause they become corrupt and finally impotent.<sup>183</sup>

Departmental Select Committees arguably enhance the process of parliamentary scrutiny through the subject specialisation of their members. Subject knowledge, particularly of longstanding members, is clearly going to be of benefit when examining witnesses, and the 1979 reforms allowed for more specialisation than the previous arrangements. However, excess turnover on committees can undoubtedly hamper their work:

Many MPs appear keen to leave select committees when the most minor job in government or opposition becomes available. The turnover of membership on some select committees since 1997 has been staggering (for example, between

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<sup>181</sup> Nevil Johnson, "Departmental Select Committees" in *The Commons Under Scrutiny*, ed. Michael Ryle and Peter G Richards, 1988, p168-9

<sup>182</sup> Andrew Adonis, *Parliament Today*, 1990, p172

<sup>183</sup> Alex Brazier, Hansard Society, *Systematic Scrutiny Reforming the Select Committees*, p8

1997 and November 1999, the Social Security Committee had a turnover of 64 per cent and the Treasury Committee of 42 per cent).<sup>184</sup>

Information gathering and evaluation are at the heart of the scrutiny function of select committees. This includes the gathering of written evidence; the questioning of witnesses, and the preparation of a report based on an evaluation of material.

Many commentators have suggested that information gathering, and its subsequent publication, may even be the major function of departmental committees. The 1990 Procedure Committee was clear in its belief that "the taking of evidence, provided that it is for a clear purpose and is carried out efficiently, is valuable in its own right as a means of holding ministers and others to account."<sup>185</sup>

Select committees may also be judged in terms of the influence they have on the House, the Government and wider public opinion. This can be difficult to quantify, as Giddings makes clear:

It will be clear from our account of the committees' rationale that they are not in a position to exert a direct impact upon the principal activities of the House. Assessing their influence must, therefore, involve a subjective judgement about indirect effects. Undoubtedly the committees have produced a mass of material – evidence taken, recommendations made, reports issued – which has ensured a great flow of information, fact and opinion to the House.<sup>186</sup>

## 2. Overall evaluation

The Liaison Committee was clear about the success of the select committee system, stating unequivocally that "(t)he 1979 select committee system has been a success. We have no doubt of that." In particular,

4. At a bargain price, it has provided independent scrutiny of government. It has enabled the questioning of Ministers and civil servants, and has forced them to explain policies. On occasion, it has exposed mistaken and short-sighted policies and, from time to time, wrong-doing both in high places and low. It has been a source of unbiased information, rational debate, and constructive ideas. It has made the political process less remote, and more accessible to the citizen who is affected by that process - and who pays the bill. Its very existence has been a constant reminder to Ministers and officials, and many others in positions of power and influence, of the spotlight that may swing their way when least welcome.

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<sup>184</sup> Ibid, p8

<sup>185</sup> Select Committee on Procedure, Second Report, *The Working of the Select Committee System*, HC 19, 1989-90, 23 October 1990 para 56.

<sup>186</sup> Philip Giddings, "What has been achieved?" in Gavin Drewry's *The New Select Committees*, 1989, pp369-370

5. It has also shown the House of Commons at its best: working on the basis of fact, not supposition or prejudice; and with constructive co-operation rather than routine disagreement.

6. But we acknowledge that the performance of the select committee system has not been consistent, and its success not unalloyed. In each of the five Parliaments since 1979, different committees have shone; some found it harder to surmount the difficulties they encountered. On occasion the government has been too ready - and has found it too easy - to thwart a committee's legitimate purpose. Over the same period, however, the House of Commons committee system as a whole has evolved. It has developed new methods of work. Radio and television have brought it home to the public. More visible and more widely known, it is an entrenched part of our constitutional arrangements as never before.<sup>187</sup>

There is general consensus that, while the select committee system is working well, it is not as effective as it could be. Peter Riddell comments

At present their [the select committees] attitude to ministerial accountability and scrutiny is patchy and spasmodic. Some committees, like the Foreign Affairs and Treasury Select Committees, are assiduous in questioning the relevant ministers before or after big events like European Councils or budgets. Other committees are less interested, preferring to pursue longer-term inquiries and neglecting the agencies within their remit.<sup>188</sup>

However, he also observes:

Of much more importance in ensuring ministerial accountability is the existence of the select committee system. The extension to a departmental basis in 1979 has had a big impact in ensuring that ministers and civil servants have to explain their actions in public...this has not given the committees power...but it has given them influence and has, most important of all, been a major factor in the opening up of the workings of government over the past twenty years. This is still imperfect...But there have been real gains, and there is big potential here...<sup>189</sup>

Riddell's evaluation echoes the comments of a number of commentators. Nevil Johnson comments in a 1988 study that

the effort invested in financial scrutinies has been modest and it would be an exaggeration to say that the new select committees have been powerful forces making for more accurate estimating, more efficient expenditure control, and more effective and economical use of resources.<sup>190</sup>

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<sup>187</sup> Liaison Committee, *Shifting the Balance: Select Committees and the Executive* HC 300, 1999-00, para 4

<sup>188</sup> Peter Riddell, *Parliament under Blair*, updated ed, Politicos, 2000, p92

<sup>189</sup> Ibid, p14

<sup>190</sup> Nevil Johnson, "Departmental Select Committees" in *The Commons Under Scrutiny*, ed. Michael Ryle and Peter G Richards, 1988, p, 179

He also criticises the lack of debate on select committee reports, an issue which has been addressed recently with the establishment of the Westminster Hall Chamber. Johnson is also critical of the role of the select committees in failing to provide an alternative career for members. Select committees, he argued, had been seen as 'a new basis for a successful career in politics', although 'the committees have hardly moved in this direction or stimulated such developments'.<sup>191</sup>

Despite these provisos, Johnson concludes:

Without doubt the House of Commons now has a more comprehensive and balanced system for committee scrutiny of the executive than ever before.<sup>192</sup>

Weir and Beetham, in *Political power and democratic control in Britain: the democratic audit of the United Kingdom*<sup>193</sup> consider some of the problems highlighted by failures of select committees properly to bring the executive to account, mainly arising from the in-built government majority on each committee. They argued that their existence 'failed to check the arrogance of the executive during the 1980s and early 1990s, and the Scott Report revealed the corruptions of power and the proliferation of executive agencies and raised new alarms about the Parliaments surveillance of the executive.'<sup>194</sup> See above for a discussion of the issues raised by the Scott inquiry.

More recent commentators have taken a similar view. The Hansard Society Commission on Parliamentary Scrutiny discussed the impact of committees in their report *The Challenge for Parliament: Making Government accountable*,<sup>195</sup> which argued that the 'detachment from the main business of the Chamber detracts from the committees' work.'<sup>196</sup> The Commission was also concerned about the effect of committee reports, on the basis that 'their impact is notoriously difficult to measure and there are few concrete examples of where committees have significantly altered Government policy'. Neither were reports followed up, with the result that there was no consistent analysis of whether their recommendations were being taken up by the relevant department or body.<sup>197</sup>

The Norton Commission commented:

Committees are the vital tools of detailed scrutiny. We want to see strengthened committees and a revitalised chamber. The two must go together. The appointment of select committee members must be taken out of the hands of the whips. We want to see a change in the formula for appointing select committees.

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<sup>191</sup> Ibid, p181

<sup>192</sup> Ibid, p182

<sup>193</sup> Routledge, 1998

<sup>194</sup> Stuart Weir and David Beetham, *Political power and democratic control in Britain: the democratic audit of the United Kingdom*, Routledge, 1998, p404

<sup>195</sup> Hansard Society, July 2001

<sup>196</sup> Ibid, para 3.20

<sup>197</sup> Ibid, para 3.21

We favour giving select committees more resources and greater opportunities for bringing issues to the floor of the House. We see a greater role for committees in the scrutiny of the government's spending plans. We want to see a number of new committees brought into being, including a Public Audit Committee and a Petitions Committee. We believe that the use of special standing committees for examining bills should be the norm, not the exception, in the House of Commons. We recommend that the House of Lords also extends its use of scrutiny through committee, making regular use of select committees prior to committee stage of a bill.<sup>198</sup>

A good summary of the views of most commentators is provided by Weir and Beetham, who conclude that:

The verdict of posterity, as represented by a host of academics, politicians and political writers, is that while they have failed to realise the quixotic aims of the 1978 [Procedure] report, they have over time strengthened both Parliament's ability to scrutinise and hold the executive accountable and the executive's sense of being accountable.<sup>199</sup>

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<sup>198</sup> Commission to Strengthen Parliament, (the Norton Commission), *Strengthening Parliament*, Conservative Party, July 2000, p21

<sup>199</sup> *Ibid*, p406

## **Appendix: Motions to be debated by the House of Commons on 14 May 2002**

### **21 MODERNISATION OF THE HOUSE OF COMMONS Mr Robin Cook**

That this House approves the First Report of the Select Committee on Modernisation of the House of Commons relating to Select Committees, House of Commons Paper No 224-I, and in particular welcomes its commitment to more specialist and support staff for select committees; is of the view that the package as a whole will strengthen the scrutiny role of the House; and invites the Liaison Committee to establish common objectives for select committees, taking into account the illustrative model set out in paragraph 34 of that report, namely

- to consider major policy initiatives
- to consider the Government's response to major emerging issues
- to propose changes where evidence persuades the Committee that present policy requires amendment
- to conduct pre-legislative scrutiny of draft bills
- to examine and report on main Estimates, annual expenditure plans and annual resource accounts
- to monitor performance against targets in the public service agreements
- to take evidence from each Minister at least annually
- to take evidence from independent regulators and inspectorates
- to consider the reports of Executive Agencies
- to consider, and if appropriate report on, major appointments by a Secretary of State or other senior ministers
- to examine treaties within their subject areas.

### **22 SELECT COMMITTEES Mr Robin Cook**

That—

(1) the following Standing Order (Committee of Nomination) be made:

(1) There shall be a select committee, called the Committee of Nomination, to propose to the House the membership of all select committees other than the Committee of Nomination itself and any other select committee for which the House makes other provision.

(2) The committee shall consist of nine members nominated by the Chairman of Ways and Means, who shall be the following:

- (a) the most senior woman member of the Chairmen's Panel belonging to the Government party, and the three other most senior members of the Panel belonging to that party;
- (b) the most senior woman member of the Panel belonging to the party to which the Leader of the Opposition belongs, and the other most senior member of the Panel belonging to that party;
- (c) the most senior member of the Panel belonging to the second largest opposition party;
- (d) the most senior Member of the House belonging to the Government party but not being a Minister of the Crown; and

- (e) the most senior Member of the House not belonging to the Government party who is not a front-bench spokesman for his party.
- (3) Where a Member who would otherwise be a member of the Committee of Nomination is unwilling to serve, the next most senior Member in the relevant category shall be nominated.
- (4) In sub paragraphs (a) to (c) of paragraph (2) of this order, seniority shall consist of length of continuous service as a member of the Chairmen's Panel (other than as Chairman or Deputy Chairman of Ways and Means), and in sub-paragraphs (d) and (e) of that paragraph, seniority shall consist of length of continuous service as a Member of the House.
- (5) The Chairman of Ways and Means, or in his absence a Deputy Chairman, shall be chairman of the committee, but shall not vote.
- (6) The Chairman of Ways and Means shall report the membership of the committee to the House.
- (7) The quorum of the committee shall be seven when the committee is nominating select committees at the commencement of a Parliament and otherwise four, in either case including the chairman.
- (8) The committee shall have power to sit notwithstanding any adjournment of the House and to report from time to time.";
- (2) Standing Order No. 121 (Nomination of select committees) be amended as follows:
- Line 9 leave out paragraph (2) and add—
- (2) Unless the House otherwise orders, no motion shall be made for the nomination of members of select committees, or for their discharge, unless—
- (a) notice of the motion has been given at least two sitting days previously; and
- (b) the motion is made on behalf of the Committee of Nomination by one of its members.
- (3) Unless the House otherwise orders, all Members nominated to a select committee shall continue to be members of that committee for the remainder of the Parliament (or for the period of existence of the committee, if that is a shorter period).";
- (3) Standing Order No. 15 (Exempted business) be amended, as follows:
- Line 16, leave out from "committees" to which" in line 20;
- (4) Standing Orders be amended, as follows:
- Standing Order No. 139 (Select Committee on Broadcasting)
- Line 29, leave out paragraph (6);
- Standing Order No. 140 (Joint Committee on Consolidation, &c., Bills)
- Line 37, leave out paragraph (4);
- Standing Order No. 141 (Deregulation and Regulatory Reform Committee)
- Line 98, leave out paragraph (10);
- Standing Order No. 142 (Domestic Committees)
- Line 37, leave out paragraph (7);
- Standing Order No. 143 (European Scrutiny Committee)
- Line 80, leave out paragraph (13);
- Standing Order No. 144 (Finance and Services Committee)
- Line 29, leave out paragraph (5);

Standing Order No. 145 (Liaison Committee)  
 Line 27, leave out paragraph (4);  
 Standing Order No. 146 (Select Committee on Public Administration)  
 Line 20, leave out paragraph (3);  
 Standing Order No. 147 (Procedure Committee)  
 Line 11, leave out paragraph (4);  
 Standing Order No. 148 (Committee of Public Accounts)  
 Line 10, leave out paragraph (2);  
 Standing Order No. 149 (Committee on Standards and Privileges)  
 Line 26, leave out paragraph (3);  
 Standing Order No. 151 (Statutory Instruments (Joint Committee))  
 Line 126, leave out paragraph (11);  
 Standing Order No. 152 (Select committees related to government departments)  
 Line 34, leave out paragraph (5);  
 Standing Order No. 152A (Environmental Audit Committee)  
 Line 10, leave out paragraph (3);  
 Standing Order No. 152B (Human rights (joint committee))  
 Line 41, leave out paragraph (6);  
 Standing Order No. 152C (Tax simplification (joint committee))  
 Line 15, leave out paragraph (4);  
 (5) Standing Order No. 152 (Select committees related to government departments) be amended, as follows:  
 Line 8, after "committee", insert "at the commencement of a Parliament".  
 Line 8, after the Table, insert—  
 (2A) Any committee listed at items 1 to 3, 5 to 8, 10, 12, 14 and 16 may by resolution increase its maximum size to a number not exceeding 15; any such resolution shall be reported to the House and the Committee of Nomination shall then bring forward motions to nominate extra members accordingly."  
 (6) Standing Orders be amended, as follows:  
 Standing Order No. 141 (Deregulation and Regulatory Reform Committee)  
 Line 97, leave out "eighteen" and insert "sixteen";  
 Standing Order No. 147 (Procedure Committee)  
 Line 6, leave out "seventeen" and insert "thirteen";  
 (7) Standing Order No. 137A (Select committees: power to work with other committees) be amended as follows:  
 Line 12, leave out "and";  
 Line 15, at end insert—"and  
     (d) to agree in the choice of a chairman for any concurrent meetings."; and  
 (8) the following Standing Order (Term limits for chairmen of select committees) be made:  
 "Unless the House otherwise orders, no select committee may choose as its chairman any Member who has served as chairman of that committee for the two previous Parliaments."

**23 PAYMENT FOR CHAIRMEN** Mr Stephen Twigg

That this House considers that there should be no differences in remuneration among Members who are not Ministers of the Crown beyond those already authorised.

**24 PAYMENT FOR CHAIRMEN** Mr Robin Cook

That, in the opinion of this House, the Review Body on Senior Salaries should be invited to consider what additional remuneration is appropriate for chairmen of select committees.

**25 TAX LAW REWRITE** Mr Robin Cook

That the following changes to Standing Orders be made:

Standing Order No. 60 (Tax simplification bills)

Title, leave out 'simplification' and insert 'law rewrite'

Lines 1, 9, 15, 22, 24, 29, leave out 'simplification' and insert 'law rewrite'

Standing Order No 63 (Committal of bills)

Line 2, leave out 'simplification' and insert 'law rewrite'

Standing Order No. 152C (Tax simplification (Joint Committee))

Title, leave out 'simplification' and insert 'law rewrite'

Line 4, leave out 'simplification' and insert 'law rewrite' (in both places)

**26 JOINT COMMITTEE ON STATUTORY INSTRUMENTS** Mr Robin Cook

That the following amendments to Standing Orders be made:

Standing Order No. 151 [Joint Committee on Statutory Instruments]

Line 19, leave out 'and'

Line 19, leave out "of Schedule 1 to the Northern Ireland Act 1974" and insert "(1) of the Schedule to the Northern Ireland Act 2000".

Line 20, leave out "under section 1 of the Deregulation and Contracting Out Act 1994 or"

Line 24, after 'Act', insert 'and any remedial order or draft remedial order under Schedule 2 to the Human Rights Act 1998'.

**27 LIAISON COMMITTEE: POWER TO TAKE EVIDENCE** Mr Robin Cook

That Standing Order No. 145 (Liaison Committee) be amended as follows:

Line 12, at end insert '(1A) The Committee may also hear evidence from the Prime Minister on matters of public policy'.

**28 REGULATORY REFORM** Mr Robin Cook

That the following amendments to Standing Orders be made:

Standing Order No. 141 (Deregulation and Regulatory Reform Committee)

Title, leave out "Deregulation and"

Line 2, leave out "Deregulation and"

Line 5, leave out from "section" to 6" in line 7.

Line 7, leave out "(the 2001 Act)"

Line 10, leave out "1994 Act or section 1 of the 2001"

Line 14, leave out "2001"

Line 14, at end insert "(except those not made by a Minister of the Crown)".

Line 58, leave out lines 58 to 60

Standing Order No. 18 (Consideration of draft deregulation etc orders)

Title, leave out "Deregulation, etc" and insert "regulatory reform"

Line 1, leave out "Deregulation and"

Line 4, leave out from "House" to "under" in line 6.

Standing Order No. 98 (Scottish Grand Committee (delegated legislation))

Line 14, leave out "deregulation order or"

Standing Order No. 115 (Northern Ireland Grand Committee (delegated legislation))

Line 15, leave out "deregulation order or"

Standing Order No. 118 (Standing Committees on Delegated Legislation)

Line 13, leave out "deregulation order or"

**29 POWER TO EXCHANGE PAPERS WITH DEVOLVED LEGISLATURES** Mr Robin Cook

That Standing Order No. 137A (Select committees: power to work with other committees) be amended as follows:

Line 6, after "Parliament" insert "or to the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly or to any of their Committees"

Line 10, leave out "such"

Line 11, after "sub-committee" insert "of either House of Parliament".