

Parliamentary Reform: the Commons 'Modernisation' Programme

Research Paper 97/107

28 October 1997



The new Government has announced plans to 'modernise' the procedures of the House of Commons as part of its proposals for wider Parliamentary and constitutional change. Research Paper 97/64, *Aspects of Parliamentary reform*, 21 May 1997, considered the issue of Parliamentary reform generally (including the various parties' policies in this area), and this Paper seeks to provide Members with an overview of the 'modernisation' programme for the House of Commons. More detailed briefing on particular aspects of the programme, and of the other Parliamentary/constitutional areas where the Government has promised 'reform' (some of which, such as devolution, freedom of information and incorporation of the ECHR will affect Westminster practice and procedures) are contained in other Research Papers already published (a guide to these is available in the new Research Service booklet, *CAPRI*, published in August). Others will be published as appropriate.

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Summary

A significant plank of the new Labour Government's package of constitutional change was 'modernisation' of the House of Commons. This Paper provides an overview of the 'modernisation programme' by examining the policy developed by the Labour Party in Opposition on Parliamentary reform; the two debates in the early weeks of this Parliament on the subject which led to the establishment of the Modernisation Committee, and a brief note on the initial activities and reports of the Committee.

The major changes proposed so far are contained in the Committee's first report. These concern the legislative process, but, at the time of writing, they have not been debated by the House. Chapter III of this Paper summarises these proposals; notes the other early actions of the Committee on changes to division practices and to the form and content of the Order Paper, and sets out the Committee's next topics for examination.

More general briefing on the issue of 'Parliamentary reform' is contained in Research Paper 97/64, *Aspects of Parliamentary reform*, 21.5.97, and there is a series of Research Papers on the Jopling reforms instituted a few years ago. These, and other Research Papers on constitutional and Parliamentary topics, are indexed in a new publication, *CAPRI*, the first edition of which was published in August.

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I Labour's policy in Opposition

In his John Smith lecture on 7 February 1996, Tony Blair acknowledged the changes which had been made to Parliament in recent years, especially the Jopling and Nolan reforms, but said that "we still need to update our legislative procedures to improve the effectiveness of Parliament. There is also a case for effective consultation to produce better quality legislation. And it does not help produce good government when almost every change in every clause of a bill is interpreted as a defeat for the government."¹

In a speech to a Charter 88 seminar in May 1996,² the then Shadow Leader of the House, Ann Taylor, considered Parliamentary reform in more detail. She said that Parliamentary reform aimed to make the Commons "a more effective and efficient legislature. Our project in this area is to establish a public confidence in politics and in politicians: to reconnect electors with the political process and thereby with those they have elected" (p1). In particular "Parliament does not anymore hold Ministers properly to account ... and legislation is not given the scrutiny it requires." However "the House of Commons ... for all its faults and for all the cynicism about politics, can still be the place to which the nation looks in time of need," such as in the aftermath of the Dunblane tragedy, and MPs are very good at representing their constituents. "In reforming Parliament we should be careful to conserve that which deserves conservation while we reconstruct those that need to change" (p2).

She said that part of the reason for the low public esteem in which Parliament was held was due to the Conservative government's "general and systematic ... strategy of undermining collective action. Politics -- banding together to solve mutual problems -- has been attacked as redundant The end product of this 17 years of untrammelled arrogance is that Minister [*sic*] have been able to weld the concept of the state onto the concept of the governing party until they simply refuse to recognise the join ... Government contempt for Parliament is an example of this failing ..." (pp2-3).

She was sceptical of the long-term "conventional reformist" agenda of sitting hours³, proxy voting, timetabling and better office accommodation, some of which remained relevant "but none is essential to the main project of re-engaging the gears of the political process in a fundamental way so that ordinary voters feel genuinely connected with the people who represent them." The Jopling reforms had made some progress with this conventional agenda, "but they really only tinkered with the process [T]here was little in Jopling to make Parliament produce better legislation; there was nothing at all to make MPs more effective in holding the executive

¹ 7.2.96, transcript, p12

² *New politics, new Parliament*, transcript, 14.5.96

³ She decried simplistic calls for 9-5, 5-day weeks as "a chilling prospect for me as an MP for a Northern constituency, let alone as the mother of two children." (p3)

to account. Those tasks will be Labour's true project for Parliament and, awkward though it may appear to a *few* on our side, a more accountable Government is a better Government and ultimately a more re-electable Government."

She emphasised that she was "not suggesting Labour in Government can dictate change: Parliament must own the process. Reform motivated by the need to re-establish the proper balance between a Parliament and the Executive cannot simply be imposed by a new executive even if it to the benefit of parliament. Parliament must change itself." The Nolan reforms had demonstrated that Parliamentary change can be achieved "in a relatively short time [and] with commendable speed." She said that "with a Labour Government, the first step in changing Parliamentary politics for the better will be a thorough audit of Parliament", which might include non-Parliamentarians, and a "special select committee with a panel of independent advisers." Particular areas where she believed change was necessary were Ministerial accountability (including reform of Question Time); the quality of legislation; scrutiny of secondary legislation; the role of select committees; more assistance for the Opposition, and better use of Parliamentary time in the Parliamentary year (p5).⁴

Labour's 1997 election manifesto stated:⁵

We believe the House of Commons is in need of modernisation and we will ask the House to establish a special Select Committee to review its procedures. Prime Minister's Questions will be made more effective. Ministerial accountability will be reviewed so as to remove recent abuses. The process for scrutinising European legislation will be overhauled.

The Nolan recommendations will be fully implemented and extended to all public bodies. We will oblige parties to declare the source of all donations above a minimum figure: Labour does this voluntarily and all parties should do so. Foreign funding will be banned. We will ask the Nolan Committee to consider how the funding of political parties should be regulated and reformed.

We are committed to a referendum on the voting system for the House of Commons. An independent commission on voting systems will be appointed early to recommend a proportional alternative to the first past-the-post system.

At this election, Labour is proud to be making major strides to rectify the under-representation of women in public life.

The Liberal Democrats had also produced detailed proposals for Parliamentary reform,⁶ and the March 1997 joint report on constitutional reform published by the Liberal Democrats and Labour contained the following (pp15-16):

⁴ Her detailed consideration of these areas is not reproduced here.

⁵ *New Labour: because Britain deserves better*, 1997, p.33

⁶ See their Policy Paper 20 of June 1996, *A Parliament for the people*, and their 1997 election manifesto, *Make the difference*, p.43

The Reform of Parliament

64. Renewing Parliament is key to the wider modernisation of our country's system of government. No programme of reform could ignore the legislature itself. Parliament for all its faults, remains central to national life. At times it can seem to embody the national spirit. It is precisely because of the importance of Parliament in our national life that it is right to consider whether it does its job well and to suggest improvements that can be made which will enable it to become a more effective legislature.

The House of Commons

65. The House of Commons no longer holds ministers to account and legislation is not given the scrutiny it requires. This country needs a Parliament fit for the 21st century. Sensible reforms have been proposed by the House of Commons Procedure Committee, the Hansard Society and others. Both the Labour and Liberal Democrat parties are convinced of the need to re-establish confidence in the political process, politicians and Parliament itself. A more mature approach to the consideration of legislation is required.

66. The parties' priorities for modernising the House of Commons are:

67. * to programme parliamentary business to ensure fuller consultation, more effective scrutiny of bills and better use of MPs' time.

68. * to improve the quality of legislation by better pre-legislative consultation and the use of mechanisms such as the special standing committee procedure where evidence is taken before legislation is passed.

69. * to change Prime Minister's Question Time to make it a more genuine and serious means of holding the government to account.

70. * to overhaul the process for scrutinising European legislation so that decisions from the EU are more transparent and Parliament's role is more clearly defined.

71. * to strengthen the ability of MPs to make the government answerable for its actions.

72. * to enhance the role of Select Committees in ensuring the accountability of departments

73. ` No one political party should dictate changes to parliamentary procedure: Parliament must own the process. Political parties must however take a lead. Early in a new Parliament a special Select Committee on Modernising the House of Commons should be established. Following the example of the select committee which examined the implementation of Lord Nolan's recommendations, the membership of this special Committee should reflect the full spectrum of interests and experience in the House and could include both the Leader and Shadow Leader of the House.

74. The review undertaken by the Special Committee should be open to the views of others, `bringing in outside advisers where appropriate and canvassing the views of MPs, organisations involved in the work of Parliament and members of the public. It is hoped that the Special Committee could report swiftly on those matters requiring priority, especially legislation, so that it would be possible to implement its first recommendations early in a new Parliament.

II Setting up the Modernisation Committee

Only three weeks after Labour came to power, the Leader of the House, Ann Taylor, opened a general debate on 'modernisation' on 22 May, claiming that it "proved our serious intent in terms of facilitating improvements in the workings of Parliament."⁷ She noted that "many new Members are bewildered by some of the practices of the House and are keen to see some changes" (c901), and said that reform was required because of the changing role of backbenchers and new Members in the last 20 years, and because of the effect of having one party in continuous office for 18 years: "there is a danger of Governments and Oppositions adopting rigid roles. For a time in the 1980s, the Labour party suffered from Oppositionitis and the Government suffered from .. Governmentitis It may be time to reassess the role of both sides." She recalled the Jopling reforms of the previous Parliament,⁸ noting that they covered a narrow range of issues, and though "Jopling reported relatively quickly, the House sat on the report for almost three years before implementing its recommendations. I hope that, when a new Committee is established and begins to report to the House - hopefully, there will be a succession of reports; I do not want it to deliberate for two years before offering some ideas - there will be change relatively quickly, and much agreement about moving on some of the recommendations" (c903). She recognised that "there have been some - on both sides of the Chamber - who have resisted change, but the majority ... want constructive change. There is a wish to take the opportunity that is now available to us" (c903). She set out **four themes**⁹ to proposed changes.

(i) *The legislative process*: By far the most important theme was "**the production of better legislation**. In that we all have a responsibility. Ministers have a responsibility and so, too, does Parliament generally. After all, we are the legislature." (c904). In particular, "we all know that, far too often, legislation has to be amended because of practical difficulties and mistakes that could have been spotted and dealt with at the time of consideration. That is not, I think, the result of poor draughtmanship. Difficulties and mistakes often occur because of the political imperatives that stem from Governmentitis," such as Governments too rarely accepting Opposition amendments (c904), and (c905):

It is rather obvious that a Government have the right to initiate legislation for which they have a mandate or when problems arise. Much of that legislation will be controversial and it will be promoted or forced through robustly; however, there are areas of legislation where there might be differences of approach or of priorities across the party divide, but where at the same time there is agreement on an objective, or where there is agreement that a certain problem needs to be tackled. My hon. Friend's example about pensions was extremely useful in highlighting that point.

⁷ HC Deb vol 294 c901, 22.5.97

⁸ On which see Research Paper 95/108, *Making Jopling permanent: the 1994-95 sittings experiment*, 1.11.95, and earlier Research Papers cited therein.

⁹ For convenience, particular topics are highlighted in the following passages.

There is scope for considering to what extent we would gain by having more Bills published in draft and, possibly, by having pre-legislative Committees to examine draft Bills or White Papers or-it is not the method that I would prefer-using departmental Select Committees. The use of such Committees is still worthy of consideration. These are the very issues that the proposed Committee might consider.

I am not saying that every Bill should receive consideration by pre-legislative Committees or a Special Standing Committee; that could cause unnecessary duplication and delay. We should, however, consider what is appropriate for each Bill, and Government and Parliament should be more willing to use the available options more freely. There should be more discussion about that.

She cited as an example the legislation establishing the Child Support Agency, where both sides agreed that action had to be taken, the Government understandably wanted to act quickly and the Bill was subject to the usual procedures: "At the end of the day, however, the Bill was flawed. It satisfied no one and angered many. We all received the case load that proved that" (c905). One approach could be by **publishing draft bills**, and she promised that the Government would move as quickly as possible to produce draft bills on a food standards agency, freedom of information and tobacco advertising, as well as on financial services, limited liability partnerships and the control of communicable diseases: "There are areas where we could, to good effect, publish draft bills and then consider the role of Parliament in ensuring proper scrutiny" (c906).¹⁰

Legislation, she believed, "should be as understandable as possible", and she advocated the use of 'plain English'. However, as to the quantity of legislation, she warned the House that "much needs to be done to redress some of the balance of the past few years" (c906). As to the **programming of legislation**, there was a need "to consider what alternatives there might be to the guillotine imposed by the Government with a majority and the voluntary understanding that have been tried in the past. Sometimes they have worked, sometimes not, but there is scope to see what other mechanisms could be available to achieve better planning of legislation" (c907). Consideration should also be given to the **balance of work on the Floor of the House and upstairs in Committee**, which Jopling only touched on at the margins: "I feel strongly that the work of Standing Committees never gets the attention or credit that it deserves" (c907).

(ii) *Parliamentary accountability*: Apart from legislation, she believed that the other main role of Parliament was **holding Ministers to account**, and to that end the changes made to **Prime Minister's Questions** would be beneficial. In the first period of the new-style PMQs the previous day "more questions were asked. There were more opportunities to follow up. There were more serious questions, from both sides of the House, and, indeed, more serious answers" (c907)¹¹. Various aspects of **Parliamentary questions** could be examined, such as the role of

¹⁰ Details of these draft bills are given in Cabinet Office press release 16/97, 22.5.97

¹¹ This was considered by the House in a Wednesday morning debate a few days later, HC Deb. vol 295 cc 349-358, 4.6.97.

open or closed questions, the period of notice for tabling, and a means of requesting the Speaker to allow a longer period for supplementaries on particularly important or topical questions. There was a need for improvement in the **scrutiny of delegated legislation**, ie statutory instruments and European legislation: "I know that work has been done by other Committees. I hope that it can be looked at quickly" (c907). There could be an examination of the number of days spent on **set-piece debates** (on Queen's Speech, Budget, armed services, and the estimates): "These may be right. We have seen some flexibility, but surely it is right for the Committee to consider whether we are making the best use of parliamentary time. I hope this will be an opportunity to take stock" (c908).

(iii) *Members' work patterns*: The Leader of the House strongly believed that **Committee work**, as well as participation in the Chamber, should be appreciated by Members' constituents, that there must also be some recognition of **constituency work**, so that "we should design our parliamentary timetable with those dual roles in mind", with further developments such as 'constituency Fridays', and reform of the **Parliamentary calendar** generally, including the balance between sittings and recesses.

(iv) *Style and forms of Parliamentary proceedings*¹²: She recognised that an issue which was not a priority, but had been raised especially by new Members, was "the style and the symbolism that is associated with Parliament There is a feeling that, while it is good to reinforce our Parliamentary traditions, we might be able to modify some aspects of them without any loss of ceremony or dignity" (c909)¹³, which may include consideration of the various formal modes of referring to Members in the House, such as by the name of their constituency.

She concluded (c909):

Many of the changes that the committee will consider will interact, and working on that Committee will be a serious commitment both in terms of time and responsibility. The House responded well to the Nolan recommendations. The special Select Committee operated to a tight schedule and worked extremely hard to bring about change. I hope that that will happen again with this modernisation Committee.

I am delighted to see so much interest in the House this evening. That is the best sign that we have had in many years that there is a serious intention to modernise this place, and I hope that we do not miss this window of opportunity.

¹² An interesting example of this, albeit from the other House, is the proposal to modify the ceremony of introduction of new peers, on which see the debate on 27 October, HC vol 582 cc884-896

¹³ The first examples of this were the changes to division procedures in June and revision of the Order Paper after the return of the House after the summer recess at the end of October. See the Committee's first special report, July 1997, HC 191, 1997-98, esp Appendices 1 and 2 (an exchange of letters with the Speaker on the two changes to division procedures), and 3 and 4 (a memorandum from the Clerk's Department on changes to the Order Paper, and a specimen revised Order Paper, respectively). See further chapter III of this Research Paper.

For the Conservative Opposition, Alastair Goodlad said that his party welcomed the opportunity for an early debate on Parliamentary procedure, and was "determined that Parliament, and particularly the House of Commons, should retain its central role in our political and national life" and he continued (c910):

To do so, our procedures sometimes need reform. If it is clear that change is necessary or desirable, we shall support it. But if our institutions and procedures are working well, we shall defend them. The Conservative party is a pragmatic Party and we shall offer constructive opposition.

Those considerations have animated and will continue to guide our approach to reforming the House of Commons and our response to any recommendations which may be made by the proposed Select Committee on modernisation.

He claimed that the period of the last Conservative government saw "some of the most significant reforms of Parliament", in particular the establishment of the departmental select committee system in 1979, "perhaps the most important transfer of power from Government to Parliament this century" (c910). He also commended the televising of Parliament, the recent resolution on ministerial accountability, and the Jopling and the Nolan reforms as other examples of change in the past 18 years. He agreed with the Leader of the House's desire to improve the legislative process, and the ways of holding ministers to account, and to make best use of Parliamentary time: "If the reforms put before the committee and the House achieve these aims, we will support them and suggest how they might be improved" (c911).

He said that his party would work with the Government on proposals for the '**rollover**' of **certain bills**, and for consultation processes on **draft bills**, and would examine "the Government's proposals to **audit out-dated legislation** that has become burdensome" (c911). As to the **Parliamentary calendar**, "we want to see what issues emerge from that -- the timing of recesses, working hours and so on -- before we offer any comment, but we shall give careful consideration to the details of the Government's proposals when we have seen them" (c911). His party would await further details on suggestions that departmental select committees should have a role in public appointments -- "but it is our belief that constitutional accountability must remain with Ministers (c912) -- or that civil servants should be provided for senior Opposition figures."

The Opposition, however, had reservations about three matters --

(i) timetabling of legislation by business committee: The traditional system of resort to 'the usual channels' "has proved itself over the years: it has worked reasonably well." Mr Goodlad, a former Government Chief Whip, accepted that the Government has to steer its business through the House, but said "I am inclined to think that, if the usual channels cannot reach an agreement about the legislative programme, the final decision should be taken by the whole House. I would take some convincing that it should be taken by a small committee" (c912).

(ii) *committee stages of constitutional bills*:¹⁴ The Opposition had reservations about any plan to take some clauses of constitutional bills in standing committee, rather than in the Chamber, because, what some may regard as technical clauses in such bills, others may regard as important constitutional principles. He warned that "a broad brush approach" could produce difficulties, because "the devil is very much in the detail" (c912).

(iii) *Prime Minister's Questions*: "Many hon. Members from all parties have made clear their distaste for the arbitrary way in which the change was introduced", which Mr Goodlad regarded as "inappropriate" and contrary to the Prime Minister's promise in his May 1996 Charter 88 speech, that changes in Parliamentary reform had to be carried out 'with care and sensitivity' and in ways which protected the rights of backbenchers (c912). The change was made without reference to the proposed Modernisation Committee, and had been rejected by the Procedure Committee in 1995.

He concluded (c913):

The Labour party's manifesto asserted that better scrutiny of Bills and better accountability of Ministers are desirable: nobody would quarrel with that. But it is up to hon. Members, rather than mere institutional arrangements, to hold Ministers to account and to scrutinise legislation. I am sure that the failings of the Opposition in the previous Parliament in scrutinising Bills—there certainly were failings—will not be repeated by the Opposition in the present Parliament.

We agree with the proposition that no one political party should dictate changes to parliamentary procedure, and that Parliament itself must own that process. There is clearly a danger that when a political party has a substantial majority in the House, as at present, the interests of Parliament as a whole could be put at risk. I am sure that the right hon. Lady will restrain any tendency towards the arrogance of office that may from time to time be exhibited by her ministerial colleagues. Ultimately, it is up to the House to decide how we should conduct our affairs.

I trust that the Government will take seriously the deliberations and decisions of the Select Committee on modernisation that we are about to set up. I hope that hon. Members on both sides of the House will consider its conclusions on their merits rather than on party-political lines, and I hope that the Government will make no further announcements that rightly belong with the House. I am confident that the right hon. Lady, who has great experience in these matters—as did her predecessor, Tony Newton, to whom I pay tribute as she did the other day—will be the protector of the rights, privileges and duties of the House.

For the Liberal Democrats, Paul Tyler, agreed with everything the Leader of the House had said, especially on the **role of private Members**, "which must be re-examined with considerable urgency" (c922). He suggested that **Wednesday mornings** should be devoted to private Members' bills, with the present Wednesday morning business being moved to Monday mornings.

¹⁴ See generally Research Paper 97/53, *The Commons committee stage of 'constitutional' bills*, 20.5.97

More generally, he analysed the problem as follows (c923):

We are a deliberative Assembly. Parliament has a glorious past; it is a glorious beast- but it is glorious because it has managed to move with the times, not because it has become stuck in a particular era. It is perfectly true that we have moved in technology, in economy and in culture, but we have not moved as fast or as far as the body politic. Surely, that must be the question now hanging over the institution of Parliament.

During recent weeks we have heard a great deal about the sovereignty of Parliament. The sovereignty of Parliament is far more at risk from getting out of step with the general body politic of the United Kingdom than it would ever be from threats from Brussels or anywhere else.

The pace of progress has been far faster outside this place than it has been inside it. I ask the Leader of the House to look carefully at the way in which the House will have to change to reflect the situation in the world outside.

For example, the UK was no longer a two-party state, whereas "to a considerable extent, we are still a two-party Parliament" (c923), and prophesied that his party would soon take over the Opposition role. Reform of the **voting system** was a priority. While accepting that symbolism was attractive to tourists, he thought that matters such as the wearing of wigs by Clerks were trivialities: "the key issue is whether we are doing our job properly" (c924). He also examined financial and European legislation procedure. The very **shape of the Chamber** had to be considered carefully, especially with the party breakdown in the current Parliament: "bring in the carpenters and make this not only a better representative Assembly, but one in which we can operate to more effect" (c925).

As new Liberal Democrat Chief Whip, Mr Tyler found the 'usual channels' "a great mystery. I am sure that we could bring more out into the open and more could be done in the new triangle between the three parties. We must ensure that Back Benchers and the minority parties have the opportunity to affect that situation" (c925). Ways had to be found to relieve the Chair of its difficult job of **maintaining party balance in debates**, perhaps based on how the Lords organise these matters. He proposed how the Modernisation Committee should operate (c925):

All those issues are matters for the whole House. While it is important that the new Committee should have as wide a remit as possible, it would be wrong to ask its members to go into such detail, over such a length of time, that no progress was made in the House. I hope that the Leader of the House will agree that the new Committee could make proposals, as the Procedure Committee has previously, but not attempt to make a wide range of recommendations on every issue. It is particularly important to address the concerns of current Back Benchers, a great many of whom would otherwise feel frozen out of the true business of Parliament.

The House debated the Government motion to establish the Modernisation Committee on 4 June.¹⁵ The terms of reference of the Committee of 15 Members were "to consider how the practices and procedures of the House should be modernised", and to make a first report before the summer recess "with its initial conclusions on ways in which the procedure for examining legislative proposals could be improved."

Opening the debate for the Opposition, Mr Goodlad examined the Committee's remit to produce a speedy report before the summer on the legislative process, and was worried that the terms of the motion might require the Committee "to report on every aspect of the content, drafting and debating of legislation" putting the Committee "in danger of being bogged down in consideration of aspects of the legislative process in which the House would think that there was no need for change" (c500).

He welcomed the Committee's powers to take evidence and to appoint specialist advisers, but warned that the Government, by its recent actions -- such as use of the guillotine on the devolution referendums legislation, lack of consultation on the changes to Prime Minister's Question Time, the number of political appointments without debate in the House, and the making of ministerial policy announcements outside the House -- had perhaps come to regard 'modernisation' as "changes to the House's procedures in the interests of government and the small, secretive and unelected group of political appointees at their heart, rather than the interests of this House and our constituents" (c501).

He hoped that the Leader of the House would "not succumb to any temptation or further pressure from her ministerial colleagues to use the new Committee as a means for the Government the abuses of their large majority", describing her initial relationship with the House as being perceived by Members and others as "indifferent, disastrous and catastrophic, and concluded by warning that "her behaviour and that of the Government over the deliberations before us will be carefully studied" (c501).

The Liberal Democrat Chief Whip, Paul Tyler, said that it was important "that we move by evolution and consultation, with special attention to Parliament's role as scrutineer of the Executive [I]f all we are asked to do is to speed Government business, we will fail in the real duty of Parliament, which is to ensure that the Government's business is handled better than it would have been if Parliament had not been sitting. It is not only a question of the speed of the operation but of the quality of the product" (c503). He thought that the House had not yet addressed sufficiently the anxieties of backbenchers on all sides with the Executive's influence over the initiation and timing of certain business, and his principal concern was to make sure that the "very proper priority" given to the Committee on the legislative process did "not lead to neglect of the fact that Parliament has other important concerns" (c504).

¹⁵ HC Deb vol295 cc500-18, 4.6.97. It was agreed to without a division

He returned to another theme of his speech in the 22 May debate, that of the contrast between the 'two-party system' in Parliament and the multi-party reality of elections: "In that sense, this place is now an anachronism. It institutes a duopoly of Government and Opposition which is not the reality in the real world", and which produced what he described as "automatic confrontation" and "automatic opposition" (c504). He warned that if Parliament did not modernise its operation and truly reflect the country outside, "the centre of gravity in the body politic will move, in terms of devolution, to other parts of the United Kingdom and perhaps to the European Parliament. We will become increasingly irrelevant if we do not make our procedures more relevant to the real life of the wider public" (c505). There was an urgent need to recognise, as did the House of Lords, that there were three major parties, and that the Liberal Democrats were not simply a larger minority party.

Members, especially those with experience in local government, were surprised at the confrontational nature of Parliament -- which was "absurd confrontation, often where confrontation does not exist. It is largely a bit of play-acting. It is the Punch and Judy show" -- and the failure to utilise fully the committee system, especially in pre-legislative scrutiny and consultation (c505)

Winding up the debate, the Leader of the House, Ann Taylor, thanked the Opposition parties for their cooperation in the speedy establishment of the Committee. Its wide terms of reference would allow all the matters raised by Members in the debate to be considered, although there was a need to establish priorities, especially in relation to the legislative process (c516):

We have suggested that the priority should be how we deal with our legislative procedures. I am glad to say that that proposal has been agreed to by Opposition Members. We have had constructive suggestions. The hon. Member for Macclesfield (Mr. Winterton) mentioned Special Standing Committees, which we suggested on several occasions in opposition. I hope that we can suggest such Committees again in government. The whole framework in which we examine legislation must be looked at and I hope that we can come up with some initial conclusions relatively quickly in these vital areas because it is important that the House should change as quickly as possible. The Government want to help, perhaps by having piloting of different procedures if that seems appropriate. We should all work together to achieve that.

In particular she noted suggestions from Members for reform of the Order Paper, and of divisions practice.¹⁶ She concluded as follows (c518):

There seems to be a great deal of good will towards the whole idea of modernising our procedures. We have a different type of opportunity from any ever before- certainly in all the years that I have been in the House. I therefore hope that the Committee will undertake its task as speedily as possible and ensure that we make this Parliament as efficient and as effective as we possibly can. I am sure-at least, I hope-that the Committee will meet the expectations of the House since there is now more interest in change than ever before. We all have a responsibility to ensure that the change that we adopt is practical, workable and will improve our parliamentary democracy.

In its memorandum to the Modernisation Committee in June 1997, the Labour Government set out its overall modernisation policy:¹⁷

1. The Government was elected on a Manifesto which included a recognition that the House of Commons is in need of modernisation, and a promise to ask the House to establish a Select Committee to review its workings.

2. The Government does not seek change for change's sake, but it regards a vital and effective House of Commons as central to the revival of confidence in politics and public life which it seeks. For all its many strengths, the House is not as effective as it might be. There have been a number of recent reviews of aspects of procedure which the Committee will wish to take into account; but in the Government's view the time has come to draw the threads together and embark on a significant programme of change.

THE GROUND TO BE COVERED

3. The Committee will no doubt wish to range widely over the subject matter, but the Government hopes it will give particular attention to:

- the handling of legislative proposals, on which the Order establishing the Committee instructs it to seek to make an early first report;
- the means by which the House holds Ministers to account;
- the impact of the House's procedure and practices on the working lives of Members (building on the changes which were made following the Jopling reforms); and
- the style and forms of proceedings.

4. The rest of this memorandum deals with the first of these areas, the handling of legislative proposals, on the ground that it is the most urgent; but the Government will be ready to offer papers on other aspects of the Committee's remit in due course. It will also respond to the outstanding reports of the European Legislation Committee and the Procedure Committee on the scrutiny of European legislation, in which the Committee will no doubt wish to take an interest.

¹⁶ On which see chapter III of this Research Paper

¹⁷ HC 190, 1997-98, Appendix 1, paras 1-4

III The Modernisation Committee's first reports¹⁸

The Committee published its first two reports in late July, just before the summer recess, one on the legislative process and a progress report.¹⁹

A. First report: the legislative process

The Committee's analysis and recommendations are not discussed in detail here, as this Paper is concerned with the 'modernisation' programme as such rather than with substantive consideration of its particular activities. The report's opening paragraphs set out the Committee's approach to its inquiry into the legislative process:

1. We were appointed on 4 June with a specific instruction from the House "to seek to make a first Report to the House before the summer adjournment with [our] conclusions on ways in which the procedure for examining legislative proposals can be improved". In this report we make recommendations on what is universally agreed to be one of the main, if not the main, function of the House.

2. We were helped by the fact that a great deal of work on this subject has already been carried out by previous Select Committees, notably the Procedure Committee. In addition a major study of the legislative process was carried out by a Commission appointed by the Hansard Society for Parliamentary Government. The Commission, chaired by the late Lord Rippon, published a comprehensive report in 1992. We therefore decided at the outset not to take oral evidence. Written submissions were however received from the Government and from other sources, including comments from a number of Members who responded to our invitation to submit their views.

3. The House is entitled to expect substantive and substantial proposals from us. At the same time, however, we recognise that it would be wrong at this stage to propose major changes on a permanent basis. Our approach therefore has been to recommend various options to be tried out on an experimental basis. We intend to monitor the outcome of our proposed experiments, and we will welcome comments from Members and others. We shall then seek to make further recommendations on an ongoing basis in the light of experience gained.

Its report covered many aspects of the legislative process, from the pre-legislative phase, through the various Parliamentary stages, to post-legislative scrutiny. In particular it examined the 'programming of legislation (see paras 57-66, and the recommendations in para 89), the sessional cycle, and particular types of legislation, such as the Finance Bill, constitutional bills, consolidation bills, Law Commission bills, tax simplification bills, private Members' bills, and European and delegated legislation. Its conclusions are set out in detail in paras 84- 102.

¹⁸ Note that a Procedure Committee has also been appointed for this Parliament under S.O. no 147 "to consider the practice and procedure of the House in the conduct of public business". Its membership was appointed on 31 July: HC Deb. vol 299 c.557

¹⁹ HC 190, 1997-98, *The legislative process*, and HC 191, *Work of the committee: first progress report*, July 1997

The report is neatly summarised in the Committee's press notice.²⁰

The report on the legislative process lays down the principles which should govern how the House scrutinises legislation and recommends changes to make the process more effective. The progress report publishes proposals for changes to the Order Paper, and refers to short-term changes in voting procedures already introduced.

Key recommendations of the Committee include:

Programming the passage of legislation to provide an alternative to the present stark contrast between voluntary agreement or the guillotine. The Committee recommends a more open and formal approach to programming legislation to ensure that all parts of a Bill receive adequate scrutiny, and proposes that a Standing Committee should have the power to decide a programme for the bill it is considering.

Increasing the opportunity for pre-legislative scrutiny and consultation. The Government is already committed to publishing 7 bills in draft. Some of these could be considered by the House in Select Committees or ad hoc Committees. Bills might also be referred to a Select Committee between publication and Second Reading. The Committee also calls for more post-legislative scrutiny.

Improvements in the explanatory material published with bills.

More effective use of the Committee Stage of a Bill. The Committee recommends experimenting with ways a Standing Committee considers clauses of a Bill so as to allow a debate on the principle of a clause before amendments to it are considered rather than the other way around in order to encourage better consideration of constructive amendments. The Chairman of a Standing Committee should be able to limit the length of speeches in the same way that the Speaker does on the floor of the House. Standing Committees should also be able to reconvene during the later stages of a bill to take the report stage of a bill relating to further Government amendments which were in response to assurances given during the committee stage, and possibly to consider non-controversial Lords Amendments.

All Committees of the House should be able to sit during Recess. Currently only Select Committees can sit when the House is in Recess. Other constraints on their times of sitting would also be removed.

Greater flexibility in the Parliamentary cycle to allow in certain circumstances some Bills to carry over from one session of Parliament to the next. Under the present system a Bill fails if it does not complete its stages by the end of the session.

A new 'Daily Agenda' to replace the existing Order Paper which has often been criticised as very difficult to understand. The Daily Agenda will clearly set out the expected business and timetable for the day in Parliament. The Committee hopes the Daily

Agenda will be introduced after the Summer Recess, subject to the Speaker's approval. It will also be available on the Internet.

²⁰ no. 3, 1997-98, 29.7.97

The Chairman of the Committee said:

"The Modernisation Committee has worked quickly and constructively over the last six weeks, examining the present procedures and the potential that already exists for change as well as new ideas and suggestions from Members of the House.

"The time is ripe for change. Members of the House want to see a more effective legislature, more input into the legislative process and to be able to use their time more constructively and I believe that these recommendations will help achieve this."

B. First special report: progress report

The Committee reported on the work of its first two months:

1. The Committee was established on 4th June with the general remit of considering how the practices and procedures of the House should be modernised, and with a specific instruction to "seek to make a first report to the House before the summer adjournment with its initial conclusions on ways in which the procedure for examining legislative proposals could be improved". The Committee's First Report on the Legislative Process was agreed on 23rd July.

2. In the course of the last two months we have also pursued as matters of some urgency two other matters, as we have already announced in a letter from the Chairman to all Members and in a Press Release on 12th June; namely, arrangements for voting in the House and making the House's Order Paper easier to use and understand.

(i) voting: The report set out its consideration of voting arrangements, which included an exchange of letters between the Committee and the Speaker²¹:

3. As a result of our preliminary consideration of voting arrangements, and without prejudice to the examination of options for more substantial change, a third desk was introduced into the division lobbies with effect from 30th June. It is our impression and that of others involved that this has speeded up divisions, and we are grateful to all those involved in introducing this small but useful change.

4. We also proposed that in some circumstances the full two minutes need not elapse between the calling of a division and the naming of tellers, so that the process of counting could begin - and end - earlier. As can be seen from the exchange of letters published with this Report, the Speaker has agreed that on an experimental basis for the next six months the Chair will, where a division takes place at a predetermined time or where one division immediately follows another, use its discretion to appoint tellers as soon as they are known. We are grateful to the Speaker for her positive response.

²¹ see Appendices 1 and 2

See Madam Speaker's statement on 26 June:²²

Madam Speaker: I have a short statement to make. Members will be well aware of the inconvenience arising on many recent occasions from the exceptionally high numbers voting in the same Lobby, and of the time taken to complete Divisions. I believe that there has been some improvement in the past few days, but there may be scope for further amelioration of the problem.

Accordingly, following a recommendation by the Modernisation Committee, a third desk is to be added in each Division Lobby with effect from Monday 30 June, as a short-term solution, at least. I hope that, on the first few occasions, the Whips will be on hand in the Lobbies to assist Members. The Modernisation Committee will monitor progress and study longer-term options.

(ii) *Order Paper:* The report set out the Committee's proposals for reform of the Order Paper, following discussions with the Principal Clerk, Table Office²³:

5. We have held two meetings with the Principal Clerk, Table Office to discuss the reform of the Order Paper, and the Vote bundle as a whole, to make them easier to use and understand. We have reached a broad measure of agreement on the way forward, and have been greatly assisted by the speedy production of specimen Order Papers, the latest of which is appended to this Report'. There is a view on the Committee that the party affiliation of Members asking Oral Questions should appear on the Order Paper, and we will consult further on this matter. The process of improvement can be staged; we look forward to the fruits of our efforts appearing after the summer recess.

A specimen Order paper was reproduced at appendix 4, a revised version of which was used from the return of the House on 27 October. See also Madam Speaker's statement on 31 July:²⁴

Madam Speaker: I have a short statement to make, which will be of interest to the House and needs to be put on record. It concerns the Order Paper, following the special report from the Select Committee on Modernisation of the House of Commons, which was published on Tuesday.

I am content with the Committee's broad approach in seeking to reform the House's working papers. Accordingly, some changes will take place in the appearance of those papers, with effect from the end of the recess. I should emphasise that my approval is based on the fact that no procedural changes are involved. What is proposed is a matter of presentation, in an effort to achieve greater clarity.

²² HC Deb. vol 296 c.983

²³ whose memorandum is reproduced in Appendix 3 of the report

²⁴ HC Deb. vol 299 c.451

C. Future Work of the Committee

At its 29 July meeting, the Committee decided that the next subjects to be considered would be:²⁵

- scrutiny of European legislation
- voting procedures
- Parliamentary calendar
- conduct of debate

²⁵ Modernisation Committee press notice 3, 29.7.97

Appendix The Modernisation Programme

A) *Reports of the Modernisation Committee*

1st of 1997-98, HC 190, 29.7.97 *The legislative process*
 1st special of 1997-98, HC 191, 29.7.97 *Work of the Committee:
 First progress report*

B) *Relevant Debates*

22.5.97 *Procedure (Modernisation)* HC Deb. Vol. 294 cc 901-41
 - general debate on adjournment (Govt)

4.6.97 Prime Minister`s Questions HC Deb. Vol. 295 cc394-58
 - Wednesday morning debate (Sir P. Emery)

4.6.97 *Modernisation of the House of Commons* HC Deb. Vol. 295 cc500-18
 - motion establishing Modernisation Committee (Govt)
 -

C) *Progress on Main Items*

<i>Subject</i>	<i>Proposal</i>	<i>Consideration</i>	<i>Implementation</i>
1. PMQs	One 30min period, Wed 3-3.30p.m; changes to form of replies to `engagements` questions	Wed morning debate 4.6.97 HC Deb. Vol. 295 cc349-58	Cabinet Office PN 9.5.97; First new format 21.5.97 HC Deb. Vol 294 cc702-12
2. Divisions	(a) third desk to reduce time (b) earlier naming of tellers	MCttee 1 st special report HC191, 1997-98 paras 3&4 and appendices 1&2	(a) Speaker`s statement 26.6.97 HC 296 c983 (b) Speaker`s letter to MCttee, HC191 appx. 4. To be reviewed at end of 1997

<i>Subject</i>	<i>Proposal</i>	<i>Consideration</i>	<i>Implementation</i>
3. Order Paper	simplification of form and content	MCttee 1 st special report HC 191, 1997-98 para 5 and appendices 3&4	Speaker`s statement 31.7.97 HC Deb. Vol. 299 c451. From end of summer recess, 27.10.97
4. Draft Bills	Frequent publication	MCttee 1 st report HC190 1977-98	Leader of the House`s speech 22.5.97 HC Deb. Vol. 294 c906; Cabinet Office PN 16/97, 22.5.97

Note: MCttee = Modernisation select committee

Recent Research Papers on related subject include:

97/101	Parliamentary Pay and Allowances: The Current Rates	29.08.97
97/97	Time Spent on Government Bills of Constitutional Significance since 1945	01.08.97
97/95	<i>Ministerial and Other Salaries Bill</i> [Bill 30 of 1997-98]	22.07.97
97/92	Scotland and Devolution	29.07.97
97/82	The local elections of 1 May 1997	27.06.97
97/64	Aspects of Parliamentary Reform	21.05.97
97/61	The Referendum (Scotland and Wales) Bill [Bill 1 of 1997-98]	20.05.97
97/60	Wales and Devolution	19.05.97
97/53	The Commons committee stage of 'constitutional' bills	20.05.97
97/52	Parliamentary Pay and Allowances: The Current Rates	14.05.97