



## Reform of the House of Commons: The establishment of a Backbench Business Committee

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On 4 March 2010 the House of Commons agreed that a Backbench Business Committee should be established to schedule non-ministerial business in time for the new Parliament. On 15 June 2010 the House of Commons agreed changes to Standing Orders to establish the Backbench Business Committee.

In March 2010 the House also approved the establishment of a House Business Committee during the course of the next Parliament which would comprise the Backbench Business Committee and representatives of government and opposition. The Coalition Government has stated that it will establish the House Business Committee by the third year of this Parliament.

In its November 2009 report, *Rebuilding the House*, the Select Committee on Reform of the House of Commons had argued in favour of a backbench business committee that would schedule non-ministerial business. It would then meet with representatives of the 'usual channels' to draw up a complete agenda for the House of Commons, which would be put to the House for its agreement.

On 11 March 2010 the Members of the Reform Committee tabled motions on the Remaining Orders section of the Order Paper to give effect to the resolution of the House on the backbench business committee, and to set a timetable for the establishment of a House Business Committee. On 15 March the Committee published a report, *Rebuilding the House: Implementation*, which set out the explanation for the proposed Standing Order changes. The Labour Government published their own proposed Standing Order changes on 25 March but these were not brought to the House for a decision before the dissolution in April 2010. The Coalition Government brought motions to establish the Backbench Business Committee to the House which were debated and decided upon on 15 June 2010.

This note sets out the way in which the business of the House has traditionally been decided before setting out the Wright Committee's proposals, summarising the debates on the establishment of the Backbench Business Committee, and the decisions of the House.

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## 1 Business in the House

The agenda of the House of Commons is set predominantly by the Government. Standing Order No 14 (1) provides that:

Save as provided in this order, government business shall have precedence at every sitting.

Before the changes to Standing Orders agreed to on 15 June 2010, the specific savings in Standing Order No 14 were:

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

There was also time set aside by other Standing Orders for other business including oral questions; ten minute rule bills; emergency debates; adjournment debates; Estimate Day debates; and opposed private business.

Standing Order No 27 allows Ministers the right of "arranging government business, whether orders of the day or notices of motions, in such order as they see fit". Only Ministers may move Business of the House or other procedural motions required to ensure that items of business are decided at a fixed time of day or after the passage of a period of time, or to allow debate to continue after the normal end of the day's business.

There was no business committee to consider any element of the House's business, but the Government met privately with Opposition whips to consult on the amount of time that should be allocated to specific items of business, through the Usual Channels.<sup>1</sup> The Opposition choose the subjects for their debates; the timing the debates is negotiated between the whips informally.

The Select Committee on Reform of the House provided some historical background to this system:

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

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<sup>1</sup> For information about the operation of the Usual Channels see Michael Rush and Clare Ettinghausen, *Opening Up the Usual Channels*, 2002

revised form is Standing Order No 14, giving "government business" precedence at every sitting unless otherwise provided.<sup>2</sup>

On 15 June 2010 the House agreed to amend Standing Order 14 by inserting a further category of business excluded from government control – backbench business. This category of business would be determined by a Backbench Business Committee whose chair and members would be elected by the whole House. Backbench Business is now defined in Standing Orders as:

...all proceedings in the Chamber relating to any motion or order of the day except:

(a) government business, that is proceedings relating to government bills, financial business, proceedings under any Act of Parliament, or relating to European Union Documents, or any other motion in the name of a Minister of the Crown;

(b) opposition business under paragraph (2) above;

(c) motions for the adjournment of the House under paragraph (7) of Standing Order No. 9 (Sittings of the House), private Members' motions for leave to bring in bills under Standing Order No. 23 (Motions for leave to bring in bills and nomination of select committees at commencement of public business) and private Members' bills under paragraphs (4) to (9) below;

(d) proceedings relating to private business;

(e) any motion to amend this order or Standing Order No. (Backbench Business Committee);

(f) business set down at the direction of, or given precedence by, the Speaker.<sup>3</sup>

Full details of the changes are set out in section 7 below.

## **2 The Select Committee on Reform of the House of Commons**

The Select Committee on Reform of the House of Commons was established in July 2009 to consider, amongst other things, the scheduling of business in the House of Commons. The Committee had 18 members, and was chaired by Tony Wright. As first proposed by the then Prime Minister, Gordon Brown, the Committee was to consider the scheduling of 'non-government' business. However, after objections to the motion to establish the committee were raised, the terms of reference as agreed on 20 July 2009 were widened to cover business more generally.<sup>4</sup> In its report, the Committee explained that the distinction between "Government" and "non-Government" business was not clear-cut. The Committee stated that:

Ownership of the time of the House is to be distinguished from responsibility for sponsoring or promoting the business before it. There is a strong case for regarding all time as the House's time. It is not the Government that seeks debate but the House: what the Government needs are the decisions which enable it to carry out its programme.<sup>5</sup>

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<sup>2</sup> House of Commons Reform Committee, *Rebuilding the House*, 24 November 2009, HC 1117, para 120

<sup>3</sup> See Standing Order 14 as amended on 15 June 2010

<sup>4</sup> For more information see Library Standard Note SN/PC/5140, [Select Committee on Reform of the House of Commons](#)

<sup>5</sup> *Ibid*, para 129

The Committee then explained the various sorts of business brought forward by ministers before concluding that:

Leaving aside the 20 Opposition days, three Estimates Days, and business initiated by individual backbenchers, it is Ministers who decide whether a particular debate is held in the House; if so, when; and on what terms. Business scheduled by Ministers is diverse. It is by no means limited to matters the Government is comfortable with debating. But much of the business scheduled by Ministers as a result of their control of the agenda is neither required by Ministers for their legislative and political programme, nor initiated by Ministers. That is the issue. There is no transparent mechanism for individual backbench Members or groups of such Members to get motions onto the effective Orders, let alone secure a decision of the House. That includes motions to give effect to select committee reports as well as the choice of subjects the House is to debate.<sup>6</sup>

The Committee set out what it saw as the strengths of the current system. They stated that:

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

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

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<sup>6</sup> *Ibid*, para 148

end of each day in the Chamber, and longer 90 minute debates on issues of wider interest of their choice, subject only to the luck of the draw.<sup>7</sup>

However, the Committee argued that:

- It was wrong in principle that, in addition to controlling its own legislative timetable, the Government rather than the House decides what is discussed, when, and for how long.<sup>8</sup>
- The current framework provides protected time in the chamber for the Government, Opposition and individual Members, but scarcely recognises the cross-party work of select committees, let alone other groups of Members.<sup>9</sup>
- The system for scheduling business is not transparent to many inside the House, let alone those outside.<sup>10</sup>
- The House is not systematically using its time to debate those matters of current concern which the nation expects its elected Chamber to be debating, nor is it responding flexibly to a swiftly moving political agenda, nor setting a long term policy agenda.<sup>11</sup>
- Time in the House is frequently described as a scarce commodity; but it is often wasted on business stretched out artificially to a pre-determined voting time or on arid debate on subjects on which backbenchers on neither side much wish to speak.<sup>12</sup>

The Committee recommended that non-ministerial business should be decided by a backbench business committee:

**180. We therefore recommend that a Backbench Business Committee be created. It should be comprised of between seven and nine members elected by secret ballot of the House as a whole, with safeguards to ensure a due reflection of party proportionality in the House as a whole. The Chair would also be elected by ballot of the whole House. Frontbench members of all parties and PPSs would be ineligible for membership of the committee. The committee would have its own secretariat, provided by the Clerk of the House. To ensure that it was fully informed on a range of considerations affecting the scheduling of debates, such as the availability of Ministers, it might wish to invite the attendance of the Government's business managers for part of the meeting. The committee would meet weekly to consider the competing claims for time made by select committees and backbenchers in groups or as individuals for the protected days and/or time-slots [see below] available in the two weeks ahead, and then to come to a firm view on the backbench business in the week immediately ahead.**

181. So what would be gained by a Backbench Business Committee along the lines we suggest? We believe that establishment of clear "backbench time" managed by a Backbench Business Committee will be a major step forward. Without in any way compromising Government's ability to have its own initiatives discussed and scrutinised, this Committee will take clear charge of part of the agenda for at least one day a week or its equivalent for the House collectively to discuss those matters that Members feel should be prioritised. It will create new opportunities for all Members,

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<sup>7</sup> *Ibid*, para 159

<sup>8</sup> *Ibid*, para 162

<sup>9</sup> *Ibid*, para 163

<sup>10</sup> *Ibid*, para 164

<sup>11</sup> *Ibid*, para 165

<sup>12</sup> *Ibid*, para 166

giving them a greater sense of ownership and responsibility for what goes on in their own House. It will make debates more responsive to public concerns, as fed in to Members by their constituents. It will strengthen the position of the widely-respected select committees. We feel that this is an essential reform which will have many benefits for Members, for Parliament as a whole, and for the esteem in which it is held. But these gains will not be realised unless individual backbenchers are committed to parliamentary activity and avail themselves of these opportunities, and that will only happen if they think it a more worthwhile use of their time than the many other tasks which make up the life of an elected Member.<sup>13</sup>

The Committee recommended that: the Government should retain the initiative on scheduling ministerial business; that the Opposition should have some greater say than at present in when it uses its Opposition Days; and that select committees and backbench Members deserved enhanced access to the House agenda. The Committee considered three different options for bringing together these constituent parts to produce the House's agenda:

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

*Option 1: a single Business Committee deciding all business*

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

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

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

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

199. A further variant would be to have a single House Business Committee with two sub-committees—a backbench sub-committee and a government business sub-committee. This would have the advantage of giving clear and equal weight to both backbench and government business. It would also formalize the usual channels.

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<sup>13</sup> *Ibid*, paras 180-181

However, we accept there may be some reluctance from the executive to take this additional step. **We therefore rejected this option.**

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

**200. Our preferred solution is to have two committees. The task of assembling a draft agenda to put to the House should be undertaken by a unified House Business Committee, comprised of representatives of all parts of the House with a direct interest: backbenchers, Government and Opposition.** The members of this committee would comprise the elected members of the Backbench Business Committee, together with frontbench Members nominated by the three party leaders. We would expect the Leader and shadow Leaders of the House to be among these nominees. **The House Business Committee should be chaired by the Chairman of Ways and Means [the Deputy Speaker], who would have been elected by the House as a whole to that office with this function partly in mind. It would have a secretariat combining the House officers who support the Backbench Business Committee and the Government officials who currently support the usual channels.**<sup>14</sup>

The Committee then set out the options for protecting the time available for the business to be scheduled by the Backbench Business Committee: a nominated day each week, whether always on the same day or a movable day; or the equivalent of a day spread through each week. The Committee did not strongly favour a particular way forward. They suggested that if a day were to be protected, it should be Wednesday, with Thursdays becoming a “main” day for debate on Government legislation and other business, including Prime Ministers Questions.<sup>15</sup>

Lastly, the Committee gave an indication of the sorts of additional forms of backbench business which a Backbench Business Committee could give time to, including:

- substantive motions moved by backbenches;
- some category or categories of non-Government bills given priority over, or at least equality with, those presented following the ballot;
- topical debates opened by a backbencher;
- brief presentation of a select committee report in the Chamber by the Chairman and one or two Members, without it engaging instant rebuttal by Ministers;
- alternative uses of the 10-minute rule bill slot or its extension to Monday and/or Thursday;
- periods for short miscellaneous speeches not expecting a Ministerial reply, on the Australian model, where in the equivalent (and predecessor) of Westminster Hall six 10-minute speeches from backbenchers on any matter are permitted in a weekly “grievance” debate and ten 3-minute “constituency statements” to take place at the start of proceedings: neither attracting a ministerial response.<sup>16</sup>

The Committee concluded the chapter of its report on business in the House with the following comments:

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<sup>14</sup> *Ibid*, paras 196-200

<sup>15</sup> *Ibid*, para 213

<sup>16</sup> *Ibid*, paras 219-221



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

223. The House is unused to deciding its own business and has become dependent on Government. It may therefore be understandably fearful about change. But the public would find it strange if Members do not summon up the confidence to give effect to the view of all three party leaders that the time is now right for a clearer and more important role for Parliament. It is also worth pausing to consider how some of the practices and procedures we now value would look if proposed as an innovation, and how quickly they take root. Who would now suggest a 10 minute slot for a backbencher to move a motion to bring in a Bill—a quite unnecessary stage in procedural terms—at prime time before the main business of the day? And how many people 10 years ago could imagine that the parallel Chamber in Westminster Hall could thrive as it has? Is there any likelihood that the House would turn its back on topical questions introduced only a couple of years ago? Innovations swiftly become traditions; and it may in the future come to seem odd that the House once lacked the ability and confidence to control its own business.<sup>17</sup>

A minority report was moved by Natascha Engel, with the support of one other Member, Peter Atkinson. This argued that:

We examined the prospects for setting up a Backbench Business Committee to decide on the better use of backbench time in the House, as well as options of a House Business Committee which comprised members of the Backbench Business Committee as well as party managers. The Committee was divided on the matter of a House Business Committee, some believing it to be the answer to ‘wresting control’ from Ministers, whilst others believed this was merely an exercise in moving the deckchairs: to paraphrase Professor Vernon Bogdanor, some members of the Committee believed that we were in danger of shifting the balance of power from one democratically and directly elected elite (the Executive) to a less directly accountable and less expert elite (backbenchers). We therefore recommend that we continue with the current system and explore more widely in the next Parliament options for better scrutiny of legislation and accountability of Ministers.<sup>18</sup>

The Committee also divided on its proposals for a House-wide business committee, with three members (Peter Atkinson, David Clelland and Natascha Engel) voting to remove the paragraphs of the report on this matter, but with ten members voting to retain them.<sup>19</sup>

The Committee addressed a number of related issues under the heading of ‘Business in the House’ including:

- **September sittings.** The Committee recommended that “the House in the new Parliament should be asked to decide on the issue of September sittings, along with other sittings issues, sufficiently early in its life to decide whether to sit in September 2010”.<sup>20</sup>
- **The need for annual sessions and greater use of carry-over.** The Committee recommended that: “It may be time to re-examine the need for annual sessions overall, drawing on the varying practice of parliaments around the world who face similar

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<sup>17</sup> *Ibid*, paras 222-223

<sup>18</sup> *Ibid*, Formal Minutes, p95

<sup>19</sup> *Ibid*, p97

<sup>20</sup> *Ibid*, para 100

issues”.<sup>21</sup> The Committee also suggested that greater use of carry-over of Bills could have a significant effect on the scheduling of business in the House.<sup>22</sup>

- **Public Bill Committees.** The Committee stated that: “we hope that a more open approach to the scheduling of public bill committee evidence sessions can be piloted in the short 2009-10 session without the need for changes to Standing Orders, and request that the relevant authorities produce a report for an appropriate successor Committee in the new Parliament to consider”.<sup>23</sup>
- **Report stage of bills.** The Committee stated that “the single greatest cause of dissatisfaction which we have detected with current scheduling of legislative business in the House arises from the handling of the report stage of government bills”.<sup>24</sup> The Committee went on to argue that “the time should be set so that the House should if it wishes be able to vote on new Clauses and amendments in every group, if and when they are selected for separate division by the Chair; and that there should be a presumption that no major group should go undebated”. The Business Committee would decide “where, if at all, knives should fall bringing debate to an end on each group of selected new Clauses and amendments. As now, priority would be given to Government new Clauses and amendments”.<sup>25</sup>

More information about the Report of the Select Committee on Reform of the House is available in the Standard Note SN/PC/5294, [The Report of the Select Committee on Reform of the House of Commons: Rebuilding the House](#).

### **3 Debates on 22 February and 4 March**

#### **3.1 Motions tabled for 22 February 2010**

The Labour Government’s motions on the Reform Committee’s report were first published in the Remaining Orders and Notices section of the Order Paper on 8 February 2010. A Written Ministerial Statement was published the next day which set out the Labour Government’s reasons for not tabling certain recommendations made by the Reform Committee – most notably no motion was tabled by the Government in support of the Committee’s proposal for a House Business Committee and the Committee’s draft resolution which included a commitment to a House Business Committee was not put to the House by the Government. In the Written Ministerial Statement the then Leader of the House of Commons, Harriet Harman, explained:

The Government accepts the recommendation for the establishment of a backbench business committee, to schedule non-Government business. This was one of the central areas that the Prime Minister invited the Committee to look at. We welcome the Committee’s proposals and believe that more work is required, both to clarify the scope of backbench business and to give further consideration to the Committee’s proposals relating to procedure in the committee. We have therefore tabled a Motion to approve the recommendation in principle, with further consideration in the next Parliament.

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<sup>21</sup> *Ibid*, para 102

<sup>22</sup> *Ibid*, para 103

<sup>23</sup> *Ibid*, para 105

<sup>24</sup> *Ibid*, para 109

<sup>25</sup> *Ibid*, pp35-38

We do not believe that the time is right to take forward proposals for a House business committee, particularly in advance of having the benefit of considering how the backbench business committee will work in practice. However, we will listen to the views of Members on this issue during the debate on 22 February and will consider further in light of the views expressed.<sup>26</sup>

The original Government motion was that:

#### 89 BACKBENCH BUSINESS COMMITTEE

Ms Harriet Harman

That this House approves recommendation 17 of the First Report of the Select Committee on Reform of the House of Commons of Session 2008–09 (HC 1117) and looks forward to the further consideration by the Procedure Committee in the next Parliament of the establishment of a new category of backbench business, the composition and chairmanship of the backbench business committee, and the procedure in the committee.

Members of the Reform Committee tabled an amendment to the Government motion which stated that:

Line 3, leave out from 'to' to end and add 'the House being offered the opportunity no later than 31 July 2010 to establish a backbench business committee and a new category of backbench business, in the light of further consideration by the Procedure Committee'.

The Committee held an evidence session with the Leader of the House and her Conservative and Liberal Democrat Shadows, Sir George Young and David Heath, on 10 February 2010. During the evidence session Harriet Harman was asked why the Government motion had referred the issue to the Procedure Committee:

**Q 54 Chairman:** ...We are slightly worried about the motion at the moment because it is a bit of a long grass thing. It goes off to the Procedure Committee one day to come back. I think you are accepting that we can do better than that. The whole point of this Committee was to have a certain momentum to the process. We do not want to lose that.

**Ms Harman:** No, we do not.<sup>27</sup>

A new version of the Government motion was tabled for Monday 22 February which took account of the Committee's view:

That this House approves recommendation 17... and looks forward to the House being offered the opportunity within 10 sitting weeks of the beginning of the next session of Parliament to establish a backbench business committee and a new category of backbench business, in the light of further consideration by the Procedure Committee.

At the evidence session on 10 February the Committee also questioned the Leader and Shadow Leaders on their views on a House Business Committee. The Chair of the Reform committee put it to the Leader that "surely, it is for the House to decide whether it wants to

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<sup>26</sup> HC Deb 9 February 2010 c45-7WS

<sup>27</sup> *Ibid*, Q54

approve a resolution containing a reference to a House Business Committee and not for Government business managers”.<sup>28</sup>

Harriet Harman argued that:

...there is one thing in the draft resolution which is “endorses its proposal for an elected Backbench Business Committee to schedule non-ministerial business”, of which we are in favour “and to join with Government and Opposition representatives in a House Business Committee in drafting a weekly agenda to be put to the House for decision”. We are in favour of the notion of a House Committee for the non-Government business but we think that it would be best to do that first, try it out, see how that works, but we are not in favour at this stage of a House Committee scheduling Government business.<sup>29</sup>

Sir George Young, then Shadow Leader of the House, stated the Conservative Party’s position that:

...We think there should be a Backbench Business Committee. I would like to see that up and running at the beginning of the next Parliament, whoever wins. I would like it to set the debate for the first topical debate in the next Parliament. I would like it progressively to have more influence over the 15 days. Once that is up and running I think we should move towards a more collaborative and transparent system of dealing with House business as a whole.... I think the bit at the end, the House Committee, is what comes at the end when the other bits of the jigsaw are in place. I certainly do not rule out a House Committee along the lines of that proposed.<sup>30</sup>

David Heath, then the Liberal Democrat Shadow Leader of the House, argued that the fact that the Committee’s own resolution had not been put to the House because of the disagreement over the House Business Committee:

...illustrates the entire problem that this Committee has faced and the House faces: the assumption that this is a matter for political parties to decide; and more than it is a matter for political parties to decide rather than individual Members of the House, it is for the front benches, it is for the Government, for the Executive to determine what is right for Parliament to discuss, and for the other front benches to cosily do a deal as what might be appropriate to put before the House.<sup>31</sup>

An amendment was tabled to the Government’s motion by Committee members which attracted the support of a total of 131 Members which would add the following words to the end of the Government motion on the Backbench Business Committee:

... and approves the establishment during the course of the next Parliament of a House Business Committee comprising the backbench business committee and representatives of Government and Opposition which, while guaranteeing that the Government has the time and first choice of dates to get its legislative programme through, and to make whatever statements it wishes, would improve scheduling of business to ensure more effective scrutiny of legislation at Report Stage and consideration of Lords Amendments.

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<sup>28</sup> *Ibid*, Q2

<sup>29</sup> *Ibid*, Q1

<sup>30</sup> *Ibid*, Q5

<sup>31</sup> *Ibid*

### 3.2 Debate on 22 February 2010

On 22 February the House held a debate on the motion:

That this House has considered the matter of the report from the House of Commons Reform Committee on rebuilding the House.<sup>32</sup>

The debate was wide-ranging, and is summarised in full in the Library Standard Note SN/PC/5368, *Reform of the House of Commons: Decisions taken on 22 February and 4 March 2010*.

At the moment of interruption, a number of motions for immediate decision were put to the House. Although it was possible to table amendments to the motions, it was not possible to vote on them. Any motions which were opposed fell. The motion on Backbench Business Committee automatically fell because amendments had been tabled.

### 3.3 Motions for 4 March 2010

The Labour Government put the motions which had been objected to on 22 February to the House again on 4 March as debateable and amendable motions. This included the motion on the Backbench Business Committee.

In short, the Government motion stated that:

That this House approves recommendation 17...and looks forward to the House being offered the opportunity within 10 sitting weeks of the beginning of the next session of Parliament to establish a backbench business committee and a new category of backbench business, in the light of further consideration by the Procedure Committee.

The Conservative amendment (b) stated:

Line 3, leave out from 'opportunity' to end and add 'in the light of further consideration by the Procedure Committee, to establish in time for the beginning of the next Parliament and Backbench Business Committee and a new category of backbench business, comprising initially the 15 days allotted to set pieces debates; and subsequently days allocated for general debates'.

An amendment (c) tabled by Tony Wright and other Committee members stated:

Line 3, leave out from 'opportunity' to end and add 'to establish, in time for the start of the next Parliament, a backbench business committee, constituted in accordance with the principles set out in recommendation 18 of the Committee's Report, to schedule non-ministerial business as described in recommendations 22 (select committees) 23 and 28 (backbench substantive motions), 30 (protected time for backbench business) and 39 (Estimates days) of the Committee's report.

The amendment (a) signed by 131 Members stated:

... and approves the establishment during the course of the next Parliament of a House Business Committee comprising the backbench business committee and representatives of Government and Opposition which, while guaranteeing that the Government has the time and first choice of dates to get its legislative programme through, and to make whatever statements it wishes, would improve scheduling of business to ensure more effective scrutiny of legislation at Report Stage and consideration of Lords Amendments.

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<sup>32</sup> HC Deb 22 February 2010 c37

Lastly, another amendment (d) tabled by Tony Wright with the support of other members gave support to a number of other recommendations from the Reform Committee:

Line 6, at the end add 'and also looks forward to the following recommendations of the Committee being given further consideration in the next Parliament:

- (a) 19 and 20 (Ministerial business)
- (b) 21 (Opposition business)
- (c) 26 (notice and flexibility)
- (d) 27 (timetabling)
- (e) 32 (sessions and carry-over)
- (f) 35 (ministerial statements)
- (g) 36 (general committees)
- (h) 37 (public bill committees)
- (i) 40 (Private Members' bills)

### 3.4 Debate and decisions on 4 March 2010

Opening the debate on the substantive motions **Harriet Harman** told the House that the votes would not be whipped.<sup>33</sup> She then went on to explain how she would, herself, be voting. She said that she would be voting for the amendment in the name of Leader of the Opposition on the Backbench Business Committee rather than the amendment tabled by members of the Reform Committee:

The effect of the two amendments would be broadly similar, but I personally suggest that colleagues support amendment (b) which provides greater clarity on the number of days the Back-Bench business committee will have at its disposal. It also offers a more flexible approach... for the new committee whereas amendment (c) includes a number of stipulations that could have the effect of tying the hands of a newly established business committee.<sup>34</sup>

She also said again that she would vote in support of the amendment tabled by Tony Wright endorsing the establishment of a House Business Committee during the course of the next Parliament, to include Government business. She did not support the further amendment which was in support of a number of other recommendations of the Wright Committee as she thought it "right to leave that decision to the next parliament". In conclusion, she said the sum of the reforms agreed on 22 February and those on offer on the 4 March as "the most far-reaching package of reforms ever agreed".<sup>35</sup>

**Sir George Young** put forward an argument in favour of the Opposition amendment on the backbench business committee:

On the Back-Bench committee, I intend to vote for amendment (b). I do not agree with the Government's resolution, as it fails to get the committee up and running by the beginning of the next Parliament, which is my preferred time scale. As I have said before, I want the Back-Bench committee to be given progressively more influence – first over the set piece debates, in whatever configuration it prefers, and then over the general debates. That would lead to its being given a day or half a day a week for Back-Bench business.

The Wright Committee report is absolutely clear, stating that these proposals would

"inevitably need implementation in stages"

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<sup>33</sup> HC Deb 4 March 2010 c1063

<sup>34</sup> *Ibid*, c1066

<sup>35</sup> *Ibid*, c1067

It recognises that the pieces of the jigsaw should not be put together all at once on day one, and that brings me to the difficulties I see with amendment (c). That amendment risks making worse one of the central problems that the Wright Committee has sought to address – the lack of time for the Report stage of Bills.<sup>36</sup>

**Evan Harris** spoke in favour of the Committee's amendment on the Backbench Business Committee (amendment (c)), and against that tabled by the Opposition (amendment (b)). He argued that firstly, although the Reform Committee's report was not binding, it would "give pause for thought" when "an amendment is tabled in the name of one party to ride roughshod over those recommendations".<sup>37</sup> Secondly, the Committee's amendment (c) endorsed flexibility and implemented the Committee's recommendation. Lastly, he argued that Opposition amendment (b) gave authority to the Procedure Committee to draft the relevant standing orders, and that the Procedure Committee is currently still appointed by whips. He asked how the Shadow Leader of the House envisaged the Procedure Committee could bring forward the new Standing Orders in the next two weeks. In response Sir George Young said that someone had to draft the Standing Orders, and that it would need to report by the end of this Parliament to "get things up and running at the beginning of the next one".<sup>38</sup>

Dr Harris also stated:

His [Sir George Young's] amendment refers to "15 days allotted" – I presume he means currently allotted – to set piece debates. That is less than half a day a week. The Wright Committee, however, was clear that if we tot up those 15 days, and the 12 days in the last Session – this might be a variable feast – subsequently allotted for general debates, which he says will subsequently come our way, plus the topical time, which should be for the House, plus other House business that must be moved in Government time, it amounts to a day a week. Amendment (c) refers to non-ministerial business. If the system is introduced, it cannot be right for crucial House business to be moved in Government time, because we will still have problems when we debate setting up important Select Committees and making Standing Order changes. Although it can be argued that the proposal is in the spirit of the Wright Committee, amendment (b) is flawed.<sup>39</sup>

**Margaret Beckett** outlined her concerns about the proposals for the House Business Committee. She said that the debate on 22 February had been:

...rooted in most Members' experience of the House: one in which the Government of the day have a comfortable majority... That might not be the structure of the next House of Commons, and nothing says that it is compelled to be structure of future Houses either.

...the second point that runs culturally through the proposals is an assumption of understanding and co-operation between all players. That will be absolutely crucial if a business committee is to work, whether it is a Back-Bench business committee or House business committee. However, having served on a House Committee, as only one or two other participants in our debate have, I do not share the assumption and confidence of all those who spoke in last week's debate that such understanding and co-operation is a given.

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<sup>36</sup> *Ibid*, c1068

<sup>37</sup> *Ibid*, c1079

<sup>38</sup> *Ibid*, c1079

<sup>39</sup> *Ibid*, c1081

That brings me to my second concern. I have as much experience as anybody... of introducing reform to the House... and I have learnt that it is best to proceed by experiment. I am concerned about the House carrying it [the motion in favour of a House business committee as proposed by the Committee members] without any experience in a different Parliament of how a Back-Bench business committee would work.

I suspect... that we could see every week of the next Parliament dominated by a wrangle – not necessarily a good-tempered wrangle – about what the business of the House should be. That would not do anything to enhance our standing in the eyes of the public. I cannot reconcile it with my conscience to allow all this to go through with a claim that it is the best thing since sliced bread, particularly – I say this with the greatest respect to all hon. Members who have taken part in these debates – when so many of the voices that are heard are those of Members who do not intend to be here in the next Parliament to pick up the pieces.<sup>40</sup>

In his speech, **Tony Wright** addressed this point as follows:

We have reached a point at which it can no longer be acceptable for the Executive to control business that should properly belong to the House. That is the unifying theme of our proposals. However, I strongly agree with my right hon. Friend the Member for Derby, South that with control comes responsibility. It is easy to set up new structure, which I hope is what we will do today, but someone must make them work, and that means making them work in a responsible fashion. In a way it is easy when we can all blame the Government for everything, but from now on we shall have to attend to ourselves and take responsibility for ourselves. If we do not do that, this is not going to work; it will be sunk. We should not imagine that this is the moment at which we have done it, because we have not. We are at the beginning of a process which I hope will change the nature of this institution, but it will do that only if the people who come after us make sure that it does.<sup>41</sup>

The House divided with 106 in favour and 221 against amendment (b) to the Backbench Business Committee motion, in the name of the Leader of the Opposition.

The House then agreed the amendments in the name of members of the Reform Committee (c, d, and a) on the Back Bench Business Committee and on the House Business Committee, as well as supporting various other recommendations of the Wright Committee, without divisions.

They agreed the amended motion on the Backbench Business Committee without a division.

The Votes and Proceedings record the motion as agreed to as follows:

*Resolved*, That this House

(1) approves recommendation 17 of the First Report of the Select Committee on Reform of the House of Commons, Session 2008-09, HC 1117, and looks forward to the House being offered the opportunity to establish, in time for the start of the next Parliament, a backbench business committee, constituted in accordance with the principles set out in recommendation 18 of the Committee's Report, to schedule non-ministerial business as described in recommendations 22 (select committees), 23 and 28 (backbench substantive motions), 30 (protected time for backbench business) and 39 (Estimates days) of the Committee's Report;

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<sup>40</sup> *Ibid*, c1072

<sup>41</sup> *Ibid*, c1082



(2) approves the establishment during the course of the next Parliament of a House Business Committee comprising the backbench business committee and representatives of Government and Opposition which, while guaranteeing that the Government has the time and first choice of dates to get its legislative programme through, and to make whatever statements it wishes, would improve scheduling of business to ensure more effective scrutiny of legislation at Report Stage and consideration of Lords Amendments; and

(3) also looks forward to the following recommendations of the Committee being given further consideration in the next Parliament:

- (a) 19 and 20 (Ministerial business);
- (b) 21 (Opposition business);
- (c) 26 (notice and flexibility);
- (d) 27 (timetabling);
- (e) 32 (sessions and carry-over);
- (f) 35 (Ministerial statements);
- (g) 36 (general committees);
- (h) 37 (public bill committees); and
- (i) 40 (Private Members' bills).

The other decisions taken on both 22 February and 4 March 2010 on matters recommended by the Reform Committee are set out in the Library Standard Note SN/PC/5368, [Reform of the House of Commons: Decisions taken on 22 February and 4 March 2010](#).

#### **4 The Reform Committee's proposed Standing Order changes**

On 11 March 2010 members of the Reform Committee tabled a motion on the Remaining Orders and Notices section of the Order Paper which would give effect to the resolution of the House on the Backbench Business Committee. The Committee published a report on 15 March 2010 which accompanied the proposed standing order changes. The Committee explained that:

The one remaining task for this Parliament is the agreement of the Standing Orders framework necessary for the establishment of a Backbench Business Committee to start work as soon as practicable after the start of the new Parliament. This Report proposes such Standing Orders, covering the necessary definition of what constitutes backbench business, the means of election of the Chair and members of the committee, and the means by which its conclusions can be agreed by the House.

In order to give maximum notice to Members of what we propose, and in view of the pressures of time as the 2005 Parliament draws to a close, we tabled the draft Standing Orders on the Remaining Business section of the House's Order Paper as soon as we agreed to them. We trust that the Government will soon put our proposals to the House for decision.

Much remains to be done. The new Parliament will no doubt develop its own agenda for reform. The House expressed its aspiration for a House Business Committee on 4 March, but aspirations are not enough; we have therefore agreed a draft Resolution to set out a clear timetable for implementation. The House will not even now fully determine its own agenda. Concerns about the scheduling of Report and Lords

Amendments stages of Bills remain. But we are confident that the right start has been made and that the House has the capacity to reform itself.<sup>42</sup>

The Reform Committee's motion on the Backbench Business Committee specified that 35 days or its equivalent should be allotted in each session for proceedings in the House on Backbench Business. Backbench business was defined by exclusion, that is, it consists of everything that is not government business, Opposition business, individual Members' business, private business or business set down at the direction of the Speaker. The proceedings to be taken as Backbench Business would be determined by the decision of the House on a resolution from the Backbench Business Committee. The Committee would choose topics for topical debates and topics for Estimate Day debates would be fed in to the Backbench Business Committee from the Liaison Committee.

In their report, the Committee looked at how prayers against secondary legislation, set-piece debates, business in Westminster Hall and topical debates would be scheduled:

#### ***Prayers against secondary legislation***

13. Motions seeking to annul secondary legislation are not initiated by Ministers nor moved by them. They do however, arise directly as a result of ministerial legislative initiative. For the purposes of definition, they are implicitly included in the category of government business in the draft Standing Order. That would not rule out the possibility of the Backbench Business Committee allowing a prayer in backbench time; but we consider that it is primarily for the Government to find such time.

#### ***Set-piece debates***

14. In the debate on 4 March, and in the amendment moved by the Official Opposition and defeated on a vote, there was a reference to 15 days allotted to set piece debates. We do indeed envisage that the Backbench Business Committee should be able to decide if and when and for how long most of the debates in this category should be held. We had some hesitation in accepting that the four annual completely "open" debates immediately before recesses should be counted off against the sessional quota of 35 days for backbench business. The draft Standing Order would include them as backbench business, but it would be necessary to review that in the light of experience.

#### ***Westminster Hall***

15. The draft Standing Order provides that all Thursdays in Westminster Hall are to be regarded as backbench business, with at least 20 a year to be at the disposal of the Liaison Committee. The Backbench Business Committee will be free to schedule business of its choosing for the balance, currently used by the Government for minor and relatively ill-attended debates. Where time is found for substantive debates on select committee reports on the floor of the House, as we anticipate, it will be open for the Liaison Committee to take fewer days in Westminster Hall, which could then be used by the Backbench Business Committee for scheduling other business, including some of the debates on non-substantive motions currently held in the Chamber.

#### ***Topical debates***

16. It is common ground that the subjects of topical debates should henceforth be chosen by the Backbench Business Committee rather than the Leader and that topical

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<sup>42</sup> House of Commons Reform Committee, *Rebuilding the House: Implementation*, 15 March 2010, HC 372 2009-19, Summary

debates are to be treated as backbench business for the purposes of computing the sessional total of days allotted to backbench business. These 90 minute debates will presumably be regarded as quarter days for the purposes of computing the sessional quota. But we have also assumed that the current complex speaking time regime in Standing Order No. 24A will need radical alteration. There seems no good reason why front-benchers in such debates should have substantially longer than backbenchers, and the order of speaking will also have to be subject to new conventions. Rather than trying to impose a regime in advance, we propose that each debate be managed by the Chair, who will no doubt have in mind the sort of arrangements which have worked well in the recent past in setting front bench and backbench speaking times, and the extent of injury time for interventions.<sup>43</sup>

The Reform Committee's motion grouped Private Members' legislation with business initiated by individual Members, but the Reform Committee suggested that the Backbench Business Committee could be given the power to propose programme motions for Private Members' bills, in the same way that Ministers do for Government Bills.<sup>44</sup>

The Reform Committee's motion proposed that the Backbench Business Committee would consist of a Chair and eight other Members, and its membership would be restricted to backbench Members. The Chair should be elected by the whole House no later than seven days after the Queen's speech in a new Parliament. Candidates for election as Chair would need nominations of between 20 and 25 Members, of whom no fewer than ten would be members of the candidate's party, and no fewer than ten, members of other parties or of no party. The process of election for chair would be by secret ballot using the alternative vote.

The members of the Backbench Business Committee would also be elected, using the Single Transferable Vote system with constraints that those elected should represent political parties in the same proportion as they are represented in the House, and that at least two of its members would be men, and at least two of its members would be women. Nominees would require the signatures of not fewer than twelve nor more than fifteen Members.

The Backbench Business Committee would have the power to invite Government officials to attend all or part of any of its meetings. The Committee would report on backbench business to be taken the following week, with provisional business for the week after. A motion that the House agrees with the Committee in its report would be made on behalf of the Committee by its Chair or another committee member. This motion would have precedence over government and opposition business. In their report, the Committee explained that:

...the House has to decide how the Backbench Business Committee is to feed into the process of setting the House's agenda. It could simply send its views, published or not, to the Leader, for incorporation into the weekly Business Statement made to the House, rather as the Liaison Committee does now for its Westminster Hall Thursdays and the Opposition for the topics it will be raising on its Opposition days.

21. We have however put forward in the draft Standing Order a more democratic option, along the lines of a "votable agenda"... Whilst the Government part of the House's agenda would continue – at least in the short term – to be simply announced to the House, we propose that the backbench business should be subject to the approval of the House.

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<sup>43</sup> *Ibid*, paras 13-16

<sup>44</sup> *Ibid*, para 11

22. Whether or not the backbench business agenda is votable, there is a case for the Chair of the Backbench Business Committee to be susceptible to questioning by Members at Business Questions, on a similar basis to questions put to the Leader of the House on the Government's agenda. It would not be fair for the Leader to be expected to answer for decisions of the Committee. The choreography is for others to determine; it is not a matter for Standing Orders.<sup>45</sup>

The Reform Committee members also tabled a motion on the establishment of a House Business Committee. This specified that within twelve months of the first meeting of the Backbench Business Committee, either the Procedure Committee or a specially elected temporary committee, should bring forward detailed proposals for a House Business Committee and a votable House agenda. The proposals of this committee would have to be put to the House within eight weeks of being reported.

## 5 The Labour Government's proposed Standing Order changes

On 25 March 2010 the then Leader of the House of Commons placed the Labour Government's proposed Standing Order changes on the Remaining Orders and Notices section of the Order Paper. In a Written Ministerial Statement, she explained the way in which the Government motions differed from those tabled by the Committee members:

**Leader of the House of Commons and Lord Privy Seal (Rt. Hon Harriet Harman MP):** Following a general debate on 22 February, the House resolved eleven motions without a vote giving effect to many recommendations in the First Report of the House of Commons Reform Committee, Session 2008–09, *Rebuilding the House* (HC 1117). On 4 March 2010 after a further debate on outstanding issues, further motions were approved. In the words of the Committee, "significant and welcome steps have now been taken on the path to reform."

In order to give effect to these resolutions, I have tabled motions which appear in today's order paper to create and amend Standing Orders to give effect to the recommendations relating to the establishment of a backbench business committee, namely to set the process for election and procedural conduct of the committee, to allocate time for backbench proceedings and to define backbench business.

The Reform Committee has proposed its own Motion following the decisions of the House on 4 March. The Reform Committee's Motion differs from the decisions of the House in the following ways:

Election of Back Bench Business Committee Members – The Standing Order proposed by the Committee provides for this to be by Single Transferable Vote. No voting system was agreed to by resolution of the House. The Government's Standing Order provides a method analogous to that agreed by the House for other Select Committees, allowing for a balance of Parties and to guarantee some representation of women and men.

Adoption of the agenda - The Standing Order proposed by the Committee provides for the Backbench Business Committee's report to be agreed to by the House on a Question put forthwith. This was not agreed to by resolution of the House. The Government's Standing Order provides for the Backbench Business Committee to schedule business directly within the time allocated to it (as the Opposition does on opposition days).

Number of allotted days – The Standing Order proposed by the Committee provides for thirty-five days or its equivalent to be allotted in each session for proceedings in the

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<sup>45</sup> *Ibid*, paras 20-22

House on backbench business. The Government's Standing Order provides for one day a week or its equivalent, which reflects the specific wording of the recommendation (30) of *Rebuilding the House* to which the resolution agreed by the House referred.

Topical Debates – The Standing Order proposed by the Committee would remove current limits on speaking time for frontbench spokespeople. This was not agreed to by resolution of the House. We would seek to retain them but to remove the requirement for a Minister to open the debate so that a backbencher can do so.

Westminster Hall – The Committee proposes that Thursday sittings in Westminster Hall should be available to the Backbench Business Committee, subject to 20 days being at the disposal of the Liaison Committee. The scheduling of business in Westminster Hall is currently a matter for the Chairman of Ways & Means, not the Government. As the Committee's proposal was not specifically agreed by resolution of the House, the Government motion maintains the status quo for business off the floor of the House.

Private Members' Bills – The Committee Standing Order would allow the Backbench Business Committee to programme Private Members' Bills. This was not agreed to by resolution of the House. This provision is therefore not included in the Government's Motion.

Because these changes to Standing Orders do no more than give effect to the changes the House has agreed by resolution I recommend the House to agree them without further debate.<sup>46</sup>

At Business Questions on 25 March 2010 the Leader of the House said that:

On the Reform of the House of Commons Committee proposals, we have put on the Order Paper the Standing Orders that give effect to the resolutions of the House, and we will bring those forward for approval by the House on Monday. Those Standing Orders do no more, and no less, than what the House agreed to in its resolutions of 4 March, so they sit absolutely on all fours with those resolutions. Because the Standing Orders will give effect to resolutions that were agreed by the House after debates of some 10 hours—they simply put into effect the express will of the House—it is my expectation that they will be agreed without dissent. I hope that that will happen on Monday.<sup>47</sup>

However, later the same day Harriet Harman said:

...I intend that the Standing Orders be put before the House for formal approval as soon as possible, and I want to clarify my comments during business questions: the House will not be asked to approve the Standing Orders on Monday, but it will be asked to do so very shortly.<sup>48</sup>

In the event, Parliament was prorogued on Thursday 8 April, ahead of the dissolution which took place on Monday 12 April 2010, without the motions being put before the House for decision.

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<sup>46</sup> Written Ministerial Statement from the Leader of the House of Commons, *Reform of the House of Commons*, 25 March 2010

<sup>47</sup> HC Deb 25 March 2010 c381

<sup>48</sup> HC Deb 25 March 2010 c487

## 6 The Coalition Government's proposed Standing Order changes, June 2010

The Coalition Agreement between the Conservative and Liberal Democrat parties published on 20 May 2010 stated that:

We will bring forward the proposals of the Wright Committee for reform to the House of Commons in full – starting with the proposed committee for management of backbench business. A House Business Committee, to consider government business, will be established by the third year of the Parliament.<sup>49</sup>

The Coalition Government's motions to establish the Backbench Business Committee were placed on the Remaining Orders and Notices section of the Order Paper on 10 June 2010. The motions were debated on 15 June 2010 (see section 7).

There were some differences between the Government's motions and the Reform Committee's proposals:

- the motion establishes the committee but its chair and members are appointed for one session only, rather than for the whole parliament; and
- the motion stipulates that the Business Committee would have control of the business for 35 days in the Chamber *and* Westminster Hall whereas the Reform Committee had recommended that it should control 35 days in the Chamber.

During Business Questions on 10 June 2010 the Leader of the House of Commons, Sir George Young, was asked about the difference in number of days in the Chamber the Business Committee would have control over in the Government motion compared to the Reform Committee's proposal:

**Jo Swinson (East Dunbartonshire) (LD):** The coalition agreement says:

"We will bring forward the proposals of the Wright Committee for reform to the House of Commons in full".

Does the Leader of the House understand the concern of many MPs that the motion he has put forward does not represent the Wright reforms in full, particularly in the loss of days in the Chamber for Back-Bench business? Will he be open to representations on the issue with a view to improving the motion on the Order Paper?

**Sir George Young:** The hon. Lady makes a good point. If she reads the Wright Committee report, she will see that it says right at the beginning that the proposals need to be implemented "in stages". There is a real issue with moving straight to having 35 days in the Chamber: there would be implications regarding the amount of time for which the House sits and, more seriously, it would run the real risk of squeezing out time for the Report stage of Bills—an issue that concerns hon. Members on both sides of the House. I hope that we can debate the matter more extensively on Tuesday, but I can say that at least 27 of those 35 days will be on the Floor of the House. That is an improvement on the 12 days for set-piece debates that we have at the moment.<sup>50</sup>

A number of amendments were been tabled to the motions, including to:

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<sup>49</sup> HM Government, *The Coalition: Our Programme for Government*, May 2010, p27

<sup>50</sup> HC Deb 10 June 2010 cc469-70

- change the time after which the work of the Backbench Business Committee will be reviewed from after one Session to one Parliament;
- extend the appointment of the Backbench Business Committee members and Chair from one Session to one Parliament;
- to give the Backbench Business Committee control of the agenda for 35 days a Session in the Chamber;
- to increase the size of the Backbench Business Committee to allow for representation of smaller parties.

## 7 Debate and Decisions of the House, 15 June 2010

The House of Commons debated the Government motions on the establishment of the Backbench Business Committee on 15 June 2010.

Opening the debate **Sir George Young**, Leader of the House of Commons, addressed the various amendments to the motion. First, on the size of the Backbench Committee he stated:

The Wright Committee is specific about the size of the committee, which it said should have between seven and nine members. We have proposed that it should have eight members. The chair will be elected by the same process as the other elected Select Committee chairs, but with no prior party allocation... There will be total freedom to choose a chair from either side of the House. The remaining members will then be elected by another secret ballot, using the same system as for the Deputy Speakers in order to ensure overall party and gender balance. We propose, in the first instance, that the committee should be re-elected every Session.<sup>51</sup>

He then turned to the issue of annual elections:

The committee will have power to schedule business in the House and Westminster Hall. Given the significance of this, we believe that members of the committee should be accountable to their peers for the decisions they take in scheduling debates. This will not affect the eligibility of the chair and members, who will still be able to offer themselves for re-election. This will be by secret ballot, so there is no question of members coming under the malign influence of the usual channels in making their choices. As well as providing accountability, it will, I hope, also provide a way of bringing new blood on to the committee from time to time, keeping its thinking fresh.<sup>52</sup>

On the matter of the review to be held after the first Session of this Parliament he said:

I recognise that there is concern about the reasoning behind this review, but the object of the review is to enable the House to move forwards, rather than, as some have said, to wind back. There is absolutely no intention to shut down the Back-Bench committee after the first Session. We are committed to establishing a House business committee, dealing with both Government and Back-Bench business, by the end of the third year of this Parliament, so a review of the Back-Bench business committee any later than that would make no sense.<sup>53</sup>

Sir George Young also explained briefly how the proposals would work:

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<sup>51</sup> HC Deb 15 June 2010 c780

<sup>52</sup> *Ibid*, cc780-781

<sup>53</sup> *Ibid*, c782

... The committee will have a total of 35 days at its disposal, which equates, as the Wright Committee recommended, to about one day per sitting week. The time will be divided between the House and Westminster Hall. The Liaison Committee will have 20 Thursday sittings in Westminster Hall for debates on Select Committee reports, and all other Thursdays will be for business determined by the Back-Bench business committee. Each of these Thursdays will count as half a day towards the total allocation of 35. In a typical Session of about 35 sitting weeks, therefore, the committee will use seven or eight days of its allocation in Westminster Hall debates, and the remainder-about 27 or 28 days-will be taken in the Chamber. Some of that time may be taken in the form of 90-minute topical debates, under Standing Order No. 24A, which will count as a quarter of a day. And I am happy to say that I see no difficulty in accepting amendment (a) to motion 4, which encapsulates the 27 days in the form I just outlined.

It may also be helpful if I say to the House that it is my intention to invite the Procedure Committee to consider whether the sittings in Westminster Hall could be extended to allow for sittings on Monday afternoons. That would provide the Back-Bench business committee with even more flexibility in how it schedules business. In future, it will also be for the Back-Bench business committee, not the Government, to schedule debates on pre-recess Adjournments, on set-piece debates on defence, Welsh affairs and international women's day, and on topical debates. These decisions will rest entirely in its hands, and just as I am accountable to the House for Government business, so it will be so accountable for Back-Bench business.<sup>54</sup>

**Natascha Engel** re-iterated her concerns during the debate that:

...The way that the Back-Bench committee is to be formulated and the way that its membership is to be elected means there is a danger of transferring power from the Whips Office, where deals are done behind closed doors and we learn what has been done when it is announced here by Front Benchers, to another back room where seven members and the Chair of the Back-Bench committee make the decision.<sup>55</sup>

In response to her questions about the operation of the Committee, the Deputy Leader of the House clarified that the rules which applied to the Committee would be the same as those for any Select Committee. He stated that he hoped it would consider early on how it would manage its business, and whether it would have open meetings or not. Also in response to her questions the Deputy Leader of the House of Commons, David Heath, urged those Members who had been elected as chairs of other select committees not to stand in elections to the Backbench Business Committee.<sup>56</sup>

**Jo Swinson** spoke on the issue of the number of days and their division between the Chamber and Westminster Hall. She said that she understood that the intention of the division was to free up days in the Chamber in order to allocate extra days to the Report stage of Bills. She pointed out that there was an amendment tabled to the motion which would set out clearly that 27 days of backbench business would be held in the chamber with 8 in Westminster Hall that would then protect these 27 days.<sup>57</sup> The amendment was accepted the amendment, as had been indicated by Sir George Young in his opening comments.

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<sup>54</sup> *Ibid*, c782

<sup>55</sup> *Ibid*, c796

<sup>56</sup> *Ibid*, c832

<sup>57</sup> *Ibid*, c799



**Pete Wishart** spoke about the size of the Backbench Business Committee, stating that limiting it at 8 members meant there were “serious problems for the minority parties”. He continued:

We just cannot do it [secure a place on the Back-Bench Business Committee]. We [the SNP] have only six Members. Plaid Cymru has only three. The Democratic Unionist party is the largest of the minority parties, and the fourth largest party in the House but cannot do it.<sup>58</sup>

**Graham Allen** spoke to the amendment to change the Sessional elections of the members and chair of the Backbench Business Committee to elections for the course of a parliament. He compared the Government proposal to the situation for other select committee chairs and members:

Chairs and members of Select Committees... will be in office for five years if they are successful, which gives a sense of continuity, and members and Chairs have the ability to learn a subject, and to grow as a Committee with their colleagues.

Let us imagine if we were on Select Committees for only one year. We would already be counting down the time thinking, “There might be something else on the way. I might want to swap over. Somebody doesn’t like me and I don’t get on with so-and-so, and the chair is a bit of a pain”. The Chair, of course, would be saying, “I’ve only got a year, but I really want to do something long term with this Select Committee, so let’s pick up whatever is in the papers”.

There is a more insidious problem. If Members are really good as Back Benchers, they might just cross Front Benchers – the wrong people. They might be so good – they might expose something, or scrutinise and call those on their Front Bench to account – that instead of being lauded and given plaudits, they go on a list... Let us imagine the whispering campaigns that would take place if Select Committee members or Chairs had a one-year tenure, and the undermining that would go on...

...We could pass the matter over if there were just one proposal to undermine the committee – the proposal to review the committee after just one year. However, there is a second occasion on which the committee might be undermined, because its members must be elected after a year.<sup>59</sup>

The same argument was made by others, including **Michael Meacher** who stated that:

Annual elections give too much power to the Whips and the establishment, allowing them to exert influence on the Chair not because he or she is inadequate or incompetent, but precisely because he or she is too effective. Let me suggest to the Leader of the House, in all friendliness, that annual elections will profoundly undercut the impact of reforms that are excellent in so many other ways.<sup>60</sup>

Both Mr Allen and Mr Meacher also argued in favour of an amendment to remove the proposal from the Standing Order change that:

At the commencement of business in the House or in Westminster Hall which has been determined by the committee, a member of the committee shall make a brief statement

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<sup>58</sup> *Ibid*, c807

<sup>59</sup> *Ibid*, c820

<sup>60</sup> *Ibid*, c828

of no more than five minutes explaining the committee's reasons for its determination.<sup>61</sup>

Mr Meacher explained that:

...no-one else does that in any other part of the House. No Minister is ever required to do that. If for any reason either the chair or any member of the committee, wishes, with permission, to make such a statement, there is nothing to prevent them from doing so. However, to require that to happen in every case, when in most circumstances members will be well aware of the thinking behind the decision, seems unnecessary, a waste of time or even obstructive.<sup>62</sup>

Closing the debate, the Deputy Leader of the House of Commons, **David Heath**, agreed to accept the amendment to the motion to explicitly give the Business Committee control over 27 days worth of business in the Chamber.<sup>63</sup> He also agreed to accept an amendment to remove the proposal for opening statements by a member of the Backbench Business Committee during debates scheduled by the Committee.<sup>64</sup>

The House divided on a motion moved by **Pete Wishart** to increase the size of the Backbench Business Committee from 8 Members to 16. The amendment was lost by 331 votes to 100.<sup>65</sup> The House then divided on a motion moved by **Graham Allen** to elect the chair and the members of the Backbench Business Committee for one Parliament rather than one Session. The amendment was lost by 263 votes to 171.<sup>66</sup>

The Motions agreed to by the House were therefore that the Backbench Business Committee, with its members and chair elected by the whole House, should be established:

*Ordered*, That the following new Standing Order be made:-

- (1) There shall be a select committee, called the Backbench Business Committee, to determine the backbench business to be taken in the House and in Westminster Hall on days, or parts of days, allotted for backbench business.
- (2) The committee shall consist of a chair and seven other Members, of whom four shall be a quorum.
- (3) The chair and other members of the committee shall continue as members of the committee for the remainder of the Session in which they are elected unless replaced under the provisions of Standing Order No. (Election of Backbench Business Committee).
- (4) The chair and members of the committee shall be elected in accordance with the provisions of Standing Order No. (Election of Backbench Business Committee).
- (5) No Member who is a Minister of the Crown or parliamentary private secretary or a principal opposition front-bench spokesperson shall be eligible to be the chair or a member of the committee: the Speaker's decision shall be final on such matters.
- (6) The committee shall have power to invite Government officials to attend all or part of any of its meetings.

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<sup>61</sup> See Order of Business, 15 June 2010, item 2.

<sup>62</sup> HC Deb 15 June 2010 c828

<sup>63</sup> *Ibid*, c833

<sup>64</sup> *Ibid*, c834

<sup>65</sup> *Ibid*, c836

<sup>66</sup> *Ibid*, c839

(7) The committee shall determine the backbench business to be taken-

(a) in the House on any day, or any part of any day, allotted under paragraph (3A) of Standing Order No. 14, and

(b) in Westminster Hall, in accordance with paragraph (3A) of Standing Order No. 10, and shall report its determinations to the House.

#### 7 Election of Backbench Business Committee

*Ordered*, That the following new Standing Order be made:-

(1)(a) The election of the chair of the Backbench Business Committee shall take place at the start of each Session on a day to be determined by the Speaker.

(b) Nominations of candidates shall be in writing and shall be received by the Clerk of the House between 10 am and 5 pm on the day before the day appointed for election.

(c) Each nomination shall consist of a signed statement made by the candidate declaring their willingness to stand for election, accompanied by the signatures of not fewer than twenty nor more than twenty-five Members, of whom no fewer than ten shall be members of the candidate's party and no fewer than ten shall be members of any other party or no party.

(d) No Member may sign the statement of more than one candidate.

(e) As soon as practicable following the close of nominations, a list of the candidates and their accompanying signatories shall be published.

(f) Arrangements for the election shall follow those set out in paragraphs (9) to (14) of Standing Order No. 122B (Election of committee chairs), save that in sub-paragraph (11)(e) the opening hours of the ballot shall be between eleven o'clock and one o'clock and in paragraph (12) reference to variation of timings shall be read as applying also to the timings in sub-paragraph (b) and (f) of this paragraph.

(2)(a) The election of members of the Backbench Business Committee shall take place on a day to be determined by the Speaker as soon as practicable after the election of the chair.

(b) Nominations of candidates shall be in writing and shall be received by the Clerk of the House between 10 am and 5 pm on the day before the day appointed for election.

(c) Each nomination shall consist of a signed statement made by the candidate declaring their willingness to stand for election, accompanied by the signatures of not fewer than twelve nor more than fifteen Members.

(d) As soon as practicable following the close of nominations, a list of the candidates and their accompanying signatories shall be published.

(e) The provisions set out in paragraph (5) (a) to (d) and (f) of Standing Order No. 2A (Election of the Deputy Speakers) shall apply to the election of members of the committee.

(f) The ballot shall be counted under the Single Transferable Vote system, with constraints that of those elected:

(i) such a number of candidates shall come from each party represented in the House or those of no party as shall be determined and announced in advance by the Speaker,

in such a way as to ensure that the committee including the Chair reflects as closely as possible the composition of the House, and

(ii) at least two women and two men shall be elected.

(3)(a) Standing Order No. 122C (Resignation or removal of chairs of select committees) shall apply to the chair of the Backbench Business Committee, save for paragraph (2) of that Order; and any election following a vacancy in the chair shall be held under the provisions of paragraph (1) (b) to (f) above.

(b) Where a member of the committee has ceased to be a member of this House or has given written notice to the Speaker of a wish to resign from the committee, the Speaker shall make arrangements for the election by the House of a replacement using the Alternative Vote System as set out in paragraph (11) of Standing Order No. 122B (Election of committee chairs), and may give such directions on the party affiliation required for a valid candidature as are necessary to preserve the balance of parties on the committee as referred to in paragraph (2)(f)(i) above.

Standing Order 14 was amended as follows:

*Ordered*, That Standing Order No. 14 (Arrangement of public business) be amended by inserting at the end of line 40-

‘(3A) Thirty-five days or its equivalent shall be allotted in each session for proceedings in the House and in Westminster Hall on backbench business of which at least twenty-seven shall be allotted for proceedings in the House; the business determined by the Backbench Business Committee shall have precedence over government business (other than any order of the day or notice of motion on which the question is to be put forthwith) on those days; and the provisions of paragraph (2)(c) of this Standing Order shall apply to any of those days taken in the House in the form of half-days.

(3B) For the purposes of paragraph (3A) above, a Thursday sitting in Westminster Hall at which the business is appointed by the Backbench Business Committee shall count as one half-day and a topical debate shall count as one quarter-day.

(3C) Backbench business comprises all proceedings in the Chamber relating to any motion or order of the day except:

(a) government business, that is proceedings relating to government bills, financial business, proceedings under any Act of Parliament, or relating to European Union Documents, or any other motion in the name of a Minister of the Crown;

(b) opposition business under paragraph (2) above;

(c) motions for the adjournment of the House under paragraph (7) of Standing Order No. 9 (Sittings of the House), private Members’ motions for leave to bring in bills under Standing Order No. 23 (Motions for leave to bring in bills and nomination of select committees at commencement of public business) and private Members’ bills under paragraphs (4) to (9) below;

(d) proceedings relating to private business;

(e) any motion to amend this order or Standing Order No. (Backbench Business Committee);

(f) business set down at the direction of, or given precedence by, the Speaker.

(3D) The proceedings to be taken as backbench business shall be determined by the Backbench Business Committee, as set out in Standing Order No. (Backbench Business Committee).'

Amendments were made to the Standing Orders that related to business in Westminster Hall and Topical Debates:

9 Westminster Hall (amendment of Standing Orders)

*Ordered*, That Standing Order No. 10 (Westminster Hall) be amended as follows:-

(1) In paragraph (3) leave out 'Subject to paragraph (13) below' and insert 'On Tuesdays and Wednesdays';

(2) After paragraph (3) insert-

'(3A) Subject to paragraph (13), the business taken at any Thursday sitting in Westminster Hall shall be such as the Backbench Business Committee shall determine';

(3) In paragraph (13)-

(a) leave out 'not more than six' and insert 'twenty';

(b) at end add ', but the Speaker may appoint fewer than twenty days with the agreement of the Liaison Committee'.-(*Sir George Young*.)

10 Topical Debates (amendments of Standing Orders)

*Ordered*, That the Standing Orders be amended as follows:-

(1) In Standing Order No. 24A (Topical debates),

(a) in paragraph (1) leave out 'A Minister of the Crown' and insert 'The Backbench Business Committee', and

(b) leave out paragraphs (3) to (8).

(2) In Standing Order No. 47 (Time limits on speeches),

(a) after paragraph (3) insert-

'(3A) The Speaker may announce, at or before the commencement of a topical debate in respect of which he has made or intends to make an announcement under paragraph (1) of this order, that speeches by a Minister of the Crown and any Member speaking on behalf of the Leader of the Opposition shall be limited to ten minutes and he may direct any such Member who has spoken for that period to resume his seat forthwith.'; and

(b) in line 31, after '(3)' insert 'or (3A)'.-(*Sir George Young*.)