



## Parliamentary Commissions of Inquiry

Standard Note: SN/PC/06392

Last updated: 24 July 2012

Author: Oonagh Gay

Section Parliament and Constitution Centre

---

The Public Administration Select Committee produced reports in the 2005 Parliament calling for a mechanism for Parliament to establish an independent inquiry.

On 16 July 2012 a Parliamentary Commission on Banking Standards was established by a motion in the House of Commons. The powers of the Commission are as set out by the motion. It is due to report its main recommendations on legislation action before 18 December 2012 before the Banking Reform Bill is published.

This information is provided to Members of Parliament in support of their parliamentary duties and is not intended to address the specific circumstances of any particular individual. It should not be relied upon as being up to date; the law or policies may have changed since it was last updated; and it should not be relied upon as legal or professional advice or as a substitute for it. A suitably qualified professional should be consulted if specific advice or information is required.

This information is provided subject to [our general terms and conditions](#) which are available online or may be provided on request in hard copy. Authors are available to discuss the content of this briefing with Members and their staff, but not with the general public.

## Contents

<b>1</b>	<b>Background</b>	<b>3</b>
1.1	Public Administration Select Committee report: <i>Parliamentary Commissions of Inquiry</i>	4
1.2	Select committees	4
<b>2</b>	<b>Parliamentary Commission on Banking Standards</b>	<b>5</b>
2.1	Proposed Special Commission on Oil Sanctions – Bingham 1979	9

# 1 Background

The Public Administration Select Committee's report of February 2005 summarised the long history of parliamentary inquiries as follows:

14. There are some instances in the seventeenth century of committees conducting inquiries into government failures, often related to possible impeachments, for example those on the mismanagement of the Second Dutch War in 1667–8, and of the war in Ireland in 1689. From at least the premiership of Sir Robert Walpole, inquiries by select committees into the conduct of the government and its officials, as well as of private corporations and individuals, were a commonplace.

16 Famous examples included the inquiry of 1844 into the conduct of the Post Office and the Home Secretary into the opening of letters addressed to (among others) the Italian nationalist and radical, Joseph Mazzini.<sup>1</sup>

PASC noted that these inquiries were often set up against Government opposition:

17. Even as late as 1924 the Conservative and Liberal parties in the House successfully pressed a demand for a parliamentary select committee to investigate the circumstances leading up to the withdrawal of proceedings recently instituted by the Director of Public Prosecutions against a Mr Campbell of the Workers Weekly on charges of sedition after alleged involvement by the Government. Ramsay MacDonald's administration promptly resigned rather than accept what it termed an unfair and mean proposal for a committee where his party would be in a minority.

The inquiry into allegations of Cabinet involvement in the share prices of the Marconi company in 1912-13 is often cited as the main reason why select committee investigations gave way to independent committees or tribunals of investigation. The Marconi Commons select committee produced a report on the Marconi scandal which was over 1000 pages long in 1912-13.<sup>2</sup> It was debated in the Commons on 18 June 1913. The committee and then the House divided on party lines over the conclusions of the report. The ability of Parliament to conduct a rigorous and impartial inquiry into disputed events was put into question.

As PASC noted, the *Tribunals of Inquiry (Evidence) Act 1921* set the trend for independent inquiries, which would be promoted by Parliament, but conducted by a senior member of the judiciary:

20. The 1921 Act was framed with simple intent. In that year the Leader of the House, Bonar Law, acceded to an inquiry into the destruction of papers relating to contracts in the Ministry of Munitions. He proposed a committee chaired by a judge, and assisted by a business man and an accountant. It was only in response to one Member who felt that unless the Committee was empowered to take evidence on oath "its findings [...] will not have the weight in the country which they ought to have ..." that Bonar Law, despite noting that an earlier inquiry had managed perfectly well without statutory powers, proposed a general rather than a particular statute dealing with this. This was eventually enacted as the *Tribunals of Inquiry (Evidence) Act 1921*. The Act sought to retain a connection with its parliamentary roots not only through the requirement for a Resolution of both Houses but also in its terminology where the requirement for an "inquiry into a definite matter [...] of urgent public importance" is redolent of the wording for a motion for an adjournment of the House on "a specific and important matter that should have urgent consideration".

---

<sup>1</sup> PASC *Government by Inquiry* HC 51 2004-05

<sup>2</sup> Special report from the Select Committee on Marconi's Wireless Telegraph Company, Limited

An example of an 1921 Act inquiry into a clearly political matter is the Budget Leak tribunal set up in 1936 which eventually led to the resignation of two MPs (one a minister).

Further detail on the use of the 1921 Act is available in [Standard Note 2599 \*Investigatory Inquiries and the Inquiries Act 2005\*](#). By the early 2000s, there were concerns that the formal procedures of the 1921 Act resulted in lengthy and costly inquiries, epitomised by the Bloody Sunday (Saville) Inquiry. The 1921 Act was replaced by the *Inquiries Act 2005*. The passage of this Act through Parliament was truncated by the dissolution of Parliament in time for the 2005 general election, but concerns were raised at the time that the role of Parliament was being diminished. The initiative for establishing new statutory inquiries passed to Ministers.

PASC had recommended in its February 2005 report that there should be continuing parliamentary involvement in the establishment of inquiries, and it returned to this theme in a follow-up report in May 2008.

### **1.1 Public Administration Select Committee report: *Parliamentary Commissions of Inquiry***

The Public Administration Select Committee published a report on [Parliamentary Commissions of Inquiry](#) in the 2007-08 session.<sup>3</sup> Its main recommendation was for a parliamentary mechanism for initiating inquiries. These would take the form of ‘Parliamentary Commissions of Inquiry’, composed of parliamentarians and others:

Proper parliamentary scrutiny should include the ability to establish and undertake inquiries into significant matters of public concern. Parliament has, in the past, conducted investigations of this kind—and, as the great forum of the nation, should be expected to do so.<sup>4</sup>

PASC recommended that the personnel needed to be selected carefully:

**17..To operate effectively, a Parliamentary Commission of Inquiry should consist of a Committee of Privy Counsellors appointed by Parliament. Individuals could be made Privy Counsellors in order to serve on an inquiry of this nature. Members should be drawn from both Houses of Parliament, with external members appointed where appropriate for their specialist expertise.**

It did not make specific recommendations about the powers to be given to any such commissions.

### **1.2 Select committees**

Select committees have power to hold inquiries on matters of public concern. The terms of reference are for the committee to determine. Their powers to summons persons, papers and records are set out in Chapter 7 of Erskine May. [Standard Note \*Select Committees Evidence and witnesses\*](#) discusses current issues about these powers.

The core tasks for select committees established by the Liaison Committee in 2001 did not feature a requirement to undertake investigative inquiries, but emphasised that the main work of committee was to monitor government departments and agencies. Procedurally, committees may send for persons, papers, and records,<sup>5</sup> but requests which are refused need to be supported by a majority vote on the floor of the House. This is very unlikely to

---

<sup>3</sup> PASC [Parliamentary Commissions of Inquiry](#) HC 473 2007-08

<sup>4</sup> Ibid, summary

<sup>5</sup> Standing Order No. 152 (4a),

take place and in practice, committees accept the Osmotherly Rules, developed and published by the Cabinet Office. These make clear that civil servants give evidence to select committees on behalf of their ministers. As was evident in the debate following the death of Dr David Kelly, this can inhibit select committees from discovering the full facts of the development and implementation of a policy. These issues were highlighted by the Westland affair of 1985-6, where there was a Cabinet dispute about allocation of Government contracts for helicopters. The Government was anxious that officials should not be questioned by committees on their individual conduct, and this was reflected in their response to the relevant Liaison<sup>6</sup> and Treasury<sup>7</sup> Committee Reports. <sup>6</sup>

The Standards and Privileges Committee has special powers to summon Members, due to its role in receiving reports from the Parliamentary Commissioner for Standards and in investigating alleged breaches of privilege and alleged contempts. Standing Order no 149 (5) allows the committee to “appoint specialist advisers either to supply information which is not readily available or to elucidate matters of complexity within the committee’s order of reference”, In 1997 special procedures were adopted when the Commissioner for Standards was charged with investigating allegations by Mohamed Al Fayed and others against 25 Members. Nigel Pleming QC was appointed as counsel, to assist the Parliamentary Commissioner for Standards in his investigation. The procedure adopted for the inquiry was set out in Annex 1 to the report.<sup>7</sup> Mr Pleming addressed questions directly to a number of witnesses.<sup>8</sup> Mr Pleming also assisted with the inquiry into allegations against Michael Howard.<sup>9</sup>

In evidence to the Liaison Committee on the powers of select committees published on 16 July 2012, the Clerk of the House, Robert Rogers, noted:

12. Recent events have shown to a wider audience what all insiders always knew; that there were considerable doubts about whether the House could really impose its will on those whom a Committee wished to summon, or punish those who gave (unsworn) false or misleading evidence to a Committee. I deal separately with evidence given on oath.<sup>10</sup>

Robert Rogers went on to look at particular difficulties faced by investigatory committees in ensuring fairness in their processes, as part of a wide-ranging review into future options for the use of select committee powers.

## **2 Parliamentary Commission on Banking Standards**

The Prime Minister, Mr Cameron, said on 2 July 2012 that the Government would propose a motion to establish a joint committee of both Houses into professional standards in the banking industry. He said:

On the second, I want us to establish a full parliamentary committee of inquiry involving both Houses, chaired by the Chairman of the House of Commons Treasury Select Committee. This committee will be able to take evidence under oath; it will have full access to papers, officials and Ministers, including Ministers and special advisers from

---

<sup>6</sup> *Accountability of Ministers and Civil Servants* Cm 78 February 1987

<sup>7</sup> Complaints from Mr Mohamed Al Fayed, the Guardian and others against 25 Members and former Members Standards and Privileges First Report HC 30-I 1997-98 Annex 1 *Note on the Procedure adopted for the inquiry*

<sup>8</sup> Ibid 30-III

<sup>9</sup> Standards and Privileges Fourth Report HC 359 1996-97

<sup>10</sup> [Select Committees Powers and Effectiveness](#) Evidence to the Liaison Committee 16 July 2012

the last Government; and it will be given by the Government all the resources it needs to do its job properly.<sup>11</sup>

In a statement on LIBOR immediately following, the Chancellor, George Osborne, proposed the same arrangement.<sup>12</sup> There was a debate on 5 July 2012 on an Opposition motion to establish an “independent, forensic, judge-led inquiry” under the *Inquiries Act 2005*, as opposed to the Government motion for a joint committee of the two Houses to investigate professional standards in the banking industry. The Government motion was approved by 330 votes to 226.<sup>13</sup> The proposed chairman of the joint committee, Andrew Tyrie, chair of the Treasury Select Committee, indicated that he would serve only if there was agreement from major parties on the inquiry.<sup>14</sup> Speakers in the debate commented on a range of issues, such as the powers of a parliamentary joint committee to administer oaths and summon witnesses, and the possible complications which might be caused by decisions to prosecute some of the key players.

The decision to establish a joint committee of both Houses underwent some further refinements following discussion with the usual channels. A motion appeared on the order paper on 13 July, which was debated and approved by the Commons on Monday 16 July 2012. The motion was as follows:

PARLIAMENTARY COMMISSION ON BANKING STANDARDS

The Prime Minister

The Deputy Prime Minister

Mr Chancellor of the Exchequer

Sir George Young

Mr Andrew Tyrie

Edward Miliband

Ed Balls

(1) That a Committee of this House be established, to be called the Parliamentary Commission on Banking Standards, to consider and report on-

(a) professional standards and culture of the UK banking sector, taking account of regulatory and competition investigations into the LIBOR rate-setting process;

(b) lessons to be learned about corporate governance, transparency and conflicts of interest, and their implications for regulation and for Government policy;

and to make recommendations for legislative and other action.

(2) That Mr Andrew Tyrie be Chair of the Commission.

(3) That Mark Garnier, Mr Andrew Love, Mr Pat McFadden and John Thurso be members of the Commission.

---

<sup>11</sup> HC Deb 2 July 2012 c587

<sup>12</sup> HC Deb 2 July 2012 c613

<sup>13</sup> HC Deb 5 July 2012 c1112-1170

<sup>14</sup> HC Deb 5 July 2012 c1139

(4) That the Commission have leave to join with any committee appointed by the Lords to consider the said matters.

(5) That the Commission may hold meetings under the provisions of paragraph (4) of this order at any time after the Lords has agreed to appoint a committee.

(6) That the Commission shall, except as provided for in this order, follow the procedure of a select committee of this House.

(7) That the Commission shall have power-

(a) to send for persons, papers and records;

(b) to examine witnesses on oath;

(c) to appoint specialist advisers;

(d) to invite specialist advisers (including Counsel appointed as specialist advisers) to examine witnesses;

(e) to adjourn from place to place;

(f) to sit notwithstanding any adjournment of the House; and

(g) to report from time to time.

(8) That the Commission shall have power to appoint sub-committees to consider matters specified by the Commission within the terms of this order and a sub-committee shall have-

(a) the powers in paragraph (7)(a), (b), (e) and (f); and

(b) the power to invite specialist advisers appointed by the Commission (including Counsel appointed as specialist advisers) to examine witnesses; and the quorum of a sub-committee shall, subject to paragraph (12)(b), be one member of this House.

(9) That the Chair may report to the House an order, resolution or Special Report as an order, resolution or Special Report of the Commission which has not been agreed at a meeting of the Commission if he is satisfied that he has consulted all members of the Commission about the terms of the order, resolution or Special Report and that it represents a decision of the majority of the Commission.

(10) That the quorum of the Commission shall be two members of this House.

(11) That, whenever this House shall stand adjourned other than to the next day, any report, Special Report, order or resolution agreed to by, or evidence taken or received by, the Commission, including any under paragraph (9) of this order, may be published or printed under the authority of this House, shall be deemed to have been reported and shall be reported when this House next sits.

(12) That, when the Commission operates under the provisions of paragraph (4) of this order, the following provisions shall apply-

(a) the quorum of the Commission shall be two members of this House and two members of the House of Lords;

(b) the quorum of any sub-committee shall be one member from either House; and

(c) the power of the Chair to report under paragraph (9) may also be exercised with the Chair's agreement by a member of the Commission who is a member of the House of Lords.

(13) That the costs of the Commission shall be assessed by the House of Commons Commission from time to time and shall be paid by Her Majesty's Government for the credit of the House of Commons (Administration) Estimate.

(14) That the Commission shall report on legislative action no later than 18 December 2012 and on other matters as soon as possible thereafter.

(15) That a message be sent to the House of Lords to desire their concurrence.

The Lords approved a similar motion on 17 July without debate. The motion included the names of four peers: Lord Lawson of Blaby, Lady Kramer, Lord McFall of Alcluith, Lord Turnbull and the Bishop of Durham.

In the short debate on the unopposed motion, the Leader of the Commons, Sir George Young, pointed out that the Commission would be able to begin work immediately with powers already inherent in the parliamentary system. It would have the power to invite special advisers, including counsel appointed by the Commission, to examine witnesses, and sub-committees with a quorum of one.<sup>15</sup> Costs of the inquiry would be met by the Government, but no indication of the scale of the costs was given. The Shadow Leader, Angela Eagle, confirmed that the Opposition was happy to cooperate, while expressing concern that the work of the Treasury Committee might be subject to disruption. John Mann, a member of the Treasury Committee, expressed concern that the Commission would be investigating a chain of fast-moving events, and that the Treasury Committee would be adversely affected.<sup>16</sup> This view was supported by some other Members, who also had queries about the selection process for the Commission.

The membership of the Commission is as follows:

Andrew Tyrie MP, Chairman

Mark Garnier MP

Andy Love MP

Pat McFadden MP

John Thurso MP

Lord Turnbull

Baroness Kramer

Lord Lawson

Lord McFall

The Bishop of Durham

---

<sup>15</sup> HC Deb 16 July 2012 c797

<sup>16</sup> HC Deb 16 July 2012 c798-802

The Commission has begun work but has yet to establish its formal procedures or its likely costs.

## 2.1 Proposed Special Commission on Oil Sanctions – Bingham 1979

The Bingham report into the failure of oil sanctions against Rhodesia caused a political furore when it was published in 1978, resulting in a two days of debate following the Queen's Speech on 7 and 8 November 1978 and demands for a parliamentary inquiry.

On [1 February 1979](#), the House of Commons passed a motion to establish a select committee to join with a committee of the House of Lords as a Joint Committee to be known as the Special Commission on Oil Sanctions. The motion was as follows:

That it is desirable that a Joint Committee of both Houses to be known as "the Special Commission on Oil Sanctions" be appointed to consider, following the Report of the Bingham Inquiry, the part played by those concerned in the development and application of the policy of oil sanctions against Rhodesia with a view to determining whether Parliament or Ministers were misled, intentionally or otherwise, and to report;

That a Select Committee of five Members be appointed to join with such Committee as the Lords may appoint to consider the said matters and to report accordingly;

That the Committee have power to send for persons, papers and records; to sit notwithstanding any adjournment of the House and to report from time to time;

That two be the Quorum of the Committee;

That the Committee have leave to hear Counsel to such extent as they shall see fit;

That Mr Attorney General shall give such assistance to the Special Commission as may be appropriate;

That the Committee have power to appoint persons to carry out such work relating to the Special Commission's inquiry as the Special Commission may determine;

That no person not being a member of the Special Commission shall be present during any of the proceedings of the Special Commission for the purposes of the inquiry and which of the said papers and records should be shown to parties interested or their Counsel or agents or to witnesses, and which of such papers and records may be retained by members of the Special Commission or such parties, Counsel, agents or witnesses, and which of such papers and records shall be included in or referred to in any report.

There were some novel aspects to the motion, not least capacity for the chairman to see relevant Cabinet documents.<sup>17</sup> The proposed chairman was to be a Law Lord and much of the inquiry would have taken place in private.<sup>18</sup>

The Lords considered the motion on [8 February 1979](#), but were much more hostile to the Commission, rejecting it by 102 votes to 58:

The LORD CHANCELLOR rose to move, That this House do concur in the Resolution communicated by the Commons: that it is desirable that a Joint Committee of both Houses to be known as "the Special Commission on Oil Sanctions" be appointed to consider, following the Report of the Bingham Inquiry, the part played by those

---

<sup>17</sup> HL Deb 8 February 2012 c857

<sup>18</sup> HL Deb 8 February 2012 c889

concerned in the development and application of the policy of oil sanctions against Rhodesia with a view to determining whether Parliament or Ministers were misled, intentionally or otherwise, and to report;

§ That a Select Committee of four Lords be appointed to join with the Committee of the Commons to consider the said matter and to report accordingly;

§ That two be the quorum;

§ That the Committee have leave to report from time to time;

§ That the Committee have leave to hear Counsel to such extent as they shall see fit;

§ That the Committee have leave to examine witnesses on oath;

§ That the Committee have power to appoint persons to carry out such work relating to the Special Commission's inquiry as the Special Commission may determine;

§ That no person not being a Member of the Special Commission shall be present during any of the proceedings of the Special Commission unless required by the Special Commission to be present for the purposes of their inquiry;

§ That all papers submitted to the Special Commission shall first be examined by their Chairman who shall determine, if necessary after consultation with other Members of the Special Commission, which of the papers should be seen by the Members of the Special Commission for the purposes of the Inquiry and which of the said papers and records should be shown to parties interested or their Counsel or agents, or to witnesses, and which of such papers and records may be retained by Members of the Special Commission or such parties, Counsel agents or witnesses, and which of such papers and records shall be included in or referred to in any report.

The Special Commission did not meet and Parliament itself was dissolved on 3 April 1979 for the general election of May 1979. Political interest in the failure of oil sanctions died away with the ending of UDI in Rhodesia.