

The report of the Commission  
to Strengthen Parliament

July 2000

# Strengthening Parliament





Dear William,

I have pleasure in submitting the report of the Commission to Strengthen Parliament. When you established the Commission in July of last year, you asked us to report by the summer of this year. You made clear, following your own speech on the Constitution in February 1998, that we should be radical in our approach.

Our political system has served the country well. We believe that the basic framework of the constitution is sound. Parliament has a number of functions that it has generally fulfilled effectively. However, there is an imbalance in the relationship between Parliament and the executive. There is a need to ensure that Parliament can call government to account. The task you set us was to analyse the reasons for the imbalance and to make recommendations to correct it. You also asked us to make recommendations to ensure that English Bills were considered by MPs from English constituencies.

The report embodies our analysis of the role and functions of Parliament, the reasons for the imbalance in executive-legislative relations and our proposals for ensuring a balanced system. The report is not a short one. We have looked in some depth at the reasons for the present situation and we have made recommendations that take into account the fact that Parliament is the sum of its several parts.

If Parliament is to call government effectively to account we believe that ministers - and indeed members - must be brought back into the chamber. We want to strengthen the chamber as well as the committees of the House. We want to provide greater incentives for MPs to be involved in parliamentary scrutiny. We make proposals to strengthen both Houses in scrutinising public policy and the actions of the executive. We propose changes to strengthen parliamentary scrutiny of primary, delegated and European legislation, as well as of finance. We believe that achieving balance in the relationship entails introducing constraints on government. We outline procedures for ensuring that Bills that relate exclusively to England (or England and Wales) are considered by MPs from England (or England and Wales). We also offer proposals for ensuring greater access by the citizen to Parliament, through strengthening the constituency link with the MP and by enabling the media to have greater access to what goes in Parliament. These are all proposals that can be achieved in the lifetime of a Parliament. In the longer term, we believe that there is a case for a staggered reduction in the number of MPs.

Our proposals, of necessity, cover a wide terrain. We have taken evidence from people both inside and outside Parliament, from members of different parties and of none. We have devoted time to taking evidence and to discussing our recommendations. The result, we believe, is a set of recommendations that provides the basis for informed debate and for a stronger Parliament.

We believe that our proposals, taken collectively, will enable Parliament to call government to account. That, we argue, will be to the benefit of Parliament, of government and of the country. Effective parliamentary scrutiny underpins, rather than threatens, good government.

The goal of strengthening Parliament should be central to public policy. You have recognised the need to achieve that goal. We commend our proposals to you.

Yours sincerely,

**Philip Norton**

Professor The Lord Norton of Louth  
Chairman

## THE COMMISSION TO STRENGTHEN PARLIAMENT

The Commission to Strengthen Parliament was appointed by the Rt. Hon. William Hague MP, Leader of the Conservative Party, in July 1999 with the following terms of reference:

To examine the cause of the decline in the effectiveness of Parliament in holding the executive to account, and to make proposals for strengthening democratic control over the Government.

The Commission was also asked to work up details of William Hague's proposals for the examination of English bills in a post-devolutionary Parliament.

The following were appointed to serve on the Commission:

**Professor The Lord Norton of Louth (Chairman)**

**The Rt. Hon. Peter Brooke CH MP**

**The Rt. Hon. The Lord Forsyth of Drumlean**

**Matthew Parris**

**Gillian Peele**

**The Rt. Hon. The Lord Waldegrave of North Hill**

A Consultation Paper was published in September 1999. Written submissions were received from a wide range of individuals and organisations. The Commission took oral evidence in January and February 2000. A list of those who gave evidence is listed as an appendix to this report. The members of the Commission are extremely grateful to all those who gave the benefit of their views.

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Section III, 'Programme for Action', is also published separately as a summary of our findings.

# I: Introduction

## Why Parliament Matters

Parliament is the essential and definitive link between citizen and government. Government is formed through elections to the House of Commons. Government depends upon the confidence of the House of Commons for its continuance in office. It depends on the House of Commons for approval of its legislation and its proposals for taxation. Parliament remains the institution at the heart of the British political system because it alone can confer legitimacy. As Ralph Miliband once noted, the elected nature of the House of Commons renders illegitimate any radical alternative, 'for it suggests that what is required above all else to bring about fundamental change is a majority in the House of Commons'.<sup>i</sup> Parliament is the body through which government is called to account between elections, the body that ensures that the voice of electors - individually and collectively - is heard by government between elections. It is, in its very essence, the buckle that links citizen and government.

Other bodies may fulfil some, but only some, of the tasks ascribed to Parliament. A citizen with a grievance may seek media attention to get that grievance heard. Investigative

journalism may expose the failings of ministers and officials. However, Parliament alone can carry out the full range of tasks ascribed to it. It alone has the constitutional authority to give assent to measures of public policy. It alone has the popular legitimacy to do so. People do not go to the polls to elect newspaper proprietors or the political editor of the BBC. People do not go to the polls to elect the leaders of pressure groups. The courts do not enforce views expressed in public opinion polls. They enforce Acts of Parliament and regulations made under the authority of Acts of Parliament.

In short, Parliament matters. The best way to appreciate how much it matters is to consider what it would be like if it did not exist. Parliament has come in for criticism - and in this there is nothing new - for the way it carries out its tasks. We address these criticisms in our report. Failure on the part of Parliament to carry out its tasks effectively is not an argument for looking to other bodies to carry out those tasks. Indeed, for the reasons we have just touched upon, there are enormous dangers in seeking to transfer the functions of a popularly elected legislature to a non-elected, and especially a self-

appointed, body. Rather, one has to look to changes that will ensure that Parliament is able to carry out its tasks efficiently and effectively. It is vital that it does so - and that it is seen to do so. The health of the political system rests on having an effective Parliament.

*Citizens need an effective Parliament.* They need a body that can call the government to account, that can ensure that government answers for its actions and the actions of civil servants. They need a body that can scrutinise and, if necessary, change the legislative proposals brought forward by government - proposals that, once approved by the Queen-in-Parliament, have the force of law. They need a body that can ensure that their voice is heard by government when they have a grievance, be it about the impact of a policy or the absence of a policy. They need the security of knowing that, if there is a problem, there is a body to which they can turn for help, a body that can force public officials to listen.

*Government needs an effective Parliament.* It needs it because its authority derives from Parliament. Government is elected through Parliament and its political authority derives from that very fact. Undermine the authority of Parliament and ultimately you undermine the authority of government. The more government seeks to achieve autonomy in making public policy, the harder it has to work to maintain its capacity to achieve desired outcomes. The more it distances itself from Parliament, the more it undermines popular consent for the system of government. It needs Parliament to give its approval to measures and, prior to doing so, to scrutinise those measures.

Parliamentary scrutiny should be seen by government as a benefit, not a threat. A healthy and vibrant government is one that is able to justify its measures and welcomes critical scrutiny. Riding roughshod over Parliament achieves no benefit: it undermines the popular legitimacy of government as well as Parliament, it results in poor - and potentially unpopular - legislation and it may require corrective legislation at a later stage. Ultimately, no one - government, Parliament or citizen - benefits from such a situation. An effective Parliament ensures that government engages in rigorous thinking, is able to argue convincingly for what it proposes, and that its

proposals emerge after robust probing - probing that takes place in the full glare of public exposure. In essence, good government requires an effective Parliament.

Parliament is, then, crucial to the health of our political system. To undermine Parliament is to undermine the coherence, the stability and the authority of our political system. To strengthen Parliament in fulfilling its functions is to boost the health of the political system. That is our starting point.

## The form of Parliament Government

The United Kingdom has a parliamentary system of government. Government is derived from elections to the legislature. There is no separate election of executive and legislature. In having such a system, the UK is not unusual. What distinguishes the British system from others is that it has a particular form of parliamentary government, commonly termed the Westminster model. This model embodies Tory and Whig attitudes to government. There is an executive responsible for formulating public policy - a body that can clearly be identifiable as *the* policy-making body - and that policy is then subject to parliamentary scrutiny and approval. The onus is on the executive as the policy-making body. This is compatible with the history of this country. Even in the wake of the Glorious Revolution of 1688/89, Parliament still looked to the King to bring forward measures to which it could respond.<sup>ii</sup> Under the Westminster model, Parliament is not a policy-making legislature. It is a reactive, or what has been dubbed a policy-influencing, legislature.<sup>iii</sup>

The essential, though by no means the only, attribute of the Westminster model is that it facilitates accountable government. There is one body - the party in government - that is responsible for most measures of public policy. A party is elected to office with a declared programme of policies it wishes to enact. If electors are not satisfied with its fulfilment of its promises, or of its conduct in government, it can sweep it out at the next general election. Election day in Britain is, as Sir Karl Popper so graphically described it,

'Judgement Day'.<sup>iv</sup> Between elections, the government is accountable to the electors through Parliament. Parliament is not there to govern. It is there to ensure that that part of it which forms the government justifies itself and, if necessary, pays heed to the views of the electors.

The Westminster model facilitates not only accountability but also serves to deliver a system of government that is coherent, responsive and, on the whole, effective and stable. It delivers stability through ensuring the essential combination of effectiveness and consent. It enables government to raise the resources necessary to maintain its commitments of public policy (effectiveness) and citizens to accept the legitimacy of the process by which those resources are authorised (consent).<sup>v</sup> Parliament is crucial to maintaining that balance. It authorises the government's programme but, in order to maintain popular consent, has to ensure that what the government wants is subject to critical scrutiny and that the voices of worried citizens are heard.

We accept the basic attributes of the Westminster model. Those attributes are, in combination, powerful and cannot be matched by any of the alternative models on offer. We accept that the model is under challenge, and has been for some time, from critics of the system and that it is affected by constitutional changes of recent years. However, we believe that the accountability that is at the heart of the model is fundamental to good government. To move away from that would, we believe, serve ultimately to undermine the legitimacy of the political system. Our system of government allows for popular wishes to be translated into legislative outputs and for electors to remove policy makers from office. We believe that the essentials of our system of government are sound.

Our task, therefore, is not to create a new constitutional framework for the United Kingdom but rather to ensure that the balance within the Westminster system is achieved. Government should be allowed to govern but in so doing it must be subject to critical scrutiny by Parliament. If the balance is not quite right - and we believe that it is not - then our task is to recommend ways in which it can be put right.

## The core functions of Parliament

Within the context of the Westminster model, we believe that five core functions of Parliament can be identified. The list is by no means exhaustive, but it encapsulates functions identified by the distinguished scholar and public servant Lord Dahrendorf in his evidence to us and others that have been developed in the literature. The essential functions are:

[1] To create and sustain a government. This is achieved through elections to the House of Commons and, where necessary, through votes of confidence in the House.

[2] To ensure that the business of government is carried on. This is achieved through giving assent to government bills and to requests for supply (money) from the government.

[3] To facilitate a credible opposition. This is done through the second largest party in the House forming an organised alternative government. Other parties may also organise and seek to challenge government.

[4] To ensure that the measures and actions of government are subject to scrutiny on behalf of citizens and that the government answers to Parliament for its actions.

[5] To ensure that the voices of citizens, individually and collectively, are heard and that, where necessary, a redress of grievance is achieved.

These functions are not mutually exclusive, nor are they necessarily mutually reinforcing. There is an inherent conflict in that most Members of Parliament are elected to support and sustain a particular government in office and, at the same time, are members of an institution that is expected to subject to critical scrutiny that very same government. If Parliament is to fulfil all of its functions effectively, government supporters in the House have to acquire a critical capacity without necessarily abandoning loyalty to their party.

## Basis of reform

We start with a number of assumptions about reform. Parliamentary reform can be undertaken for a number of reasons. It may be undertaken to enable government to get its business more expeditiously. It may be undertaken for the convenience of members, enabling them to get away earlier or to have a better working environment. It may be undertaken in order to get rid of archaic and obscure practices that no longer serve much purpose and which have little meaning to those outside (and possibly within)

Parliament. It may be undertaken for the purpose of strengthening Parliament as a body of scrutiny, as a body able to call government to account for its actions. These purposes may be described as attempts to provide for, respectively, efficiency, convenience, appearance, and effectiveness.

These purposes are not necessarily complementary. There may be a clash between seeking to allow government to get its business more expeditiously and seeking to strengthen Parliament as a scrutinising body. There may also be some conflict between seeking to strengthen Parliament as a scrutinising body and making changes for the convenience of members. Reducing the length of the parliamentary week, for example, may be convenient for members but may not necessarily strengthen (indeed, may reduce) the scrutinising capacity of the institution of which they are members.

Though we welcome various recommendations made by the Select Committee on the Modernisation of the House of Commons, especially on the legislative process and on scrutiny of European Union legislation, we believe that it has suffered from having no clear view of which of these purposes it is seeking to achieve. For our part, we are quite clear as to what our purpose is. Our focus is parliamentary effectiveness. We want to strengthen Parliament as a body that can call government to account. This encompasses the last three functions of Parliament that we have already identified: to provide a credible opposition, to scrutinise government and force it to answer for its actions, and to ensure that the voices of citizens are heard. These functions we do treat as mutually compatible.

We want to strengthen Parliament because we believe that the existing balance between government and Parliament is seriously out of kilter. For reasons that we shall consider shortly, the executive is not just dominant, but overly dominant, in the relationship. The imbalance in the relationship was noted by the Select Committee on Procedure in its seminal report in 1978,<sup>vi</sup> which led to the creation in 1979 of the departmental select committees. Despite the excellent work of the select committees, the imbalance has, if anything, become more acute.

We believe that there is a need for change, indeed for radical change, if Parliament is to call government effectively to account for what it does. Our report is designed to identify the changes that we consider necessary. We are aware of the limitations and the challenges that we face in making such recommendations. We are aware that our proposals are not going to change fundamentally the system of government in this country. For the reasons already touched upon, we do not believe that it should be changed. We recognise that we seek to strengthen Parliament in calling government to account at a time when government itself is losing some of its capacity to affect outcomes. The flow of power from government - intrinsic to what some social scientists have dubbed 'the hollowing out of the state' - has obvious implications for Parliament. Globalisation in trade, financial markets and communications necessarily limits the ability of national governments to control events. Membership of the European Union constrains the capacity of Member States to act unilaterally. There is also a fragmentation of power domestically, by which we mean that important powers have flowed to the courts and newly-elected assemblies. All this affects Parliament. Parliament has a direct relationship with government. Its relationship with other political actors is, formally, indirect and, in some cases, non-existent. We recognise the limitations. Equally, we recognise that government remains a vitally important body, both as a domestic policy-maker and as an important actor in the European Union and other international organisations. Those actors within the United Kingdom that have become more powerful are within the jurisdiction of the law enacted by Parliament. Government remains important and, therefore, so does Parliament.

That establishes the context. We also make four other working assumptions. The first is that there was no 'golden age' of Parliament, certainly not one that constitutes a template for parliamentary reform. Various writers have portrayed part of the nineteenth century as an era of parliamentary strength, when government was constrained by a powerful Parliament. For part of that century, Parliament did on occasion bring down governments. Party cohesion was weak and most legislation that was passed was not government legislation.<sup>vii</sup> That, though, was an era of private legislation and of limited public policy. It is not comparable with the relationship of Parliament to government in an era of mass democracy and an expanded public domain.

There has also been a tendency on the part of some commentators to see a golden age in more recent times. The rise of the career politician has been contrasted with the MP of more independent means and mind of earlier decades. We recognise that the rise of the career politician has had consequences for Parliament - something we address later - but the belief that today's career politicians constitute more compliant MPs than those of yesteryear is, in material respects, misleading. In terms of voting behaviour, the most compliant MPs are to be found not in recent years but rather in the 1950s.<sup>viii</sup>

We therefore eschew some golden age as the basis for advocating change. We shall identify developments that we believe limit Parliament, and which in some cases have become pronounced, but our focus is what we believe should be the relationship between Parliament and government and not some romanticised perception of what it used to be. The Westminster model is precisely that, a model. It gives some shape to the system that has developed but, equally important, it identifies what we should be working towards.

The second assumption is that changes in powers, structures and procedure are by themselves not sufficient to strengthen Parliament as a scrutinising body. We stressed in our consultation paper that there was little point in giving Parliament more power if parliamentarians were not prepared to use it. Behaviour is governed by the prevailing culture. Some of the culture favours Parliament. Much, though, does not.

The culture is pervaded by party loyalty. Partisanship dominates, especially in the House of Commons. That culture may be nurtured by external constraints, such as the party organisation, and by personal ambition. Party is crucial to political life, and indeed central to the Westminster model of government, but excessive partisanship is detrimental to Parliament, limiting its capacity to call government to account. One of our central tasks, therefore, is to make recommendations designed to change parliamentary culture, to engender a willingness on the part of those elected to support the government to question that very government and, if necessary, to say no to it. This is not a recipe designed to lead to systematic conflict between government and those elected to support it, thus weakening government as such; we believe, on the contrary, that if government knows that it may be more effectively questioned, proposals it brings forward will be of higher quality and will deserve the support government too often claims as of right.

The third assumption is that procedure is actually quite important. Political will is crucial but that is not to disparage the significance of procedure. Procedure is an important constraint on government. Government cannot suddenly get all its manifesto commitments enacted by Parliament. Its Bills have to go through an established process. The guardians of that process are largely independent of government. Government may occasionally achieve some change in procedure, but the body of procedure and precedent, collected together in the parliamentary reference work *Erskine May*, is so substantial that it is difficult for government to achieve wholesale change. One only has to look at the date of some of the standing orders, especially in the House of Lords, to appreciate the longevity of some of the procedures. Sir Kenneth Pickthorn, a constitutional historian and MP, once noted in the House of Commons: 'Procedure is all that the poor Briton has'.<sup>ix</sup> It is a far more important protection than is generally realised. Procedure constrains government. It may also serve another useful purpose. Changing procedures, along with structures and resources, may serve - we put it no more strongly than that - to influence the parliamentary culture.

Our fourth assumption is that Parliament is

not, in its relationship with the executive, a monolithic entity. Parliament is the sum of many parts. We refer not only to the existence of the two Houses but also to the several political relationships within each. In an important article in 1976, Professor Anthony King drew attention to three modes of executive-legislative relations: the inter-party mode (relations between the parties), the intra-party mode (relations within a party), and the non-party mode (relations independent of party).<sup>x</sup> A government may be challenged by the principal opposition party and by other parties. It may be questioned by members on its own side, in a private party meeting, for example, as well as on the floor of the House. It may be questioned by members operating largely independent of party, be it individually (for example, as a constituency MP) or collectively (in a select committee or an all-party group). The distinctions are important. When we speak of strengthening Parliament what we are often talking about is strengthening members individually (wearing one of a number of hats) or strengthening agencies of the House, such as committees. We believe that it is important to be aware of the distinctions and to recognise that the most powerful relationship - that between government and its own supporters - is the one that may be most difficult to change, especially by any formal means within Parliament. The distinctions themselves can be seen to relate, though the fit is not quite perfect, to the three functions of Parliament that we listed above as falling within the broad rubric of calling government to account: creating a credible opposition, scrutinising government, and ensuring that the voices of citizens are heard. The distinctions will inform our analysis and our recommendations.

Finally, we recognise that any recommendations to strengthen Parliament are dependent, in part, on government itself. The most important parliamentary reforms of the past half-century - the departmental select committees - were brought in as a result of an alliance between a reforming Leader of the House of Commons, Norman St.John-Stevas, and members on both sides of the House. Government opposition can prove fatal, though pressure from the House may serve to move an unwilling government to act. Why should a government support, or acquiesce in, changes designed to make it more

accountable to Parliament? We believe that we have already supplied the answer. Government, ultimately, benefits from an effective Parliament. We acknowledge that it takes a confident government to accept that this is so.

Effective reform, though, requires also the support - and sustenance - of all or most members. Changes to procedure have, in effect, to be the property of the whole House. If they are seen solely as the property of government they are too vulnerable to being emasculated or swept away (a problem with the Crossman reforms of the 1960s);<sup>xi</sup> if members are not willing to sustain them, they are in danger of atrophying. Effective reform requires a confident government and an active Parliament. When we were appointed, one question put to us, by Michael White of *The Guardian*, was 'how can you guarantee that your recommendations will be implemented?' The answer is simple: we cannot. Our task is to identify what we believe are the steps necessary to strengthen Parliament. Parliamentary reform rests on the existence of a window of opportunity, a reform programme, and leadership within Parliament.<sup>xii</sup> We are offering a reform programme. It is for Parliament itself to move forward. However, by putting our report in the public domain we are providing criteria against which the media and the public can judge whether the British government and Parliament believe in, and are prepared to deliver, effective parliamentary government.

## II: The 'decline' of Parliament

There is an imbalance in the relationship between Parliament and government. We have observed already that, in that relationship, the executive is not just dominant but overly dominant. In this section of our report, we address the reasons for the imbalance in the relationship. If we are to correct the imbalance, we need to know the causes in order to consider whether they can be addressed directly or whether the solution to strengthen Parliament is to be found in creating new or countervailing forces.

We have said already that we do not embrace the thesis of a 'golden age' of Parliament. The relationship has varied over time. On occasion in our history, Parliament has been a major actor in determining policy, but those occasions have been atypical and the circumstances cannot be recreated. What happened in the first Elizabethan era cannot be replicated in the second. We do, however, accept that there have been developments that have served to constrain Parliament's capacity to call government to account. Our purpose is to identify those developments. As we shall see, they are disparate, both in terms of origin and chronology.

We also recognise that the pressures have not always been in one direction. At various times, Parliament has acquired new means to challenge government. Some of the most significant advances have occurred in recent decades. The resources available to members of the House of Commons, enabling them to do their job more efficiently, have increased enormously since the latter half of the 1960s. The departmental select committees, providing the House of Commons with the means to scrutinise the several departments of government on a consistent and specialised basis, came into being just over twenty years ago. The House of Lords has brought into being specialised committees providing for informed scrutiny of European Union business and science and technology. It has also established an authoritative and highly influential committee to examine provisions for delegated legislation embodied in bills. Other changes have occurred in both Houses - the changes in the House of Commons in the Parliament of 1979-83 resulted in it being dubbed a 'reform' Parliament<sup>xiii</sup> - and others are in train or are under consideration. As we have said, we welcome a number of the recommendations made by the Select

Committee on the Modernisation of the House of Commons, especially those covering primary legislation and EU business, that are designed to strengthen Parliament.

A related point is that, though Parliament may not be able to call government fully to account, it is not lacking some of the resources to do so and, on occasion, makes use of them. In this there is nothing new. Parliament still retains members of the 'awkward squad', members who are willing to question ministers rigorously and persistently. Procedural opportunities remain for those members who wish to utilise them. Proximity to ministers, as well as custom and tradition, remain important. This point has been put forcefully by Professor George Jones, Professor of Government at the London School of Economics, in his evidence to us. Though we do not accept all of his analysis, we do go much of the way with him in recognising the current strengths of Parliament. We have acknowledged already the importance of culture and procedure. Lord Dahrendorf, in his evidence to us, also drew attention to those tasks that Parliament performs well.<sup>xiv</sup> Both Houses have shown themselves capable of questioning government, of forcing or persuading ministers to re-think their position and to amend legislation. The role of the House of Lords in revising legislation was one of the features stressed by Lord Dahrendorf. Much of the work of the two Houses is not necessarily high profile but collectively it is important. It makes a difference. Thus, we are not starting from a position of assuming a Parliament that is incapable of challenging government. Our premise is that Parliament could call government to account more effectively than it does at the moment.

We recognise also that not all the developments that have occurred have had only the intended consequences. The implications for Parliament of some developments have been decidedly double-edged. The provision of an office for each MP has provided members with space to get on with important work but it has also served to draw them away from the chamber. Some members also claim that the proliferation of committees has had the same effect. The televising of proceedings has helped open up Parliament more to the public. However, few people watch the BBC Parliament channel. Most are dependent on news and current

affairs programmes. The limited extracts that are shown in such programmes have not only robbed Parliament of some of its mystique but also have provided a distorted picture of what Parliament is about and what members of both Houses actually do. The implementation of the recommendations of the Select Committee on the Sittings of the House (Session 1991-92, HC 20), arguably geared more to the convenience of members, has served to constrict the parliamentary week, limiting the time available to challenge government on the floor of the House. In many respects, the chamber of the House of Lords is now a more active and vibrant chamber than the House of Commons.

We recognise the complexity of analysing the developments that have led to the present situation. We accept that our analysis may not be exhaustive, though we think it is sufficiently comprehensive to explain the essence of the problem. We also recognise the difficulty of devising solutions that are free of potentially negative side effects. Is it possible to make greater use of investigative committees without further denuding the chamber of members? Can members take on more tasks while maintaining their time-consuming constituency work? We have attempted to bear these problems in mind - in other words, to anticipate consequences - in crafting our recommendations.

The developments that have weakened Parliament can, for convenience, be considered in chronological order. We have touched already on globalisation in our introduction. We focus here on change that is specific to the UK. We address first the longer-term developments: the growth of party, of government business, and of organised interests. We then turn to more recent developments: partisanship, the growth of the career politician, concentration of power in Downing Street, the media revolution, constitutional change, and the de-politicisation of politics.

## The growth of party

Party is a central element of mass democracy. It helps aggregate the opinions of electors and serves as an essential mechanism for ensuring that those opinions

are given legislative effect. Parties are the focal points of elections and they ensure that the political system is responsible and responsive.<sup>xv</sup> Parties, particularly in a system that facilitates single-party government, limit the capacity of Parliament to determine public policy. The onus is on the party in government to bring measures forward and the party majority in the House ensures usually that there is a majority for those measures. Parties are the principal socialising agents for most members, they provide the essential reference point for members, and it is through party that members seek promotion to office.

We have already had cause to note the conflict inherent in the position of most members of the House, elected to sustain the government in office while at the same time expected to subject to scrutiny the very body they were elected to sustain. Since the latter half of the nineteenth century, the party in government has exploited the loyalty of its party majority to ensure that the government takes priority over the investigative capacity of the House. In the first half of the nineteenth century, investigative committees were used to examine issues such as the poor law, education and problems affecting trade. Party strength was employed to reduce the use and number of such committees. Governments came increasingly to rely on Royal Commissions. Since the late nineteenth century, the party majority has generally been wheeled out to negate attempts to strengthen the investigative capacity of the House. There have been exceptions but they are precisely that, exceptions.

Recent years have seen a strengthening of party control both outside and inside Parliament. Local autonomy in candidate selection has been eroded. Electors do not reward divided parties and both major parties have sought to impose greater control in order to eliminate internal conflict. The National Executive Committee of the Labour Party, in particular, has acquired significant powers, being able to impose candidates in by-elections and during a general election campaign. The Conservative Party has not been immune from similar pressures. Within Parliament, whips have acquired a new means of instant communication with MPs. The use of the pager gives MPs greater freedom to get away from the Palace of

Westminster - convenient for members but not necessarily reinforcing Parliament as a body of scrutiny. The use of the pager is a valuable tool of party management. It is probably no more important than the telephone but it is symptomatic of the changing relationship. If intellectual persuasion or appeals to party loyalty fail, the whips may resort to cajoling and threats, intimating what may happen to a Member's career and re-selection prospects if they fail to support the party line. In this there is nothing new - whips at various times have resorted to such techniques - but it is the use of such techniques in the context of the other developments we have identified that is important. Taken together, they have contributed to the perception, not least on the part of MPs, of a growing centralisation of party power.

## The growth of government business

Government has changed enormously over the course of the past century. The civil service grew enormously in the first three-quarters of the century, before experiencing a significant decline in the 1980s and 1990s. There are now just under 500,000 civil servants. Perhaps more importantly, government has become more complex and sophisticated. Government departments are often highly differentiated, with a large number of specialised branches or divisions. Many of the bills that government brings forward nowadays are large and technically complex measures. Massive bills of recent years have ranged from the Education Reform Bill of 1988 to the Financial Services and Markets Bill of 2000.

Parliament has had difficulty keeping pace with changes in the nature of government and in the volume of legislation. It has neither the resources nor, because of the hegemony of party, the will to subject government to effective scrutiny. The volume of public business has expanded over the years. At times - especially at certain times of the parliamentary year - Parliament has been in danger of being overloaded with business. Members of Parliament remain amateurs in the task of questioning government. Their

skills are essentially self-taught. Civil servants not only have many years of experience, they have the protection of size and anonymity. They are now learning management skills and are being trained through the Centre for Management and Policy Studies. New ministers are now receiving some training through the Centre. An amateur Parliament is expected to call to account a large, sophisticated, complex and at times secretive body, a body that more often than not has shown itself to be reluctant to entertain a more intrusive legislature.

Though there have been some notable improvements in what Parliament can do to call government to account - not least the creation of the departmental select committees and the establishment of the National Audit Office - Parliament has failed to keep abreast of changes in government. The growth of public business, both qualitatively and quantitatively, has generally outstripped the capacity of Parliament to keep pace with that growth.

## The growth of organised interests

The existence of interest, or pressure, groups is an integral feature of a pluralist society. They serve useful purposes both for supporters and for the political process. They can provide government and Parliament with advice, data and co-operation.

Pressure groups are a well-established feature of British politics. Their growth has been a notable feature of the past 150 years. The nineteenth century saw the development of trade associations and trade unions. The twentieth century has witnessed a major growth in more focused pressure groups. One directory of pressure groups published in 1979 noted that over 40 per cent of the groups listed had come into existence since 1960.

In historical terms, the growth of interest groups has strengthened government in its relationship with Parliament. Government has variously co-opted groups into the process of policy deliberation. Groups are regularly consulted on proposals; indeed, the

prompting may come from such groups. The consultation has been so well established that at one point the noted constitutional lawyer, Sir Ivor Jennings, suggested that the requirement to consult had attained the status of a constitutional convention. Departments continue to draw heavily on their contact with outside organisations. The relationship is now extensive and often institutionalised. There is a particularly close relationship with what Professor Wyn Grant has termed 'insider' pressure groups.<sup>xvi</sup> However, the consultation exercise engaged in by departments, especially on statutory instruments, is so extensive that the distinction between insider and outsider groups is sometimes difficult to draw.

The relevance for our analysis is that such consultation takes place away from the Palace of Westminster - Parliament was not and is not a party to such consultations - and that it enables government to present measures to Parliament on the basis that they have the agreement of the bodies affected by the measure. It is difficult for Parliament, lacking resources to challenge what government says, to do other than accept the government's word and pass the measure.

There has been some redressing of this imbalance in recent years. Interest groups now take a greater interest in Parliament. Parliament is more attractive as a result of the activities of departmental select committees. Groups have recognised that it is a channel for reaching ministers, especially useful when ministers appear disinterested in giving them a personal hearing. Lobbying by pressure groups has increased markedly. The effect of lobbying has been reflected in the growth in the number of all-party groups, frequently created on the instigation of pressure groups and serviced by them. There are now over 300 such all-party groups. This new activity, though, has not been cost free to members. MPs have difficulty coping with the burden of material sent by groups - some of which are indiscriminate in their mailing practices - and parliamentary committees cannot match the resources of government in their capacity to consult interested groups. All-party groups take members away from other activities. Whereas government can be and variously is proactive in its consultation, MPs rarely are. MPs themselves remain excluded from the government's consultation process.

## Partisanship

Party is an essential feature of modern politics and so too is partisanship. Candidates seek election to the House of Commons because they support a particular political philosophy. They are loyal usually to the party that espouses that philosophy. They argue their party's case. They are critical of those espousing an alternative philosophy. This is natural and usually healthy. It ensures that the views of the governing party do not go unchallenged and that an alternative government is always in waiting.

However, partisanship can be unhealthy, and undermine Parliament, where it becomes excessive, ritualistic and negative. Over recent decades partisanship has, more notably than before, exhibited these features. It has become more pervasive. Various elements of parliamentary life that were previously the preserve of the individual backbencher have become party-dominated.

Take, for example, Question Time. Previously an opportunity for backbenchers to raise particular substantive issues with government, it has become a party-oriented occasion. Once one side developed the practice of 'syndication' (the farming out of the same party-oriented question for tabling by several MPs) the other side responded. Attempts to curb the practice have generally proved unsuccessful. Farming out partisan supplementary questions is also now a common feature of Question Time. Instead of a serious questioning of ministers, what takes place on the government side of the House - and we concede that this is a practice that did not originate under the present government - is a stage-managed reading of texts by minister and backbenchers. In Prime Minister's Question Time, the 'open' question has supplanted substantive questions. Questions are more notably employed now for self-congratulation or for attacking the party opposite. Serious questioning on substantive issues is overshadowed, and undermined, by statements culled from party briefing notes.

Partisanship, at least in the House of Commons, has become essentially an exercise in scoring party points. Highly partisan points are sometimes followed by the noisy approbation of supporters (an elongated

'hear, hear') and noisy retorts from opponents. It does not serve to strengthen Parliament as a body that calls government to account. Nor does it strengthen Parliament in the eyes of electors. As a result of the broadcasting of parliamentary proceedings, partisanship is now much more visible to voters. There is survey evidence to show that viewers do not like it. One survey in 1993 found that 82% of those questioned thought that Prime Minister's Question Time sounded like 'feeding time at the zoo'.

Partisanship is, to electors, a pervasive characteristic of the House of Commons. The perception may not altogether be justified. There is much that takes place in the Palace of Westminster, in committees and all-party groups, outside the context of party. As we shall argue, partisanship may also constitute something of a ritualistic element of parliamentary life at a time when we are witnessing a de-politicisation of politics. Nonetheless, the extent and nature of partisanship limits the capacity of the House of Commons to question government in depth and to engage in constructive debate.

## Rise of the career politician

Career politicians are those who, in Max Weber's terminology, live for politics. They seek election at an early age and they seek to make their name in Parliament, preferring to remain in Parliament in preference to leaving to pursue a second career elsewhere. Career politicians have always existed in British politics. Indeed, they may be seen as an essential part of British politics. They bring commitment and sometimes remarkable skills. Many Cabinets would have been much the weaker without them. Our leading statesmen have been career politicians. In so far as there is a problem, it derives not from quality but from the consequences of quantity.

As Professor Anthony King and the political journalist Peter Riddell have argued, the number of career politicians has increased markedly in recent decades.<sup>xvii</sup> Though we believe that the extent to which the career politician now dominates may be exaggerated,<sup>xviii</sup> we accept that career politicians are a significant element of parliamentary life in Britain. Though such

politicians are often bright and dedicated individuals, we also accept the point, variously advanced in evidence to us, that the dominance of the career politician has some negative consequences for the House of Commons. We do not, though, accept the common view as to what those consequences are. Career politicians are portrayed as subservient lapdogs of the party leadership, a subservience - it is claimed - that was not apparent among MPs of yesteryear. It is not the case that MPs nowadays are, at least in their voting behaviour, more subservient to the whip than MPs of yesteryear. However, we believe that the prevalence of career politicians does make a difference in two respects.

First, career politicians tend to be major consumers of resources. The career politician frequently tables as many questions as permissible and tables and signs numerous Early Day Motions (EDMs). There has been a phenomenal growth in the number of parliamentary questions in recent decades. The more questions there are, the less impact each one has. The more EDMs that are tabled, the less notice that is taken of them. The career politician is usually keen to be seen in the House and in the constituency. Resources are consumed in generating a parliamentary profile. Research assistants are frequently employed to draft questions and to ensure that the answers are faxed to the local press. The career politician is keen to be obliging to constituency-based bodies and, indeed, to organisations with a plausible case they wish to raise. Meetings and exhibitions are arranged, questions tabled and amendments moved.<sup>xix</sup> More resources are consumed as the devices being employed are over-stretched and diluted in their effect. MPs are labouring under ever growing burdens. However, one major burden on the resources of the House of Commons is increasingly the MPs themselves, independent of external pressures.

Second, many - though by no means all - career politicians enter the House with limited experience outside the field of politics. The important point here is not simply who is elected but who is not elected. Election to Parliament appears to have lost its appeal to those who have established, or are establishing, themselves in business and careers outside politics. This point was well made in evidence to us by a leading City

businessman, Sir Nicholas Goodison. He stressed that there was little incentive for successful people in mid-career to seek election to the House of Commons.

Parliament benefits from members with a wide range of expertise and experience, including expertise that is maintained concurrent with service in Parliament. That is demonstrated clearly in the House of Lords. We believe that it is valuable for MPs to have outside interests, especially those that add to their store of knowledge and understanding. They are able to probe government in their areas of expertise. They are listened to by other members, including ministers, because of their expertise. Recent pressures to limit or jettison outside interests have done particular damage in recruiting and retaining such members. The House needs both its career politicians and its 'expert' members.

## Concentration of power in Downing Street

Strong prime ministers are not peculiar to the twentieth century. The nineteenth century saw some powerful holders of the premiership. Nonetheless, there is a perception that prime ministerial power has increased, that it has increased at the expense of the rest of government and that the prime minister is increasingly detached from Parliament. The thesis of prime ministerial government has been advanced for many years, not least in the 1970s and 1980s by Tony Benn. Lord Hailsham coined the phrase 'elective dictatorship' in the Dimpleby Lecture in 1976. The term referred to the government but many started applying it to the premiership. More recent years have been marked by claims of a growing presidentialism in British politics. The prime minister is becoming more detached from government, from party organisation and from Parliament.<sup>xx</sup> No. 10 Downing Street is seen as becoming, in effect, a separate element of government, the prime minister having his own 'mini government'.

The problem here is partly structural but, perhaps more fundamentally, is an attitudinal one. It is not so much how many people now work in No. 10 Downing Street, and the

committees and units that they run, but rather the attitude these people, and their political masters, take towards Parliament. If there is proper political control of their activities and those in political control take Parliament seriously, and freely answer to it, then there is no problem in terms of parliamentary accountability. The problem is one of ensuring that such an attitude towards Parliament does exist.

Evidence of prime ministers taking Parliament less seriously than before is to be found in the amount of time they spend in the House of Commons. Proximity is important and prime ministers are now relatively infrequent attenders.<sup>xxi</sup> 'Prime ministerial activity in the Commons has decreased overall and narrowed down to a few forms of participation, especially the now highly formalised and very brief prime minister's question time.... These results establish unequivocally that the direct parliamentary accountability of the prime minister has fallen sharply over the whole period since 1868, and that this change has accelerated in the last decade and a half.'<sup>xxii</sup> The present incumbent, Tony Blair, has a particularly poor record of attendance.<sup>xxiii</sup> He is rarely in the House, even for the purpose of voting. This would not matter so much if a decrease in the amount of time devoted to Parliament by the prime minister, and his predecessors, was matched by an increase in the amount of time devoted to it by other ministers. Again, though, the evidence suggests there is no such development.

## Constitutional change

The United Kingdom has witnessed major constitutional change over the past thirty years. Membership of the European Community (now the European Union) in 1973 added a new dimension to the British constitution. Referendums have been employed to confirm decisions. Powers have been devolved to elected bodies in different parts of the United Kingdom. The European Convention on Human Rights has been incorporated into British law. These changes have been approved by Parliament. They also have consequences for Parliament. They have created a new judicial dimension to the constitution. They have served, *de*

*facto* if not *de jure*, to limit the doctrine of parliamentary sovereignty. They have moved decision-making competence to bodies with which Parliament has no direct relationship. Formally, Parliament could repeal the 1972 European Communities Act and the 1998 Scotland Act, but in practice is unlikely to do so. Parliament thus faces self-imposed restrictions on its (formally unfettered) sphere of competence.

Decisions may be taken in the Council of Ministers against the wishes of the British government and Parliament. Decisions may be taken by the Scottish parliament on a wide range of devolved matters. The courts will shortly be in a position to issue statements of incompatibility, drawing Parliament's attention to legislative provisions that conflict with the European Convention on Human Rights. Though formally able to ignore such statements, it is unlikely that Parliament will do so. A combination of membership of the European Community/Union, the passage of the Scotland Act and the Government of Wales Act (both of which require interpreting and policing) and the incorporation into British law of the ECHR make the courts powerful actors in the political process. Parliament no longer enjoys the omnicompetence that it once did.

There are also less central but nonetheless important changes to the constitutional infrastructure. The latter half of the century has seen a decision-making capacity vested in non-elected bodies. Non-departmental public bodies (NDPBs), more commonly referred to as quangos, are a feature of public administration. The Labour government, elected in 1997, has sought to develop policy proposals through the use of task forces. One recent study identified 295 task forces and similar bodies created in the first eighteen months of the government.<sup>xxiv</sup> Legislation has been enacted creating Regional Development Agencies (RDAs).

Other changes to the constitution are under consideration. The changes implemented and proposed are notable for being treated by government as essentially disparate and discrete. There has been little attempt to anticipate the consequences of one change for another and little attempt to think through the consequences for Parliament. The position is well summarised by Peter Riddell: 'Many of these proposals tend to be viewed in

isolation, with little attempt to relate them to their implications for the position of Parliament - and, in particular, of the Commons - but, in practice, many would have a much wider impact.<sup>xxv</sup>

The result is that Parliament has had to consider the implications on an *ad hoc* and reactive basis. Various changes have been made to structures and procedures. Both Houses have committees to consider proposals for European business; that of the House of Commons goes for breadth, that of the House of Lords for depth. There are now three European Standing Committees in the House of Commons to consider EU documents referred to them. A joint committee is to be established to consider human rights. The consequences of devolution have been addressed by the territorial committees of the House and by the Procedure Committee.

We shall consider, in due course, whether more can be done to strengthen Parliament's scrutiny in these areas. For the moment, our purpose is to identify the principal changes that have occurred in the constitutional framework and their implications for Parliament. These changes have moved the locus of decision making away from the British government to bodies beyond government. These are bodies largely beyond the formal reach of Parliament.

## The media revolution

There have been phenomenal changes as a result of technological development. The growth of the internet has major implications, including for Parliament. Only now are both Houses of Parliament starting to get to grips with this development. Our focus here is the media revolution - in effect, the harnessing of the new technology by the mass media. One consequence has been a 24-hour news service. There are now more diverse news media and they compete for viewers, listeners or readers on a continuous basis. This 24-hour service drives the political agenda. Politicians compete to set the news agenda for the day. More and more demands are made of politicians, channelled through means of instant communication. Politicians are both proactive and responsive. There is a

greater tendency to exploit, and to be exploited by, the media. 'Spin doctoring' has become a particular art of exploitation.

The media revolution has benefited government but not Parliament. The media focus on government rather than Parliament. Ministers use the media for making policy announcements. Though parliamentary proceedings are now broadcast - and more journalists are to be seen in the Palace of Westminster than previously - the media have shown little interest in either chamber as an arena of national debate and even less interest in the work of committees. There is now less coverage of parliamentary stories on television than there was a decade ago.<sup>xxvi</sup> Though some broadsheet newspapers have reverted to publishing parliamentary pages, the focus has shifted over the years from the parliamentary reporter to the sketchwriter. What MPs do in the chamber is frequently of less interest than what they are willing to say to camera, either in the studio or on Abingdon Green.

The exploitation of the media by ministers has been at the expense of Parliament. An interview on the BBC Today programme reaches a mass audience, is not subject to questioning for 30 or 40 minutes, and helps set the agenda for the day. Despite frequent reprimands by Madam Speaker, ministers are often reluctant to wait until the House meets in order to make a statement.

Parliament itself has not been blameless in this development. Whereas government has been keen to exploit the opportunities afforded by the media revolution, Parliament has not. The House of Commons has shown a particular reluctance to make changes to attract and accommodate media coverage. The Commons was behind the House of Lords in admitting the television cameras. Even after they were installed, various restrictions were imposed on coverage and camera angles. A number of restrictions remain. Only recently have reporters in the Press Gallery in the Commons been given permission to use dictaphones, something already permitted in the Upper House. Parliament still has a lingering distrust of the media, a distrust that in earlier centuries prevented publication of its proceedings and which, more recently, has resulted in limited access to the Palace of Westminster for reporters and camera crews.

## De-politicisation

Debating public policy is a crucial part of any democracy. Competing policies have to be probed and debated. Parliament provides the authoritative arena for such debate. Political parties ensure that critical debate takes place. As we have seen, the growth of party limits the capacity of Parliament to determine policy independent of government. At the same time, parties are crucial for prompting regular and critical debate. Though the growth of party may have helped ensure that government will normally get its way, the growth of the party system has ensured that government is subject to critical scrutiny before it gets its measures approved. Parliament provides a vital arena for the clash of ideas, where one party can challenge the proposals of another.

Though partisanship is, as we have seen, a problem, we detect an almost paradoxical situation where the partisan clash remains the public perception but, is in fact, superficial, with the reality being one of the de-politicisation of politics. This de-politicisation takes two forms. One undermines both government and Parliament. The second is to the advantage of government. There is some element of de-politicisation because of the growth of single-issue pressure groups. Such groups increasingly absorb the energies of those wishing to influence public policy. Many groups seek, as we have seen, to influence government and are willing, indeed keen, to engage in political activity. Some, however, eschew political debate, preferring instead to employ direct action or simply to make their mark by demonstrations. There is no reasoned discourse. Such activity undermines the political process.

There is a different form of de-politicisation because of the actions of government. Managerialism has blossomed at the expense of political debate. Government variously hives off decisions to bodies that operate outside the ambit of political debate. Committees or commissions are established to act as expert or neutral bodies. The use of such bodies is not peculiar to the present government (and, as we shall see, there are other elements of de-politicisation that pre-date the present administration) but the scale of their usage does appear distinctive. There is obviously a case to be made for trying to

reach a consensus on issues of public policy - and in some areas it is crucial to do so - but there is an inherent danger if, in trying to do so, it involves taking the politics out of public debate. The diminution of political debate favours the existing regime. It renders the government less likely to be subject to extensive and critical scrutiny.

As well as this apparent attempt by government to de-politicise politics, there is a de-politicisation as a result of institutional change within Parliament itself. We acknowledge that some critics would argue (as, in the past, both Enoch Powell and Michael Foot argued) that the setting up of select committees creates something of a de-politicising of Parliament. There is a shift from debating ends in the chamber to the consideration of means in committee. The implementation of the Jopling Report - which also pre-dates the present government - has, by reducing the number of sitting hours, limited the role of the chamber as a political debating arena. The use of sittings in Westminster Hall may also be seen as part of this process.

The grand clash of politics, the public debate between politicians with competing ideologies, has given way to a more managerial approach, with business hived off to bodies that operate away from the glare of publicity. Where this non-party mode of legislative-executive relationships supplements the existing inter-party mode - in other words, where there is an active committee structure *and* a vibrant chamber - there is no problem; quite the reverse. However, where the emphasis on the non-party mode supplants the role of the chamber, then there is a problem. The de-politicisation of politics and of the parliamentary process is a boon to government, removing or at least diminishing the opportunities for its policies and actions to be subject to critical scrutiny on a regular, structured, open and accountable basis.

## CONCLUSION

What emerges from this analysis is that there is no simple explanation for the present imbalance in the relationship between Parliament and the executive. The problem is substantial and a number of developments are irreversible. The scale of the problem

requires a radical response. The ratchet-like effect of some of the developments means that it is not possible simply to reverse the changes that have occurred. Some may be tackled directly. Others cannot. Consequently, changes are needed that are both substantial and, in many instances, innovative.

## III: Programme for Action

The need to strengthen Parliament is clear and urgent. We believe that a 'big bang' approach is necessary. This does not entail one big, single reform. Nor does it entail change that may be ideal but politically impossible to achieve. Rather it entails implementing, in one Parliament, an extensive package of reforms that are both radical and achievable. Their effect will be to transform Parliament. The 1979-83 Parliament was dubbed a 'reform Parliament'. We want to see the next Parliament become the 'great reform Parliament'.

Parliament has to be strengthened through reform within the institution. New structures and processes are vital for enhancing parliamentary scrutiny of legislation. Changes are needed to give new life to financial scrutiny. Government has to work within more rigorously defined limits. Parliament has to adapt to constitutional change. The link between citizen and Parliament has to be strengthened through greater openness.

### Strengthening Parliament

#### THE HOUSE OF COMMONS

Given that the House of Commons is not a monolithic entity, changes are essential to revitalise

- The Chamber
- Committees
- The Opposition
- Parliamentary parties
- The Member of Parliament

The Chamber has to be restored to its position as the indisputable arena in which government can be challenged and embarrassed. We do not envisage more hours devoted to the floor of the House. The change we wish to see is qualitative rather than quantitative. The MP has to be brought back to the chamber. So too does the minister. We have a range of recommendations designed to achieve this. We wish to see Prime Minister's Question Time restored to twice-weekly events, each of thirty minutes. This will help restore Thursday

as a major parliamentary day and, of necessity, draw the head of government more into Parliament. We favour a wider reform of Question Time, moving the emphasis from breadth to depth. We advocate substantial changes in the arrangement of parliamentary business, with more short debates and with more of the parliamentary timetable being in the hands of committees of the House. We propose a number of changes that will strengthen the link between select committees and the chamber. We favour various incentives designed to make parliamentary life more attractive to the back-bench MP.

Committees are the vital tools of detailed scrutiny. We want to see strengthened committees and a revitalised chamber. The two must go together. The appointment of select committee members must be taken out of the hands of the whips. We want to see a change in the formula for appointing select committees. We favour giving select committees more resources and greater opportunities for bringing issues to the floor of the House. We see a greater role for committees in the scrutiny of the government's spending plans. We want to see a number of new committees brought into being, including a Public Audit Committee and a Petitions Committee. We believe that the use of special standing committees for examining bills should be the norm, not the exception, in the House of Commons. We recommend that the House of Lords also extends its use of scrutiny through committee, making regular use of select committees prior to committee stage of a bill. These changes form a central part of a wide range of reforms we propose to the legislative process.

The Opposition provides a structured and regular challenge to the measures and actions of government. An effective Opposition is essential to a healthy political process. We favour providing greater, but more clearly targeted, resources for opposition parties, enabling them to appoint small teams of specialists and researchers and to commission independent research. We believe that the existing method of allocating funds - the 'Short money' - should be reformed to distinguish between opposition parties and the back-bench organisation of parliamentary parties.

Parliamentary parties provide the means for

members to communicate with - if necessary, question and challenge - their own leaders. Intra-party dissent can be more effective than the normal run of inter-party conflict. We favour providing the means to strengthen the internal organisation - in effect, the back-bench element - of parliamentary parties. Back-bench committees are under strain and we believe that the provision of relatively modest resources, to assist with organisational tasks, could provide a major boost to back-bench activity within the parties. We favour other changes designed to make back-bench committees more attractive to members than the growing plethora of all-party groups.

The Member of Parliament is the key ingredient to an effective Parliament. There is no point strengthening the House of Commons if MPs are unable or unwilling to exploit the opportunities afforded by such change. The MP has to find questioning government as attractive as the call of party loyalty or the lure of sitting on the front bench. We favour creating incentives designed to make parliamentary activity more attractive to the back-bench MP. We advocate an alternative career structure to that of front-bench service. We believe that the chairmen of departmental select committees should have the salary and incidental support equivalent to a minister of state. The chairmen of certain committees, such as the Public Accounts Committee, should have the same salary as a Cabinet minister. Each committee should also have a vice-chairman and be empowered to create sub-committees. We believe that the attractions of a career in the House will be enhanced by a reduction in the number of ministers and ancillary governmental posts.

We also favour training courses for new, and indeed continuing, MPs. MPs cannot make effective use of parliamentary tools of scrutiny if they do not know what they are or how they can be exploited. Committee members will benefit from training in forensic questioning. Many members may benefit from guidance in time management. Technological advances mean that much training can be available through the parliamentary intranet. We believe that electronic technology should be exploited rigorously to the benefit of MPs and, as we shall see, to the benefit of their constituents. We also believe that incentives should be accompanied by a reduction in

some of the routine burdens on MPs.

## THE HOUSE OF LORDS

The House of Lords fulfils a vital role as a revising and scrutinising body. It adds value to the political process. Whatever reforms are implemented in terms of composition, these vital roles must be maintained. We are keen to see it build on its existing strengths. We recommend that it expand its existing complement of expert committees. We believe that it has a particular role to play in monitoring and making recommendations on constitutional change. We envisage a committee working through sub-committees on issues such as devolution. We also believe it has a role to play in scrutinising cross-cutting subjects such as social policy and macro-economic policy. As we have noted already, we recommend that it make use of its power to remit a bill to a select committee for examination prior to the normal committee stage on the floor of the House.

## Legislative scrutiny

Parliament is at its weakest in scrutinising legislation. It needs new tools to examine primary, delegated and European legislation.

*Primary legislation* suffers from inadequate scrutiny in the House of Commons. Existing processes are simply not up to the task. We would like to see the publication of draft bills as the norm, not the exception. They should be sent to departmental select committees, which will then be free to engage in pre-legislative scrutiny. After second reading, bills should stand referred - unless the House votes otherwise - to evidence-taking special standing committees. We recommend changes in the way in which members are appointed to standing committee. As we have said, we favour the House of Lords playing to its strengths and using its power to refer bills to select committees prior to committee stage. We also favour some bills, especially bills that cut across normal departmental boundaries, being considered by a joint committee of both Houses.

Parliament has experimented with the carry-over of bills from one session to another. We believe that this should be the norm, not the

exception, subject to the proviso a bill must be enacted within fourteen months of the date of its second reading. This will permit more structured scrutiny and a more efficient distribution of the parliamentary workload. Not only will it prevent the bunching of standing committees at a particular time of year, it may reduce the volume of poorly-drafted legislation that is now a feature of the legislative process. We also believe that a committee of a House, a Legislation Programme Committee, should determine on what days the stages of a bill should be taken.

Too little scrutiny is undertaken of the effect of legislation. Departmental select committees should be encouraged to engage in post-legislative scrutiny. In another part of our report, we recommend providing departmental select committees with a research budget. It will be up to the committees if they wish to commission studies of the impact of a particular measure. We also believe that there may be a particular role for the House of Lords in engaging in post-legislative scrutiny, appointing committees for that purpose.

*Delegated legislation* is also subject to inadequate parliamentary scrutiny. Parliament has failed to keep pace with the phenomenal growth in the number of statutory instruments. The House of Lords now has in place a mechanism for examining bills to determine if provisions for delegated legislation are appropriate. It does excellent work. There is an urgent need for effective scrutiny of statutory instruments, in other words of delegated legislation introduced under existing legislation. We recommend major changes in the process by which Parliament considers delegated legislation. We favour the practice of statutory instruments being published in draft, the use of a 'sifting' committee to consider the merits of statutory instruments and for instruments to be considered in committee on substantive motions. We also recommend the use of conditional amendments, allowing Parliament to reject statutory instruments while indicating what would be acceptable if the instrument was to be re-laid.

*European legislation* is subject to scrutiny that, in many respects, is better than that undertaken in the parliaments of most other Member States of the European Union. The

role of the two chambers is complementary. Nonetheless, there is a need for substantial improvement. We recommend that the scrutiny reserve should be embodied in statute. We want to see a strengthening of the existing European Standing Committees and of the link between those committees and the floor of the House. We believe that responsibility for scheduling floor debates should rest with a Legislation Programme Committee rather than with government. Departments sometimes add new provisions to, or make more stringent, the measures to give effect to European directives. It is not unknown for departments to introduce measures to give effect to directives earlier than is actually required under the directives. We propose changes in legislative procedure to identify and deter such practices by government.

## Financial scrutiny

Existing methods for examining the government's tax-raising and spending plans are inadequate to the task. We favour tax-management measures being introduced independently of the Finance Bill. We also support the creation of a tax reform committee on which some MPs would serve. We advocate the main estimates being referred to departmental select committees, each committee to make a report to the House and to have the power to recommend the transfer of funds from one heading to another.

We also recommend that the work of the Audit Commission be brought within the remit of Parliament, the reports of the Commission being considered by a new Public Audit Committee. This will ensure that spending by all public bodies is brought within the purview of Parliament. We also believe that a national statistics office should be established, under a director who serves as an officer of Parliament. This will have particular benefits for ensuring the accuracy and impartiality of economic statistics, but the benefits will be much wider.

## Constraining government

Government is too large, pervasive and

unconstrained in its conduct of public business. Not only has the number of ministers grown but recent years have also seen the emergence of the 'extended government'. Ministers have a plethora of advisers and groups to draw on. This has negative consequences for Parliament and, we believe, for government. A bloated government is an inefficient government. We favour a lean and accountable government. We advocate a reduction in the number of ministers. We believe that the size of the Cabinet should be capped at 20. More significantly, we favour a reduction in the number of junior ministers by one-quarter and a cap on the number of parliamentary private secretaries.

We also favour greater discipline in terms of the government's legislative programme. Introducing a structured parliamentary timetable - with an established pattern of sittings - will force the government to be more discriminating in deciding what measures to bring forward each session. We also believe that the time has come for the timetable of the House of Commons to be agreed by a Legislation Programme Committee, to which we have already referred. This committee will be similar in status and political composition to the House of Commons Commission.

Ministers are too prone to act with little regard for Parliament. We recommend that both Houses of Parliament should resolve that any announcement of public policy, requiring legislation or substantial expenditure, should be made by ministers to Parliament and that the Ministerial Code be strengthened. We favour the prime minister appearing twice a year before a committee of the House. We also propose that Parliament appoint a Parliamentary Investigations Officer. The officer would be a servant of Parliament, similar to the Comptroller and Auditor General, and would investigate cases where information is withheld from Parliament. We envisage the officer having access to departmental papers and being able to report whether access has been justifiably withheld.

Civil servants also act on occasion with disregard for Parliament. We believe civil servants should receive more training in the processes and requirements of Parliament. We recommend that the Civil Service Code should be amended, requiring officials to ensure that material to which MPs are entitled

is supplied promptly and as fully as possible. Permanent secretaries will be responsible for ensuring compliance.

We believe these changes should be complemented by others that limit the power of government within Parliament. The allocation of accommodation should be taken out of the hands of the whips and given to a committee of the House.

## Constitutional change

Whatever the merits of recent constitutional changes, they constitute the political reality. They impinge on Parliament. They limit Parliament. Parliament has to adapt to these changes. We believe that Parliament has a major role to play in monitoring these developments.

Parliament has already created procedures to examine EU business. The House of Commons has agreed a number of changes to take account of devolution. Statutory rules are being introduced for the conduct of referendums. Parliament is to be asked to establish a Joint Committee on Human Rights. We believe further changes are necessary. We have outlined further changes to parliamentary scrutiny of EU business. We warmly endorse the recommendation of the Royal Commission on Reform of the House of Lords that the second chamber should establish a Constitutional Committee to consider the constitutional implications of legislation and keep the operation of the constitution under review. This is a vital task and one that will allow the Upper House to play to its strengths. We also advocate a major review of the relationships that exist within the constitutional framework of the United Kingdom, conducted on the basis that Parliament is the core institution linking citizen and government.

We believe that substantial change is necessary to take account of devolution. We believe that the House of Lords has an especially important role to play in monitoring the relationship between the different legislative assemblies in the UK. Most significantly, we favour a new procedure for dealing with legislation that solely affects England. We believe that a bill certified by

the Speaker as a bill affecting England exclusively (or England and Wales exclusively) should stand referred to a bill grand committee, to meet in the chamber and comprise all MPs from England (or England and Wales), and then to a standing committee comprising MPs drawn, proportionate to party strength, from English (or English and Welsh) constituencies. The bill, if reported from the committee, is taken for its report stage in the bill grand committee, meeting in the chamber. The bill will then go for third reading. We expect a convention to develop at this stage, that MPs from those parts of the UK not affected by the bill will not take part in any division.

## Greater access to Parliament

We favour strengthening the links between the citizen and Parliament. We want to see the new technology utilised to enable MPs to deal with constituency work more efficiently and to enable them to have greater contact with citizens. We recommend an increase in the MP's office cost allowance, with a part ring-fenced for employing constituency staff. In the longer term, we look to greater knowledge of alternative grievance-chasing agencies, such as citizens' advice bureaux, and a strengthening of local government, as ways of reducing the excessive burden of constituency casework carried by most MPs.

We want to build the link between citizens collectively and Parliament. We support the creation of a Petitions Committee. Petitions sent to Parliament enter a black hole. We recommend that petitions be considered by a Petitions Committee, with power to refer petitions to the appropriate select committee or to undertake enquiries of its own.

Parliament needs the oxygen of publicity. Media coverage of its proceedings offers some political leverage. We favour greater access for the media to the Palace of Westminster. Rather than MPs trooping over to 4 Millbank (the Westminster base for broadcasters) we favour creating incentives for Millbank to come to Westminster. There should be greater access and more facilities available to them. We would like to see something of a culture shift in the attitude taken towards media access to the Palace.

Parliament should be a far more open institution.

## Moving ahead

We believe that our recommendations are politically feasible. They can be implemented early in the lifetime of a Parliament. Taken together, they will shift the balance in the relationship between Parliament and government, providing Parliament with the capacity to call government effectively to account. The present situation cries out for Churchill's famous stipulation: 'action this day'.

Our recommendations should be seen as essential but not exhaustive. Once in place, they should be subject to review. In the longer term, Parliament should move beyond these recommendations. The number of MPs will fall, though not dramatically, as a result of devolution. We favour waiting for our reforms to bed in before implementing a further reduction. Once the changes have been implemented, we see a case for reducing the number of MPs. There is a persuasive case for reducing the size of the House to at least 500 members. We recommend that the government introduce legislation providing for a staggered reduction.

In the longer term, we also favour examining other radical changes. There may be a case for emulating those legislatures that refer bills to committees before considering them on the floor of the House. Such a change may be too much of a culture shock to achieve in the near future. However, we believe that it is worth bringing on to the political agenda. It may be argued that, if our recommended changes are successful, the need for such consideration may be reduced. Conversely, if our recommendations are successful, they may encourage Parliament to go even further in implementing procedures to exert even greater influence over government legislation.

Crucially, Parliament must be forward looking. It has to grasp the nettle if it is to call government to account. There has to be the political will to implement the changes we have recommended. If that does not exist, there is little or no hope of achieving effective parliamentary scrutiny.

# IV: Our recommendations in detail

## THE HOUSE OF COMMONS

### The Chamber

The House of Commons is both a legal entity and a meeting place. The two come together in the chamber. The chamber provides the central authoritative public forum in which government has to answer for its actions. There is no comparable body. If the chamber is allowed to atrophy, as it has been, then it undermines the health of the parliamentary system. It is vital, therefore, that the chamber is revitalised as the arena in which government is effectively probed, challenged and forced to explain itself. There are various ways in which this can be achieved.

We believe that the key to achieving this revitalisation is bringing ministers and back-benchers back to the chamber. There are many competing demands on MPs' time. Our solution is not to add to those demands by adding to the time that the House meets, but rather to use existing time to make what goes on in the House more attractive to members.

We believe that the chamber will benefit substantially from changes to Prime Minister's Question Time, to Question Time generally, and to the way it orders its business.

**Prime Minister's Question Time.** *We recommend that there be two Prime Minister's Question Times each week, each of 30-minutes. This is to take both present and past practice and merge the two. We recommend also some changes in the format. We recognise the value of the 'open' question. It allows MPs to raise topical issues and to try to catch out the prime minister. It is popular with members. However, we recognise its limitations. There is no consistency in questioning and it encourages partisan point-scoring of a sort that undermines rather than enhances the reputation of the House. We believe that there is much of value in the 1996 report of the Commons Select Committee on Procedure on Prime Minister's Question Time and much that the House can learn from the practice of the House of Lords. We recommend that the number of Questions to the Prime Minister appearing on the Order Paper be limited to a maximum of five, that the questions be 'closed' rather than 'open',*

and that last question on each occasion be a 'topical' question. We believe that Questions should be tabled at least five (rather than the present ten) working days in advance, with the exception of topical questions, which should be submitted up to 12 noon on the day preceding the Question Time.

There will be time and political costs involved in these changes. However, they will not be great. The time devoted to preparation by the prime minister will be similar to that taken by previous prime ministers when preparing for two question times each week. Back-benchers, who have been the biggest obstacle to the use of 'closed' questions, will lose a power (that of catching the prime minister out) which has rarely proved to be a power at all. The two notable occasions when it has occurred in the past twenty years could equally have occurred during supplementaries to closed questions.<sup>xxvii</sup>

The advantages of these changes are several. The prime minister will spend more time in the House. MPs will have a greater opportunity to question him. Holding PMQs on Tuesdays and Thursdays, as with the pre-1997 practice, will restore Thursday as a major parliamentary day. 'Closed' questions - reverting to the original practice when Prime Minister's Question Time was first introduced - will allow a particular topic to be pursued in some depth. It will also prevent the prime minister being thrown a helpful supplementary unrelated to the preceding supplementary. Topical questions will meet the desire of MPs to raise issues of immediate concern. We recognise that these changes will constitute something of a culture shock to both Downing Street and MPs but we believe that the effects will be wholly beneficial to the House.

*We also recommend that these proposals are embodied in the Standing Orders of the House.* This will not make them immune to change but it will ensure that the House has the opportunity to consider and approve any proposed changes. It is unacceptable that changes are made, as they were in 1997, by a unilateral and precipitate declaration of the prime minister.

**Question Time.** There is a tendency in Question Time to try to get through as many questions as possible in the time available. We believe that the emphasis should be on depth rather than breadth, allowing the House

to pursue a particular Question in some detail before moving on to the next question. The House of Lords permits no more than four questions in its daily Question Time, which lasts for up to 30 minutes. This allows for a question to be pursued for approximately seven to eight minutes. Ministers have to be well briefed in order to answer several supplementaries from often well-informed peers. A number of MPs in their evidence to us have commended the practice of the Upper House. We concur with their assessment. *We recommend that no more than ten questions appear on the Order Paper for each Question Time, with the number reduced by one in every five minutes lost in shorter periods.* (Thus, there would be five questions in the first thirty minutes on a Tuesday and Thursday, followed by the five questions to the prime minister.) *To prevent attempts to monopolise Question Time with particular questions, we recommend that no duplicate questions be permitted on the Order Paper.* This should ensure that a range of issues is covered. It may also have the advantage of encouraging members to draft their own questions, rather than relying on standard questions from the whips and back-bench committee officers, in order to maximise their chances of putting down a question not likely to be duplicated.

We also agree with those members who have advocated reducing the number of days required to give notice. This will ensure greater topicality. *We recommend that the period of notice should be reduced from ten to five sitting days.* We also favour a change that will make asking a question more relevant to an MP as well as limit the lobbing of a friendly or distracting final supplementary by a primed government backbencher. *We recommend that the last supplementary on a question is given to the MP asking the question.* The MP thus gets the last as well as the first bite of the cherry.

**Arrangement of business.** We favour a major change in the arrangement of business, in the format of proceedings, and in the control of the parliamentary agenda. Debates are often too long, predictable and, frankly, of little interest. We believe that there should be greater flexibility as to timing. Some debates can be shorter. The longer the debate, the more the law of marginal returns - and of an emptying chamber - sets in. We believe the government will be subject to greater scrutiny

if debates are shorter in length but greater in number, with more debates chosen by a committee of the House. *We envisage that some Second Reading debates could conclude at 8.00. or 9.00 p.m. We recommend that half-day debates be time limited, both in terms of the length of the debate and the length of individual speeches.* If the first debate is time limited to three hours and the second to two, then this will usually create additional time for other business. The House of Lords has provision for Unstarred Questions, which constitute short debates - lasting for 60 or 90 minutes - on a particular question. *We recommend that the House experiments with Unstarred Questions, as exist in the House of Lords.* We would suggest that, initially, a 90-minute Unstarred Question, running from 9.00 to 10.30 p.m., replaces the existing half-hour adjournment debate on a Wednesday. The topic will be chosen by ballot. As in the Lords, those members wishing to take part should sign up in advance with the time divided between the number taking part. The greater the number taking part, the less time each one will have; we think this will act as a deterrent to too many members signing up. Unlike in the Lords, the Speaker will determine the running order and should have the power to determine if there should be a limit on numbers.

*We also endorse the recommendation of the Liaison Committee that half-an-hour, following Question Time, on a Tuesday be given over to discussion of a recent select committee report, with each speech limited to five minutes.* This ties in with our aim, discussed later, of strengthening the link between select committees and the chamber. We also believe that there should be greater opportunity for short debates on issues of immediate importance. There is provision under Standing Order No.24 for MPs to seek leave for an emergency debate. However, as the latest *Sessional Information Digest* laconically notes, 'the Chair in general gives leave very seldom'. During the 1998-99 session, there were three applications, none of which was successful. *We recommend that there should be provision for MPs to request short 60-minute emergency debates, these debates to take place at the start of public business on the following day.* Given the need for a quick decision, responsibility for granting such debates should remain with the Speaker. Standing Orders should be

amended to provide less restrictive criteria than presently apply for emergency debates. We do not envisage such debates taking place frequently, but we do envisage them taking place more often than emergency debates under the present arrangements. The fact that such short debates may be granted should serve to keep government on its toes. The less the government is in control of the parliamentary agenda, the less it can take the House of Commons for granted.

One of the most striking pieces of evidence we received was from Dr Thomas Saalfeld, of the University of Kent, on the extent to which the government controls the parliamentary agenda. That control is marked compared to other countries. We believe that the House should move closer to the practice of other legislatures, giving itself greater control over what it discusses. This, we think, will generate a greater range of debates as well as ensure that some matters are raised that government, and perhaps the opposition, may not wish to be raised. The evidence presented to us by Dr Saalfeld shows that this change can be achieved without undermining the government's capacity to get its legislation. *Given this, we strongly endorse the recommendation of the Liaison Committee that the Liaison Committee should select the select committee reports for discussion on a Tuesday, in addition to selecting (as it does now) the reports to be debated on days given over to committee reports.* The Liaison Committee will comprise one of two committees with responsibility for deciding the timetable: the other, a Legislation Programme Committee, will have responsibility for bills.

*We believe that speeches in most debates should be time limited.* We welcome the recent moves towards more time-limited speeches. We wish to see the practice taken further. Again, the practice of the House of Lords has been commended to us. Andrew Tyrie MP has been a notable advocate. MPs can already receive some indication from the Chair as to when they are likely to be called. We believe this practice should be formalised with MPs signing up in advance and for a speakers' list to be published shortly before a debate begins. As in the Lords, this list can indicate the maximum length of each speech. Unlike in the Lords, the Speaker will have responsibility for the list, thus determining

who (and how many) is on it and in what order the names appear. The result, we believe, will be snappier debates, opportunities for a good number of members to participate and with less frustration on the part of MPs who sit around wondering if they will be called. We recognise that allowance will have to be made ('injury time') for interventions to speeches. These recommendations will not apply to the committee stage (when taken in committee of the whole House) and report stage of bills, when members - as now - intervene as they think appropriate to offer their views on particular amendments.

Some of our other recommendations also affect the business arrangements. *We endorse the recommendation of the Liaison Committee that there should be six days set aside for debate of select committee reports, in addition to the short debates on Tuesdays.* More dramatically, our proposal for a fixed parliamentary year - discussed below - also has major implications for the amount of business, primarily government business, that can be transacted.

Some of our proposals are modest, others are substantial, representing a major shift away from existing practices. We believe that, taken together, they will transform the quality of proceedings on the floor of the House.

## Committees

Committees are vital adjuncts to the work of the House. We want to strengthen the existing departmental select committees, we want to see a radical overhaul of standing committees, and we want to see new committees introduced in both Houses. We will address the need to reform standing committees in our section on legislation. Here we focus on departmental select committees and on new committees.

**Departmental select committees.** The departmental select committees introduced in 1979 have been a major success. However, in terms of parliamentary scrutiny, they represent the classic half full, half empty bottle. We wish to see the bottle brimming at the top. The report of the Commons Procedure Committee in 1990, on the first ten years of the select committees, was a lost

opportunity. It has taken a further ten years for another committee, the Liaison Committee, to come up with a wide-ranging set of proposals for strengthening the committees.<sup>xxviii</sup> We warmly welcome the report of the Liaison Committee and we endorse its proposals.

*We believe that the appointment of committee members should be taken out of the hands of the whips.* Various MPs and former members have, in their evidence to us, drawn on their experience to demonstrate the influence of the whips and its undesirable consequences. The Liaison Committee has summarised these as a delay in appointing committees at the beginning of a Parliament, delays in replacing members, and keeping certain MPs off (or removing them from) committees. We also have evidence of the whips exerting influence in the election of committee chairmen. The Liaison Committee has recommended that it, the Liaison Committee, be reconstituted as a Select Committee Panel, headed by a Chairman of Committees and two Deputies. These officers would be appointed by the House at the beginning of the Session, with members added as they become chairmen of select committees. We strongly endorse that recommendation. The basis for vesting such power in the proposed Panel is clear and well expressed by the Liaison Committee. It puts the power to select members in the hands of a body of senior, and fairly independent, Members of Parliament, usually quite capable of resisting pressure from the whips. The Chairman and Deputy Chairmen would be appointed at the same time, and after similar consultation, as the Chairman and Deputy Chairmen of Ways and Means; we would envisage them having a similar status and salary. The Liaison Committee has proved to be an authoritative and independent body of the House and we have no hesitation in taking it as the basis for a new, powerful committee, there to protect the interests of the House and its members and to enable the House to undertake its task of questioning government.

Taking the influence of the whips out of the nomination process will, we believe, allow more free-thinking and able members to join the select committees. However, we accept that more needs to be done to make service on a committee attractive to MPs, enabling service to compete with the offer of a position as a PPS or even a junior minister. *We*

warmly endorse the view of the Liaison Committee that there should be an alternative career path and that select committees are one means of offering such a career path.

The Committee raises the prospect of payment of chairmen or an increased office cost allowance. It recommends that the matter be referred to the Senior Salaries Review Body. We shall return to the proposal for an alternative career path in considering the position of the Member of Parliament. We have firm proposals for creating alternative career paths and for the remuneration and resources that should be made available to those who chair the select committees and those who serve on them. We also favour making available training courses for committee members.

We also believe that the committees will be strengthened in their scrutinising role if there is a major change in the nature of their composition as well as in their size. Select committees reflect proportionally the party balance in the House. In the present House, this means that in an 11-member committee, there are no more than four members drawn from opposition parties. We believe that the critical capacity of committees will be enhanced if the usual rule of proportionality is modified. We see the case for precise proportionality in standing committees, which are, in effect, meeting as the House in miniature. However, the case with select committees is different. They are investigative bodies that have no decision-making powers. They investigate and make recommendations. We accept the need for a government with an overall majority in the House to have a majority of members on a committee but we do not think that it need extend to exact proportionality in terms of committee membership.

We have considered a proposal that the membership of a select committee should comprise 50%+1 of members drawn from the party in government, the remaining places to be allocated proportionately to members of opposition parties. The proposal is highly attractive but we see a number of problems with it. It will place a particular burden on opposition MPs especially in Parliaments, such as the present one, when the government enjoys a large overall majority. There is also the danger that the committees may become seen as 'opposition' committees. This may undermine the impact of critical

reports. We do, though, see a case for some change. We believe that there should be some recognition of the distinctive role of the chairman, which is essentially to act as a presiding officer and to seek consensus. *We recommend that each committee should have an additional member drawn from the same party as the chairman.* We also consider that the Liaison Committee, as the Select Committee Panel, should be empowered to recommend some variation of the normal proportionality rule if it believes there is a case for departing from it. This may be because of the nature of a particular committee or because there are particular members on the opposition benches who have a particular expertise in the sector covered by the committee. Assuming a government with an overall majority, then the power to recommend a variation should not challenge the rule that the majority of members should be drawn from the government party. *We therefore recommend that the Select Committee Panel be permitted to recommend that the membership of a committee depart from the normal rule of party proportionality, though not to the extent that it denies the government a majority on the committee.*

We also believe that the committees will be able to fulfil their tasks effectively if they are given powers to create sub-committees. The power to create sub-committees is limited and has had mixed success. However, sub-committees have the potential to increase the range of tasks fulfilled by the committees. A committee may wish, for example, to appoint a sub-committee to undertake pre-legislative committee, thus enabling it to continue with an existing inquiry while ensuring that the bill is considered. The creation of sub-committees will also, we believe, add to the attractiveness of committee service. Their creation will allow more MPs to hold positions of responsibility (the chairmanship of a sub-committee) and, by being small bodies, enable members to have a greater involvement in the questioning of witnesses and the drawing up of a report. *We recommend therefore that select committees have the power to appoint one or more sub-committees.*

We recognise that the use of sub-committees will involve a drain on members' time. This may, if necessary, be met by increasing the number of members serving on select

committees. There is scope for some enlargement. By international standards, the size of a typical committee - 11 members - is small. However, we recognise dangers of creating committees with large memberships. We envisage that any increase need only be a modest one and that it should come from a request from a committee for additional members. Increasing the size of some committees will enable more MPs to be productively engaged in committee work. *We suggest that any recommendation for additional members should be made to the Liaison Committee, which should, if persuaded of the case, then bring forward a motion to amend standing orders.*

Parliament, as various witnesses have emphasised in their evidence to us, is only as good as the information it receives. Information is the vital resource of select committees. The committees have done great work in obtaining information. Occasionally information is withheld by government departments. We deal later with how we believe such a refusal to supply information should be dealt with. We believe that committees could obtain more information, independent of government, if given the resources to do so. One of our number, in evidence to the Procedure Committee in 1990, recommended the creation of a small policy unit for each committee. Sir John Banham, in *The Anatomy of Change*, suggested giving each committee a budget of £2 million a year. The Liaison Committee has proposed a small central unit in the Committee Office, drawing on National Audit Office personnel and specialist staff, in order to assist with the examination of the estimates and pre-legislative scrutiny. It has been drawn to our attention that, in addition to NAO personnel, the unit should have staff who, as it was put by one witness, 'know their way round government accounts'. These proposals are not mutually exclusive.

*We strongly support the recommendation for the creation of a central unit in the Committee Office. This will provide a valuable and specialist resource for select committees. We also recommend the provision of a research budget for each select committee.* Though much of the evidence taken by committees is of great use, it is necessarily and quite naturally self-serving. Witnesses provide material that favours their position. For a

detached view, the committees can draw on specialist advisers, and may be able to acquire help through the goodwill of outside research bodies, but they lack the capacity to commission funded independent research. The occasions when they wish to do so may be limited, but we think the opportunity should be there.

The use of specially commissioned research may enable a committee to understand and evaluate the consequences of a policy proposal (and indeed the effect of an already implemented programme) in a way not previously possible. Original research findings will add considerable weight to a committee's report. It will make it less easy for a department to ignore its recommendations. Making use of research is also likely to encourage closer links between select committees and various research communities.

The budget should be ring-fenced - that is, used exclusively for research - and can be relatively modest. A budget of £250,000 a committee per annum would allow serious research to be undertaken. The Liaison Committee could hold an additional budget (of, we suggest, £1,000,000) to allocate if particular committees seek additional research support. Making use of such a research budget will require a culture shift on the part of committees. There is already a very modest research budget that is under-spent. We believe that once some committees have commissioned research and seen the benefits of the exercise, others will follow suit. However, given that not all committees are likely to make use of their full research budget each year, the total cost to the public purse will not be great, and we believe that the expenditure is likely to represent good value for money.

We also want to see an extension of the work of the committees and a strengthening of their output. *We endorse the recommendation of the Liaison Committee that the committees should be encouraged to focus on resource estimates, departmental plans and output and performance analyses.* The creation of a central unit will be especially helpful to the committees in undertaking this task. We also see a role for the committees in pre-legislative scrutiny. The Liaison Committee has recommended that draft bills be referred by the House to the appropriate committee,

after consultation with the Chairman of Committees and the relevant committee chairman. It will be up to a committee to decide whether to examine the bill; if not, an *ad hoc* committee may be established. *We warmly endorse the recommendation for draft bills to be considered by select committees.* For the committees to undertake that task, they need adequate time. This, we believe, can be provided through less emphasis on producing multiple reports each year. We believe a committee should normally think in terms of three or four reports a year (of the type currently undertaken), with the remainder of its time given over to individual evidence-taking sessions with the minister, scrutiny of draft bills, and sessions to review progress on previous reports. We also believe that the time will be available if the government adopts a rolling programme, allowing it to publish a white paper and subsequent draft bill in one session and then introduce the bill in the next session. The result, we believe, will almost certainly be better legislation. What government loses in the short term (speed of passage) will be off-set by what it will gain (better quality legislation) in the long term.

We also wish to strengthen the output side of committee work. We have already endorsed the recommendation for more time to be set aside for debate of committee reports in the chamber, including the holding of a half-hour session on a Tuesday to consider a committee report. It will be for the Liaison Committee to select the reports that will be the subject of debate. The Committee will obviously take into account the likely parliamentary interest in a report. However, we believe that more can and should be done to attract members to take part in debate on committee reports. *We recommend that debates on select committee reports should take place on substantive motions.* 'Take note' motions are, by design, neutral. A substantive motion is likely to make debate more relevant to members. *We recommend that the wording of the motion should be proposed by the relevant committee and agreed by the Liaison Committee.* We would envisage that most motions will invite the House to agree to the recommendations of a report but it will be up to the Liaison Committee to decide whether or not to put another motion to the House. Such a change will, as with estimates days at the moment, provide a means for a subject to be debated

independent of the wishes of the government and, indeed, of the opposition. If the opposition wishes to pursue an issue raised in a committee report, it remains open to it, as now, to use one of its opposition days for the purpose.

Committee reports have four principal audiences: Parliament, the government, the media, and affected groups. They have to compete with other bodies to attract the attention of these audiences. The government is something of a captive audience (it has to respond to each report) and affected interests are semi-captive audiences (they need to see what recommendations have been made that will affect them). MPs and the media are neither. Reports often fail to be read by MPs and journalists, not because their content is unimportant but because their presentation is dull. They are heavy in text and have a uniform, uninspiring format. Government publications are often glossy and eye-catching. We share the view of the Liaison Committee that committee reports should be produced in a more attractive form. We see no reason why professional designers, including web-page designers, should not be employed to improve the attractiveness of reports. (Such designers could also be available to assist with other parliamentary publications.) *We therefore recommend that committee reports depart from their existing standard format and that they be produced in a more reader-friendly style.* We agree with the Liaison Committee that there is scope for committees to make greater use of the internet to present reports and information in a more attractive manner. We also think that it should be used to publish interim reports or requests for further information. We also agree with the Liaison Committee that there is need for greater co-ordination of committee press releases and, to assist in press co-ordination, the appointment of a communications professional in the Committee Office. We would go further. We see the role of such a professional as a proactive one, promoting the work and the particular reports of the committees. We therefore envisage recruiting someone with considerable experience. In due course, it may be appropriate to create a small but high-powered communications unit within the Committee Office.

Once reports are produced, the government

is committed to responding in writing, usually within two months. This deadline is not always met. *We concur with the Liaison Committee's recommendation that, if a department performs poorly, the relevant committee should schedule a session with the minister two months after publication of a report.* We also concur with the Liaison Committee that committees should review at regular intervals what has happened to the recommendations made in reports. We take the view that this would usually be at least two years since the publication of a report. *We also believe that it should be open to a select committee to report to the Liaison Committee serious cases of repeated departmental failure to respond promptly.* It will then be open to the Liaison Committee to undertake an inquiry and issue a report, if necessary censuring the department for its conduct. We expect such reports to have a similar status to those of the Public Accounts Committee.

The Liaison Committee has noted that the work of select committees 'tends to be seen by government as a threat rather than an opportunity' (*Shifting the Balance*, p. xvi). This it attributes in part to the level of knowledge of select committees, and of Parliament generally, amongst departmental officials being 'we think, far too low' (p. xxlii). We agree with this analysis. We believe that the answer is to be found in ensuring that civil servants have a solid grounding in the role and workings of Parliament. Civil servants are now receiving more extensive training through the Centre for Management and Policy Studies. *We recommend that civil servants having contact with select committees should be trained in the role of Parliament.* That training should be provided primarily by practitioners. There is a wealth of knowledge and experience on the part of the staff of both Houses of Parliament. In the training, the emphasis should be on openness and working with committees, rather than seeing them as competitors or unwanted intruders. *We also recommend an amendment to the Code of Conduct for civil servants to ensure that material to which MPs are entitled is supplied promptly and as fully as possible.* We return to this recommendation later.

**New committees.** The departmental select committees have been a success story. We want to strengthen them. We also believe

that there is scope for making use of new committees. We divide these into the basic categories of ad hoc and permanent committees.

*Ad hoc committees.* As the Liaison Committee has said, there is a case for an occasional joint committee to consider issues that cut across departmental boundaries. *We endorse the recommendation for the appointment of joint committees.* If two or more committees want a joint inquiry, they put forward their request to the Liaison Committee. It will then be for the Committee to agree the proposal and approve the membership. We agree with the Liaison Committee that the appointment should be for a session only, though with provision for re-appointment. We would expect the need for re-appointment to be extremely rare.

*Permanent committees.* The House has a number of individual specialised committees. Among the most recent of these are the Environmental Audit Committee and the Public Administration Committee. These have proved their worth. We recognise the problems of creating a raft of new committees. The drain on members' time and the resources of the House could be substantial. We do, however, recognise the case for the creation of two new committees. These derive essentially from other parts of our report. *As part of the changes necessary to strengthen parliamentary scrutiny of public spending, we recommend the creation of a Public Audit Committee.* We provide further details in our section on financial scrutiny. *In order to strengthen the link between citizen and Parliament, we recommend the creation of a Petitions Committee.* This is a novel proposal, one that we believe has enormous potential to provide citizens with an input into parliamentary deliberations. It fills a remarkable gap and will help ensure that what happens actually accords with citizen expectations. We expand upon our proposal in our section on greater access to Parliament.

## The Opposition

Departmental select committees are notable for the degree of cross-party co-operation that they engender. We recognise the value of this co-operation and our proposals for strengthening committees will enhance this

co-operation. However, we also recognise the value of the party system. The existence of the opposition, and of opposition parties, ensures that government proposals are subject to sustained scrutiny from a potentially critical perspective. Government proposals are subject to critical questioning. They are tested through debate. Members, and indeed the electorate, are provided with alternative views. We believe this to be valuable, indeed central to any democratic system. We believe that testing by the opposition is crucial. We also believe that such testing should be informed. To do their job effectively, opposition parties need to have the resources that will enable them to engage in informed questioning.

At the moment, there is too much of an element of David v. Goliath in the relationship between the opposition and government. The crucial difference is that here David has no sling. There is no way that the opposition will ever have the same resources as those available to government. However, we believe that - following our analogy - the opposition should have the equivalent of sling and shot to challenge the Goliath of government.

We have explored various ways of providing this. One idea variously advanced, including by Andrew Tyrie MP in his pamphlet, *Prospect for Public Spending*, is the creation of a Department of the Opposition.<sup>xxix</sup> We can see the attraction of a dedicated department, staffed in part by seconded civil servants. However, we are aware of the problems associated with the proposal. The difficulties arising from seconding civil servants were put to us by Lord Butler of Brockwell, former head of the civil service. He feared that it would be 'a route towards politicising the civil service'. Civil servants may become too associated with a particular party. We recognise the force of this argument. We are also aware that they may be some public scepticism about funding what may appear to be an alternative bureaucracy.

We believe that the critical capacity of opposition parties can be achieved through changes to the existing arrangements for funding opposition parties. Money is now provided to opposition parties through the Short money. This was introduced in the 1975 and takes its name from the Leader of the House, Edward Short. It is provided in

order for opposition parties to fulfil their parliamentary duties. The scheme was revised in 1999 as a result of recommendations made by the Committee on Standards in Public Life (the Neill Committee). The basic money under the scheme was increased 2.7 times. The current scheme is administered under a resolution of the House of 26 May 1999. It covers funding to assist an opposition party in carrying out its parliamentary business, for opposition parties' travel and associated expenses, and for the running costs of the Leader of the Opposition's office. The first of these accounts for the bulk of the expenditure. It is largely spent on research staff.

The reforms consequent to the Neill Committee report go much of the way to address the problem. However, we think there is a case for a further change. We do not see the need for an extensive opposition bureaucracy. What we envisage is a high-powered research staff, with the emphasis on quality rather than quantity. We think the resources should be available to hire experienced staff. We have in mind former civil servants and those with experience in business and research. The money now available under the 1999 changes is probably sufficient for this purpose. (The money is updated annually by the percentage increase in the RPI over the previous year.) It will obviously be up to the parties to decide who to appoint and they may decide that present arrangements are adequate.

However, where we think there should be a change is in the provision of a new budget head. Rather than having a large opposition bureaucracy, we believe that the parties should have the opportunity to commission research. Much material is already supplied by outside organisations, including research organisations, but it is important that parties have the capacity to obtain information on their own initiative. *We therefore recommend the creation of a research budget.* We think that, initially, the research budget - which will form a fourth category to that approved by the House in 1999 - should be set at a quarter of the money provided under the first heading (funding to carry out parliamentary business). The sum involved is relatively modest and it may be that this formula will need to be revised in the light of experience. We believe that the returns from such a

modest outlay could be considerable. It will add a notable edge to the capacity of opposition parties to engage in critical scrutiny.

## Parliamentary parties

There is an overlap between this and the last category but the two are not coterminous. The last category omits the parliamentary party on the government side of the House. It also fails to distinguish between the leadership and the back-bench organisation. Short money goes to the party leadership for allocation. There is no money that goes directly to the back-bench organisation.

The Neill Committee considered a recommendation to extend the Short money scheme to government backbenchers. It felt that back-benchers already had their own allowances and that extending Short money to government back-benchers would 'not fit comfortably' with the purpose of the scheme. We believe that there is a case for providing some resources not to government back-benchers as such, but rather to the parliamentary party and, indeed, to other parliamentary parties.

It is important not to see each parliamentary party as some homogeneous whole. There may be disagreements between leaders and their back-benchers. Intra-party dissent, especially on the government side of the House, can be far more effective than inter-party conflict. Ministers may listen to the opposition but ultimately carry the day in the division lobbies. If government back-benchers start voicing their disagreement, then ministers may be in trouble. The back-bench organisation in each major party provides a valuable means of contact between leaders and led. It offers opportunities for members to be briefed by outside speakers. Front-benchers can be questioned in a private environment. For outside organisations seeking to influence public policy, an approach to a party committee may be more valuable than an approach to a select committee.

The back-bench organisation of the parties is under threat. It is being undermined by the alternative attraction of all-party groups.

These are burgeoning. On the Conservative side, the small size of the parliamentary party has meant that there are not the numbers necessary to sustain an extensive network of committees, though attendance was declining in preceding Parliaments. We believe that there is case for a strong, vibrant internal organisation. We therefore favour the provision of modest resources to assist with the organisational tasks associated with back-bench organisation. *We recommend a small budget be provided for each parliamentary party to assist it with its internal organisation.* We have in mind a budget that will enable each parliamentary party to hire one member of staff for every 50 MPs in the party (and one member of staff for any party with between 25 and 50 MPs), up to a maximum of five members of staff. This will provide the two main parties with an infrastructure that can take responsibility for organising back-bench committee meetings, inviting speakers, keeping MPs informed of activities and even some small element of research support. It will be for the parliamentary parties (in this case, the Parliamentary Labour Party and the 1922 Committee) to determine the allocation of staff.

We believe, again, that a modest outlay can have a substantial qualitative effect. The need to bolster the parliamentary parties has been much neglected. It has to be addressed. The provision of a small budget is, we believe, a major practical way to address the problem. We believe that it can be addressed also by enhancing the status of the officers of the parliamentary parties and of the back-bench committees. In line with our proposals, outlined below, for an alternative career structure to that of government office, *we recommend that consideration should be given to making the chairmanship of a parliamentary party a paid post.* We also consider that the chairmen of back-bench committees should be given office accommodation commensurate with that status.

## The Member of Parliament

For the House of Commons to carry out its scrutinising role, members have to want to scrutinise and influence government. Loyalty to party, and ambition for office, are powerful

constraints on government supporters. However, there is evidence that many MPs do not wish to be simply agents of the whips. Constituency work offers a high degree of job satisfaction. There is academic research, albeit now dated, that has uncovered a surprisingly large proportion of MPs who see their role predominantly as that of policy advocates. The experience of the House in the 1970s shows that backbenchers on both sides can at times flex their political muscles to achieve change and to influence government decisions. We believe there is thus some basis for believing that MPs may be persuaded to make use of the tools to call government to account. However, the tools have to be in place and there has to be some incentive to employ them. We deal in other sections with providing the tools. Our purpose in this section is to address the incentives. We believe that incentives should be built into parliamentary service. These incentives should embrace a career structure independent of government office and a knowledge of how to make use of the political process. We also believe that incentives should be introduced to make parliamentary service attractive to those who currently do not seek election. We also believe that action needs to be taken to ensure that MPs only continue to serve for many years where they wish to, not because they feel that for financial purposes they have to. In short, there need to be more incentives both to come and to go.

**Career structure.** At present, there is a rather limited career structure within the House. Apart possibly from the Speakership, there is no position that is parliamentary that many MPs aspire to in preference to a government post. Government office offers the prospect of power, possibly a high public profile, and the associated trappings (office, car, driver, civil service support, and a much higher salary). Being a member of a select committee is attractive but it lacks the allure of ministerial office. The invitation to become a parliamentary private secretary (PPS), a possible (but not guaranteed) route to government office, is usually sufficient to entice a member to give up membership of a committee. We fully understand the pressure. There is little incentive to do otherwise.

We believe that there should be such incentives. There should be an alternative career structure to that of government office.

Such a career structure may not necessarily prevent an ambitious MP from opting for government office (if offered) but it may encourage members to devote more of their energies to the basic tasks of the House, especially that of scrutinising the executive. It will provide the status and resources for those keen to question the executive. It may also serve to discourage very able back-benchers from looking outside Parliament for job satisfaction and additional remuneration. The case for such a career structure - similar to that existing in many other Parliaments - is a compelling one.

The Liaison Committee has acknowledged the value of an alternative career. 'What we would like to see is a better balance between the attractions of government office and of service on select committees' (p. xii). It raises but does not endorse the options of paying committee chairmen (an option first raised by the Procedure Committee in 1978) or giving them enhanced office cost allowances. It invites the Senior Salaries Review Body to consider the issue. We believe the issue should be grasped directly by Parliament.

*We recommend the payment of select committee chairmen. Chairmen of investigative select committees should receive the same salary as a minister of state. The chairmen of certain major committees should receive the same salary as a Cabinet minister.* Those falling in this last category are the chairman of the Public Accounts Committee, the chairman of the Treasury committee, and - in the light of our recommendations for an extended role for the committee - the chairman of the Liaison Committee.

This recommendation should also be seen alongside a later recommendation we make to reduce the number of ministers. There are powerful arguments for such a reduction, independent of its implications for Parliament. However, it has two benefits relevant to this proposal. First, it will ensure that there is no great increase in cost to the public purse. The increased spending caused by having salaried committee chairmen will be offset by the savings made by a reduction in the number of ministers. Secondly, it will serve to limit the opportunities for ministerial service. Given the limited opportunities, able back-benchers may find the prospect of chairing a

select committee highly attractive.

We would also like to see other incentives built into the system. Though select committees sometimes have *de facto* deputy chairmen, there is no provision for appointing deputy chairmen. *We consider that there are practical and political advantages in creating the post of deputy chairman for each committee.* It provides for someone to take over in the absence, for whatever reason, of the chairman. Some committees already resolve at the beginning of a session that a particular member shall take the chair in the absence of the chairman. Our proposal thus helps regularise what, for some committees, is the actual practice. It also provides a status that is likely to prove attractive to members. It gives them a formal position as well as the status to be accorded priority in debates. It raises their public profile. We believe that deputy chairmen should, like chairmen, be accorded office space commensurate with their position. The choice of the deputy chairman should rest with the committee. The convention should be that the deputy should be drawn from another party than that of the chairman.

We believe that the creation of sub-committees will also serve as an incentive to membership of select committees. In serving on a sub-committee, a member will have a larger voice than in the full committee. Sub-committees will be able to draw on the services of the central unit in the Committee Office. The chairmanship of a sub-committee will give an MP status as well as responsibility.

We believe that the enhanced role we have proposed for committees will also act as an incentive to committee service. The greater range of tasks provides scope for individual members to concentrate on a particular aspect of committee work. Under our proposals, there will be greater scope to influence public policy and for the work of committees to attract more parliamentary and public attention.

We have also noted that a career structure should not necessarily be confined to the committee structure of the House. Some members may wish to pursue a more partisan route, seeking office in a back-bench committee or in the parliamentary party. The chairmen of the PLP and the 1922 Committee

are portrayed by the media as fairly powerful, if somewhat shadowy, figures. The elected officers of back-bench committees may at times be even more important. Back-bench committees engage in more regular scrutiny of policy, and engage in a dialogue with front-benchers, on a more extensive basis than the officers of the parliamentary parties. We have mentioned already the possibility of paying the chairmen of the two main parliamentary parties. We think there is a case for according greater parliamentary status to those who serve as elected officers of back-bench committees. (In the case of the Conservative party this refers to officers other than the chairman, who is the relevant member of the Shadow Cabinet.) The officers already have some standing in the chamber. We believe that they should also receive office space commensurate with their position. The work of back-bench committees, and the names of officers, should also feature more prominently in the literature disseminated about Parliament, including on the parliamentary website. Though they are unofficial bodies, they are a crucial - and currently a much neglected - element of the House and enhance the scrutinising capacity of MPs.

**Training.** We recognise that knowledge is power and we believe that knowledge of how the system works, and how to make use of it, will enable the MP to call government to account more effectively. This knowledge should come through some element of training. The job of the MP is classed as a professional job but is remarkable for receiving no professional training. For newly elected members, there is little guidance as to what use can be made of the parliamentary process. Many have little grounding in government or in parliamentary procedure. Some limited induction is now provided, including through the authorities of the House, but this is not sufficient to off-set the early and pervasive influence of the whips and their appeals to party loyalty. Newly elected MPs would, we believe, benefit from some training in the way that government works and in the techniques that parliamentarians can deploy to call government to account.

Nor need such training be confined to newly-elected MPs. Michael Jack MP made the telling point in evidence to us that he would have benefited from training in how to handle

himself in opposition. Members may be new to opposition and, of course, government. The early months of the 1997 Parliament were notable for members on both sides of the House not being sure what to do. There is a case for extending training for other tasks undertaken by MPs. We have in mind especially committee service. Questioning witnesses effectively requires knowledge and skill. Members have to know what to ask, how to ask it and how to evaluate what they have been told. Some committee members are skilful questioners; others are not. Committee members are therefore likely to benefit from training in how to question witnesses. Membership of particular committees, such as the Public Accounts Committee, calls for specialised training, as does chairing a committee. We believe not only that such training should be provided but that the Liaison Committee should be empowered to make such training a requirement in order to be appointed to a committee.

*We therefore recommend the introduction of training for members at the beginning of each Parliament.* Where appropriate, training should also be available throughout the Parliament (for example, for new committee members). We envisage a number of seminars, though with much material and advice offered through the internet on an interactive basis. We believe that such training should cover not only the processes of government (including changes in public management) and Parliament, but also time management. We particularly welcome the advice we have received from Sir Christopher Foster, a leading management consultant, and *we endorse his suggestion that, given the need for training, a training infrastructure should be developed within Parliament.* We envisage a small unit, possibly under a senior official based in the Committee Office, which would organise the training programme and create training packages available on the parliamentary intranet. The programme would be able to draw on, for example, barristers and management experts, but we would expect most training to be provided by clerks and officials of both Houses. Members generally recognise the extensive knowledge and expertise of parliamentary staff and we believe that this knowledge and expertise should be utilised on a more proactive and regular basis.

***Incentives for parliamentary service.*** We believe it important to create a career structure as an incentive for those within Parliament. We also believe that it is important to introduce incentives to attract people outside Parliament to stand for election. Contrary to some received wisdom, the quality of existing Members of Parliament is high. We believe, though, that there is a case for a more varied membership, drawing on people with experience in different sectors. We also recognise the need for more women and people from different backgrounds to serve in the House. The selection of parliamentary candidates is a matter for the political parties and is not a matter for us. We put on record, though, our belief that candidate selection should remain essentially a matter for local parties; this is crucial to deterring central control by the parties and the imposition of identikit candidates. We believe that there are changes that can be made in Parliament that will make parliamentary service more attractive to those who have not sought election.

An alternative career structure will, we believe, offer a considerable attraction, especially for those for whom ministerial office is not the be all and end all of existence. We believe that many of our other proposals will have the same effect. In particular, an improvement in the resources of members will remove an important barrier to seeking election. Working conditions in the Palace of Westminster, or rather in the parliamentary estate, have improved considerably in recent years, especially with the completion of 1 Parliament Street and, now, Portcullis House. We do not believe any further extensive change is necessary. However, we believe much more can and should be done to ensure that existing conditions are conducive to effective parliamentary work. Parliament has lagged behind in ensuring that modern technology has been exploited to the benefit of MPs. Members' offices should all be networked and advanced IT packages installed as standard. Members should not have to cope with IT provision out of their office cost allowances. Recent research has also shown considerable dissatisfaction with the conditions on the part of members' spouses. We acknowledge the view expressed by some members that Parliament is a working environment. However, if the pool of candidates is to be widened, Parliament needs to be able to offer facilities

that match the practice of other major institutions in making provision for spouses and families. We believe that the completion of Portcullis House makes possible a major review of the parliamentary estate. That should take place alongside a survey of members as to their particular needs. Once the parliamentary estate offers a working environment acknowledged not only by MPs, but also outside observers, as an attractive working environment, then one major obstacle to recruiting a wider spread of candidates will have been removed.

We believe that fresh blood will also be made possible through reducing the length of service of existing MPs. Experience is an important asset. However, the average length of service in the House far exceeds that of other comparable legislatures. Some members stay in the House out of necessity rather than out of choice. The salary and, more especially poor pension arrangements, make it difficult for MPs to retire early. A number of members enter the House after serving in posts that have no pension arrangements, have to survive on a parliamentary salary that does not increase with seniority, and then have to stay in the House because they cannot afford to retire. There is clearly a benefit in retaining MPs who wish to stay and who have experience likely to be of value to the House. However, there is little or no point in maintaining a situation in which members who feel it is time to go feel constrained to serve out additional Parliaments. That is to no one's benefit. We recognise that the existing pension scheme is an advantageous one compared with many others. However, we think that the situation should be reviewed. MPs' salaries are uniform. They do not, and cannot, reflect the length of service of a member, unlike in most other professions. A long-serving MP is paid the same as a newly-elected MP. There is a case for pensions to be based on a notional salary related to length of service. *We recommend therefore that pension arrangements be reviewed.*

The House of Commons is nothing without its members. We believe that the incentives we have proposed will help effect a major culture shift within Parliament, making the role of the back-bench MP far more attractive and far more effective. The costs of our proposals are modest. The benefits, we believe, will be considerable.

## THE HOUSE OF LORDS

The House of Lords serves an invaluable role as a complementary chamber. We are not concerned here with the wider issue of composition. That has already been addressed by the Constitutional Commission on the House of Lords (the Mackay Commission) and by the Royal Commission on the Reform of the House of Lords (the Wakeham Commission). Our proposals apply to the second chamber, regardless of whether it remains a wholly appointed chamber or becomes a part-elected body.

The House of Lords is a self-regulating body. It has shown itself well able to address its own procedures and to adapt them in the light of circumstances. Given its capacity to adapt and the not unrelated fact that many of its procedures work well - indeed, in the eyes of a number of witnesses, serve as an example to the House of Commons of how procedures can be employed effectively - we do not see as much scope for change in the House of Lords as in the House of Commons. For that reason, most of our recommendations are directed at the lower House. Nonetheless, we do recognise that there is a case for some change in the procedures of the House of Lords. In many respects, these involve encouraging the House to play to its strengths.

The House fulfils a notable role as a scrutinising and revising body. The means it employs for these purposes generally work well. As we have seen, Question Time in the Lords has much to commend it. The House undertakes extensive scrutiny of public policy through committees. It revises legislation through taking committee stage on the floor of the House. We want to build on its strength in scrutinising policy and revising legislation.

We believe that the House can make greater use of committees in both areas. We recognise the value of taking committee stage on the floor of the House. It ensures that peers with experience or expertise of some aspect of a bill can take part at the appropriate point. There is no need for peers with no interest in the subject to participate. Ministers do not know which peers will be present, nor indeed how many peers will be present. They have therefore to be well briefed. We wish to retain these features.

However, we believe that the House would benefit from making greater use of committees prior to taking a bill at committee stage. There are various means open to the House for detailed scrutiny of the bill. One of these is to refer it, after second reading, to a select committee. This procedure has occasionally been used, though most bills sent for select committee consideration have been private members' bills. We believe that committing a bill to a select committee prior to taking the normal committee stage on the floor (analogous in many respects to the special standing committee procedure in the Commons) will allow the House to have the best of both worlds. The House will be able to have the benefit of information and advice from outside experts before looking at a bill on a clause by clause basis. Where a bill originates in the Commons and has been subject to scrutiny by a special standing committee, the select committee may not need to undertake an extensive inquiry. For a bill originating in the Lords, we would expect the committee to be given between four and six weeks to complete its investigation. *We therefore recommend that bills be referred to a select committee following second reading.*

We also see a case for establishing more sessional committees, to complement the excellent work of the existing sessional committees. The House has several such committees. These comprise domestic and scrutiny committees. The latter comprise the European Union Committee, the Science and Technology Committee, and the Delegated Powers and Deregulation Committee. These, along with occasional *ad hoc* committees established by the House, do sterling work. We see a case for making greater use of such committees. We appreciate that the European Union Committee, working through its six sub-committees, makes a substantial demand on the resources of the House as well as on the time of a substantial proportion of the members of the House. However, approximately 90% of the members of the House are not involved in the work of the EU Committee. The resources accorded to the EU Committee, and other committees, are remarkably modest. The expenditure on select committees in the House of Lords (just over £1m in 1997-98) is approximately one-tenth that of the expenditure on committees in the House of Commons. The number of committee staff is one-quarter of that in the Commons. The House of Lords has

members with the expertise to serve on a range of specialist committees. There is clearly scope for increasing the resources necessary to support a number of new committees. We welcome the additional resources recently made available but would wish to see them extended. *We recommend that the House establish a number of investigative sessional committees.*

We endorse the recommendation of the Wakeham Commission that the House should establish a powerful Constitutional Committee. We would envisage this operating, like the EU Committee, through a series of sub-committees. Picking up on the recommendations of the Wakeham Commission, we would expect there to be a sub-committee to monitor and report on the relationship between the legislatures in the different parts of the United Kingdom. We also believe that the House is especially well placed to address cross-cutting issues, such as social policy (looking at the inter-actions of social security, housing, health and tax policy) and macro-economic policy. There is now greater awareness on the part of government of cross-cutting issues and our recommendations mesh well with the aspirations of the report (*Wiring it up*) of the Performance and Innovation Unit. The House of Lords, given its membership and existing committee practices, is ideally placed to fulfil such a role.

We would also envisage a role for the House *in terms of post-legislative scrutiny*. *We recommend the creation of one or more committees to monitor the impact of legislation*. If resources permitted, that is, in terms of the members necessary to sustain such committees, we would envisage small committees dealing with broad sectors of public policy, such as home, economic, and foreign affairs. We see no reason why the House of Lords, given the expertise of some of its members, should not monitor the impact of bills falling in the economic sector.

## LEGISLATIVE SCRUTINY

L. S. Amery noted in his *Thoughts on the Constitution*, published in 1947, that Parliament 'has become an overworked

legislation factory'.<sup>xxx</sup> Today, the factory is even more overworked and the quality of the output has diminished. The need for an overhaul of the way Parliament scrutinises both primary and delegated legislation is urgent.

**Primary legislation.** Scrutiny of bills is inadequate. We want to see changes at each stage of the process. We very much welcome the fact that some bills are now published in draft. The publication of bills in draft was a principal recommendation of the Hansard Society Commission on the Legislative Process in 1993. The case was further made by the Modernisation Committee in 1997. A number of draft bills have been variously referred for consideration by departmental select committees or by *ad hoc* select committees or joint committees. We wish to build on this development. *We recommend that bills normally be published in draft.* We recognise that this will not be possible in all cases (bills at the start of a new Parliament, emergency bills, Finance Bills) but we think that the presumption should be that a bill will normally be published in draft. A draft bill should be referred to a departmental select committee. If it is a cross-cutting bill, or a bill that a departmental select committee declines to consider, the appointment of an *ad hoc* select committee should be considered by the Liaison Committee. For big and complex bills, as with the Financial Services and Markets Bill, a joint committee of the two Houses may be appropriate. Sir Nicholas Goodison, in his evidence to us, suggested that Regulatory Impact Assessments should be made available to the committee considering the bill and we fully endorse this recommendation.

Once a Bill has been introduced, then it should be subject to further detailed investigation. *We recommend that, following Second Reading, bills should stand referred to a special standing committee (SSC), unless the House directs otherwise.* This reverses the existing relationship. Special standing committees allow for evidence-taking sessions prior to normal committee stage. When they have been employed they have proved their worth. (The first bill to be subject to such scrutiny - the Criminal Attempts Bill - was a case in point, having to be revised in the light of the evidence taken by the committee.) However, their use has been remarkably infrequent. We believe that

they should constitute the standard procedure. Virtually all bills, even those deemed to be highly partisan, have provisions that lend themselves to detailed scrutiny by a special standing committee. We believe that the use of SSCs will complement rather than repeat committee scrutiny of draft bills. An SSC will be able to consider to what extent the bill embodies the recommendations made at the earlier stage. It will enable affected groups to be heard and on the record.

We would also like to see a change in the way in which members of SSCs are appointed. We recognise that service on standing committees is seen as a chore by MPs and that the whips have to press gang some members to serve. We believe that the nature of SSCs will make membership more attractive than service on ordinary standing committees. However, we realise that it may be some time before it will be possible to move away from the existing practice of appointing members. Nonetheless, we think some changes can be made. There is an obvious advantage in having some members appointed to an SSC who have some knowledge or expertise in the field. There is also a case for ensuring that the whips do not have a complete stranglehold on the appointment process. *We therefore recommend that the relevant select committee should be empowered to nominate two of its members - one government and one opposition MP - to each special standing committee.* It will be open to a select committee to recommend other of its members to serve, should it so wish. We would expect the whips, and hence the Committee of Selection, normally to accept additional names. In the longer term, if serving on SSCs proves attractive to members, we would like to see the nomination of members shifted from the whips to the Liaison Committee. One of the members nominated by the select committee will normally chair the evidence-taking stage of the SSC proceedings.

The choice of witnesses and the number of evidence-taking sessions it holds should be a matter for each SSC. *We recommend that each SSC should have power to determine how many meetings to hold within a four-week period.* It may be that few meetings are needed and the committee may report after one meeting. In other cases, a rather intense programme of evidence taking may

be necessary. Once the one-month period is completed (or sooner, if the committee concludes earlier) the SSC will revert to a normal standing committee format. The sessions will then be chaired, as now, by a member of the Chairmen's Panel.

The use of SSCs will add time to the process of legislative scrutiny. So too will the publication of draft bills. The likelihood is that the process will become tight if not unmanageable. The solution, we believe, is to allow for the carry-over of bills from one session to another. The use of the carry-over is variously employed for private bills. The Modernisation Committee recommended that it be used for some public bills. The Financial Services and Markets Bill is the first bill to be subject to carry-over. We are fully aware that the use of carry-over is controversial. We recognise the value of the discipline imposed by the sessional cut-off. However, research (both here and abroad) has shown the limited benefits of such a cut-off, especially such a tight single-session one as in the UK. The present arrangements are clearly unsatisfactory, necessitating bills being introduced at the start of the session (leaving the House at times to find fill-in business) and then going off for committee consideration at roughly the same point in the session. The strain on MPs is considerable; the number available for service is finite. There is also a massive knock-on effect for the House of Lords, having to sit late into the summer and having to return earlier than the Commons in the spill-over period. Allowing bills to carry-over will allow for the staggered introduction of bills and thus a more evenly-balanced parliamentary year. It will also have another benefit. The office of parliamentary counsel is under-staffed and under pressure. A carry over of bills will help reduce the pressure to produce bills for the same point in the year.

In recommending the use of carry-over we are not suggesting that bills that remain on the parliamentary agenda indefinitely. We accept that there needs to be some cut-off period. We also recognise the value of the annual Queen's Speech, announcing the government's programme for the session. We envisage the Gracious Speech still being used to announce the bills that will be introduced (if not completed) in the session. *We recommend that each public bill should be subject to carry-over from one session to another but that it must be passed within*

*fourteen months of the date of its initial second reading.* We have opted for fourteen rather than twelve months in order to accommodate major bills and also to allow for the additional time taken by special standing committees. Having a fourteen-month limit will ensure some discipline. A clear limit, as with the existing sessional cut-off, will also allow the opposition some leverage in terms of the much-vaunted (but only occasionally effective) power of delay. The Parliament Act will also need amending to protect the power of delay of the House of Lords. Indeed, under our proposal, the House of Lords will enjoy a modest increase in power, since the delaying power would be for the fourteen-month period rather than for the existing one session.

We also favour a fixed parliamentary calendar. We shall develop the case for this at a later point. We also recommend that it should be a committee of the House that determines at what point in the session the various stages of a Bill are taken on the floor. The committee will have responsibility for ensuring that the requisite intervals between stages is met and for ensuring that a reasonable period of time is allocated for report stage. We recognise the problems that attach to imposing a rigid timetable within the days allocated for report and would expect existing arrangements, with the selection of amendments being made by the Speaker, to remain. Our proposal, we believe, will strengthen the House without jeopardising any of the existing powers of opposition parties or of individual members. *We therefore recommend the appointment of a Legislation Programme Committee.* The Hansard Society Commission recommended that a Legislation Programme (or, as it termed it, Steering) Committee should be chaired by the Speaker. Lord Naseby, a former Deputy Speaker, has suggested in his evidence to us that the Chairman of Ways and Means would be the appropriate person to chair it. We concur with Lord Naseby. This would help spread the workload between the Speaker and the Chairman of Ways and Means and would also contribute to developing alternative career structures within the House. The committee should comprise the other two Deputy Speakers and the business managers of the different parties, including the smaller parties, and a small number of senior backbenchers, sufficient in number to ensure that half of the members of the committee

(excluding for the purpose of calculation the Chairman of Ways and Means and the two Deputies) are drawn from the government benches. Given that we have recommended a fourteen-month period from second reading to passage, there should be time to ensure that each part of a bill receives adequate consideration.

Once bills are enacted there is often little post-legislative scrutiny. Parliament has a role to play in monitoring the impact of legislation and assessing whether it is having the desired impact or not. It is open to departmental select committees to engage in such scrutiny and we encourage them to do so. We recognise, however, the roles we have already ascribed to the committees and we are wary of placing a significant additional burden on them. We have recommended that select committees be given a research budget. It will be open to a committee to commission an independent study of the impact of a particular piece of legislation. That would allow it to consider the impact of a measure without it occupying too much of its own time. The committee could decide to hold one or two meetings to consider a report based on commissioned research or simply decide to put the research in the public domain. We have already indicated that more systematic scrutiny should be undertaken by committees in the House of Lords.

Finally, we wish to see one particular change to existing practice. The commencement clauses normally give power for the Secretary of State to bring provisions in on dates set by the minister. Parliament could, of course, ensure that commencement clauses do not provide excessive latitude. We think there is a case for a more systematic constraint. In the Parliamentary Government Bill that he introduced in 1999, Lord Cranborne included a clause to provide that any provision of an enactment which is not commenced within five years of the passing of the Act shall cease to have effect. We find the argument for such a provision persuasive. *We therefore recommend that there be a statutory provision that any sections of an Act which are not brought into effect within five years of Royal Assent shall cease to have effect.*

**Delegated legislation.** The Liaison Committee, in its recent report, referred to the

system of scrutiny of secondary legislation by the House of Commons as 'woefully inadequate'. This assessment is widely held and with good cause. All too often, statutory instruments (SIs) escape effective parliamentary scrutiny. The volume of SIs is growing while the means of scrutiny are demonstrably lagging behind. There is not always time to debate instruments that are prayed against. When SIs subject to the negative resolution procedure are referred to a Standing Committee on Delegated Legislation, the committee discusses the instrument on the motion 'That the committee has considered the instrument'. The situation is close to preposterous. Major change is needed to existing arrangements.

We draw on the Commons Procedure Committee's excellent 1996 report - to which it returned earlier this year - on delegated legislation. Many of the report's recommendations were endorsed by the Wakeham Commission and by many speakers in a debate held in the House of Lords on 29 March 2000. We add our endorsement.

Many instruments are already published in draft. This is a worthwhile and commendable practice. There is a case for extending it, ensuring that there is automatic pre-legislative scrutiny in particular cases. The Procedure Committee recommended a 'super affirmative' procedure to cover major SIs. Under this procedure, an instrument would be published in draft, allowing for parliamentary consideration prior to the instrument being laid. This proposal appears to enjoy substantial support and we warmly endorse it. *We therefore recommend the creation of a 'super affirmative' procedure for major statutory instruments.* In the debate in the Lords on 29 March, the chairman of the Delegated Powers and Deregulation Committee, Lord Alexander of Weedon, said that it would appear possible for the committee, in examining secondary legislation proposed in bills, to identify at that stage which instruments should be subject to this procedure. We agree and believe that this is the sensible way to proceed. The Delegated Powers and Deregulation Committee does excellent work and utilising it in this way will avoid any duplication of resources.

*We also endorse the recommendation of the Procedure Committee that there should be a*

'sifting' committee to determine which SIs subject to the negative resolution procedure should be debated. The existing Select Committee on Statutory Instruments considers all SIs to ensure that they comply with the technical requirements. It does not consider their merits. It is left to individual MPs, or researchers employed by front-benchers, to notice any particularly problematic SIs. We believe that there should be systematic scrutiny. To ask the Delegated Powers and Deregulation Committee to undertake the task would make its work unduly onerous. The task is one best fulfilled by a dedicated sifting committee in the two Houses or, as the Wakeham Commission recommended, a joint committee. Lord Alexander of Weedon has suggested the task is one that could be fulfilled by existing members of the Joint Committee. We concur with this suggestion. It would not only extend the responsibility of the Joint Committee but also make it a much more attractive committee on which to serve. It has legal advisers to advise on technical deficiencies. Members will be able to draw on their own knowledge as to the wider political implications.

*If the sifting committee recommends that an SI be debated, then the instrument should stand referred to the relevant departmental select committee in the Commons and to an ad hoc committee, comprising peers with particular expertise in the subject, in the Lords.* It will be for each select committee to decide whether to consider the SI. It may be that a select committee may wish to wait until the Lords committee has reported. In the Lords, consideration by a committee will be automatic. We commend the suggestion made by Lord Alexander that the scrutiny undertaken by the Lords committee could take the form of a public 'all-day seminar rather than the more traditional form of a somewhat slow-moving Select Committee'<sup>xxxii</sup> and that it should consider carefully the regulatory impact assessments. A similar procedure could be adopted by the two House for considering draft SIs subject to the 'super affirmative' procedure.

There has been considerable debate as to whether Parliament should have the power to amend statutory instruments. We recognise the force of the argument in favour. Equally, we recognise that for SIs to be amendable by either House will somewhat undermine the

purpose of having secondary legislation. We believe that the Procedure Committee came up with an eminently sensible solution in its 1996 report. It recommended a procedure that would allow the House to reject an SI but indicate under which terms it would be acceptable. It proposed the use of a conditional amendment. It would be open to the committee considering the SI to approve a conditional amendment. The government could then withdraw and re-lay the instrument, with some regard to the terms of the amendment agreed in committee; alternatively, it could seek the approval of the House to the unamended instrument. It would also be possible to move conditional amendments on the floor of the House. If passed, it would be open for the government to withdraw and re-lay the instrument. We are strongly of the view that this represents *the best way to proceed. We recommend the use of conditional amendments as the mechanism for indicating to government what changes to SIs would be acceptable.* Given that the government can re-lay an instrument - and, ultimately, can get its way by enshrining a proposal in primary legislation - we see no case for removing the existing powers of the House of Lords over secondary legislation. The House has the expertise necessary to subject SIs to informed scrutiny and it should retain the leverage offered by its existing powers.

*We also endorse the recommendation of the Procedure Committee that the 'praying' time in respect of negative resolution instruments should be extended from 40 to 60 days.* The case for this was well made by the Committee and also in the Lords debate by Lord Alexander. Drawing on the experience of the Delegated Powers and Deregulation Committee in considering deregulation orders, where the initial scrutiny period is 60 days, Lord Alexander stated that he could not see how in-depth scrutiny of controversial instruments could be completed within 40 days.

There is a case for undertaking post-legislative scrutiny of SIs. As with primary legislation, it would be open to departmental select committees to commission research on the effect of particular instruments or to undertake a short inquiry. In the Lords, the small committees engaged in post-legislative scrutiny would be able to include delegated legislation within their remit.

We believe that, in combination, these recommendations will significantly enhance parliamentary scrutiny of delegated legislation. There is a substantial body of support for them and they should be acted upon as a matter of urgency.

**European legislation.** There is a powerful case for strengthening parliamentary scrutiny of European Community (EC) legislation and EU business. There are constraints that are necessarily a consequence of the UK's membership of the European Union. National parliaments have no formal role within the law-making process of the EU. Their influence has to be indirect. Within the constraints imposed by the treaties, both Houses of Parliament do a good job. However, we believe that the work of both could be strengthened.

The principal leverage enjoyed by both Houses is that of the scrutiny reserve. The government is committed not to approve a proposal in the Council of Ministers until parliamentary scrutiny of the proposal is completed. There are various stipulated exceptions. If a minister does decide to approve a proposal before it is cleared from scrutiny by the relevant committees, the minister is required to offer an explanation to Parliament after the event. On the whole, the procedure works well, but there have been problems. On occasion these have arisen not because of wilfulness on the part of ministers and officials but rather out of ignorance of the procedures. Sometimes the relevant committees have not been properly consulted or kept informed. We think the scrutiny reserve should be given greater force. It is embodied in resolutions. *We recommend that the scrutiny reserve should be embodied in statute.* This would provide some protection for the procedure and also make ministers much more wary about agreeing a proposal that has not been cleared from scrutiny. It has also been drawn to our attention by David Millar, who served as an officer of the Westminster and European Parliaments and has been closely involved in the development of the Scottish Parliament, that 'the Scottish Parliament depends on Westminster's "scrutiny reserve" to bring pressure on the government on devolved policy issues. So do this for Scotland at least!' We also hope that it will, coupled with later recommendations, contribute toward a culture change on the part of civil servants towards Parliament.

We also want to see a strengthening of the link between European Standing Committees and the floor of the House of Commons. The committees do useful work, especially in their questioning of ministers, but they operate almost in a vacuum. The motion put to the House does not need to be in the same terms as those agreed by the Committee. *We recommend that the motion put to the House should be that agreed by the relevant European Standing Committee.* This will make the link between committee and the chamber more relevant and provide a greater incentive for committee members to engage in detailed consideration of a proposal. *We further recommend that standing orders be amended to provide that, where a European Standing Committee recommends that a minister does not agree to a proposal, the motion of the committee should be debatable in the House for up to 60 minutes.* These debates should be scheduled by the Legislation Steering Committee. This procedure will provide an opportunity for the House to consider the reasons for the recommendation and to express a view on it. We anticipate that such occasions will be rare but it is imperative that the opportunity for such debate exists. The existing arrangements are inadequate for ensuring that the House is properly informed and able to take a view on an important proposal. This provision will give ministers a greater incentive to provide a detailed justification in Standing Committee for the government's position, at least in cases where ministers favour a proposal. Where they are opposed to a proposal, the opposition of the House, expressed in committee and on the floor, may help strengthen their hand in negotiations in the Council of Ministers.

It is also imperative that the practice of departments adding to or making more stringent the provisions of directives - a practice known as 'gold plating' - be ended. According to David Millar, in his evidence to us, "Gold plating" has done more harm to the UK's perceptions of the EU than any other bureaucratic failure of successive governments.' The Agriculture Select Committee has recently drawn attention to a particular example of gold plating. The European Council Directive 96/61/EC on integrated pollution prevention and control was given effect by the Pollution Prevention and Control Act 1999, which permits the minister to make regulations to bring the

regime into effect. The government proposes phasing in the regime for poultry installations by 2003 and for the production of pigs by 2004. Under the directive, all installations covered by it have to be made subject to it by 30 October 2007. As the Agriculture Committee recorded, the government's timetable is far too tight, with little evidence of a rush to impose the regulations on farmers in other EU countries 'and it would be wrong to burden the UK industry with extra regulatory costs now which their EU counterparts will not have to pay for some time'.<sup>xxxii</sup> The Committee also uncovered confusion as to how the decision to set the dates had been taken, the minister claiming that the issue had never crossed his desk. This, as the committee recorded, raises important questions of accountability.

The answer to the problem of gold plating is to be found principally in the provisions of Lord Cranborne's Parliamentary Government Bill. Under the Cranborne proposals, a minister must certify, when introducing a bill, which provisions are necessary to give effect to EC legislation and identify the legislation concerned. A bill implementing EC legislation should normally embody only provisions certified by the minister as necessary to implement European directives. Where a bill includes substantive items not certified as necessary, the Speaker or Lord Chairman of Committees shall direct that the bill be divided into two separate bills. The Speaker and Lord Chairman already have the professional assistance that will enable them to fulfil this task. This proposal has the merit of protecting the House from hidden gold plating and, concomitantly, ensuring ministerial accountability. *We therefore recommend that there be statutory provision requiring a minister to certify which provisions of a bill are necessary to give effect to European directives and that bills to implement directives should be exclusively for that purpose. We further recommend that similar provisions apply to delegated legislation.* This latter provision is necessary to catch cases, such as that outlined above, where order making powers are provided. However, we would expect delegated legislation to be kept to a minimum in order to comply with the statutory provisions that we propose. We wish to see Parliament playing a more active role in scrutinising what is happening in the EU. There has been a tendency, especially on the part of the House of

Commons, to be too reactive. We very much welcome the way in which the European Scrutiny Committee has developed in recent years. It has adopted a wider and more forward looking approach. We also welcome the opening of a National Parliament Office in Brussels. This is a major move forward, enabling Parliament to find out what is happening in advance of formal proposals reaching London. We also welcome moves to engage in greater collaboration with other national parliaments. The institutionalised contact that now takes place is helpful and we welcome moves to see it extended. We recognise the difficulty of achieving co-operation among all 15 national parliaments. There are conflicting views as to the role that national parliaments should play. Nonetheless, we believe that there is much to be gained by developing links with other national parliaments that share our view of the need for rigorous scrutiny. Contact with other national parliaments also permits of the circulation of best practice advice. COSAC - the committee drawing together members from the European committees of national parliaments - is a very good means of providing such contact. We would like to see Parliament build on it.

## FINANCIAL SCRUTINY

Granting of supply is a basic function of Parliament. It is generally held to be a function that, in large measure, is exercised formally. The House of Commons devotes time, albeit rather rushed, to considering the Finance Bill but very little to how the government plans to spend money. We want to see changes in how the House considers the Finance Bill and, more crucially, in how it considers the estimates.

The proposal to hive off the more technical aspects of revenue-raising provisions to a Taxes Management Bill has been considered before. It is designed to produce a Finance Bill that comprises the politically salient provisions of the Chancellor's Budget, thus enabling the House to have more time to consider those provisions. It was a proposal advanced by Sir Geoffrey Howe (as he then was) in 1977 but when he became Chancellor he decided, after a review of the proposal, not to pursue it because of the pressure on parliamentary time and the extra staff that would be entailed. The proposal was

advocated by several bodies in evidence to the Hansard Society Commission and the Commission itself said that the issue should be reconsidered. We have received conflicting evidence on this point. Lord Howe of Aberavon inclines to his decision as Chancellor. Michael Jack MP, a former Financial Secretary to the Treasury, has made the case for a separation. Given our proposals for change to the legislative process, enabling bills to be introduced at different points in the session, we believe that a Taxes Management Bill is now a viable proposal. *We therefore recommend that the government's financial proposals each year be split between a Taxes Management Bill (or Bills) and a Finance Bill.* There are also proposals in some of the literature put before us for doing away with the Budget and the Finance Bill. We can see the case for these proposals but we do not endorse them. What Lord Howe of Aberavon has termed the 'Finance Bill habit' is firmly entrenched and, as he has pointed out, without something of that kind, tax legislation could swiftly fall into disrepair.

We also commend the recommendation made by Adam Broke, the Chairman of the Special Committee of Tax Law Consultative Bodies, that a tax reform committee be appointed - comprising MPs as well as people drawn from business, the Revenue, and tax law practice - to put forward proposals for tax law reform and simplification.<sup>xxxiii</sup> It will then be for the committee to place proposals for change before Parliament. The proposal for such a committee was advanced in committee on the Finance Bill in 1995. It was rejected in a report from the Inland Revenue. We think it worth returning to. It is intrinsically worthwhile and it brings Parliament into the process.

We wish to encourage more rigorous parliamentary scrutiny of the estimates. The means for undertaking such scrutiny already exist in the form of the departmental select committees. Few committees make use of their power to consider the estimates. The Procedure Committee, in its report on the procedure for debating the government's expenditure plans (1998-99, HC 295), made what we consider to be commendable proposals and we fully endorse them. *We thus recommend that the main estimates be referred automatically to the relevant select committee, along with the appropriate*

*departmental plan, and that each committee be required to make a report to the House.*

The proposals we have made for changes to select committees - more members, less emphasis on multiple policy-oriented reports, and the power to create sub-committees - make this a feasible proposal. We also find highly attractive a proposal put to us by David Davis MP, Chairman of the Public Accounts Committee, and this forms the basis of our next recommendation. *That is, that each select committee should have the power to propose the transfer of funds from one head to another.* The opportunity to make such recommendations, thus potentially influencing the spending of many millions of pounds of public money, will make consideration of the estimates much more attractive to committees. There will be a greater incentive to scrutinise the estimates. As Mr Davis has noted, it will also ensure that ministers are briefed (which at present they are not) on the justification for spending under particular headings. That, in itself, is highly desirable. The advantages of such a proposal are thus considerable. We believe it has the potential to enhance immeasurably parliamentary scrutiny of the government's spending plans.

We also want to see that all spending by public bodies is brought within the purview of Parliament. This was the intention when Norman St.John-Stevas MP (now Lord St.John of Fawsley) introduced what was to become the National Audit Act 1983. The intention was not wholly realised by the Act. We wish to see it realised. *We recommend that reports from the Audit Commission should be considered by a committee of the House.* This would bring a large swath of public spending, in major sectors of public policy, within the ambit of parliamentary scrutiny. The case for doing so is, we believe, overwhelming.

We have received advice on what type of parliamentary committee should undertake the task. One proposal put to us was that the task should be undertaken by the departmental select committees. Another was that it should be undertaken by a dedicated committee, what one witness described as 'PAC II'. We find the latter proposal persuasive. Given the tasks we envisage for select committees, and the nature of the exercise involved, we think it better to vest responsibility in a single committee established for the task. We

envisage that the committee, which we recommend should be called the Public Audit Committee, will be similar in size and status to the Public Accounts Committee. We would also expect it to operate in a manner similar to the PAC, taking evidence on each report of the Audit Commission. It will thus be a major addition to the committee strength of the House of Commons. We also envisage the chairman having a similar status to the chairman of the PAC and thus receiving the same salary that we recommend for the chairman of the PAC.

Under this heading we include a further proposal, though one that extends beyond that of financial scrutiny. *We recommend the creation of a national statistics office, under a director who is an officer of Parliament.* The use of official statistics has been a matter of controversy for some years. It is important that some means of producing statistics is found that is objective and accepted as such. The demands for a dedicated and independent body has been advanced for some time, including by the Association of Learned Societies in the Social Sciences. We believe the way to achieve it is to establish a national statistics office that has the same reputation as the National Audit Office. To establish its independence of government, we believe that the director should - like the Comptroller and Auditor General - be designated as an officer of Parliament. This will not only be to the benefit of Parliament, ensuring that the figures it receives are objective, but also to the benefit of government. It will help remove much of the doubt that now attaches to statistics issued by government departments.

We are fully aware of the massive hurdles facing Parliament in seeking to scrutinise the estimates. We make no claims that our proposals will suddenly transform Parliament. However, we believe that our recommendations will bring spending plans far more within the sphere of parliamentary interest and scrutiny. More may well need to be done. Indeed, we are sure that it will. We believe that our proposals mark the way forward.

## CONSTRAINING GOVERNMENT

We believe that changes are necessary not only to how Parliament carries out its tasks but also to the structures and processes of government. Government has grown not just in power but in size. The number of ministers, and more especially the number of unpaid parliamentary private secretaries (PPSs), appears to have grown in response to meet the needs of patronage rather than the functional needs of government.

Ministers often have much work to do, but the point has been well made to us - not least by Frank Field MP - that the amount of work increases to occupy the time made available by ministers. We have variously received evidence that the number of ministers is too high. Reducing the number of ministers would create a more lean and accountable government. In the words of Lord Hurd of Westwell, who has extensive experience of government, 'a decision by an incoming prime minister to abolish twenty ministerial posts at different levels would not only be popular but would be followed immediately by an adjustment of workload. The whips and those who enjoy exercising or receiving patronage would be dismayed, but the benefits would be great.' We find this evidence compelling. *We recommend that the size of the Cabinet should be capped at 20. More significantly, we recommend that the number of junior ministers be capped at 50.* This number excludes the whips in both Houses. To prevent an extension of patronage, we believe that the total number of whips in the two Houses should be capped at 20. We believe that these numbers will be sufficient to allow ministers to carry out their essential tasks; indeed we believe it will serve to force them to establish priorities rather than attempting to deal with everything placed before them.

The case for reducing the number of ministers is compelling on its merits. It also has a number of beneficial consequences. Limiting the number of ministers increases the number of MPs who are not committed to government by the doctrine of collective responsibility. Narrowing the route to ministerial office may serve to make attractive the alternative careers in the House of Commons. We believe that these benefits

should not be negated by extending patronage through other routes. In particular we wish to limit the number of PPSs. The number has grown in recent years, with an increasing number of junior ministers appointing PPSs. In 1979 there were 29 PPSs. Today, there are 56. We see no reason why ministers other than Cabinet ministers require PPSs. *We therefore recommend that there should be only one PPS per department responsible to the Cabinet minister.* Given the responsibilities shouldered by Cabinet ministers, we believe that the choice of PPS should rest with the minister and not be subject to a veto power by the prime minister. The prime minister would retain the power to require a minister to dismiss a PPS in the event of the latter voting against the government. However, we believe it is important to stress that PPSs are not members of the government and should not be subject to the same constraints as ministers.

We also wish to see a radical change in the arrangements for the parliamentary year. At the moment, it is something of a movable feast. It can be extended in order to facilitate the government getting its legislation. Present arrangements encourage rushed legislation (resulting sometimes in the government introducing hundreds of amendments to its own bills) and a squeeze on parliamentary time, especially at both ends of the summer recess. We recognise that there is a political imperative to introduce a large number of bills - government wishes to be seen to be active, individual ministers wish to achieve passage of 'big' bills establishing their reputation - and that the pressures to get bills introduced quickly results in poorly conceived and poorly drafted legislation. Various witnesses have suggested that the number of bills introduced each year by the government should be limited to a set number. We have also received evidence that there should be a fixed parliamentary year, with the dates of recesses fixed on a permanent basis, similar to school and university terms. Indeed, the justification has tended to be one of the convenience of members, especially those with families; a fixed parliamentary calendar will enable them to plan ahead and will allow those with school-age children to holiday with their children during the recess.

We are not persuaded that it is practical to

limit the number of bills. There are times when government will need to introduce emergency legislation. Furthermore, there is a difference between the number of bills and the volume of legislation. One big bill may require more parliamentary time than two or three small bills. However, we do believe that there is a means of disciplining the volume of legislation introduced by government. This is through the use of a fixed timetable for the year. *We recommend therefore that there be a fixed parliamentary year.* A fixed timetable, with the dates of recess set in advance, will force government to decide what it wishes to get through in that time. It can go for whatever mix it wants of major policy and administration bills. It will still have the latitude to bring forward emergency legislation, though it would have to be at the expense of some existing measure. In order to maximise its potential to get its measures through, it will need to ensure better-drafted legislation, reducing the need for large numbers of amendments. Our recommendations for the carry-over of bills, and for pre-legislative scrutiny, should contribute towards the introduction of such legislation.

A fixed parliamentary year will also be for the convenience of MPs in that they can plan their year with more predictability than at present. As we have made clear, our motivation is not the convenience of members but in this case it constitutes an additional benefit. It complements rather than conflicts with our principal goal of strengthening Parliament, contributing towards a working year that will, we believe, make parliamentary service more attractive to a wider body of people.

We have noted already that Parliament is unusual among legislatures for the degree to which the agenda is set by the executive. The evidence we have received shows that this control can be relaxed without jeopardising the capacity of government to get its legislation. We have recommended already that a Legislation Programme Committee, chaired by the Chairman of Ways and Means, should determine at what point the various stages of bills are taken on the floor. This is a logical extension of the recommendation we have already made. Discussion will shift from the 'usual channels' to a committee of the House. It will be a means of ensuring that the distribution of time

is appropriate to legislative scrutiny rather than geared to the convenience of the executive.

We also support other means to limit the control of parties, exercised through the whips. We have already made recommendations to remove the impact of the whips in the selection of committee members. *We also recommend that the allocation of office space to members be taken out of the hands of the whips.* This will thus remove from the whips a means of rewarding, or punishing, members. The allocation should be transferred to a committee of the House, chaired by a Deputy Speaker and comprising senior members, the allocation to be made in accordance with the recommendations we have already made, with offices allocated according to the positions held by members.

We have made proposals to ensure that government is more responsive to Parliament in terms of its legislative programme. We also want to ensure that ministers generally are more responsive to Parliament. Too often ministers by-pass Parliament in making policy announcements. They do so despite admonitions, often administered in stern terms, by Madam Speaker. They do so despite the fact that the Ministerial Code devotes a whole section to 'Ministers and Parliament' and stipulates that when Parliament is in session 'Ministers will want to bear in mind the desire of Parliament that the most important announcements of Government should be made, in the first instance, in Parliament.' More clearly needs to be done to ensure that ministers accord Parliament priority in making major policy announcements. Too often nowadays, Parliament is used for second-order (or what amount, in effect, to repeat) statements rather than first-order statements. *We recommend that both Houses should resolve that any announcement of public policy, requiring legislation or substantial expenditure, should be made by ministers to Parliament.* This should strengthen the position of the Speaker in reprimanding offending ministers. *We further recommend that the Ministerial Code be amended to impose a requirement on ministers to make the most important announcements to Parliament.* This can be achieved by a simple amendment to the opening sentence of the section on 'Ministers and Parliament'. Such a change is the responsibility of the prime minister. It is also

the responsibility of the prime minister to ensure that the code is adhered to by ministers.

Ministers on occasion fail to provide information to committees and sometimes the House itself. The Foreign Secretary, Robin Cook, declined to disclose certain information to the Select Committee on Foreign Affairs in its inquiry into the sale of arms to Sierra Leone, giving pre-eminence to an internal inquiry carried out by Sir Thomas Legg and Sir Robin Ibbs. Ministers sometimes refuse to provide information requested in parliamentary questions. As things stand at the moment, Parliament is not in a position to judge whether the material withheld is justifiably withheld, rather than for the purpose of avoiding political embarrassment. There have been some advances recently, most notably with the disclosure on the cost over-run on the refurbishment of M15 headquarters. We want to see Parliament's capacity to check on whether information is legitimately withheld strengthened and institutionalised. *We recommend the appointment of a Parliamentary Investigations Officer. The officer will be a servant of the House - similar to the Comptroller and Auditor General - and will investigate cases where information is withheld from a Select Committee or from the House.* The officer, like the Parliamentary Commissioner for Administration (indeed, the two posts could be combined), will have access to departmental papers and will offer an opinion as to whether access had been justifiably withheld. The officer will not have power to require the disclosure of papers. We would expect ministers to disclose papers where the Parliamentary Investigations Officer has determined that they were unnecessarily withheld. It would be for parliamentary pressure, bolstered by public criticism, to force disclosure where a minister has failed to comply.

These proposals are designed to make ministers more attentive to Parliament. We also wish to ensure, for reasons we have discussed, that the prime minister in particular is more attentive to Parliament. We are attracted by the proposal put to us by Andrew Tyrie MP that the prime minister should appear on occasion before a committee of the House. This would permit more sustained scrutiny than is possible at Prime Minister's Question Time. It would, though, provide scrutiny by a limited number of members. We

wish to enable all MPs to have an equal opportunity to question the prime minister; hence our proposals for Prime Minister's Question Time. However, we think that an occasional appearance by the prime minister before a committee has considerable merit. Rather than appearing once a month before the Liaison Committee, *we recommend that the prime minister appears twice a year before the committee for a wide-ranging review, similar to that undertaken by some select committees of senior ministers.* This would permit some discussion, though to achieve this we would favour the committee focusing on particular topics.

Ministers need to be more attentive to Parliament. So too do civil servants. Though senior civil servants usually understand and have a healthy respect for Parliament, this is not always apparent throughout Whitehall. Civil servants sometimes neglect Parliament and fail to respond quickly and efficiently to the legitimate requests made by MPs. In April of this year, the Speaker wrote to the Head of the Civil Service, Sir Richard Wilson, to complain about 'a litany of recent failures by departments in their treatment of Parliament'. These failures included failing to respond promptly to letters from MPs and failure to place documents in the House of Commons library. There have been instances of officials not knowing where to send documents and not knowing what procedures they were supposed to follow. Such failings can hamper Parliament in seeking to call government to account.

We have two recommendations to address this problem. The first concerns the Civil Service Code. The Code reminds officials that ministers have a duty to give Parliament, as well as the public, 'as full information as possible about their policies, decisions and actions'. We believe that there should also be a duty for civil servants to ensure that material to which MPs are entitled is supplied promptly and, where appropriate, as fully as possible. We recognise that there are limitations on the information that officials can supply, not least information supplied in confidence and the advice they offer to ministers. However, ensuring that officials supply material quickly and as fully as possible to MPs does not conflict with the principal duty of civil servants to their ministers. *We recommend therefore that the Civil Service Code be amended to provide*

*that material to which MPs are entitled is supplied promptly and as fully as possible, subject to the other provisions of the Code.* We also believe that it should be made explicit that it is the responsibility of permanent secretaries to ensure that the provisions of the Code are complied with.

The second concerns training. In response to Madam Speaker's letter, Sir Richard Wilson said that he intended to set up special training for staff in units which have regular dealings with Parliament 'to deal with the main rubbing points'. We welcome this development and we would like to see it institutionalised and taken further. *We recommend that training on the role of Parliament, and the responsibilities of civil servants to Parliament, become an integral part of the training provided by the Centre for Management and Policy Studies.* Such training would provide a greater sensitivity to the responsibilities stipulated by the Civil Service Code. We believe that it could become the principal means of achieving a culture shift on the part of the civil service. Some civil servants that appear before select committees are open and helpful in their approach. Some adopt what may be termed an 'Osmotherly' approach, sticking to the restrictive guidance embodied in a memorandum first issued in 1972. We would like to see the former as the accepted norm.

## CONSTITUTIONAL CHANGE

The nation has experienced major constitutional change in recent years, indeed - given the amendments to the treaties establishing the European Communities - recent decades. We have already mentioned the changes in our section on the decline of Parliament. They constitute political facts of life. They have consequences for Parliament.

Our remit is not to produce an alternative programme of constitutional reform to that brought forward by the present administration. We would, in any event, be wary of doing so. Changes to the constitution have been brought in without necessarily being preceded by a substantial and considered study of their likely consequences. Any future changes to the constitution should be thoroughly thought through. Otherwise, there is the potential to

generate problems that may not only be avoidable but also that may be more substantial than those they seek to address.

Our concern is with how Parliament should respond to the changes. We have already outlined changes we would like to see made to parliamentary scrutiny of EU business. We have also endorsed the proposal of the Wakeham Commission for the creation of a Constitution Committee in the House of Lords, operating through a series of sub-committees. We reiterate the significance of this proposal. The House of Lords is ideally placed to create and sustain such a committee. It will create the means of monitoring constitutional change and of addressing the consequences of change. It will be in a position to assess the developing relationship between legislatures in the different parts of the United Kingdom, though - as we shall shortly argue - we also wish to see a wider review undertaken. It will also be in a position to assess the relationship between the courts and Parliament. As we have noted, membership of the EU, the incorporation of the ECHR, and devolution have served to create a new, and now prominent, judicial dimension to the constitution. Given the basic tenets of the constitution, this creates a potential tension between Parliament and the courts. More thought needs to be given to that relationship and the impact of these developments needs to be monitored and assessed. Following Wakeham, we also see a role for the House of Lords in scrutinising international treaties.

We thus envisage a regular review and assessment of constitutional changes and their consequences, undertaken principally through sub-committees of a Constitutional Committee. We also advocate a major inquiry to draw these strands together. Relationships between parliaments in the UK should be looked at in a wider context, including their relationship to the institutions of the EU. The relationships of the different legislatures to the courts should be drawn in. *In short, we envisage a thorough, comprehensive review, one that is undertaken from the perspective of Parliament.* The starting point should be the position of Parliament as the key link between citizen and Parliament and as the body through which decision makers are held accountable. We believe that the nation state must remain the key element of the European Union and

that, within the United Kingdom, Parliament must remain the core institution for balancing effectiveness and consent.

Parliament also has to adapt its procedures to meet the new conditions. The Select Committee on Procedure has looked at the procedural consequences of devolution (HC 185, 1998-99) and the Scottish Affairs Committee has reported on the consequences of multi-layer democracy (HC 460-I, 1997-98). The House of Commons has made some limited changes as a consequence of the former report. The report itself provided the basis for addressing the 'West Lothian' question in the House. The government chose not to address the question. Instead, it proposed - and the House approved earlier this year, on 11 April - a new standing order establishing a Standing Committee on Regional Affairs. The Standing Committee does not answer the West Lothian question. Indeed, it is not clear what question it does answer. In moving the motion to change standing orders, the Leader of the House, Margaret Beckett, said that the purpose of the committee was 'to debate primarily matters that are of concern to members who sit for English constituencies'.<sup>xxxiv</sup> However, the standing order permits only discussion 'of any matter relating to regional affairs in England which may be referred to it'. This embodies a double restriction. Regional affairs constitute only one aspect of what may concern MPs sitting for English seats. Motions to refer matters have to be moved by a minister. There is a further limitation in that the party distribution is, in terms of voting members, to reflect party strength in the House as a whole, not party strength in England.

We believe that the House has to get to grips with the West Lothian question. Scottish MPs can vote on some matters that affect only England but English MPs cannot vote on the same issues that affect only Scotland. There is general agreement that, as a consequence of devolution, the number of MPs representing Scottish seats should be reduced. The change will occur later than is desirable (it should have been brought in at the same as the Scottish parliament was brought into being) and it only brings the electoral quota in Scotland into line with England. We recognise the objection that this still leaves Scotland disproportionately advantaged, since it has the same electoral

quota as England but also has its own parliament. Reducing further the number of MPs sitting for Scottish seats, however justifiable, would nonetheless not solve the West Lothian question. The problem is not how many MPs representing Scottish seats can vote on 'English' legislation but the very fact that Scottish MPs at Westminster can vote on that legislation.

We agree with the contributor to a recent Fabian Society publication, *The English Question*, who argued that 'Once a Government at Westminster is dependent on Scottish votes to secure English measures, such matters will cease to be merely anomalies and become the stuff of constitutional crisis'. It is imperative that the West Lothian question is addressed. It can never be fully answered under conditions of asymmetrical devolution. However, we can go some way to answering it. We reject the proposal for an English parliament. That would be a massive step towards a federal state, which we find unacceptable. It would also be a lop-sided and we believe unstable federalism; as Charter88 pointed out in their evidence to us, England would dominate by virtue of its size in terms of population and wealth. We want a solution that is compatible with maintaining the United Kingdom. We also reject regional assemblies in England, one of the proposals put forward in the Fabian Society collection of essays and in evidence to us by Charter88, as a solution to the problem. Regional assemblies would not have the same legislative powers as vested in the Scottish parliament. The solution, we believe, is to be found in creating a particular process for English or, more frequently, English and Welsh legislation.

This solution was advanced by Sir Edward Heath in his memoirs, *The Course of my Life*, in which he wrote:

*My own view was that dealing with the problem should be relatively straightforward. The Speaker of the House of Commons could be given the power to certify that any item in this category was purely "English" in scope, thereby preventing Scottish Members from voting on it.*

It is a solution that was also addressed by the Procedure Committee in its report on the procedural consequences of devolution. At

paragraph 26, the Committee raised the question of whether it was appropriate, in principle, to have 'special procedures for Bills relating exclusively to one of the constituent countries of the UK, as currently apply to Bills relating exclusively to Scotland or Wales. On balance, we believe it is.' It recommended that the provision permitting the Speaker to certify a Bill as relating exclusively to Scotland be transferred to a new standing order so that the Speaker could certify that a Bill relates exclusively to one of the constituent parts of the UK. It said that Bills relating exclusively to one country should be referred to a second reading committee and that the standing committee on the bill should have at least 16 MPs from the country concerned. We believe that both Sir Edward and the Procedure Committee got the principle right. Our proposals for giving effect to the principle go beyond those suggested by the Procedure Committee providing, we believe, for a greater degree of equity.

*We recommend that a new procedure be introduced for Bills that affect exclusively England or that affect exclusively England and Wales. The Speaker would, after first reading of a bill, determine whether its provisions related exclusively to one constituent part of the UK or exclusively to England and Wales. This is an extension of the existing responsibility vested in the Speaker and involves no substantive departure in terms of principle or practical capacity to undertake the task: the Speaker will be able to draw on the expertise that she presently draws on. If a certificate is issued, the bill shall - if introduced by a minister of the crown - stand referred automatically to a bill grand committee. (The procedure for referral in the case of private members' bills should remain as provided for in standing orders: that is, by motion of the member in charge of the bill.) The committee should meet in the chamber and should comprise all members from the territory concerned. Thus, all MPs from the territory covered by the bill will have an opportunity to speak and vote. We believe that the same procedure should apply as for second reading committees. That is, members who are not members of the committee may attend and speak, but not vote. This will enable members from outside the territories concerned to speak if they believe that the measure has implications for their constituencies.*

If the bill receives a second reading, the bill will stand referred automatically to a standing committee. In line with our earlier recommendation, we see no reason why it should not be subject to consideration by a special standing committee. The membership of the committee will be drawn from the affected territory and reflect the party strength of that territory. When committee stage is completed, the bill will be reported to the bill grand committee. This will meet, as on second reading, in chamber and the normal rules for consideration at report stage will apply. When the report stage is completed, a date will be set for third reading. Third reading will follow the normal rules of the House, though we would expect the convention to develop that MPs from those parts of the UK not affected by the legislation do not take part in any debate or division.

To prevent attempts to circumvent the procedure by introducing an extraneous provision affecting another part of the UK, we recommend a special procedure for bills that cover matters that are not reserved matters under the terms of the Scotland Act. *We recommend that the Speaker be required to direct that any provisions contained within such bills that explicitly affect Scotland shall be removed and introduced as separate bills.* Another way to address the same problem would be to stipulate that bills introduced to deal in England and Wales with matters that are devolved in Scotland shall not be permitted to make provision “for connected purposes” in the long title of the bill. We think our former recommendation is the stronger of the two.

A bill carrying a Speaker’s certificate shall be considered in the House of Lords by the same procedure as other legislation. We see no way in which a procedure could be developed to take account of the certification, nor any reason why it should. If the House of Lords rejects a bill that carries a certificate, it can be reintroduced in the subsequent session and the provisions of the Parliament Act will apply, as with any other bill. Standing orders should be amended to provide for Lords amendments to be referred for consideration by the bill grand committee that had considered the bill.

We believe it is imperative that the imbalance identified by the West Lothian question is corrected, in so far as it is feasible to do so.

This is necessary as a matter of equity, a fact recognised (according to survey data) by electors both north and south of the border, and as a means of maintaining the unity of the United Kingdom. Far from exacerbating tension, it is designed to alleviate it. Scottish MSPs will be able to take decisions affecting Scotland. English MPs will be able to determine the content and outcome of bills affecting only England, and English and Welsh MPs will be able to determine the content and outcome of bills affecting only England and Wales. At the same time, the principle of equality is maintained through our provision for approval by the House at third reading. Parliament will clearly be operating as a United Kingdom Parliament. It will also be for the parties to anticipate what may happen to any legislation they propose to introduce that affects only England (or England and Wales) and to enter an appropriate qualification in their election manifestos, thus ensuring that they offer a true prospectus to the British people.

## ACCESS TO PARLIAMENT

Citizens have a right to contact their representatives and to see what they are doing in their name. We want to strengthen the link between citizen and Parliament. We want to do this through giving MPs greater powers to pursue problems raised by electors. We also want to strengthen the link between Parliament and citizen. The best way to achieve this, we believe, is through ensuring greater media access to Westminster.

When people encounter problems with a public body or wish to see some change in public policy, they frequently contact MPs. Constituents write to their MPs in large numbers. In the mid 1960s, 10,000 letters flowed into the Palace of Westminster every week. By the mid 1990s, it was 40,000 letters a day. Letter-writing is an individual form of contact. Electors also put their views collectively to MPs in the form of petitions. The 1980s and 1990s saw a notable increase in the number of petitions presented to the House. In the six sessions from 1985-86 to 1990-91 inclusively, 2,350 petitions were presented. Some have a few signatures, some have several thousand.

There are two problems. One is the burden imposed on MPs by the sheer number of demands made of them by constituents. The volume of constituency casework can limit the time available to contribute to the work of the House. The other is the failure of the House of Commons to deal adequately with petitions. Petitions enter what is almost a 'black hole' in the parliamentary process.

There are two ways to address the burden imposed on MPs. One is to address the demand side. In principle, we favour this approach. Most problems raised by constituents are not the responsibility of central government. Many letters should be sent to local councillors, not to the MP. However, we recognise the difficulty of tackling the demand side, especially in the short term. Many MPs, sensitive to the need to be seen to be responsive to constituents' needs, are reluctant to tell constituents that they should direct their letters to others. We see no case for the suggestion made many years ago by one MP that citizens should be statute-barred from raising certain issues with MPs. In the long term, we look to a strengthening of local government, and greater awareness of the role of other grievance-chasing agencies - which may come as a result of the introduction of civic education - to reduce the volume of correspondence.

More immediately, we favour addressing the supply side. MPs need to be given the resources to deal more efficiently with the demands made of them. MPs pursue constituency casework in a way that is often effective but inefficient. We want to see new technology harnessed more extensively to the benefit of MPs. We want to see some increase in the staff resources available to members to deal with casework. We agree with Anne Campbell MP, writing in *The House Magazine* on 17 April 2000, that 'there are ways in which the clever use of the internet can reduce workloads not increase them'. MPs can contact large numbers of constituents via e-mail. This can ensure more regular contact as well as reducing the need for sending letters by ordinary mail (expensive) and the use of newsletters (labour intensive). E-mail can also be dealt with efficiently within an MP's office - indeed, can be channelled immediately to a constituency office - before the MP ever needs to see it. The MP can deal with e-mail

correspondence whenever is convenient through the use of a laptop.

The greater availability of internet access may also reduce the need for constituency surgeries, while nonetheless extending constituents' access to the MP. Some MPs also now make use of video links. Such links will increasingly enable the MP to have a face-to-face conversation with a constituent without leaving Westminster. In order to facilitate these changes, we make two *recommendations*. *We recommend that provision be made for each MP to be supplied with constituency-Westminster video links.* The constituency base should normally be a public office, not a party building. Provision should be made for the servicing and upkeep of that office. *We recommend that the office cost allowance be increased by one-quarter and that this amount be ring-fenced to provide for the hire of a constituency assistant.* This will enable the MP to cope more effectively with existing constituency demands as well as with the new technology. Nigel Evans MP has written recently 'In a short period of time I will have to employ a researcher just to manage the e-mail'. It is not just e-mail that imposes increasingly on the MP's time. The introduction of voice-mail has imposed a substantial burden. It is time consuming and creates practical problems in generating casework records. Members need assistance to cope with this growing burden. We believe an additional assistant will be necessary to handle the work. In many cases, the assistant will complement staff already based in the constituency. Arrangements for the recruitment and hire of the assistant should be organised through the House.

We believe that these changes will enable an MP to deal more efficiently with constituency casework without undermining the member's capacity to retain control of the process and to keep abreast of problems affecting the constituency. Indeed, through the use of technology we would expect members to have a greater facility to keep abreast of those problems.

We turn to the problem of petitions sent to Parliament. The number is significant. Petitions are frequently the result of citizens spending many hours, even days, soliciting the support of like-minded people. They are sent to an MP and presented, formally or

informally, to the House of Commons. A copy is sent to the relevant department, where it generally receives a lower priority than a parliamentary question; it is up to the minister whether a formal observation should be made. Petitions are not debated and, as a general rule, have no impact whatsoever. In a memorandum to the Procedure Committee in its 1992 inquiry into public petitions, the Lord President of the Council said that the government considered petitions, as a form of redress, as something of an anachronism. 'While rich in symbolism and tradition, it has little practical effect and has long since been overtaken by other more effective ways of raising matters of concern which were not available when the petition system originated'.<sup>xxxv</sup> He said they continued to have a role in demonstrating public opinion on an issue. Given the limited attention they receive by Parliament, government and the media, we doubt if even this is the case.

This situation is clearly unsatisfactory. As the Lord President conceded in 1992, there was no evidence of a petition leading, directly or indirectly, to a change of policy. The Procedure Committee said the varied effectiveness of petitions 'may lead to some false expectations on the part of the public'. This, we feel, is a crucial point. Rhodri Morgan MP, in a letter to the Procedure Committee, said that petitioning was one of the few ways in which the public could feel in some way 'connected' to what goes on inside Westminster. The problem is that, under existing arrangements, that connection is virtually broken. We wish to reconnect citizen with Parliament.

Sir Richard Body MP, in evidence to us, proposed the appointment of a Petitions Committee. The House, as Sir Richard reminded us, used to have a Public Petitions Committee. In an inquiry in 1972-73, the Procedure Committee considered a proposal to empower the committee to take evidence from witnesses. It argued against the proposal; it felt the committee would not be able to deal with all the petitions presented. In his evidence to the Procedure Committee in 1992, the Lord President said that a similar argument applied in the case of the departmental select committees.

We are strongly of the view that the proposal for a Petitions Committee is a compelling one. A Petitions Committee would not necessarily

have to consider all petitions in detail. It would be able to refer petitions to departmental select committees for consideration; if a select committee declined to consider a petition, it would be open to the Petition Committee to take up the issue. In the case of an issue that did not fall clearly within the remit of a select committee, the Petition Committee could decide to pursue it immediately. Petitions would continue to be sent to departments, but with observations being submitted to the Committee. It would be up to the Petitions Committee to decide, on the basis of a department's observations, whether to take the matter further. Given that the existence of the committee may encourage pressure groups to get their members to organise petitions, it will necessarily have to be selective. In some cases, the matter may be dealt with by correspondence with the minister. In other cases, the committee may decide to take oral evidence. The committee would have the same powers as other select committees.

We believe that a Petitions Committee, in the way that we have described, would be a major way of connecting citizens with what goes on in Parliament. It will enable citizens collectively to have the same input into Parliament that they enjoy at an individual level. *We therefore recommend the appointment of a Petitions Committee.* We would envisage a committee of between 11 and 20 members, with the power to appoint sub-committees. The chairman would have the same status, and thus the salary, which we recommend for chairmen of other investigative select committees.

We also favour major changes designed to ensure that citizens have a greater awareness of what Parliament is doing. There is some media coverage of Parliament and both Houses are pro-active to some degree in disseminating material about their work, not least through the internet. We want to see Parliament become an even more open institution. Citizens are entitled to see what is going on. Parliament itself benefits from the oxygen of publicity. It gives it greater leverage in its dealings with government. We want to see the media have greater access to the Palace of Westminster. We were impressed by the case made to us by Amanda Brown of the Press Association. Restrictions on access are far too excessive. We welcome the experiment, which started

on 2 May (2000), that permits members to give filmed interviews in the vestibule off Central Lobby. We wish to see this taken much further. *We recommend that the media be permitted to make greater use of the Palace of Westminster.*

We think that camera crews should be permitted far greater access to parts of the Palace. Rather than stipulating those parts of the Palace to which the media are permitted access, we think the onus should be reversed. We believe that camera crews should have access to all parts of the Palace other than those stipulated as off limits. The off-limit areas should include the area behind the Speaker's chair and most of the Members' lobby in the Commons and the Prince's Chamber in the Lords. There should be restrictions on the number of cameras that may be permitted and indeed restrictions on the number of camera crew. Filming would only be possible with the permission of a member.

*We also recommend more dedicated facilities for the media within the Palace.* We believe that there should be a room set aside for the media so that they will have their own technical support within the Palace and their own mini-studio. This would not only be for the convenience of the media and members, we also believe that it will provide an incentive for the media to devote more time and attention to Parliament. We also take the view that it is desirable for more committee rooms to be equipped with provision for television coverage.

Parliament should exploit opportunities to ensure that people are aware of what it is doing and, indeed, what it is about. We welcome moves towards the teaching of citizenship (being introduced as part of the national curriculum in England) in schools. We endorse the comments made in evidence to us by the Institute for Citizenship: 'One of the best ways to strengthen Parliament as an institution is to ensure that young people in the UK are aware of the actual responsibilities of their members of Parliament'. Education is necessary but not sufficient to strengthen the institution of Parliament. Members of Parliament have to meet the responsibilities that greater awareness of their work entails.

## MOVING AHEAD

We have made a substantial body of recommendations. We believe that they are necessary to ensure that Parliament is able effectively to fulfil its role as a democratic body of scrutiny and to call government to account. Our recommendations are not exhaustive. We have confined ourselves to those recommendations that can be implemented in the lifetime of a Parliament and, in most cases, recommendations that can - and should - be brought into effect at the beginning of a Parliament.

In the longer term, we favour other changes. We have considered the question of whether or not the size of the House of Commons should be reduced. The case for doing so has been put to us by several witnesses. It is a compelling case. We accept the argument that the House of Commons will be able to fulfil its functions more effectively if the emphasis moves from a large House to a smaller House with better-resourced members. As we have seen, the number of members contributes to the strain on the resources of the House. We believe that members could, with the proposals we have made concerning support for delivering constituency services, cope with a larger number of constituents. Though it may seem counter-intuitive, larger constituencies may also facilitate a closer, longer-term relationship between member and constituents, in that less radical changes will be required to constituency boundaries to take effect of demographic changes. In principle, we favour a reduction in the size of the House.

The number of MPs will fall, though not dramatically, as a result of devolution. We have made recommendations that extend the work of the House of Commons. We believe that our proposals should be given time to bed in before the size of the House is further reduced. We find considerable merit in the proposal advanced by Lord Cranborne in his Parliamentary Government Bill, providing for a staggered reduction over a twenty year period. (He proposed a House of 525 for the first general election after 1 January 2010 and a House of 400 for the first election after 1 January 2020.) *We recommend that the government introduce a bill to provide for a staggered reduction in the size of the House.*

This will not only give time for the necessary changes to be made, not least to constituency boundaries, but also to assess the effects of the changes that we wish to see implemented.

Reducing the number of MPs will provide for a more efficient House. Resources will be distributed among a smaller number of members. A reduction in size will also have political and financial benefits. The creation of more layers of government leads inexorably to more elected politicians. There is understandable popular cynicism at the creation of more paid posts for politicians. Our recommendation will lead to a reduction in their number. A reduction in the number of MPs will also, in cost terms, more than offset the cost of the other recommendations that we have made. We have already made recommendations, primarily a reduction in the number of ministers, that will offset the cost of some of our other proposals. A reduction in the number of MPs to 500 will cover the cost of our remaining proposals. It will also make possible, without adding to demands on the public purse, a review of the salaries of the MPs that remain. Once a smaller House is in place, we believe that the Senior Salaries Review Body should undertake a salary review, taking into account the new responsibilities of members.

We also favour examining more radical proposals in the longer term. Once our recommendations are implemented, there will be a case for seeing whether further changes are necessary. If the proposals we recommend serve their purpose, further substantial change may not be necessary. Conversely, it may be that as Parliament becomes more effective in calling government to account, it may wish to develop its procedures further. One proposal that we think may deserve further consideration is that of referring bills to committee prior to second reading. There is evidence that legislatures that adopt this practice have a greater impact on legislative outcomes than legislatures in which bills are taken first in plenary session. We recognise that the proposal is probably too radical to find acceptance at the moment, and also that our other recommendations need to be given time to be given effect before such a step is taken. Nonetheless, we believe that it is a proposal worth putting before parliamentarians for further debate.

Putting such a proposal forward is important also as a means of ensuring that Parliament continues to review and assess its own procedures. There will never be a 'static' situation as far as the structures and procedures are concerned. Parliament has to adapt to a continually changing environment. Complacency is the enemy of an effective Parliament.

We believe that the recommendations that we have advanced will serve to shift the relationship between Parliament and government, enabling Parliament to be an effective body of scrutiny and more able than at present to call government to account. We recognise the limitations of the exercise. Parliament will have to approve these recommendations. It will also have to sustain them. Government acquiescence is, at a minimum, necessary for them to see the light of day. We believe that our goals are achievable, but it will take a confident Parliament to enact them and, equally, a confident government to accept them.

We also recognise that changing structures and procedures can only do so much at the end of the day to bolster public confidence in the institution of Parliament. They can make some difference but, ultimately, the reputation of Parliament rests on what its members do. There is a great responsibility resting on the shoulders of parliamentarians. MPs have generally done well in meeting the expectations of citizens at a constituency level but have, in the eyes of electors, performed badly at a parliamentary level. We were struck by the concluding question raised Lord Howe of Aberavon in his evidence to us: 'If we are to restore faith in parliament - even in politics itself - should we not be ready to challenge the hollowness of much of today's parliamentary behaviour, even political debate?' He quoted from a report of a Ditchley/Kennedy School joint conference, which he chaired, which argued that honest political leadership, enthused by a sense of moral purpose and of public service, could make a difference. We want to see Parliament reformed in order to fulfil its functions, but in order to do that it requires parliamentarians who are not only willing to make it work but also demonstrate to the public that they are. In short, it requires leadership. We look to parliamentarians to provide it.

## V: Conclusion

The Westminster model of government is one that has served the country well. We believe that the essential elements of the constitutional framework are sound.

Parliament remains the crucial link between citizen and government. The country has been fortunate in the quality of the institution and in the members and officers who serve in it. We do not subscribe to the cynical view of Parliament, regarding it as marginal and contributing little to the nation. We believe that members of the public have a better grasp than the cynics of what the institution does. Surveys have shown that people who think that Parliament does a good job regularly outnumber those who think it does not. The constituency link is especially valued.

The functions of Parliament are generally fulfilled well and we see no reason to attempt to change them. We recognise that the system of government is under pressure and that in some areas Parliament could be strengthened. We believe that this view is also shared by the public; we have touched upon particular aspects of parliamentary activity that have attracted a critical response. Both Houses can and should be strengthened

in calling government to account. We believe that, in seeking to strengthen Parliament in this respect, we are building on a sound, not a weak, base. We have considered the reasons why Parliament has been limited in exercising its critical capacity and we have made recommendations to enable it to call government to account. In so doing, we have not sought to undermine the other functions of Parliament. Government will still be able to govern. What we have sought to do is ensure some element of balance in the relationship between the executive and the legislature. For the reasons we have outlined in section II, there is presently an imbalance. The purpose of this report is to show how that can be corrected.

The recommendations that we have put forward are substantial, both in qualitative and quantitative terms. They provide the means for Parliament to be a powerful body, through its several parts, in calling government to justify itself and to hear the views of other parties and of citizens. We have argued that a confident government will welcome these changes. Government derives its authority from Parliament. If Parliament is undermined - and is seen by

the public not to be calling government to account - then in the long run the authority of government is undermined. A government that has confidence in its own measures and actions will welcome parliamentary scrutiny.

Making these changes will also require a confident Parliament. For most MPs, it will entail critical examination of a government that they were elected to support. For this reason, we have argued that incentives need to form a central part of the changes we have recommended. We believe that once the recommendations have been implemented, members will find that they are fulfilling a more productive role, one that has the potential to produce better government.

The changes we have put forward need to be made by Parliament. Members have to agree to the changes and they have to sustain them. The changes require, at the very least, the acquiescence of government; ideally, they should receive the warm support of government. Without the political will to make and sustain the changes, nothing will be achieved. We have outlined the changes that need to be made to ensure that Parliament is able to call government to account, changes that can be accomplished within the lifetime of a Parliament. It is up to Parliament to grasp the nettle. The first Parliament of the new century has a unique opportunity. It should grasp it.

# VI: Summary of recommendations

## THE HOUSE OF COMMONS

### The Chamber

#### Prime Minister's Question Time

- There should be two Prime Minister's Question Times each week, each of 30-minutes.
- The number of Questions to the Prime Minister appearing on the Order Paper should be limited to a maximum of five, the questions should be 'closed' rather than 'open', and the last question on each occasion should be a 'topical' question.
- These proposals should be embodied in the Standing Orders of the House.

#### Question Time

- No more than ten questions should appear on the Order Paper for each Question Time, with the number reduced by one in every five minutes lost in shorter periods.
- No duplicate questions should be permitted on the Order Paper.

- The period of notice should be reduced from ten to five sitting days.
- The last supplementary on a question should be given to the MP asking the question.

#### Arrangement of business

- Some debates should conclude at 8.00 or 9.00 p.m.
- Certain debates should be time limited, both in terms of the length of the debate and the length of individual speeches.
- The House should experiment with Unstarred Questions (short debates on questions), as exist in the House of Lords.
- Half-an-hour following Question Time on a Tuesday should be given over to discussion of a Select Committee report, with each speech limited to five minutes.
- There should be provision for MPs to request short 60-minute emergency debates, the rules for granting them to be less restrictive than at present, with the debates to take place at the start of public business on the following day.
- Speeches in most debates should be time limited.
- There should be six days set aside for debate of select committee reports, in

addition to the short debates on Tuesdays.

## Committees

### Departmental select committees

- The appointment of committee members should be taken out of the hands of the whips.
- Select committees should offer an alternative career path to that of ministerial office.
- The membership of each select committee should not necessarily reflect precisely party strength in the chamber, the Liaison Committee being empowered to recommend some variation.
- There should be provision for some enlargement in the membership of each committee.
- Each select committee should be empowered to appoint one or more sub-committees each session.
- A central unit of researchers should be established in the Committee Office.
- Each committee should have its own research budget.
- The committees should be encouraged to focus on resource estimates, departmental plans and output and performance analyses.
- Draft bills should be examined by select committees.
- Debates on select committee reports should take place on substantive motions.
- The wording of motions should be proposed by the relevant committee and agreed by the Liaison Committee.
- Committee reports should be produced in a more reader-friendly style.
- If a department performs poorly in responding to reports, the relevant committee should schedule a session with the minister two months after publication of a report.
- It should be open to a select committee to report to the Liaison Committee serious cases of repeated departmental failure to respond promptly to committee reports.
- Civil servants who have dealings with select committees should have some training in the role of Parliament.

### New committees

#### Ad hoc committees

- Joint committees should be appointed to consider cross-cutting areas of public policy.

### Permanent committees

- A Public Audit Committee should be appointed to consider reports from the National Audit Office.
- A Petitions Committee should be appointed to consider public petitions.

## The Opposition

- A research budget for the Opposition should be created.

## Parliamentary parties

- A small budget be provided for each parliamentary party to assist it with its internal back-bench organisation.

## The Member of Parliament

### Career structure

- Select committee chairmen should receive a salary, the chairmen of investigative select committees receiving the same salary as a minister of state and the chairmen of certain major investigative committees receiving the same salary as a Cabinet minister.
- Each select committee should be empowered to elect a deputy chairman.
- Sub-committees should elect their own chairmen.
- The status of officers of back-bench committees should be enhanced.

### Training

- Training for members at the beginning of each Parliament should be introduced.
- A training infrastructure should be developed within Parliament.

### Incentives for parliamentary service

- Pension arrangements for MPs should be reviewed.

## THE HOUSE OF LORDS

- Bills should normally be referred to a select committee following second reading.
- The House should set up a number of sessional committees to consider the constitution and cross-cutting issues such as macro-economic policy.
- One or more committees should be established to monitor the impact of legislation.

## LEGISLATIVE SCRUTINY

### Primary legislation

- Bills should normally be published in draft.
- Following second reading, bills should stand referred to a special standing committee, unless the House instructs otherwise.
- The relevant departmental select committee should be able to nominate at least two of its members to serve on a standing committee.
- Each special standing committee should have the power to determine how many meetings to hold within a four-week period.
- Each public bill should be subject to carry-over from one session to another but a bill must be passed within fourteen months of the date of its initial second reading.
- The allocation of the stages of bills in the parliamentary session should be agreed by a Legislation Programme Committee.
- There should be a statutory provision that any sections of an Act which are not brought into effect within five years of Royal Assent shall cease to have effect.

### Delegated legislation

- A 'super affirmative' procedure for major statutory instruments should be introduced.
- There should be a 'sifting' committee to determine which statutory instruments subject to the negative resolution procedure should be debated.
- If the sifting committee recommends that a statutory instrument be debated, the instrument should stand referred to the relevant departmental select committee in the Commons and to an ad hoc committee in the Lords comprised of peers with particular

expertise in the subject.

- Conditional amendments should be employed as the mechanism for indicating to government what changes to statutory instruments would be acceptable.
- The 'praying' time in respect of negative resolution instruments should be extended from 40 to 60 days.

### European Union legislation

- The scrutiny reserve should be embodied in statute.
- The motion put to the House on a document should be agreed by the relevant European Standing Committee.
- Standing orders should be amended to provide that, where a European Standing Committee recommends that a minister does not agree to a proposal, the motion of the Committee should be debatable in the House for up to 60 minutes.
- These debates should be scheduled by the Legislation Programme Committee.
- There should be statutory provision requiring a minister to certify which provisions of a bill are necessary to give effect to European directives and bills to implement directives should be exclusively for that purpose.
- Similar provisions should apply to delegated legislation introduced to give effect to directives.

## FINANCIAL SCRUTINY

- The government's financial proposals each year should be split between a Taxes Management Bill (or Bills) and a Finance Bill.
- The main estimates should be referred automatically to the relevant select committee, along with the appropriate departmental plan, and each committee should be required to make a report to the House.
- Each select committee should have the power to propose the transfer of funds from one head to another.
- Reports from the Audit Commission should be considered by a new Public Audit Committee.
- A national statistics office, under a director who is an officer of Parliament, should be established.

## CONSTRAINING GOVERNMENT

- The size of the Cabinet should be capped at 20.
- The number of junior ministers should be capped at 50.
- There should be only one parliamentary private secretary per department responsible to the Cabinet minister.
- There should be a fixed parliamentary year.
- The allocation of office space to members should be taken out of the hands of the whips.
- Both Houses should resolve that any announcement of public policy, requiring legislation or substantial expenditure, should be made by ministers to Parliament.
- The Ministerial Code should be amended to impose a requirement on ministers to make the most important announcements to Parliament.
- A Parliamentary Investigations Officer should be appointed, as an officer of the House, to investigate cases where information is withheld from a select committee or from the House.
- The prime minister should appear twice a year before the Liaison Committee for a wide-ranging review, similar to that undertaken by some select committees of senior ministers.
- The Civil Service Code should be amended to include a duty to supply quickly and as fully as possible material to which parliamentarians are entitled, subject to other provisions of the Code.
- Training on the role of Parliament, and the responsibilities of civil servants to Parliament, should become an integral part of the training provided by the Centre for Management and Policy.

## CONSTITUTIONAL CHANGE

- A review of the relationship of legislatures to one another, and to the courts, should be undertaken based on the centrality of the Westminster Parliament.
- A new procedure should be introduced for bills affecting exclusively England or England and Wales. Bills affecting only England (or

England and Wales) should be considered by a bill grand committee.

- The Speaker should be empowered to direct that any provisions covering Scotland contained within bills covering matters that are not reserved shall be removed and introduced as separate bills.

## ACCESS TO PARLIAMENT

- Provision should be made for each MP to be supplied with constituency-Westminster video links.
- The office cost allowance should be increased by one-quarter and this amount be ring-fenced to provide for the hire of a constituency assistant.
- The media should be permitted to make greater use of the Palace of Westminster.
- More dedicated facilities should be provided for the media within the Palace.

## MOVING AHEAD

- The government should introduce a bill to provide for a staggered reduction in the size of the House.

- i R. Miliband, *Capitalist Democracy in Britain* (Oxford University Press, 1984), p. 20.
- ii Parliament wanted 'a real, working, governing King, a King with a policy'. Maitland in H. V. Wiseman (ed), *Parliament and the Executive* (Routledge and Kegan Paul, 1966), p. 5.
- iii M. Mezey, *Comparative Legislatures* (Duke University Press, 1979). P. Norton, 'Parliament and Policy in Britain: The House of Commons as a Policy Influencer', *Teaching Politics*, Vol. 13, no. 2, 1984, pp. 198-221.
- iv Sir K. Popper, 'The Open Society and its Enemies Revisited', *The Economist*, 23 April 1988.
- v See R. Rose, 'Ungovernability: Is there Fire Behind the Smoke?' *Political Studies*, Vol. 27, no. 3, 1979, pp. 351-70.
- vi *First Report from the Select Committee on Procedure*, Session 1977-78, HC 588-I. The imbalance in the relationship was also noted at the same time by the Expenditure Committee. 'We believe that the power of the Executive, particularly the Civil Service, has outgrown the power of Parliament and the balance should be redressed'. *Twelfth Report from the Expenditure Committee*, HC 576, para. 12.
- vii The classic work on party cohesion in this period is A. L. Lowell, *The Government of England*, Vol. II (Macmillan, 1924), pp. 76-8.
- viii The highpoint of party cohesion was the mid 1950s. There were actually two parliamentary sessions when not a single Conservative MP voted against the whip. As evidence given to us by Mr Philip Cowley (Hull University) shows, the level of intra-party dissent in recent years, including in the present Parliament, in no way compares with the low level of dissent in the 1950s.
- ix *House of Commons Debates*, 5th series, Vol. 617, col. 70. 8 Feb. 1960.
- x A. King, 'Modes of Executive-Legislative Relations: Great Britain, France, and West Germany' *Legislative Studies Quarterly*, Vol. 1, no. 1, 1976, pp. 11-36.
- xi Richard Crossman, as Leader of the House (1966-68), established a small number of select committees; of the first two that were established, one - the Agriculture Committee - was wound up after two years. It had run into opposition from the Foreign Office and the Government replied officially to none of its reports.
- xii P. Norton, 'Independence without entrenchment: the British House of Commons in the post-Thatcher era', *Talking Politics*, Vol. 6, no. 2, pp. 80-87.
- xiii It was first dubbed a 'reforming Parliament' by Edward du Cann.
- xiv Lord Dahrendorf stressed Parliament was 'unrivalled' in maintaining a link between citizen and the political process, that Parliament worked 'in some respects' in calling government to account, and that the legislative function worked because of the House of Lords. He also drew attention to the accessibility of ministers to parliamentarians. Unlike in some political systems, governmental leaders do not hide in their residences, only rarely deigning to appear before or with the members of the legislature.
- xv See, e.g. R. S. Katz (ed), *Party Governments: European and American Experiences* (de Gruyter, 1987).
- xvi W. Grant, *Pressure Groups, Politics and Democracy in Britain*, 2nd edn. (Harvester Wheatsheaf, 1995), pp. 15-23.
- xvii A. King, 'The rise of the career politician in Britain - and its consequences', *British Journal of Political Science*, Vol. 11, 1981, pp. 249-85; P. Riddell, *Honest Opportunism* (London: Hamish Hamilton, 1993).
- xviii There may be more policy advocates, as distinct from ministerial aspirants, in the House of Commons than is generally realised. For the distinctions and (now dated) extensive empirical research, see D. D. Searing, *Westminster's World* (Harvard University Press, 1994). See also P. Norton, 'Roles and Behaviour of British MPs', in W. W. Muller and T. Saalfeld (eds), *Members of Parliament in Western Europe* (Frank Cass, 1997), pp. 17-31.
- xix On the relationship, see especially M. Rush (ed), *Parliament and Pressure Politics* (Clarendon Press, 1990).
- xx See M. Foley, *The Rise of the British Presidency* (Manchester University Press, 1993) and the summary in G. Thomas, *Prime Ministers and the Cabinet Today* (Manchester University Press, 1998), pp. 77-80.
- xxi P. Dunleavy and G. W. Jones, 'Leaders, Politics and Institutional Change: The Decline of Prime Ministerial Accountability to the House of Commons, 1868-90', *British Journal of Political Science*, vol. 23, 1993, pp. 267-98.
- xxii P. Dunleavy and G. W. Jones, 'Leaders, Politics and Institutional Change: The Decline of Prime Ministerial Accountability to the House of Commons, 1868-90', in R. A. W. Rhodes and P. Dunleavy (eds), *Prime Ministers, Cabinets and Core Executive* (Macmillan, 1995), pp. 295-6.
- xxiii See A. Tyrie MP, *Mr Blair's Poodle* (Centre for Policy Studies, 2000).
- xxiv See A. Barker, I. Byrne and A. Veal, *Ruling by Task Force* (Politico's, 1999) and the debate on Task Forces in the House of Lords, 23 February 2000, *HL Deb.* Vol. 610, cols. 234-270. In the debate, the minister of state at the Cabinet Office said there were 46 task forces and 270 *ad hoc* reviews and advisory groups. See also *Reinforcing Standards: Sixth Report of the Committee on Standards in Public Life*, Vol. 1: Report, Cm 4557-I (The Stationery Office, 2000), pp. 123-4.
- xxv P. Riddell, *Parliament Under Pressure* (Victor Gollancz, 1998), p. 106.
- xxvi S. Coleman, *Electronic Media, Parliament and the People* (Hansard Society, 1999), pp. 7-8.
- xxvii The occasions were Andrew Bennett catching John Major unprepared in a question on the effects of the minimum wage and, in the present Parliament, Sir Michael Spicer catching out the deputy prime minister with a question on a withholding tax.
- xxviii *Shifting the Balance: Select Committees and the Executive*, First Report from the Liaison Committee, Session 1999-2000, HC 300.
- xxix A. Tyrie MP, *Prospects for Public Spending* (Social Market Foundation, 1996).
- xxx L. S. Amery, *Thoughts on the Constitution* (Oxford University Press, 1964 edn.), p. 41.
- xxxi *HL Deb.* Vol. 611, cols. 815-6.
- xxxii *Environmental Regulation and Farming*, Fourth Report from the Agriculture Committee, Session 1999-2000, HC 212-I, Para. 12.
- xxxiii A. Broke, 'Simplification of tax or I wouldn't start from here', *British Tax Review*, No. 1, 2000, pp. 25-26.
- xxxiv *HC Deb.* Vol 349, c. 290.
- xxxv *Public Petitions*, Fourth Report from the Select Committee on Procedure, Session 1991-92, HC 286, p. 19.

# APPENDIX

## SUBMISSIONS TO THE COMMISSION

The Commission took oral evidence from the following:

Amanda Brown, The Press Association  
The Lord Butler of Brockwell GCB CVO  
The Rt. Hon. Viscount Cranborne DL  
The Lord Dahrendorf FBA  
The Rt. Hon. Frank Field MP  
Sir Nicholas Goodison  
The Rt. Hon. The Lord Howe of Aberavon CH QC  
The Rt. Hon. The Lord Hurd of Westwell CH CBE  
The Rt. Hon. Michael Jack MP  
Professor Michael Rush  
Dr Thomas Saalfeld  
Andrew Stunell OBE MP  
Paul Tyler CBE MP

The following submitted evidence through written submissions and/or interviews with the chairman of the Commission:

Dr Nicholas Baldwin, Wroxton College  
Sir Richard Body MP  
The Rt. Hon. Virginia Bottomley MP  
Amanda Brown, The Press Association  
William Cash MP  
Sir Kenneth Carlisle  
Charter88  
Conservative Policy Forum  
Dr James Cooper, The Woodland Trust  
Philip Cowley, University of Hull  
The Rt. Hon. David Davis MP  
Equal Opportunities Commission  
Peter Fairley  
Sir Christopher Foster  
Christopher Gill RD MP  
The Rt. Hon. Sir Archibald Hamilton MP  
Peter T. Hampson, British Resorts Association  
Chris Heaton-Harris MEP  
Professor David Heald, University of Aberdeen  
The Rt. Hon. Michael Howard QC MP  
The Rt. Hon. The Lord Howe of Aberavon CH QC  
The Rt. Hon. The Lord Hurd of Westwell CH CBE  
Institute for Citizenship  
Richard Irvine  
The Rt. Hon. Michael Jack MP

Professor George Jones, London School of Economics  
JUSTICE  
Peter Luff MP  
John McQueen, The Bankruptcy Association  
Sir Robin Maxwell-Hyslop  
David Millar  
The Rt. Hon. The Lord Naseby  
The Hon. David Prior MP  
David Robson  
Andrew Rowe MP  
Professor Michael Rush, University of Exeter  
Michael Ryle  
Dr Thomas Saalfeld, University of Kent  
Sir Roger Sims JP  
Robin Squire FCA  
Walter Sweeney  
Dr Charles Tannock MEP  
Andrew Tyrie MP  
The Rt. Hon. The Lord Weatherill  
Nicholas R. Winterton MP  
The Rt. Hon. Baroness Young DL

The Commission is also grateful to other witnesses who gave evidence in confidence.



# Strengthening Parliament





