PREM 19/2793

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PART 1 : MAY 1979

PART 9 : FEB 1987

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
4-2-87.		19.4.88					
5.2.87.		28.4.88					
20.2.87.		6.5.88					
4.4.87		7.7.88					
14.4.87		25.10.88					
14.4.87.		25.11.88					
15.6.87		30.11.88					
16.6.87.		14.12.88					
13.7.87.		12.1.89.					
20.7.87.		31.1.89					
28.7.87		13.2.89					
9.9.87		6.3.89					
5.10.87		7.3.89 PA					
19.10.87.		7/3/89 PA					
21.10.87		←PART ENDS →					
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PART 9 ends:-

MOD to FCRB 7/3/89

PART 10 begins:-

LORD PRESIDENT to PM 7/4/89.



C80

7/3

With

the Compliments of

Sir Michael Quinlan KCB

Permanent Under-Secretary of State

MINISTRY OF DEFENCE
SW1A 2HB

MANAGEMENT IN CONFIDENCE

LCSR.
PAB.

MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1A 2HB
Telephone 01-218 2193 (Direct Dialling)
01-218 9000 (Switchboard)

PERMANENT UNDER-SECRETARY OF STATE
SIR MICHAEL QUINLAN K C B

PUS/M89/246
9/10

7th March 1989

Dear Robin,

DEPARTMENTAL SELECT COMMITTEES

I write to bring you and colleagues up-to-date on the latest developments in those aspects of general relationships with Commons Select Committees on which my Department has found itself the reluctant occupant of the front-line trenches.

2. On 1 March the Select Committee on Defence published a long report on the future of the Gurkhas. (It incorporated - I do not know whether this was a "first" - illustrations, in the form of four pages of Nepal snapshots attributed by name to various Committee members and their Clerk.) The Report included five paragraphs - copy attached at Annex A, plus relevant Appendix - sharply critical of the Department's dealings with the Committee. My Secretary of State (though his general preference in this campaign remains for suaviter in modo) felt that we must be ready to give some initial reaction, and later on the day of publication our Liaison Officer sent to the Clerk a letter of which I attach a copy to Annex B. As it turned out, we did not need to deploy the media line there set out. Mr Younger mentioned the matter briefly at Cabinet the following day.

3. These paragraphs of the Report further strengthen the impression (for which there is clear though non-quotable collateral in general remarks made by the Clerk when he kindly joined in a training seminar here) that the Committee may well be engaged upon a conscious attempt to adjust the boundaries between Whitehall and Westminster.

4. I am sending copies of this letter and its attachments to our Wednesday - morning colleagues.

Yours ever,
Michael

Sir Robin Butler KCB CVO
Cabinet Office
70 Whitehall
London

MANAGEMENT IN CONFIDENCE

9/10

8/13

MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1A 2HB
Telephone 01-218 2111/3

D/S of S/PS/20/211L

2nd March 1989

GURKHAS

The Department will of course be studying in the normal way the Committee's report published early today on the future of the Gurkhas, and the Government will give its considered response in due course.

In view of the possibility that the strongly worded paragraphs 11 - 15 on general procedure may catch media attention, the Defence Secretary has authorised Departmental spokesmen to draw upon the following line:-

"The Ministry has always sought to co-operate closely with the Defence Committee and will continue to do so. In this case a large volume of information was made available to the Committee, as is clear from the published evidence. The Ministry believes, however, that its approach to the Committee's questions about Departmental thinking was in line with past practice. In their evidence to the Committee officials followed established Government-wide guidance on dealing with Departmental Select Committees. The Ministry will take the Committee's comments into careful consideration. But the Ministry believes that difficulty will continue to arise in relation to lines of questioning which seek access, in advance of collective Ministerial consideration, to Departmental thinking about policy issues which may be sensitive in political or other terms."

(S J AMBLER-EDWARDS)(MISS)
Private Secretary

Robert Rogers Esq
Clerk to the Defence Committee
House of Commons

11. **We regret to have to report that the Ministry of Defence has not been willing to give us all the evidence necessary for our inquiry.** In the first place, witnesses would give us no information about the progress made by the Ministry in considering the future of the Brigade. They would not tell us, for example, whether the Brigade's own study had been completed,[2] nor what progress had been made with the Ministry's study,[3] nor whether the Chiefs of Staff had yet considered the question,[4] nor even whether matters had yet been considered at a senior level in the Ministry of Defence.[5] There is no element of national

[1] In this Report, the terms "United Kingdom" and "Britain" are used interchangeably.
[2] Qq 182 and 183.
[3] Qq 10 and 11.
[4] Qq 8ff and 191.
[5] Q 12.

security involved in this; and even if there were, we would, as always, be prepared to take classified evidence.

12. The Ministry's refusal to answer on policy options caused us greater difficulty. We were told that the conventions of giving evidence to Select Committees prevented our being given information about policy options,[1] and the Ministry was prepared to answer only "in respect of factual material, and where there is an existing Government policy".[2]

13. **We recognise no 'convention' that Select Committees should not be told about options for future policy.** We emphasise that in our inquiry we were not seeking to know the advice which officials give to Ministers, but to discover the financial, administrative and policy implications of options for the future of the Brigade of Gurkhas. **We do not accept that the Government should attempt to shield matters from Parliamentary scrutiny merely because Ministers may later require advice on those matters, or because decisions have yet to be taken.**

14. The Ministry put particular difficulties in our way when we attempted to discover, as a question of fact, whether the Government had investigated the possibility of deploying Gurkhas to a country where they had not so far been stationed. Our exchanges with the MoD are set out in Appendix E, and give a flavour of the sort of difficulty we encountered both here and elsewhere in our inquiry. No Minister or Permanent Secretary would for a moment themselves tolerate such answers from the Department; but such answers are evidently thought good enough for the House of Commons. Apart from the issue of principle involved, evidence of this sort is counter-productive, serving only to engender suspicion about the Ministry's actions.

15. **We are well aware that the Ministry of Defence would prefer to restrict our scrutiny of its decision-making. The Ministry has made it clear that it does not welcome investigation of the options to be considered before a decision is taken. We do not accept that the role of a Select Committee in examining a Government decision should be confined to conducting a post mortem. There is clear advantage to the House and to the taxpayer in an inquiry which explores all the options open to the Government before those options are closed off. Despite the obstacles which have been placed in our way, we have every intention of continuing to investigate issues of importance before the Government reaches irrevocable decisions.**

[1] See, for example, Q 5 and Appendix E.
[2] Evidence, p. 1.

APPENDIX E

EXCHANGES BETWEEN THE COMMITTEE AND THE MINISTRY OF DEFENCE ON GURKHA DEPLOYMENTS (see paragraph 14 of the Report)

Minutes of Evidence, 26 October 1988

Mr Sayeed

38. So is that the only place that you would exclude from places where the British Army are stationed, or operate?
(*Mr Bevan*) We are considering future policy here. I think it very unlikely that the deployment of infantry units, anyway, to Northern Ireland would, in current circumstances, be regarded as an acceptable option. Apart from that, of all the other locations mentioned I do not think there are reasons of principle against the deployment of Gurkhas there.

39. Are there any places where the British Army are not stationed that are being considered for redeployment of Gurkhas—for instance, possibly the Gulf States, which has been mentioned in some newspaper reports?
(*Mr Bevan*) I do not think I want to answer the question of whether other places are being considered. Clearly, there are possible options.

Chairman

40. Is that something, perhaps, you could help us more in private over?
(*Mr Bevan*) I think probably not, Chairman.

Question transmitted to the MoD during the Committee's visit to the Far East

Has the Ministry investigated the possibility of deploying Gurkhas to any country where they have not so far been stationed? Are such deployments still under consideration?

Extract from the MoD Memorandum of 2 December 1988:

As Tables 1 and 2 [of deployments and exercises] show, the Gurkhas have exercised in a wide range of locations. In principle, and given sufficient training, there is no reason why Gurkha infantry should not be able to fulfil any of the UK's current war roles. Clearly, the deployment options available is one of the factors that will determine the future of the Gurkhas, with particular consideration being given to the need to meet the operational requirements of the Army and Defence as a whole.

Extract from a letter from the Clerk of the Committee, 12 January

It may be that [the above] answer is intended to be the answer to some different question, and appears [in the Memorandum] by mistake. The Committee would be grateful to know:

1. Whether the possibility of deploying Gurkhas, other than on exercise, to any country where they have not so far been stationed has been considered by the Ministry;

2. If so, which countries and what level of deployment has been considered;

3. What is the present status of any such possibility?

The Committee will be content with a classified answer to these questions should one be necessary.

Extracts from a letter from the Private Secretary to the Secretary of State, 18 January, and from the MoD Memorandum of the same date.

As you acknowledge, Question 3 of your letter reiterates an earlier request information which was also raised at the Oral Evidence session on 26th Octol We have tried to be as helpful as possible in our answer, while staying wit

the conventions regarding the advice on policy options given to Ministers and on which Ministers have not taken a view.

As stated in the Department's first Memorandum in September 1988, the only formal constraints on the deployment of Gurkhas are those stemming from the Tri-Partite Agreement. Apart from particular considerations applying to the deployment of infantry units in Northern Ireland, the position of the Government has been and remains that there is no reason of principle why Gurkhas, as an integral part of the British Army, should not be deployed to any location where British servicemen are required to serve. Against that background, no option for the future deployment of the Gurkhas has been excluded in principle from consideration, taking into account the need for particular consideration to be given to the need to meet the operational requirements of the Army as a whole.

Extract from a letter from the Clerk of the Committee, 19 January 1989

I have to say that I do not understand the paragraph of your letter relating to Question 3 in my letter of 12 January. This question does not relate to "advice on policy options given to Ministers"; it does not ask what deployments have been recommended to Ministers. The three points of Question 3 are purely factual.

I would be grateful if you could explain why the Ministry is unable to provide answers.

Extract from a letter from the Private Secretary to the Secretary of State, 23 January 1989

You will recall that in his letter of 30th September 1988 accompanying the Government's opening memorandum, the Secretary of State said that we would be as helpful as we possibly can "in respect of factual material, and where there is an existing Government policy". Existing government policy is reflected in the current deployment pattern of Gurkhas given in an earlier Memorandum, and we have made it clear that deployment options would be one of the factors to be taken into account in determining the future of the Gurkhas. As we have also made clear, no option for the future deployment of the Gurkhas has in principle been excluded from consideration.

It would, therefore, be inappropriate for us to go beyond what was said in the Memorandum forwarded with my letter of 18th January.

I hope this clarifies the matter.

Letter from the Chairman of the Committee to the Secretary of State for Defence, 26 January 1989

At our meeting yesterday, the Committee asked me to raise with you a matter which has been causing us difficulty: the question of whether Gurkhas might be stationed in some country where they have not so far served. We had in mind the possibility of some arrangement akin to that between HMG and HM The Sultan of Brunei. At our first evidence session on 26 October last year, we approached this as a purely factual question: was any such redeployment being considered, and to which country or countries? The principal official witness before us refused to answer, and we later followed the point up in writing.

The exchanges between ourselves and your Department are set out in the Annex to this letter. You will readily see why the replies we have been receiving to simple and straightforward questions are regarded by colleagues on the Committee as unsatisfactory.

Quite apart from the terms of the replies, which have caused no little annoyance, the reasons given for refusing a substantive answer would apply equally to the question of whether * * * . Yet Simon Glenarthur found no difficulty in briefing us about this possibility on a classified basis. In our requests of your Department we have made it clear that we will accept a classified reply should the circumstances require it.

We now have a problem with our Report, which we are considering at the moment. * * * We cannot do this in respect of other deployments, because we do not know the facts—and I emphasise the facts, not "advice to Ministers".

Moreover, some of my colleagues are ready to put the worst construction on matters: that the deployments under consideration are open to serious criticism on practical and political grounds. I would not wish to see such views appear in our Report.

I hope that in the circumstances you will be able to let us know:

"1. Whether the possibility of deploying Gurkhas, other than on exercise, to any country where they have not so far been stationed has been considered by the Ministry;

2. If so, which countries; and what level of deployment has been considered;

3. What is the present status of any such possibility?"

Letter from the Secretary of State to the Chairman of the Committee, 2 February 1989

Thank you for your letter of 26th January seeking further information in response to the three questions you had previously posed to us.

The Questions you raise seem to me rather different from the exchange with Simon Glenarthur on

* * *

That referred to a factual situation, albeit a classified one, on which Simon was able to explain existing policy. Your questions to me seek information on which options for the future deployment of the Gurkhas have been investigated and with what result. That clearly touches on the identification and consideration by officials of specific future policy options on which Ministers have not yet taken a view. In these circumstances I do not feel able to answer your questions in the terms in which they have been put.

* * *


07. III.
PM 9

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10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

6 March 1989

The Prime Minister has seen the Lord President's minute of 2 March about Select Committees and Science. She is content with his proposal that a more science-orientated committee should be achieved by taking advantage of vacancies on the Education Committee as and when they occur. She also agrees very much with his comment that a new Science Select Committee might become another body to press the Government for more expenditure.

I am copying this letter to Trevor Woolley (Cabinet Office).

P. A. Bearpark

Stephen Catling, Esq.,
Lord President's Office.

The National Archives

DEPARTMENT/SERIES PREM 19 PIECE/ITEM 2793 (one piece/item number)	Date and sign
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eg. Folio 28, Indictment 840079, E107, Letter dated 22/11/1995.
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Sign and date next to the reason why the record is not available to the public ie. Closed under FOI exemption; Retained under section 3(4) of the Public Records Act 1958; Temporarily retained; Missing at transfer or Number not used.

PPS ?

Prime Minister!

Content for the Lord President to proceed as at X?

PAB

Yes mt

PRIME MINISTER

SELECT COMMITTEES AND SCIENCE

1 As you know, towards the end of last year I consulted colleagues about a number of different proposals which had been floated with me to improve the scrutiny of scientific issues by Select Committees, as few of the members of the Education, Science and Arts Select Committee appeared sufficiently interested in scientific aspects of the Committee's work to ensure that these received due weight. I have discussed various proposals with Terence Higgins, who was concerned about the possibility that setting up a separate new 'subject' Committee would undermine, as he would see it, the integrity of the Departmental Select Committee system. Other colleagues have taken a similar line.

2 I entirely agree with your view that, to make an effective contribution, the membership of any new Committee or Sub-committee would have to go beyond the present Education, Science and Arts Committee. Terence Higgins did not consider worth pursuing the possibility that membership of the Education Committee might be augmented for this purpose by members of other Departmental Committees. Unless, therefore, we were to cut across the Departmental Select Committee structure and set up a separate 'subject' Science Committee, with the consequent risk of overlaps between its work and that of the Education and other Departmental Committees, I wonder whether the most practical way of achieving a more 'science-orientated' committee of the House is to take ad hoc advantage of vacancies on the Education Committee as they occur, and, where possible, to appoint new members who are interested in scientific issues. I understand Ken Baker would not be averse to such a course of action.

X

Yes mt

3 There are two other aspects of the matter which cause me a little concern:

(i) The existing degree of overlap and consequent rivalry between Select Committees, especially between the Departmental Committees and the Public Accounts Committee is already proliferating enquiries and causing a

huge volume of distracting and unproductive work for senior people in Departments. Robin Butler and I are having a series of meetings to try to get this in check and a new Select Committee would run counter to our objectives;

(ii) I fear a new Science Select Committee would become yet another body to press the Government for more public spending.

I am sending a copy of this note to Robin Butler.

JW

2.3.89

PARLIAMENT: H/C Procedure

pr 9.



DEPARTMENT OF HEALTH AND SOCIAL SECURITY
Richmond House, 79 Whitehall, London SW1A 2NS
Telephone 01-210 3000

From the Secretary of State for Social ~~Services~~ Security

Prime Minister 2.

This is typical of complaints about the PAC/NAO

The Rt Hon John Wakeham MP
Lord President of the Council and
Leader of the House of Commons
Privy Council Office
Whitehall
LONDON
SW1A 2AT

21 February 1989

PAS 21/2

Dear John.

PARLIAMENTARY COMMITTEES

Having seen George Younger's letter to you of ~~31~~ 1 January, I should very much like to endorse what he says.

While my Department does not- yet - have quite the same problems of overlap between the work of the PAC and the Social Services Committee which George describes, it is certainly true that in the social security field the PAC, and the NAO, are moving away from their traditional scrutiny of the efficiency with which the Department administers its expenditure into policy review. They are doing this by a wide interpretation of their statutory right to examine the 'effectiveness' of the Department's activities.

The NAO have a number of studies currently in hand, for example into lone parent support, financial provision for the elderly and housing benefit, where the new emphasis on evaluating the effectiveness of policies against objectives laid down by Ministers is coming very much to the fore. And they have just notified us that they intend to mount a value for money scrutiny into how far the objectives of the April 1988 social security reforms are being met. These areas are politically very highly charged and it is difficult to see how the PAC will be able to maintain, even if they showed signs of wanting to, the dividing line between Accounting Officer responsibility for efficient administration and Ministerial accountability to the House and to Departmental Select Committees for policy matters.

This issue may come to a head in a particularly acute form shortly if the NAO cannot be pursuaded by my officials to delete passages in a draft report on housing benefit which in its present form records that my Department has not been prepared to release papers to the NAO containing advice on policy options from officials to Ministers bearing on the reasons for Ministerial decisions taken in April 1988 on transitional arrangements for the housing benefit changes introduced at that time. It is difficult to imagine anything which is more clearly a policy matter for Ministers.

FR.

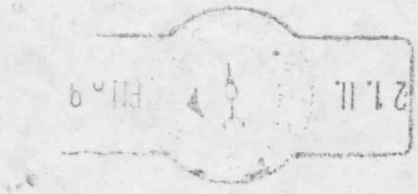
I am also concerned at the very considerable burden of work which the clearance and discussion of these reports is imposing on my officials. Given the size of the social security programme, it is not surprising that the NAO devotes considerable resources to its scrutiny. The social security division is the largest within NAO. The expansion of work in the last year or so, however, means that at any one time my Deparment is having to handle eight value for money scrutinies each of which, from preliminary study to Treasury Minute, involves a twenty month programme of work, apart from the more usual work on the Accounts. The Accounting Officer now has the prospect of four PAC hearings a year, in addition to any appearances on the Accounts or on Treasury Minutes. The cost-effectiveness of all this needs to be kept in mind, more especially when my officials have to spend so much time discussing and re-drafting NAO draft reports which can be wide of the mark in their original form.

I therefore very much agree with Paul Channon that, quite apart from the considerable burden of work which the scrutinies impose on Departments, the approach being adopted by the NAO raises important issues of principle and that, by confusing the roles of the PAC and the Departmental Select Committees, it might serve to weaken rather than strengthen the accountability of the executive to Parliament. George Younger's proposal for better co-ordination of the work of Committees would be a helpful interim step in improving the position but it does not resolve this fundamental problem.

I am sending copies of the letter to the Prime Minister, Cabinet colleagues and Sir Robin Butler.

JOHN MOORE

PARLIAMENT: Procedure
PTG



FCS/89/024

LORD PRESIDENT

Parliamentary Select Committees

1. I have seen a copy of George Younger's letter of 31 January about the difficulties his Department is facing as a result of the increasing duplication of effort between the HCDC and PAC.

2. Whilst the difficulty he describes has not so far affected the FCO, I very much agree with him that the overlapping of House of Commons Select Committee work is a complication best avoided, not least because of the resource implications for Departments. I therefore support his suggestion that the PAC might circulate its future programme of business to other House of Commons Select Committees so that their Chairmen might take up with the PAC any likely overlapping of interest. Recent PAC inquiries into FCO work included reports in 1987 on Export Services and on the ODA's manpower programme, and in 1988 on the ODA's control of multilateral aid expenditure. This spring, the Committee are to look into the ODA's sponsorship of the Commonwealth Development Corporation.

3. We also need to watch for possible risks of duplication between the work of House of Lords and House of Commons Committees. The Lords Science and Technology

Committee is about to begin an inquiry into scientific and technical aid to developing countries. There is clearly some risk of overlap with past FAC inquiries.

4. I am copying this minute to the Prime Minister and other Cabinet colleagues, and to Sir Robin Butler

(GEOFFREY HOWE)

Foreign and Commonwealth Office
13 February 1989

PARL : H/C Procedure PV 9



CSPU

DEPARTMENT OF TRANSPORT
2 MARSHAM STREET LONDON SW1P 3EB

My ref:

Your ref:

nbpm

The Rt Hon John Wakeham MP
Lord President of the Council
Privy Council Office
68 Whitehall
LONDON
SW1A 2AT

Dear John.

-9 FEB 1989

PARLIAMENTARY COMMITTEES

at flap

Having seen George Younger's letter to you of 31 January, I should like to lend my support to what he says.

Overlap between the work of the various Committees is becoming more and more of a problem, and the root of it is the PAC's extremely liberal interpretation of its statutory remit under the 1983 Act. Although that Act did represent a substantial extension of the PAC's remit, the clear intention, reflected in the wording of the statute, was that the NAO/PAC should continue to be concerned with the use of resources; should continue to address the actions of the executive, not those of Ministers or the Government: and should be concerned with actions and events that have happened, rather than speculating about hypothetical or future actions or events. As George Younger implies, the intention behind the 1983 Act was that the NAO's approach should still be audit based, even though concerned with more than checking procedures and arithmetic.

Unfortunately, the NAO seem determined to leave audit behind in getting ever deeper into policy review, and the PAC have done little to restrain them. For example, the NAO's inquiry into Road Safety focussed on issues such as whether the Government should introduce random breath testing for drivers and whether rear seat belt wearing should be made compulsory. Both issues are quite clearly matters for Ministerial decision and moreover, any action would have to be agreed by Parliament. Neither really has anything to do with the way in which my officials have discharged their functions and managed resources, although the NAO argued (in my view very tenuously) that since my Department has a general objective to improve road safety, they were entitled to look at any measure, whether actual or possible, in assessing effectiveness.

The result was an inquiry which strayed into areas which are appropriate to the remit of the Select Committee on Transport and indeed, the Transport Committee did carry out an inquiry into road safety in 1982-83. Similarly, at the recent hearing into the NAO's inquiry into Road Planning, the main issues of concern to the PAC were what was going to be done about congestion on the M25 and the design standards to be adopted for a new section of the M40. Once again, these are very clearly Departmental Select Committee matters and as it happens, the Committee is currently conducting an inquiry into future plans for road building.

The NAO is now carrying out an inquiry into the Next Steps/ Executive Agencies Initiative in the immediate aftermath of an inquiry by the Treasury and Civil Service Select Committee. As the oldest Agency (the Vehicle Inspectorate) has scarcely been in existence for six months, there would seem to be precious little scope for analysing value for money issues. The dealings which my officials have had with NAO staff do indeed suggest that their report, when it appears, will be largely concerned with policy matters.

Quite apart from the very considerable burden of largely unproductive work which these inquiries impose, the approach adopted by the NAO raises serious practical and constitutional issues. Their reports come dangerously close to trying to hold officials accountable for matters which are Ministers' responsibility. In the longer term, I believe that that can only diminish the effectiveness of the PAC since it will become distracted from its proper role. Moreover, quite apart from the issue of principle, the NAO is simply not staffed with people of the appropriate background (nor, I regret to say, the necessary calibre) to undertake satisfactory analyses of complex and judgemental issues - a problem which is exacerbated by the tight, and often unrealistic timetables which the NAO is obliged to set in order to deliver a satisfactory programme of work for the PAC.

There are some signs that the PAC are becoming aware of these dangers. I have been pleased to note for example that the PAC Report on Road Safety to be published on 9 February stops short of making recommendations about new policies on random breath testing and rear seat belts, and even, in discussing the Comptroller and Auditor General's audit remit (extract enclosed) puts a welcome emphasis on the analysis of "strengths and weaknesses in what has been done in implementing policy objectives" which does seem to imply a more audit based approach. We should encourage this trend.

Meanwhile I very much support George Younger's view that better co-ordination of the scheduling of inquiries between Committees would be a positive step. It would not address the fundamental problem that the PAC and NAO have been straying further and further from their audit role into matters of policy, but by all

means let us tackle the symptoms of this disorder in the way he suggests. If there were in addition anything you could do to reinforce the message that the PAC should concentrate on its own very important work in the field of audit based expenditure control, and not allow itself to be so readily distracted by the delights of policy review. I am sure that would do much both to reduce the duplication of effort which prompted George Younger's letter, and to strengthen the effective Parliamentary control of expenditure which is or ought to be the primary concern of the PAC.

I am sending copies of this letter to the Prime Minister, Cabinet colleagues and Sir Robin Butler.

Yours,

PAUL CHANNON

Paul

PARLIAMENT: H.O.C. Procedure

A 9

Telephone
01-212 3993

DEPARTMENT OF TRANSPORT
ROOM S12/05
2 MARSHAM STREET
SW1P 3EB

With apologies for the Omission



This extract should have been attached to our Secretary of States letter to the Lord President dated 9 February about Parliamentary Committees

With the Compliments of the
Private Secretaries' Office

EXTRACT FROM THE SIXTH REPORT FROM THE COMMITTEE OF PUBLIC ACCOUNTS

COMPTROLLER AND AUDITOR GENERAL'S AUDIT REMIT

27. In reporting the results of his examination of road safety the C&AG drew attention to the departments' reservations that certain of the comments made in the report, particularly those on budgets for low cost engineering schemes, rear seat belts and random breath tests, related to possible Ministerial policy decisions rather than the economy, efficiency and effectiveness with which existing policies had been carried out. In the NAO's view these brief references to possible future action were necessary to put into context the extent to which the departments had used their resources economically, efficiently and effectively, and to provide a proper appreciation of the action taken and under consideration by the departments in the areas concerned. The NAO were satisfied that, in accordance with S.6(2) of the National Audit Act 1983, nothing in the report sought to question the merits of policy objectives on road safety. We obtained further views on this issue from the Department and the C&AG.

28. The National Audit Act 1983 authorised the C&AG to examine the economy, efficiency and effectiveness with which departments and other bodies have used their resources in discharging their functions. In such examinations - particularly of effectiveness - the C&AG needs to consider, among other things, such matters as the information and analyses relevant to policy decisions so that he can understand the basis for their implementation. Otherwise we consider that he could not examine properly the consequences of decisions, the results achieved, and the effectiveness of programmes and projects in meeting approved policy objectives. It is also important that the C&AG's reports should analyse strengths and weaknesses in what has been done in implementing policy objectives, so as to identify improvements needed in departmental systems and operations and other lessons to be learned to secure those objectives. We are confident that the C&AG's experience in dealing with these issues will enable him to continue to operate within the limits laid down by Parliament. We expect departments to cooperate fully with him.

086

ccPC

16pm

MINISTRY OF DEFENCE WHITEHALL LONDON SW1 2HB

D/S of S/PS/22/1V

TELEPHONE 01-218 9000

DIRECT DIALLING 01-218 2111/3

31st January 1989

Dear John,

PARLIAMENTARY COMMITTEES

When we met on the 18th January, I agreed to write to you setting out in more detail my concern about the difficulties my Department is facing as a result of the increasing duplication of effort between the HCDC and the PAC. I understand that a number of Departments face similar problems, as both the PAC and Select Committees increasingly try to broaden the scope of their activities, but my Department seems to be particularly in the front line at present.

Five out of the twelve areas in which the HCDC conducted inquiries last year were also the subject of a PAC investigation. Already this year, we have a situation where Sir Peter Levene has been asked to give evidence personally to the PAC and the HCDC within days of each other on Reliability and Maintainability of Defence Equipment (R&M). Inquiries by either Committee involve a very heavy, and steadily increasing, workload for staff in my Department, which we do our best to meet. But where there is duplication of this sort, the burden becomes intolerable. It is now reaching the stage where it is starting to impair my officials' ability to carry out their other duties, especially in the heavily laden procurement field, where effective project management is already complicated by staff shortages.

The Rt Hon John Wakeham MP

As I have said, this problem is created by moves by both Select Committees and the PAC to expand the scope of their activities. Under the National Audit Act 1983, NAO/PAC are entitled to look at any value-for-money (VFM) question in the field of monies voted by Parliament. But this is a remit which can be expanded almost to any limit, a point best illustrated by the fact that, recently, the NAO have been discussing with my Department the terms of Inquiries they intend to undertake into low flying and the EFA decision. Neither seems to me suitable for audit in anything like the ordinary sense, and I feel bound to be highly sceptical of whether either study can be dependably confined to, or even mainly about, managerial efficiency; both must be apt to become general policy inquiries. Similarly , the HCDC has asked to receive the Major Project Statement which my Department produces each year for the PAC, and they intend to conduct a separate inquiry on each occasion. I have already mentioned the current problem with the R&M inquiries.

It is not for me to arbitrate between the PAC and the HCDC, but I believe the Government should insist that someone does. Whilst the issues seem to have surfaced most sharply in Defence, they have more general application across the board. As you know, I remain very willing and ready to co-operate with Select Committees and to ensure that my Department does its best to meet their legitimate requirements. But because of the resource and manpower constraints, I am afraid that I cannot tolerate a situation in which the Ministry of Defence has to "service" two Committees working in the same area at the same time. I shall be delighted to provide the necessary information for one of them and, if required, will provide similar information to the other once the first inquiry has been completed. But it is not possible for me to do both at the same time. In my view, where these clashes of interest arise, the Liaison Committee should be looked to for adjudication (a possibility which you and I have discussed in outline with Terence Higgins). It is not for Departments to resolve this general issue.

We need to establish at least a procedural mechanism (even if we cannot, as would be very desirable, establish some sound demarcation conventions about substance) which would enable priorities to be decided as between Committee investigations. One course might be to get the PAC to circulate its future programme of business (or the NAO's programme of work, which may be established earlier) to Select Committees and for the Chairmen of those Committees to take up with the PAC any overlap of interest, using the good offices of the Liaison Committee, as required, where difficulties cannot easily be overcome.

As you know, I place great importance on the very early tackling of this problem; the demands in question lie on my Department's table now. I have been over the ground in outline with Michael Mates. I told him that I would be writing to you along these lines and that I expected the matter to be taken up with Terence Higgins.

I am copying this letter to the Prime Minister and other Cabinet colleagues, and to Sir Robin Butler.

Yours ever,

George.

George Younger



CONFIDENTIAL

PM

file

bc PU

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

16 January 1989

Dear Alison,

SELECT COMMITTEES AND SCIENCE

The Prime Minister has seen the Lord President's letter of 23 November to the Secretary of State for Education and Science, and the subsequent comments from the Secretaries of State for Education and Science, Defence and Trade and Industry.

The Prime Minister has commented that she would welcome a Science Committee; but to be genuine it would have to go wider than the membership of the present Education, Science and Arts Committee.

I am copying this letter to members of E(ST) and Trevor Woolley (Cabinet Office).

Yours,
Paul

Paul Gray

Ms. Alison Smith,
Lord President's Office.

CONFIDENTIAL

ec

PRIME MINISTER

HANDLING OF SCIENCE BY COMMONS' SELECT COMMITTEES

There has been an exchange of correspondence over the last couple of months about possible changes to the Select Committee arrangements for science.

At present one Commons' committee covers Education, Science and Arts. But there has been periodic pressure for more special treatment for scientific matters.

In his minute of 23 November (Flag A) the Lord President rejected various possibilities but said he would be willing to recommend to the House that the existing Education, Science and Arts Committee should be empowered to establish a single sub-committee to cover science.

Others have reacted rather coolly to this idea. Mr Baker (Flag B) does not rule out the sub-committee idea, but points to the dangers of any Select Committee crossing departmental boundaries and says he would prefer to retain the status quo. Mr Younger (Flag C) and Lord Young (Flag D) express similar views.

Are you content to leave the Lord President to sort this out in consultation with colleagues? ✓

or

Do you want to intervene in support of those wanting to retain the status quo?

I personally should welcome a Science committee - but to be genuine it would have to go wider than the membership of the present committee. MT

RECG.

Paul Gray

12 January 1989

dti

the department for Enterprise

The Rt. Hon. Lord Young of Graffham
Secretary of State for Trade and Industry

The Rt Hon John Wakeham MP
Lord President of the Council
Privy Council Office
Whitehall
London
SW1A 2AT

Department of Trade and Industry

1-19 Victoria Street
London SW1H 0ET

Switchboard
01-215 7877

Telex 8811074/5 DTHQ G
Fax 01-222 2629

Direct line 215 5422
Our ref PB2AHG
Your ref
Date 10 January 1989

Dear John.

COMMONS DEPARTMENTAL SELECT COMMITTEE ON EDUCATION, SCIENCE AND ARTS (ESAC)

I was interested to see the exchange of letters between you and Kenneth Baker (23 November and 14 December) on select committee discussion of science.

At the risk of muddying the waters, I feel I should bring to your attention the recent Trade and Industry Select Committee report on Information Technology, published on 15 December. A number of "science" issues are covered in the midst of this wide-ranging report. This illustrates Kenneth Baker's point about the trans-Departmental character of many science issues.

I myself do not have strong feelings on handling of science issues in the Commons system. But I incline to Kenneth Baker's view that the best course is to encourage ESAC as a whole to develop its interest in science, for the reasons he sets out. Before a final view is taken, I think you might find it useful to talk to Kenneth Warren, Chairman of the Trade and Industry Select Committee.

I am copying this letter to the Prime Minister and members of E(ST).

Yours ever,
David

the Enterprise initiative

PARLIAMENT: PROCEDURE
PT 9

cc PM

MINISTRY OF DEFENCE WHITEHALL LONDON SW1 2HB

D/S of S/PS/22/1L

6th January 1989

TELEPHONE 01-218 9000

DIRECT DIALLING 01-218 2111/3

FILE WITH PC.

Dear John,

Kenneth Baker kindly sent me a copy of his letter to you of 14th December about the handling of science by Commons Select Committees.

I fully support Kenneth's preference for maintaining the present Departmental structure of the Committees and for avoiding, if possible, "subject" committees which cut across departmental boundaries. Issues arising from defence science which MPs wished to pursue through the Committees would in my view best be considered in the broader defence context provided by the Select Committee on Defence; also the Defence Committee by virtue of its procedures is best placed among the Committees to handle security sensitive material which may need to be provided. Like Kenneth, my preference is, therefore, to maintain the status quo in this matter.

I am copying this letter to the Prime Minister and members of E(ST).

Yours ever,

George.

George Younger

The Rt Hon John Wakeham MP
Lord President of the Council

PARLIAMENT: Procedure Pt 9.

CC 8/6/up

Prime Minister
The Lord President will raise the attitude the Government should take towards Miss Widdecombe's motion at the meeting with colleagues. This note sets out the background: the L P will put forward a view when he has discussed issue with Chief Whip on Monday.

AT 6/1

NOTE ON PRIVATE MEMBERS' MOTIONS FOR 20 JANUARY

Ann Widdecombe has drawn top place for Private Members' Motions on Friday 20 January. She intends to table a motion that "on Friday 3 March 1989 the Abortion (Amendment) Bill may be proceeded with until any hour". Miss Widdecombe came seventh in the ballot for Private Members' Bills and introduced the Abortion (Amendment) Bill, which is the second Private Members' Bill due for consideration on Friday 3 March. The Bill has not yet been printed but is understood to embody the Bill sponsored by David Alton last Session, in the form in which it last appeared before the House. The effect of the motion would be to extend the sitting on Friday 3 March, beyond the normal time of 2.30 pm if necessary, until the House had decided whether to give the Bill a Second Reading.

THE PRECEDENT

The only previous motion in similar terms was that set down for 7 June 1985 by Andrew Bowden MP, which sought to extend the sitting of the House on that day until the remaining stages of Enoch Powell's Unborn Children (Protection) Bill had been concluded. On the day of the debate, however, the writ for the by-election in Brecon and Radnor was moved by Dennis Skinner and debated ahead of Andrew Bowden's motion. The debate lasted some three hours and, following votes and just over an hour spent in the presentation of Petitions, the time available for debate on the motion itself was so short that a motion for closure was not accepted, and no conclusion was reached.

The Government's position as regards the Bowden motion was later made clear by the then Leader of the House, on 13 November 1985 during the Debate on the Address. He noted that the Procedure Committee was considering the use of time on the Floor of the House and said that he thought the conventions of the status quo should stand until the House had had a chance to vote on any changes which might be recommended by the Committee. He would, therefore, advise Members to vote against a similar motion if it were introduced again [as this one has been] in the context of any Private Member's Bill.

THE PROCEDURE COMMITTEE REPORT

The Procedure Committee produced its report in May 1987, and it was debated on a motion for the Adjournment, along with other Procedure Committee reports, in November last year. The report did not address the fundamental question whether Private Members' Motions should be used either to give priority to any individual Private Member's Bill or to extend significantly the amount of time spent by the House on Private Members' legislation in order to complete consideration of a particular Bill. It did, however, make certain recommendations relating to Private Members' time. The relevant extract from the report is attached at A, and a summary of recommendations at B. – see No 21 See para 65

Most significant were recommendations that Private members should not be empowered to move motions at 2.30 pm to continue proceedings on Fridays, and that the four Private Members' half-days should be consolidated experimentally into 2 full days devoted to Bills rather than Motions. (In the debate Sir Peter Emery raised the possibility that the Member whose Bill was first business on each of those days might be able to move that the 10 pm rule be suspended.) The Committee concluded also that no change would ensure that time could be found for every Private Member's Bill to complete its passage, and that on Private Members' Bill Fridays Public Petitions not presented before 10 am should be presented at 2.30 pm.

THE GOVERNMENT'S STANCE

The Government's stance on abortion has consistently been one of neutrality on the issue itself which it believes is a matter for Private Members', rather than Government, legislation. Since 1979 the Government has made it a practice not to provide time for any individual Private Member's Bill, beyond that approved by the House in the Sessional order at the beginning of each Session. This is in contrast to the position of previous Governments.

So far as the type of procedural motion proposed by Miss Widdecombe is concerned, the Government advice to Members, as stated by the then Leader in 1985, would be to reject it. The grounds for doing so would no longer be that no change of this kind should be made until the Procedure Committee had considered it. Instead, the argument would be that the practice of the House has been to make its arrangements for Private Members' time before the ballot for bills and any of the ballots for motions have taken place. This gives a random fairness to proceedings which this motion would destroy. Unless Members adopt a self-denying ordinance and do not seek to regulate the passage of particular Private Members' Bills by motion then the arrangements set out at the beginning of the Session could change from week to week, depending on who won each

motions ballot and was able to get a majority for his motion. Certainly the House could do this but it would not be very sensible and would fundamentally alter the nature of Private Members' time. The occasion for debate about Private members' time is not some way into a Session when Members have already made their plans on the basis of existing arrangements but when the Sessional order comes before the House.

The Government might be criticised for not having provided time for a debate to enable the House to take effective decisions on the Procedure Committee's recommendations. The argument would be that in the light of the Government's refusal to act on the Committee's proposals, the House had had no clear guide as to how it should handle such motions, as the previous Leader said it should have. In reply, the points seem to be:

(1) That none of the Procedure Committee's recommendations, if passed by the House, would have either prohibited or endorsed the terms of the motion. The two most relevant, numbers 21 and 22, would not have affected a Member's ability to table a motion of this kind, though approval of number 21 might have created a presumption against the inconvenience of extending Friday sittings. Number 22 would have allowed the possibility of providing 6 1/2 rather than 5 hours for the Report stages of the first two Bills in the ballot, but would clearly not have affected the Second Reading of a Bill placed seventh;

(2) that if the House had wanted to change the arrangements for Private Members' Bills so as to improve the chances of Bills after the first six, it could have done so by amending the Sessional order which was put before it and approved without debate or division on Thursday 24 November 1988.

BY-ELECTION WRITS

There are currently two by-election writs outstanding - for Richmond and for Pontypridd. It is likely that at least one of these will still be outstanding on 20 January, and the opponents of the Abortion (Amendment) Bill, or indeed those who find the motion unacceptable, may well move any outstanding writ on that day to delay debate. They may also present Petitions in a more extensive way than is usual on a Friday. If this is done to any great extent, then the Government may be criticised for not implementing the Procedure Committee's recommendation 23 about presention of Petitions. But this recommendation would not have affected anything which may happen on 20 January since it deals just with Petitions on Private Members' Bill Fridays, not on Private Members' Motion Fridays.

part of the House's procedure. Finally it would offer little real advantge to the great majority of Members who do not normally stay once the adjournment is moved at the end of business. We conclude that the House should continue to meet at 2.30 pm on Mondays to Thursdays.

51. A further method of enabling the House to rise earlier than it does on a few days each Session would be to provide that an adjournment debate at the end of the sitting should be confined to a single half-hour even if begun before 10 pm (or 2.30 pm on Fridays). Since this could be seen as an erosion of private Members' opportunities, we discuss it later when we consider private Members' business. (See paragraph 75 below).

OPPOSITION TIME

52. It was only in 1982 that, as a result of the recommendations of the Select Committee on Procedure (Supply), time specifically laid aside for opposition parties was recognised formally for what it was. Instead of 29 Supply days, most of which were effectively at the disposal of the Opposition, the House agreed that there should be 19 Opposition days, with separate provision being made for departmental estimates and for the other business traditionally taken on Supply days. Following the 1983 General Election and protests from the Alliance parties that it was unfair that they had no formal allocation of Opposition days, discussions took place between the parties, and on 23rd May 1985 the Standing Order[31] was changed (without any debate taking place) to provide a total of 20 Opposition days, 17 of which were to be at the disposal of the Leader of the Opposition and 3 at the disposal of the leader of the second largest opposition party. Since this agreement between the parties was reached so recently we have thought it right to make no inquiries into it. The arrangements for sharing out opposition days between opposition parties seem to us to be a matter which only inter-party discussion can adequately resolve. These arrangements should be reviewed at the start of each Parliament.

53. In our report on "A Parliamentary Calendar"[32] we referred to the suggestion put to the Shadow Leader of the House, the Rt. Hon. Peter Shore MP, that the Opposition might be empowered to claim a debate on the last full sitting day before the long summer adjournment. This seems to us a matter best suited for discussion within the usual channels. We believe, however, that business should normally be planned on the basis that in the last week before the summer recess provision should be made for an opposition day or half-day in the name of the Leader of the Opposition.

PRIVATE MEMBERS' TIME

54. Before considering time set aside for private Members' bills and motions and other opportunities for private Members, there is one general point which we wish to make which is fundamental to the whole of this Report. Attempts rigidly to divide parliamentary time into fixed categories may be seriously misleading. As is argued in May, while the Government has virtually complete control over the time of the House, the actual time spent debating any matter is frequently determined by the wishes of the Opposition, or of groups of private Members or even of a single Member. In a sense all Government time is equally Opposition time and, similarly, interventions by private Members in what is formally Government time entail longer debate than would otherwise occur[33].

55. The allocation of time specifically for private Members is laid down in Standing Order No. 13. Under that Standing Order twenty Fridays are set aside each session for private Members' bills and motions. Following a business motion at the start of each session, the dates of the particular Fridays are specified. Recent practice has also been to vary the provisions of the Standing Order to provide a total of twenty one Fridays—twelve for bills and nine for motions. In addition the Standing Order provides that on four days other than Fridays (by recent practice invariably Mondays) private Members' motions have precedence until 7 pm.

56. We have considered whether this provision for private Members is adequate; whether the balance as between time for bills and motions is correct; and whether the other opportunities for private Members to raise topical, urgent, constituency or general matters are reasonable.

[31]Now S.O. No. 13.
[32]HC 157 (1986–87) paragraph 14.
[33]See Erskine May's *Parliamentary Practice*, 20th edn., pp. 303–4.

Bills

57. Following our announcement of this inquiry we received a considerable number of submissions from Members about arrangements for private Members' bills. Many of these centred[34] on the long-standing issue of how the House should deal with bills which are controversial on grounds other than party politics, but which, having achieved a considerable majority at second reading, run out of time during consideration of their later stages. One of those who wrote to us, Mrs Ann Winterton MP, accepted that "broadly speaking the balance between time allocated to backbench Members is about the right proportion of the overall time available to the House"[35]. She, like many others, argued that some solution needed to be found to the problem of bills which she said enjoyed "overwhelming support" but which were "thwarted by a handful of Members". We return to this issue later.

58. Although Government business predominates in the House and the position of private Members seems very weak as compared with that which they enjoyed in the nineteenth century, we think that any increase in the total allocation of *days* available to private Members would be unlikely to commend itself to Government or to the House as a whole. We have concentrated instead on considering how best to arrange time within the total allocation for private Members, and on considering whether extra *hours* might be provided on days when private Members' business has precedence or at some other time.

59. While it can be argued that consideration of bills represents a more effective use of time than consideration of motions, we believe that Members value the opportunity of initiating debates longer than the daily half-hour adjournment debate and we would not therefore be in favour of devoting all private Members' Fridays to bills.

60. Although it has been argued that it is difficult, given the limitation of time available for the remaining stages of private Members' bills, for contentious bills to complete their passage, it can also fairly be said that present conventions are well understood. The present Government has made clear its unwillingness (in contrast notably to Governments in the 1950s and 1960s) to provide additional Government time for private Members' bills. Members, it can be argued, who are successful in the ballot therefore know that a bill on a contentious subject may give an issue much publicity, and may even encourage the Government to decide to introduce legislation on the subject itself either immediately or, after a broader consensus has developed, some sessions later. But, under present procedures, such a bill is unlikely to complete all its stages in its first session. A non-controversial bill in a field where legislation is acknowledged to be much needed will be much more likely to succeed.

61. The main difficulty for promoters of contentious bills which receive a second reading and complete committee stage, is that they normally have only one five-hour Friday sitting for report stage. In these circumstances very few amendments need to be selected to enable opponents, however small in number, effectively to kill off a bill. We have considered whether this lack of flexibility is right. It contrasts sharply with the position the Government enjoys. Whenever remaining stages of a Government bill are to be debated a motion to suspend the 10 o'clock rule[36] is tabled to ensure that, no matter what is the strength of the opposition to a particular bill, the Government has a reasonable chance of securing all its business at that sitting.

62. Long-standing practice, by contrast, for bills introduced by private Members is that although they may have won a substantial majority at second reading, there can be no guarantee that there will be enough time for them to complete their remaining stages. Many Members who wrote to us argued that the effect of this was to stop private Members' legislation being enacted if it was "in any way contentious". Many Members were clearly disappointed by the failure to complete its Commons stages of the Unborn Children (Protection) Bill which had a majority of 238 to 66 on second reading in session 1984–85. Private Members' bills on similarly emotive social

[34]See, for example, Appendices 1, 10, 15, 17, 18.
[35]Appendix 17.
[36]Under paragraph (2) of S.O. No. 14 such motions at 10 p.m. may be moved only if they are in the name of a Minister of the Crown.

issues have been enacted in the past. When, however, in the 1960s, bills on capital punishment, on abortion, sexual offences and divorce reform were passed they did so only through the provision of Government time[37].

63. Established procedures, although they may occasionally lead to complaint by individual Members whose bills fail for lack of time, have the advantage that they are well understood. It can be argued that provision of extra time for private Members' bills would disturb a fragile balance and might radically alter the whole basis on which private Members' bills proceed. Its overall consequences would be hard to predict. It might oblige the Government to take a clearer stand earlier on particular private Members' bills. But on the other hand more Members might seek to introduce highly controversial bills and scarce time for private Members' bills could be wholly taken up with prolonged battles over such bills—battles which might ultimately prove fruitless—to the exclusion of time for less controversial but meritorious bills. No change that we could realistically propose could ensure that time could be found for every private Members' bill to complete its passage through the House. Whatever we now propose, some Members will continue to feel frustrated at the failure of their bills to pass. The House has long recognised the impossibility of satisfying every Members' legislative ambitions, and the ballot remains a broadly accepted method of ensuring some measure of fairness.

64. If as we have suggested there ought to be no change in the total number of days normally allocated to private Members' business, and if nevertheless the House wished more time to be provided to enable rather more bills—and particularly those on "ethical" issues—to be enacted, three solutions seem possible. Members might seek to persuade the Government of the day to provide some of its time to facilitate a bill (or to introduce its own legislation on the matter in hand). Alternatively the House could provide a mechanism through Standing Orders which would enable private Members to table motions to provide extra hours for debate on particular bills. Or, finally, the balance between time for bills and motions could be slightly tilted towards time for bills.

65. A change in standing orders to enable the Member in charge of a private Members' bill to move at 2.30 pm on Friday an indefinite suspension of the rule would be grossly inconvenient to the majority of Members for whom departure from the House by 2.30 pm on Fridays is vital to enable essential constituency work to be carried out. We believe the earlier end to business on Fridays, introduced as recently as 1980, has been widely welcomed by Members. It would be wrong now to reverse that change. An alternative, suggested in a memorandum from the Study of Parliament Group[38], that private Members should be able at 2.30 pm on Fridays to move (subject to a stipulated minimum number of Members voting in favour) that extra time be provided *on a later* (Government) *day* after 10 pm, seemed attractive to some of us. It would not interfere with Members' week-end arrangements. It would put private Members on a more even footing vis-à-vis Members of the Government, who alone at present are empowered to move without debate the suspension of the 10 pm or (on Fridays) the 2.30 pm rule. It would enable the House as a whole to reach a judgement as to whether more time should be provided to give a bill a chance of completing its consideration. It might enable decisions to be reached on well-supported bills on which the Government does not have a united view[39]. It might, however, result in up to six private Members' bills[40] being debated late at night, thus adding to the number of late sittings of the House. The ardent supporters of a bill might feel that to be a small price to pay for enacting much-needed legislation. One late sitting might not, however, be enough to guarantee the passage of a very controversial bill[41] and, if not, ought yet more time to be given? We return to this matter later.

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[37] A list of private Members' bills given Government time since session 1954–55 was given in a written answer on 26 January 1987. From that list it appears that

- in the period 1954–55 to 1963–64 32 bills were given time just for Lords Amendments, plus a further 11 for earlier stages (including 3 which were given time at second reading);
- in the period 1964–65 to 1969–70 17 bills were given time just for Lords Amendment plus a further 13 for earlier stages (including 3 which were given time at second reading);
- in the period 1970–71 to 1973–74 time was provided for Lords Amendments to one bill;
- in the period 1974 to 1978–79 2 bills were given time for Lords Amendments plus one other at an earlier stage; and
- in the period 1979–80 to date 3 bills were given Government time for remaining stages—all on 11 May 1983, immediately before Parliament was dissolved.

[Official Report, Vol 109, col. *w* 106–108]

[38] Appendix 20, paragraph 19.

[39] Appendix 3.

[40] ie probably the first six in the ballot.

[41] Particularly since there could be no guarantee that there would not also be Government business to be disposed of after 10 pm on a particular day. "Filibustering" on Government business to delay the start of proceedings on private Members' business would be unwelcome both to the House as a whole and to the Government.

66. At present private Members' bill days are arranged so that six Fridays are taken up in January and February by second reading debates on the first six bills in the ballot. Somewhat later in the session, on the assumption that these bills will have cleared the hurdle of committee stage, a further six Fridays are provided for remaining stages (ie. report and third reading). But if more than two amendments are selected at this stage, a bill's prospect of passage is likely to be severely diminished. Furthermore, the Standing Order which lays down the division of time between Government, Opposition and Private Members' time also specifies that "On and after the seventh Friday on which private Members' bills have precedence, such bills shall be arranged on the order paper in the following order: consideration of Lords amendments, third readings, consideration of reports not already entered upon, adjourned proceedings on consideration, bills in progress in committee, bills appointed for committee, and second readings." (S.O. No. 13 (5)). It is as a result of this provision that a bill which does not complete its report stage at the first opportunity is unlikely later to succeed. We have considered therefore whether some additional time might be provided, within the total time allowed for private Members' business, to increase the chance of report stages being completed. Four Mondays until 7 pm are normally allocated for private Members' motions. If these were consolidated into two whole days given over to bills and replaced two of the bill Fridays at present devoted to remaining stages there would be a slight increase in the normal time available for private Members' bills. Instead of rather less than five hours on a Friday, Members would have the prospect of up to six and a half hours on a Monday. This solution alone would not *guarantee* the passage of controversial bills, but it might be of some assistance. We **recommend** that standing orders be amended for an experimental period of a session to implement these proposals. It is usual for the last private Members' bill day to be given over to consideration of Lords Amendments. We consider that a Friday is the most suitable day for such business and that a Friday should continue to be the last private Members' bill day.

Presentation of petitions delaying other private Members' business

67. In the memoranda submitted to us about private members' business one point was made by a number of Members, namely that it ought not to be possible by means of presentation of petitions on a Friday to delay substantially the start of business on private Members' bills or motions[42]. These comments arose from the exceptional circumstances on 7 June 1985 when, following a three-hour debate on the issuing of a writ for a by-election moved as a matter of privilege by a private Member, the presentation of petitions by 17 Members took no less than 1 hour 9 minutes. It was on that day that Mr Andrew Bowden was due to move his private Members' motion which would have provided unlimited time to debate the controversial Unborn Children (Protection) Bill.

68. The right to petition Parliament is undoubted. The arrangements for presentation of public petitions have, however, evolved in response to changing circumstances. There is no evidence to suggest that, with the single exception of Friday 7 June 1985, there have been any difficulties arising from presentation of petitions on Fridays. Fridays are understandably popular days on which to present petitions. Unlike Mondays to Thursdays when petitions may be presented only just before the half-hour adjournment debate, they may on Fridays be presented at the start of the day's business. Since in no case in recent years has the presentation of petitions taken more than a quarter of an hour, with the sole exception of the case we have quoted, we doubt if any radical change in Standing Orders is required. We **recommend,** however, that if presentation of petitions has not been concluded by 10 am on a Friday when private Members' bills are taken any further petitions set down for that day should be presented, as on other days of the week, immediately before the moving of the adjournment for the purpose of bringing the sitting to a conclusion.

Objections to private Members' bills at 2.30 pm on Fridays

69. For many years criticisms have been made of the method of objecting to private Members' bills at 2.30 pm on Fridays. These criticisms were renewed on the last private Members' bill Friday in session 1985–86 when it was suggested that Members should approach us. In the event we received only one submission about the matter[43]. In our earlier inquiry into public bill procedure the Clerk of the House had referred to the history of these proceedings[44] and drew our

[42]Appendices 8, 9 and 18.
[43]Appendix 11. On 3 April 1987, when similar criticisms were made, it was again suggested by the Chair that Members should approach us. We received no submissions thereafter.
[44]HC 49–II (1984–85) p.11.

attention to consideration of them by Select Committees on Procedure in 1963–64, 1970–71 and 1972–73. The principal point at issue is whether those objecting should identify themselves when they signify objection, and whether they should rise in their places to do so. As to the other issue sometimes raised in this connection, that a simple objection should not be capable of frustrating what may be the will of the House, we merely observe that the purpose of the objection at 2.30 pm (or after 10 pm on Mondays to Thursdays) may simply be to a matter being decided *without debate*. Items of government business (for instance, motions relating to appointment and nomination of select committees, or to a variety of procedural matters) are not infrequently objected to by private Members for that reason, and we see no reason why different considerations should apply on private Members' Fridays[45]. On the narrower issue of identifying objectors we have much sympathy with those who argue that it is "unfair" to the promoter of a bill that the identity of those objecting to his bill may not be known. The Committee in session 1963–64 concluded that it would be impossible for the names of objecting Members to be recorded in the Official Report, but recommended that Members who objected should rise in their places to say "object" so that there should be some opportunity of identifying Members objecting to a particular bill.

70. In 1970–71 the then Second Clerk Assistant and Clerk of Public Bills commented on a proposal that names of objectors should be recorded in Hansard. They referred to the fact that the recommendation of the Committee in 1963–64 had not been implemented and went on to say:

> ' "When the titles of private Members' bills are read over . . . on a Friday, instead of rising to speak or to object, it is open to Members to remain seated but to give their voices as 'No' when the question is put. This would constitute opposition, and the bill would have to be deferred, and since Members have never been required to rise in order to give their voices, a degree of anonymity would have been preserved. Thus even if the recommendation of the Select Committee of 1963–64 were to be implemented and Members required to rise in order to object to a bill, it would be easy for a Member, by reserving his objection until the voices were collected, to evade this requirement."[46]

The 1970–71 Committee made no comment on the matter. The Committee of 1972–73 took note of the fact that the recommendation of the 1963–64 Committee had not been acted upon but made no comment themselves.

71. For our part we are unable to make any fresh proposals. Although individual Members may complain about the present procedure, the House as a whole is familiar with its operation not only at 2.30 pm on Fridays but at other times in the week. We doubt, in any case, whether there is any ingenious solution which would stop Members seeking to draw attention to objectors to their bills under the cloak of a bogus point of order. We therefore do not recommend any change in the present procedure.

Private Members' Motions

72. Private Members' Motions are widely seen as a valuable method of raising a wide range of subjects. Subjects may be broad or narrow, controversial or non-controversial. They may even relate specifically to the procedure of the House, as, for instance, on Friday 31 January 1958, when a private Members' motion was agreed to appointing an earlier Select Committee on Procedure. Every ballot for private Members' motions is well subscribed, just as ballots held by Mr Speaker for adjournment debates of whatever kind always seem popular. Private Members' motions offer the obvious advantage that a full-scale debate may be held on matters which might not otherwise be fully debated in the House. There is the further advantage that on Fridays debates on such motions may last a full five hours (although not infrequently they end after about four). On the four Mondays each Session on which private Members' motions have precedence somewhat shorter debates of up to three and a half hours each take place. We have, however, already proposed (see para 66 above) that these four half Mondays should be consolidated into two full days on which remaining stages of private Members' bills should have priority. Both for this reason and because we believe the House would welcome it, we **recommend** that there should be a few shorter debates on Fridays thus allowing rather more Members to initiate debates. We **recommend** therefore that on four of the private Members' motions Fridays debate on the first motion should lapse at 12.30 pm, if not previously concluded, thus allowing a full two hours for the second motion and (even if a statement interrupted proceedings at 11 am) a likely

[45] Anonymous objections are also frequently made at the time of private business immediately after Prayers. If these objections persist the Chairman of Ways and Means normally finds time for debate at 7 pm.
[46] HC 538 (1970–71) page 248, paragraph 75.

two and a half hours or more for the first motion. The following table shows the effect of our recommendations on days for private Members' bills and motions.

Fridays	*Number of Days Present Provision*	*Recommended Provision*
Bills	12[1] (S.O. No. 13 provides 10)	10[2]
Motions	9 (S.O. No. 13 provides 10)	11[3]
Days other than Fridays (invariably Mondays)		
Bills	—	2 full days[4] (till 10 pm)
Motions	2 (in the form of 4 "half" days till 7 pm)	—

[1]ie 6 for 2nd readings, 6 at which remaining stages have precedence.
[2]ie 6 for 2nd readings, 4 at which remaining stages have precedence.
[3]includes 4 days when first motion will lapse at 12.30 pm if not previously concluded.
[4]ie at which remaining stages will have precedence.

Other opportunities for Private Members

73. When, as part of our inquiry into the use of time on the Floor of the House, we visited the Canadian House of Commons in Ottawa in May 1986, one of the procedures we saw operating there was the provision for one-minute "statements" by Members, which take up a total of quarter of an hour at the start of each afternoon's sitting on Mondays to Thursdays and at 11 am on Fridays. The procedure enables Members to make a series of unrelated statements—a kind of oral presentation of an Early Day Motion. There is no provision for a reply to such statements, although very occasionally we understand that a Member may take the opportunity to counter a statement made by another Member. We were interested to see this procedure (which is matched in different ways in some other legislatures) since experience at Westminster continues to suggest that there is a great deal of demand for Members to be able briefly to draw attention to topical or constituency matters. This demand is shown in the great number of unsuccessful applications for emergency adjournment debates (under Standing Order No. 20), the growth in the number of Early Day Motions, the large number of bogus points of order and the increasing prevalence of "open" oral Questions. We considered arrangements for emergency debates (under the then S.O. No. 10) in an earlier report[47] and we intend shortly to report on Early Day Motions. Our interim conclusion, however, is that short statements on the Canadian model would not provide a suitable method for relieving pressure of demand for raising topical or constituency matters. Their principal defect is the absence of provision for a considered Government reply to balance what may be highly contentious matter in the original statement.

74. In our view the principal objective of parliamentary activity is to put the policies and actions of Government under close scrutiny. One-sided statements would represent a waste of valuable parliamentary time. We have thus considered whether provision could be made for short notice debates in which Members could raise briefly constituency or national issues to which a Minister would reply. The poliferation of S.O. No. 20 applications—few of which Members, we suspect, seriously expect to be granted—suggests that there may be a need for a parliamentary opportunity to raise matters which do not meet the criteria for either three-hour debates under S.O. No. 20 or for Private Notice Questions, but which may be more topical than is possible under Mr Speaker's ballot for the normal daily half-hour adjournment debate. All of these procedures have a valuable role, but we see a need for some additional way to allow back-bench Members to bring matters to the Floor of the House. We have considered how best this might be achieved.

75. First of all, we return to a suggestion made in paragraph 50 above. At present, if the daily adjournment motion is moved after 10 pm on Mondays to Thursdays, or after 2.30 pm on Fridays, debate automatically ends after half-an-hour. If, however, planned business for the day collapses early there may be time for extra debates on the adjournment. On a few days each year it has been suggested that the House would rise earlier if Standing Orders were amended to provide that debate on the motion for the adjournment for the purposes of bringing the sitting to a close should be limited to half-an-hour whenever it began. Such a change could possibly have an effect on those days when debates on other items of business may be artificially prolonged at the

[47]HC 42 (1985–86).

Late Sittings

15. The 10 pm rule should not be entrenched (paragraph 43).

16. Morning sittings of the House should not be used (paragraph 44).

17. We do not recommend any new procedure for deferral of divisions (paragraph 49).

18. The House should continue to meet at 2.30 pm on Mondays to Thursdays (paragraph 50).

Opposition Time

19. It should be normal for business to be arranged so that in the last week before the long summer adjournment there may be opposition day or half-day in the name of the Leader of the Opposition (paragraph 53).

Private Members' Time

20. No change we might realistically propose would ensure that time could be found for every private Members' bill to complete its passage (paragraph 63).

21. Private Members should not be empowered to move motions at 2.30 pm to continue proceedings on Fridays (paragraph 65).

22. The four private Members' half-days (normally Mondays) should be consolidated experimentally into two full Mondays devoted to bills rather than motions (paragraph 66).

23. On private Members' bill Fridays public petitions not presented before 10 am should be presented at 2.30 pm (paragraph 68).

24. We do not recommend any change in methods of objecting to private Members' bills at 2.30 pm on Fridays (paragraph 71).

25. On four Fridays devoted to private Members' motions debate on the first motion should lapse at 12.30 pm if not previously concluded (paragraph 72).

26. On Tuesdays and Wednesdays there should experimentally be a twenty minute additional adjournment debate in which topical matters might be raised. Mr Speaker should announce his decision on applications by, say, 6 pm on the previous day (paragraph 76).

5 May 1987

cc PU

SECRETARY OF STATE FOR EDUCATION AND SCIENCE

ELIZABETH HOUSE
YORK ROAD
LONDON SE1 7PH
01-934 9000

NBPM at this stage. B/F in 2 weeks to ~~[illegible]~~ review any comments from other recipients.

PRCG 22/12

The Rt Hon John Wakeham MP
Lord President of the Council
Privy Council Office
Whitehall
LONDON SW1A 2AT

14 DEC 1988

Dear John,

Thank you for your letter of 23 November attached. I was interested to learn of your various exchanges. Naturally one would like to see more Members taking an interest in science both in its own right and as it interacts with wider public issues. On the other hand, as you point out, the trans-Departmental dimension runs counter to the basic structure of the Commons system. And the Lords are pretty active trans-Departmentally in science and technology.

My own preference, given the constraints you indicate, would be to encourage ESAC itself to develop its interest in, and understanding of, science rather than, as it might seem, delegating it to those of its members who happened to be interested in science. However, if you wish to offer a science Sub-Committee of ESAC obviously I would not oppose that. I would however then ask you to explore first the case for, and practicalities of, recognising in its composition and its remit the trans-Departmental character of many science issues. This might point to augmentation of its membership, whether ad hoc or permanently, by members from other Departmental Select Committees. Obvious candidates are DTI, DEn, DoE, MoD, MAFF and DH. Presumably, then its reports would normally go to ESAC and, where the findings and recommendations made it appropriate, also to other relevant Departments. However, this begins to transgress the basic Departmental structure to which you refer. It also begins to trench upon relationships with E(ST) - explicit

or implicit - and the role and responsibilities of the Cabinet Office. I have not sought to take the Prime Minister's mind on this matter. But you will perhaps understand my own preference for the status quo. Any development that mirrored E(ST) to a significant extent could have quite far reaching implications, both constitutional and in the additional work involved.

Because of the E(ST) dimension I am copying this, with a copy to your letter, to the Prime Minister and members of E(ST).

Yours ever

Kenneth

P.S. I am quite clear that we should strike with Departmental organisation of Select Committees. Subject Select Committees cut across this and and you have one then there'll be a demand for others.

Ml.

The National Archives

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PRIME MINISTER

You may know that there has been pressure for some time for separate Select Committees to be established on the Department of Health and the Department of Social Security following the split up of the old DHSS. The Lord President would like to refer to this when he winds up the debate on procedure next week, and would like to take a generally favourable line although without making any firm commitment.

Content? Yes

Nick Denton informed

ANDY BEARPARK

25 November 1988

For file

PM2AGX

Text agreed at Cabinet for BI
for Gabby re C/to EDM.

The Business of the House will be announced at the usual time today. It will not contain time for a debate on EDM 1574. Should the Opposition wish to pursue this matter, there will be opportunities in the new Session.

PRIVY COUNCIL OFFICE
WHITEHALL. LONDON SW1A 2AT

23 November 1988

Dear Ken

Ever since the new Departmental Select Committee system, including the Departmental Select Committee on Education, Science and Arts, was introduced in 1979 there has, as you know, been periodic pressure for some form of 'specialist' Select Committee with its terms of reference specifically related to scientific matters. This has sometimes taken the form of support for the revival of the former Commons Science and Technology Committee, and more recently there has been the suggestion of a Joint Committee, with its membership drawn from both Houses.

Although active support for such a Committee has been mainly confined to a fairly small group of Members, it is unlikely to diminish, and I have recently held meetings with representatives of the Education Committee and also with the Chairman of the Select Committee Liaison Committee, Terence Higgins, in order to sound out their views on these proposals.

The outcome of these discussions so far seems to rule out a number of the possible approaches that have been mentioned. The members of the present Commons Education, Science and Arts Committee are generlly opposed to the idea of any joint Committee with the Lords, and a new separate Commons Committee on 'Science' would run counter to the basic structure of the present Departmental Select Committee system. Terence Higgins also did not think it worthwhile pursuing a further idea which I put to him whereby a Commons Sub-Committee on Science might be made up of members of more than one Departmental Committee, on the analogy of the provision made for a potential Committee on the nationalised industries under SO 130(4).

The only remaining possibility - if it is agreed that the Select Committee coverage of scientific matters needs reinforcement - would accordingly appear to be to consider providing in Standing Orders for the present Departmental Education, Science and Arts Committee to be able, if they so wish, to set up a Science Sub-Committee. Until now the members of the Committee with whom I have discussed this possibility have been somewhat equivocal, and even if the offer of such provision were to be made I am not sure that the present membership - with a few exceptions - would necessarily take it up with any great enthusiasm. Nevertheless, attitudes might change if other possibilities are ruled out, and once such a provision was in place, a future, and perhaps more scientifcally orientated, membership might develop the potential.

Subject, therefore, to your views and those of other colleagues to whom I am sending a copy of this letter, I would accordingly propose to make an offer to the present Departmental Education Committee that, if they so wish, I should be willing to recommend to the House that the Committee should be empowered to establish a single Sub-Committee to cover the 'science' part of their present remit.

I am copying this to the Prime Minister, David Young, Malcolm Rifkind, John Belstead and Cecil Parkinson.

Yours ever

JOHN WAKEHAM

The Rt Hon Kenneth Baker MP
Secretary of State for Education and Science



PRIME MINISTER

'CARRY OVER' MOTION FROM THIS SESSION TO THE NEXT SESSION

The Lord President mentioned to me today that there needed to be 'carry over' motions to permit consideration in the next session of the two Private Bills facilitating coal imports. Without such motions, the Bills would fall. The Lord President said that the Labour Opposition, led by the mining MPs, would try to block these motions, but he will ensure that they pass.

There also needs to be a 'carry over' motion for the Select Committee on Broadcasting. The resolution establishing this Committee confined its deliberations to this session and a motion is required to allow it to continue into the next session when the Committee would produce its report.

The Lord President said that he intended to treat this motion, which was debatable, as a procedural issue. Whatever his views on televising the House, he did not believe that as Leader of the House he could try to frustrate such a motion and thus deprive a Select Committee of the House from completing its business.

N. L. W.

N. L. WICKS

25 October 1988

SL3BEO

c/f to file

PRIVY COUNCIL OFFICE
WHITEHALL. LONDON SW1A 2AT

1/7

June 1988

Dear Andy, PRS 4/7.

As I mentioned on the telephone, the Speaker has written to the Lord President giving notice that the 9th Conference of Commonwealth Speakers, which is to be held in London from 20 - 22 July, will affect his attendance in the Chamber during that week. I attach, for information, a copy of his letter, which the Lord President is proposing simply to acknowledge.

I am copying this letter and enclosure to Murdo Maclean.

Yours,
Alison

ALISON SMITH
Private Secretary

P A Bearpark Esq
PS/Prime Minister
10 Downing Street

Mr Speaker

Speaker's House Westminster London SW1A 0AA

23rd June 1988

RECEIVED
23 JUN 1988
23

Dear John,

NINTH CONFERENCE OF COMMONWEALTH SPEAKERS AND PRESIDING OFFICERS
LONDON, 20TH TO 22ND JULY 1988

I thought I should give you good notice that this Conference, which has been timed to coincide with the Tercentenary ceremony in Westminster Hall on 20th July, will affect my attendance in the Chamber during that week. Following the Westminster Hall ceremony, the Conference sessions will be held in the Queen Elizabeth II Conference Centre for the remainder of the week. As the host country's Speaker, I am Chairman of the Conference; and although I can call on others to preside over the Conference in my place, I feel it would be discourteous to our visitors to absent myself more than is absolutely necessary.

My intention is to be present in the Chamber for Prayers in the normal way on Wednesday, 20th July and to announce The Queen's response to the Address on the Tercentenary of the Bill of Rights, but then to vacate the Chair, leaving the Chairman of Ways and Means to take charge of Question Time and any Statements etc. On Thursday, 21st July I propose to remain in the Chamber until the end of Prime Minister's Questions, but then leave the Chairman of Ways and Means to take the Chair for Business Questions etc. As I will be present for Prayers every day, it will not be necessary for me to seek leave of absence by means of a motion. I will, however, give the House due warning, by means of a short statement the previous week.

I am sending a copy of this letter to Derek Foster.

Yours ever

Jack.

Speaker

The Rt Hon John Wakeham MP

PERSONAL

MR WICKS

BY-ELECTIONS

You asked about the rules governing the moving of writs etc during a recess. I attach the relevant pages from Erskine May which are more or less self-explanatory.

The Recess Elections Act 1975 provides that, if any Member has died or become a peer during the recess, two Members can require the Speaker to issue his warrant to the Clerk of the Crown to make out a new writ. There are one or two twiddly bits, eg, to ensure that such a procedure is not used too close to the end of the recess, and there is a six day period of notice between the Speaker making an announcement in the London Gazette and the issuing of the warrant.

There is also a provision under the same Act in the case of acceptance of a disqualifying office - not the Chiltern Hundreds - which requires the Speaker to issue his warrant during the recess with immediate effect on being notified by two Members and the Member vacating his seat, and on production of the London Gazette with the appointment of the Member to his new office. I doubt if this provision however is relevant for your purposes.

I hope this is sufficient.

MARK ADDISON

6 May 1988

VC2ATO

PERSONAL

In reckoning time for all election proceedings, Saturdays, Sundays, days in the Christmas, Easter and other Bank Holiday breaks, and days appointed for public thanksgiving or mourning are to be disregarded.

In the event of the death of a candidate after the publication of the statement of persons nominated as candidates and before the result of the election is declared, the returning officer countermands the notice of the poll or, if polling has begun, directs that it be abandoned; thereafter proceedings start afresh as if the writ had been received 28 days after the day on which proof was given to the returning officer of the death.[3]

Election campaigns

The law on election campaigns is comprehensively set out in Part II of the Representation of the People Act 1983.

The maximum expense which may be incurred by a candidate or his agent is £2700 plus 3·1p for every entry in the electoral register in a county constituency and £2700 plus 2·3p for every entry in a borough constituency.[4]

The personal expenses of the candidate are not taken into account in calculating the maximum. Shortly after a new Parliament is elected, an address is presented to the Sovereign for a Return showing the expenses of each candidate at the General Election, together with the number of votes polled by each candidate, the number of polling districts and stations, the number of electors and the number of persons entitled to vote by post.[5] The Commons also pass a sessional resolution regarding bribery at elections.[6] On 10 December 1779 the Commons resolved that it was 'highly criminal in any Minister or Ministers, or other servants under the Crown of Great Britain, directly or indirectly to use the powers of office in the election of representatives to serve in Parliament, etc' (CJ (1778–80) 507). For the detailed provisions of the law and practice reference may be made to the statute itself or to text-books.[7]

NEW WRITS

Whenever vacancies occur in the House of Commons from any legal cause, after the original issue of writs for a new Parliament by the Crown, writs are issued out of Chancery by a warrant from the Speaker, which he issues, when the House is sitting, upon the order of the House of Commons. The causes of vacancy are the death of Members or their succession to a peerage, the acceptance of a disqualifying office, the elevation of Members to the peerage, bankruptcy, lunacy, the establishment of any other legal disqualification for sitting and voting in the

3 Representation of the People Act 1983, Sch 1, Rule 60.
4 Representation of the People Act 1983, s. 76 (2).
5 E.g. HC 374 (1979–80).
6 E.g. CJ (1981–82) 3.
7 Parker's Conduct of Parliamentary Elections, 1st edition, edited by H. W. Wollaston; Parliamentary Elections, 3rd edition, by A. N. Schofield.

House of Commons, and the determination of election judges that elections or returns are void. The various disqualifications for membership of the House of Commons are described in greater detail in the following chapter.

Vacancies during a session

When the House is sitting, and the death of a Member, or other cause of vacancy, is known, Mr Speaker may be ordered by the House, upon a motion made by any Member, to issue his warrant to the Clerk of the Crown for a new writ for the place represented by the Member whose seat is thus vacated.

A new writ is moved as a matter of privilege, without notice (see p. 326).

It was resolved on 5 April 1848 'that in all cases where the seat of any Member has been declared void on the grounds of bribery or treating; no motion for the issue of a new writ shall be made without previous notice being given in the votes.'[8] When such notice was dropped it was required to be renewed like the other dropped notices.[9] In 1853 and 1854 it was ordered that no such motion should be made without seven days' previous notice in the votes.[10] This required period of notice was reduced to two days in resolutions passed periodically between 1857 and 1911.[11] No such resolution has been passed since 1911 but notice has been given even in the absence of a resolution enjoining it.[12] Such notices are appointed for consideration before the orders of the day and notices of motions.

Period for presenting petitions

Where a vacancy has occurred prior to, or immediately after, the first meeting of a new Parliament, the writ will not be issued until the time for presenting election petitions has expired.[13] Nor will a writ be issued if the seat which has been vacated be claimed on behalf of another candidate. In such cases it has been ruled that the writ should be withheld until after the trial of the claim[14] or until the petition has been withdrawn.[15] Where a void election only is alleged the new writ may be issued at any time after the vacancy occurs.[16]

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8 CJ (1847–48) 432.
9 Parl Deb (1847–48) 99, c 1289.
10 CJ (1852–53) 315; ibid. (1854) 388.
11 CJ (1857) 283; ibid. (1875) 23; ibid. (1880) 213; ibid. (1882) 20; ibid. (1886) 149; ibid. (1893–94) 14; ibid. (1901) 15; ibid. (1906) 226; ibid. (1910) 161; ibid. (1911) 49. See also debate on the issue of new writs, 31 January 1893, Parl Deb (1893–94) 8, c 62.
12 One clear day's notice was given in 1907 and 1924, CJ (1907) 14, Parl Deb (1907) 169, c 317; CJ (1924) 202. But see also CJ (1923) 155.
13 For interpretation of this rule, see CJ (1922) 356; ibid. (1924) 17; HC Deb (1950) 472, c 1721–30.
14 Athlone Election, 1859.
15 Durham Election (Mr Grainger) CJ (1852–53) 161; Louth Election (Mr Chichester Fortescue) 1866.
16 Southampton and Carlow writs, 29 December 1852. See also Parl Deb (1859) 154, cc 450, 454; 155, c 865; Chester Writ, 3 May 1880, CJ (1880) 125.

Vacancy by peerage

Peer by descent. If a Member succeeds to a peerage he has one month under the Peerage Act 1963 in which to lodge a disclaimer, if he so wishes (section 2 (1)). (In the case of candidates for election succeeding to a peerage between the issue of a writ for the election and polling day the period is one month after the election (section 2 (2)). If no disclaimer has been lodged when that period expires, or if the Member applies for a writ of summons to the House of Lords before it expires, his seat thereupon becomes vacant and a motion for a new writ may be made (see also pp. 40–1).

A select committee appointed in 1894 to inquire into the vacating of seats, reported that the House usually waited for proof of succession to a peerage by one of its Members, such proof being furnished by the issue of the writ of summons, before it agreed to the motion for a new writ;[17] but that if there was any delay in this matter the House would, if it thought fit, inquire into the fact of the Member's succession and act on such evidence as it thought sufficient;[18] and it has been stated by the Committee of Privileges that, in their opinion, it is the law that the fact of succession to a peerage disqualifies from membership of the House of Commons and this disqualification does not depend on receipt of a writ of summons.[19]

> The occasion of this report by the Committee of Privileges was when an heir to a peerage (before the passing of the Peerage Act 1963) sought by a Petition to show that the writ of summons, and not the death of the previous holder of the peerage, should be the occasion of the loss of the right to sit in the House of Commons. The Petition was referred to the Committee, who found that he was disqualified on the day of the death of the previous holder. The House subsequently resolved to take note of the fact that on succession to a viscountcy on 17 November 1960 he had ceased to be a Member of the House and agreed with the Committee of Privileges in their report (CJ (1960–61) 182). A writ was then issued 'in the room of Mr Wedgwood Benn, who, by Resolution of this House on 13 April 1961, ceased to be a Member' (CJ (1960–61) 188; but see HC Deb (1960–61) 638, c 939). Mr Benn stood and was declared elected at the subsequent by-election, but a petition was brought before the Election Court and the seat was awarded to the other candidate (CJ (1960–61) 324, [1961] WLR 599).

Peer by creation. If a Member be created a Peer, his seat is not vacated until the letters patent conferring the dignity have passed the great seal.[1] When it is advisable to issue the writ without delay in the case of a Member created a Peer, the Member accepts the Chiltern Hundreds before his patent is made out[2] (see p. 49).

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17 It is still normal for the motion to refer to the former Member as having been 'called up to the House of Peers'.

18 HC 272 (1895). See also case of the Earl of Selborne CJ (1895) 199, 205, 223; Parl Deb (1895) 33, c 1058; HC 302 (1895).

19 HC 142 (1960–61), which refers to details of earlier cases.

1 Sir H. Vivian, Parl Deb (1893–94) 13, c 332, 540.

2 CJ (1880) 328; ibid. (1907) 308; ibid. (1908) 47, 160, 238, 292. As to the grant of the Chiltern Hundreds or Manor of Northstead to a Member, who has succeeded to a peerage, see CJ (1895) 218; ibid. (1911) 179; ibid. (1912–13) 395, 495, 533; but see also

Supersedeas to writs

If doubts should arise concerning the fact of the vacancy, the order for a new writ should be deferred until the House may be in possession of more certain information; and if, after the issue of a writ, it should be discovered that the House had acted upon false intelligence, the Speaker will be ordered to issue a warrant for a supersedeas to the writ.

Thus on 29 April 1765, a new writ was ordered for Devizes, in the room of Mr Willey, deceased. On 30 April it was doubted whether he was dead, and the messenger of the great seal was ordered to forbear delivering the writ until further directions. Mr Willey proved to be alive, and on 6 May a supersedeas to the writ was ordered to be made out.[3] In other cases, when the House has been misinformed, or a writ has been issued through inadvertence, or prematurely, the error has been corrected by ordering the Speaker to issue his warrant to the Clerk of the Crown to make out a supersedeas to the writ.[4]

Issue of warrants by the Speaker during adjournment or recess

When vacancies occur by death, by elevation to the peerage, or by the acceptance of office, the law provides for the issue of writs during a recess, due to a prorogation or adjournment, without the immediate authority of the House, in order that a representative may be chosen without loss of time by the place which is deprived of its Member.

Death or peerage. By the Recess Elections Act 1975, on the receipt of a certificate, under the hands of two Members, that any Member has died, or has become a Peer, either during the recess or previously thereto, the Speaker is required to give notice in the London Gazette; and after six days from the insertion of such notice,[5] to issue his warrant to the Clerk of the Crown to make out a new writ. The Speaker may not issue his warrant during the recess unless the return of the late Member has been brought into the office of the Clerk of the Crown fifteen days before the end of the last sitting of the House; nor unless he has received the certificate of vacancy so long before the next meeting of the House for despatch of business, that the writ can be issued before the day of meeting.[6] He may not issue a warrant in respect of any seat that has been vacated by a Member against whose election or return a petition was pending at the last prorogation or adjournment.

Acceptance of office. Under the same Act the Speaker is required, on the receipt of a certificate from two Members, together with a copy of the

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Reports of Select Committees on House of Commons (Vacating of Seats) HC 278 (1894) and 272 (1895).

3 See 2 Hatsell, 80n; 16 Parl Hist 95; CJ (1765–66) 391, 404; see also cases of the city of Gloucester, 19 December 1702, and of Mr Vansittart, supposed to have been lost at sea, 17 Parl Hist 322; CJ (1770–72) 546.

4 CJ (1809) 48; ibid. (1826) 223; ibid. (1830–31) 134, 182; ibid. (1851) 12 (Dungarvan writ); CJ (1880) 280, 286; Parl Deb (1880) 253, c 1918.

5 In the calculation of the six days, the day on which the notice appeared in the Gazette, and any intervening Sunday, are reckoned; i.e. upon notice in a Tuesday's Gazette, the writ is issued on the following Monday.

6 That is to say, the six days' provision (see note (5)) must have been complied with.

Gazette containing the appointment, and a notification from the Member himself, to issue his warrant for a new writ, during a recess, in the room of any Member who, since the adjournment or prorogation, has accepted any office whereby he has, either by the express provision of any Act of Parliament or by any previous determination of the House of Commons, vacated his seat (see p. 46). These provisions do not apply in the case of Members who have accepted the Chiltern Hundreds or the Manor of Northstead (see also p. 49).

Bankruptcy. By the Bankruptcy Act 1883, section 33, similar powers are given to the Speaker in the event of a seat having become vacant by the bankruptcy of a Member, upon the issue of the certificate of the court, stating that the disqualification inflicted by the Act had not been removed (see p. 41).

Lunacy. A new writ for the election of a Member to fill a seat which has become vacant under the procedure prescribed by the Mental Health Act 1959 (see p. 40), could not apparently be issued during a recess.

Appointment of members to issue writs

At the beginning of each Parliament, pursuant to the Recess Elections Act 1975, the Speaker is required to appoint a certain number of Members, not exceeding seven and not less than three, to exercise the powers of the Speaker in reference to the issue of writs during a recess at any time when there is no Speaker or the Speaker is out of the United Kingdom. This appointment stands good for the entire Parliament, unless the number should be reduced to less than three; in which case the Speaker is required to appoint one or more further Members.[7] Any such appointment is ordered to be entered in the Journals,[8] and published in the London Gazette; and the instrument is to be preserved by the Clerk of the House, and a duplicate by the Clerk of the Crown. Any one of the Members so appointed may exercise the Speaker's power; if the publisher of the Gazette receives similar notices from more than one of them, only that first received is entered in the Gazette.

Manner of issue of writs

For any place in Great Britain, the Speaker's warrant is directed to the Clerk of the Crown in Chancery: and for any place in Northern Ireland, to the Clerk of the Crown in Northern Ireland. On the receipt of the Speaker's warrant, the writ is issued by the Clerk of the Crown, and transmitted in pursuance of the provisions of the Representation of the People Act 1983.[9] Neglect or delay in the delivery of the writ, or any other violation of the Act, is an offence; and in the event of any complaint being made the House will also inquire into the circumstances.[10]

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7 The Recess Elections Act 1975, s. 4.
8 E.g. CJ (1979–80) 154.
9 Schedule 1, Part II, Rules 3 and 4.
10 Glasgow writ, 1837, CJ (1837–38) 410, 418. See also CJ (1840) 122, 127.

10 DOWNING STREET

RETURN OF WRITS

Correction of error in return

If any error should appear in the return to a writ, such as a mistake in the name of the Member returned,[11] or in the date of the return,[12] or in the division of the county for which the return is made,[13] evidence is given of the nature of the error, either by a Member of the House, or by some other person who was present at the election or is otherwise able to afford information; and the Clerk of the Crown is ordered to attend and amend the return.

Failure to make return to writ

If no return be made to a writ in due course, the Clerk of the Crown is ordered to attend and explain the omission; when, if it should appear that the returning officer, or any other person, has been concerned in the delay he will be summoned to attend the House; and such other proceedings will be adopted as the House may think fit.[14]

In the course of the general election of December 1910, the writ for the borough of Portsmouth was mislaid by the returning officer, so that he was unable to endorse the writ with the names of the Members who had been returned. The returning officer made a statutory declaration to this effect and certified the names of the Members returned. This declaration was sent by the Clerk of the Crown to the Speaker, who informed the House of its contents. An instruction was given by the House to the Clerk of the Crown to receive the names mentioned in the returning officer's statutory declaration as if they had been endorsed on the writ and to amend his certificate to the House (i.e., the Return Book, see p. 283) accordingly.[15]

After the general election of 1955 the Election Writ and return for Knutsford were not acted upon by the Clerk of the Crown, as, not having been received by registered post, they were not identified until some time later. Before the Member for Knutsford was sworn, the Speaker read to the House a statutory declaration by the acting Returning Officer giving the name which had been endorsed on the writ, and the Clerk of the Crown was ordered to attend the House and amend his certificate accordingly.[16]

Members returned for two places

At the commencement of each session, the House agrees to resolutions dealing with the case of Members who are returned for two or more

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11 Newport (Hants.) 1831, Mr Hope Vere, CJ (1831) 578; Kirkcaldy return 1875, Sir George Campbell, ibid. (1875) 165; Perth county return, 1878, Colonel Moray, ibid. (1878) 53; Poole, ibid. (1884) 175; Mid Antrim, ibid. (1886) 8; Longford, ibid. (1887) 54; Birmingham, ibid. (1889) 149; Kirkcaldy, ibid. (1892) 504; Monaghan (north and south divisions), ibid. (1895) 348; Buckingham (northern division), ibid. (1911) 6. In the last case the Member himself directed the attention of the House to the error.

12 Carlow county, 1841, 'November' being inserted instead of 'December', CJ (1841) 3.

13 Northampton county, 1846, CJ (1846) 207; Worcester county (eastern division), 1859, CJ (1859) 74; Parl Deb (1859) 152, c 855.

14 Waterford writ, 1806, CJ (1806) 169, 175; Parl Deb (1806) 6, cc 536, 562, 751; Great Grimsby, 1831, CJ (1831) 758, 762, &c.; Parl Deb (1831) 6, cc 95, 159, 294, 460.

15 CJ (1911) 6. See also HC Deb (1955–56) 542, cc 36–38, 1039–42.

16 CJ (1955–56) 13.

MEA.

Some brief discussion at Colleagues. Notty and Govt can do, but try to hold the line. N. L. W. 8.5

PRIME MINISTER

POINTS OF ORDER

You will remember that, with some difficulty, the Speaker has been encouraged to stick to his ruling that points of order arising out of Question Time should be taken at the end of statements, PNQs etc. This has served the purpose of orderly conduct well, and discouraged Opposition Members from continuing Question Time - particularly Prime Minister's Question Time - with a series of phoney points of order.

Yesterday, the Speaker regrettably accepted two points of order during Business Questions which may well increase the pressure from Opposition Members to revert to the previous system. Opposition backbenchers have always been unhappy with the existing arrangements, and irritated with Derek Foster for agreeing them in the first place. They were quick to seize on the Speaker's lapse. It is too early to say how the pressure might build up, but worth being aware that there may be trouble ahead. I attach a highlighted extract from Hansard.

MEA

(M.E. ADDISON)

6 May 1988

[Mr. Fowler]

own minds about whether to cross a picket line and to work. The right hon. Gentleman should respect those individual rights.

Sir Ian Lloyd (Havant): The very grave allegations made a few moments ago by the hon. Member for Oldham, West (Mr. Meacher) that standards of safety have been seriously compromised by the management of P and O are so serious that they should either be substantiated immediately or withdrawn.

Mr. Fowler: As I have said, the suggestions by the hon. Member for Oldham, West (Mr. Meacher) about safety standards are simply untrue. *[Interruption.]* I shall tell the hon. Gentleman how I know. The two P and O ferries that have returned to service have been very thoroughly inspected by Department of Transport surveyors. Probably no two ferries have ever been more thoroughly inspected. As my hon. Friend rightly suggests, it would be much better if the hon. Gentleman withdrew those suggestions.

Mr. Ieuan Wyn Jones (Ynys Môn): Does the Minister agree that the adversarial nature of legal proceedings means that the parties are now being driven into positions from which it will be difficult for them to negotiate, and because the ferry operators now believe that they have the upper hand in those legal proceedings they are merely waiting for the union's resolve to be crushed? Does not the Minister think that he should now reflect and use his good offices to urge the parties to go to arbitration because that is the only sensible way to resolve the dispute?

Mr. Fowler: I do not accept that at all. No objective observer would accept the hon. Gentleman's description of what has taken place. The NUS has been given every opportunity to avoid what has taken place in the courts. The courts have made that clear and the judge has made that clear, and the NUS has only itself to blame.

Mr. Nicholas Bennett (Pembroke): Does my right hon. Friend agree that we are seeing the dying gasps of boneheaded trade unionism, which contrasts very much with the new realism of the electricians and the engineers? Does my right hon. Friend also agree that it is not surprising that the Labour party should support the NUS when Mr. McCluskie is a member of its national executive and there is more interest in the leadership contest between the leader of the Labour party and the right hon. Member for Chesterfield (Mr. Benn)?

Mr. Fowler: What we do not want to see are the dying gasps of the British ferry industry and the competitive position of British ferries. That is the point. The course on which the hon. Member for Oldham, West (Mr. Meacher) seems determined to take his party means that British jobs will again be lost as a result of union action and the hon. Gentleman's support.

Several Hon. Members *rose*——

Mr. Speaker: Order. I remind the House that this is a private notice question, which is an extension of Question Time, and we must now move on.

Business of the House

3.51 pm

Mr. Frank Dobson (Holborn and St. Pancras): May I ask the Leader of the House to state the business for next week?

The Lord President of the Council and Leader of the House of Commons (Mr. John Wakeham): The business for next week will be as follows:

MONDAY 9 MAY—Consideration in Committee of the Finance (No. 2) Bill.

TUESDAY 10 MAY—At the end on Tuesday motion on the Control of Misleading Advertisements Regulations.

WEDNESDAY 11 MAY—Opposition Day (11th Allotted Day). There will be a debate on an Opposition motion entitled "The Crisis in Housing".

Motion to take note of the European Commission's proposal on the approximation of indirect taxation. Details of the EC documents concerned will be given in the *Official Report*.

The Chairman of Ways and Means has named opposed private business for consideration at seven o'clock.

THURSDAY 12 MAY—There will be a debate on prisons on a motion for the Adjournment of the House.

Motion on the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (Immunities and Privileges) Order.

The Chairman of Ways and Means has named opposed private business for consideration at seven o'clock.

FRIDAY 13 MAY—Private Members' Bills.

MONDAY 16 MAY — Until seven o'clock, private Members' motions. Second Reading of the Civil Evidence (Scotland) Bill *[Lords]*.

[Debate on Wednesday 11 May 1988

Relevant European Community Documents

8199/87	*Indirect tax rates and structures*
8200/87	*Value added tax rates*
8201/87	*Removal of fiscal frontiers*
8202/87	*Value added tax clearing mechanism for intra-Community sales*
8203/87 + COR 1	*Convergence of rates of value added tax and excise duties*
8204/87 ⎫	*Taxes on cigarettes and other*
8205/87 ⎭	*manufactured tobacco*
8206/87	*Excise duty on mineral oils*
8207/87 + COR 1	*Excise duty on alcohol*

Relevant Report of European Legislation Committee
HC 43-viii (1987-88). para 1

Relevant Reports of the Treasury and Civil Service Committee
Third Report (1987-88), (HC 248)
First Special Report (1987-88) (HC 438)]

Mr. Dobson: First, does the Leader of the House recall telling the House last Thursday that he would try to get the Secretary of State for Social Services to clarify when the special Department of Health and Social Security unit dealing with excessive cuts in housing benefit would be set up, where it would be located, and how people affected should make claims? Since then, there has been no such clarification about that U-turn unit, so will the Secretary of State for Social Services now come to the House to spell out exactly what is going on and to give answers to the questions that hon. Members on both sides of the House are being asked by their constituents?

Secondly, can we expect an early statement explaining the Government's attitude to the Kuwaiti holding in British Petroleum, which they welcomed when it bailed out the privatisation share issue but which is now feared to be a monopoly takeover bid?

Thirdly, we understand that one of the private Bills to be considered next week is the Associated British Ports (No. 2) Bill, which would give that private company planning permission that it might not be able to obtain from the relevant planning authorities. The right hon. Gentleman will recall that the last such Bill was the one which gave P and O planning permission for works at Felixstowe dock. On that occasion, Tory Members of Parliament, including the Prime Minister, were Whipped to vote for the Bill and the Government sacrificed a days business—*[Interruption.]*

Mr. Speaker: Order.

Mr. Dobson: —a whole day's business to help the company get its private Bill through. Will the Government take—*[Interruption.]*

Mr. Speaker: Order. I am trying to listen.

Mr. Dobson: I am trying to speak, Mr. Speaker. Will the Government take the same attitude—*[Interruption.]*

Mr. Bowen Wells (Hertford and Stortford): On a point of order, Mr. Speaker. The shadow Leader of the House has made a damaging remark about Conservative Members. He has accused us of being Whipped in support of the P and O Bill. That is a grave aspersion on our honour and he should withdraw it.

Mr. Speaker: With my background, I do not think that I can say that to be Whipped for any Bill is necessarily out of order.

Mr. Dobson: It is an—*[Interruption.]*

Mr. Speaker: Order. We have to take the rough with the smooth in this place.

Mr. Bowen Wells: It is a lie.

Mr. Speaker: It may be a little wide of the truth, but it is not a lie.

Mr. Dobson: It is a fact. It is a fact that the Prime Minister stayed up most of the night to vote for P and O. It is a fact that, rather than lose P and O's business, the Government sacrificed a whole day of their business to help P and O get its private Bill through. Will the Government take the same attitude to the Associated British Ports Bill? If not, can we conclude that that company has not yet paid as much into Tory party funds as the £100,000 paid by P and O?

Finally, and not for the first time—but I hope for the last time—when will the Leader of the House discharge his duties to the people of Scotland and establish the Select Committee on Scottish Affairs?

Mr. Wakeham: The hon. Gentleman asked me four questions about the business for next week. First, he asked me about housing benefits. Later this afternoon, my hon. Friend the Minister for Social Security and the Disabled will provide the House with details of the changes in housing benefit which my right hon. Friend the Secretary of State announced in the House last Wednesday, together with the arrangements to effect those changes. The hon. Gentleman will have to contain himself until that answer is given.

My right hon. and noble Friend the Secretary of State for Trade and Industry announced on 4 May that, in accordance with the advice of the Director General of Fair Trading, he would refer the Kuwaiti Investment Office's 22 per cent. shareholding in BP to the Monopolies and Mergers Commission. It is now for the commission to report on whether the shareholding is against the public interest.

Private Bills are a matter not for me, but for the Chairman of Ways and Means. The hon. Gentleman's remarks confirm to many of us the wisdom of having matters connected with the usual channels conducted in private rather than in public, especially if one's facts are wrong.

I have discussed the Select Committee on Scottish Affairs with the hon. Member for Glasgow, Garscadden (Mr. Dewar), and I am considering the best way to proceed.

Several Hon. Members *rose*——

Mr. Speaker: Order. No fewer than 35 hon. Gentlemen wish to take part in the agricultural debate. I remind hon. Members to ask single questions of the Leader of the House on the business for next week.

Sir Peter Emery (Honiton): Does my right hon. Friend accept that many hon. Members will be pleased that, after 11 months of this Parliament, we have the names of the members of the Procedure Committee on the Order Paper? Does he recall that before we rose for the summer recess he told the House that he would try to initiate a debate on the previous reports of the Procedure Committee? I realise that there may be some difficulty in obtaining the agreement of the Opposition for this, but will he consider having such a debate on motions in the names of the members of the previous Committee rather than in the name of the Government? The House could then decide whether advice could be given to both sides of the House on how to proceed on those reports. A debate on that matter would be to the benefit of everybody.

Mr. Wakeham: I am glad that my hon. Friend is pleased that we have been able to table a motion on the re-establishment of the Select Committee on Procedure. I can also assure him that it is my intention to hold a debate on procedural matters as soon as it can conveniently be arranged. As I have said on many occasions, these things are best discussed with all the parties concerned so as to find the most practical and agreeable way forward.

Mr. James Molyneaux (Lagan Valley): The Leader of the House was present yesterday when I inquired whether the Secretary of State for Northern Ireland intended to make a statement following yesterday's meeting of the Anglo-Irish Conference. Did he transmit that request, and, if so, what was the response?

Mr. Wakeham: My right hon. Friend the Secretary of State had a private meeting yesterday with the Taoiseach, followed by a full session of the Inter-Governmental Conference. A full statement setting out in detail the subjects discussed at the conference is in the Library.

Mrs. Ann Winterton (Congleton): My right hon. Friend will be aware that the remaining stages of a private Member's Bill to limit late abortions for social reasons will be debated tomorrow. Will he do all in his power to

[Mrs. Ann Winterton]

prevent any possible filibuster and enable right hon. and hon. Members to exercise their own judgment on this important matter?

Mr. Wakeham: I have a great deal of sympathy with my hon. Friend. Filibusters and rules of order are matters not for me, but for you, Mr. Speaker. I am sure that the whole House would deprecate the use of filibustering tactics to avoid discussion of this important issue.

Mr. Robert Maclennan (Caithness and Sutherland): In view of the reports, which have appeared this morning and been confirmed by a Government spokesman this afternoon, that the Government's chief scientific adviser has recommended the cancellation of the fast breeder reactor programme, and of the alarm and despondency that that report has caused, will the Leader of the House ensure that the Secretary of State for Energy makes a statement next week at the earliest opportunity?

Mr. Wakeham: I do not know where the hon. Gentleman gets all his information. The information that I have is that the Government review all their R and D programmes from time to time, which is good management, as the hon. Gentleman will agree. We are considering a range of options for the fast reactor programme, but no decisions have yet been taken. I shall certainly refer his question to my right hon. Friend, as I know of his constituency interest in the matter.

Mr. Ivan Lawrence (Burton): As there is obviously deep feeling in the country and among my colleagues in the House about the future of the British passport, would it not be appropriate for the mood of the House to be tested by having a debate on the subject at the earliest possible opportunity?

Mr. Wakeham: I shall certainly bear that suggestion in mind. The British passport is not being replaced by a European Community one, as is alleged in some quarters. Rather, a new version of the British passport, machine-readable and in a common format agreed in 1981 with other EEC countries, will start to appear from July when the Glasgow passport office is computerised.

Mr. Nigel Spearing (Newham, South): Will the right hon. Gentleman confirm that the import of his announcement about next Wednesday's business is that there will be private business from 7 pm to 10 pm and then a debate on the important proposals of Lord Cockfield and his associates on VAT extensions to food, fuel, domestic building and water and sewerage? According to a written answer that I received on Tuesday, it will also be extended to charity sales from gift shops. Is not one and a half hours too short a time in which to debate this important extension of taxation for the British people? If the right hon. Gentleman persists in having the debate at that time of night, will he consider suspending the rule and making the debate a bit longer?

Mr. Wakeham: I appreciate that this is an important matter. I think that the arrangements I have made for the debate are adequate. I am certainly prepared to have discussions if there is a general wish to extend the time.

Mr. Tony Marlow (Northampton, North): My right hon. Friend will have seen early-day motion 1053, which has been tabled by various influential Opposition Members.

[That this House condemns the continued Government attempts to interfere with the Independent Broadcasting Authority and British Broadcasting Corporation in their efforts to report and comment on the Gibraltar assassinations; and considers that both the shoot to kill policy and suppression of comment are serious aspects of this extreme right-wing Conservative Government.]

He will notice that it seeks to brand British service men as assassins. I think he will agree with me that it is the most disgraceful and shameful EDM that we have seen. May we have an early opportunity to debate it so that we can point out the way in which certain members of the Labour party seek to twist the knife in the spine of the British services, and so that the public at large, although we are not allowed to say that that is intentional in this place, will make up their minds that it is? It is the Opposition's intention to do all that they can to undermine the success of our service men in the fight against the vile terrorists who, in cold blood, killed three innocent young men in Holland last weekend.

Mr. Wakeham: The Government's concern is about the interference with witnesses and the effect that that could have on the inquest that will take place in Gibraltar. Of course, there is no question of the Government seeking to challenge the constitutional independence of the broadcasting authorities; it is the damage that is done that we find reprehensible, and it should not have taken place. That is why I had better restrain myself from making further comments now.

Mr. James Kilfedder (North Down): On a point of order, Mr. Speaker. Is it in order for the early-day motion referred to by my hon. Friend the Member for Northampton, North (Mr. Marlow) to remain on the Order Paper, given the terms in which it is couched? It brands three soldiers as assassins, when no decision on that has yet been made in any court of law.

Mr. Speaker: Order. The early-day motion is in order.

Mr. Peter Shore (Bethnal Green and Stepney): May I press the Leader of the House further on the business announced for Wednesday? It really is not good enough to have a debate lasting one and a half hours after 10 pm on a matter as important as the harmonisation of value added taxes throughout the Community — and the harmonisation of excise duties, too. This is one of the most serious proposals to come out of the EEC. It will affect the sovereignty of the House in ways deeper than many of its other enactments. Surely the matter should have been given a proper debate in prime time.

Mr. Wakeham: I have heard what the right hon. Gentleman said. I repeat that I believe that what we have done is right and adequate, but I am certainly prepared to examine the matter again in view of what he has said.

Sir Ian Lloyd (Havant): From a somewhat less localised standpoint than the hon. Member for Caithness and Sutherland (Mr. Maclennan), may I express my anxiety about the future of the fast breeder reactor programme? As Great Britain has spent an enormous sum developing this most important technology, and as her reputation stands high and it is at least arguable — I put it no stronger than that—that the future of energy in the next century could depend on the continuation of that

technology, I hope that the Government will take no decision until we have had a chance to debate this thoroughly.

Mr. Wakeham: I cannot add anything to what I said to the hon. Member for Caithness and Sutherland (Mr. Maclennan). I can confirm that no decisions have been taken. The point that my hon. Friend makes has been taken on board, and I shall see that the Secretary of State for Energy knows of his concern.

Mrs. Margaret Ewing (Moray): Is the Leader of the House aware of the concern among those involved in the professional training of social workers that the DHSS has rejected proposals put forward by the Central Council for Education and Training in Social Work? Would it therefore be possible for the House to debate the priorities, or lack of priorities, of the Government in this vital area, in which we need adequately trained staff to deal with society's problems?

Mr. Wakeham: I agree with the hon. Lady that that is an important subject. I cannot find time for a debate in the near future, but I shall certainly refer the matter to my right hon. Friend.

Mr. Harry Greenway: (Ealing, North): May we have an early debate on local government finance so that the House can examine the deplorable decision of Lambeth City council to cancel, at two weeks' notice, a £50,000 grant to the excellent Caine Hall family centre, which looks after families and is run by the London City Mission, because of its refusal to employ homosexuals and lesbians? May we couple that debate with another on Ealing council's continued determination to spend £1,000 of hard-pressed ratepayers' money on an evening for lesbians?

Mr. Wakeham: I was hoping to have a bit of a rest from local government finance, but my hon. Friend raises an important subject. I wish I could promise him a debate on the matter that gives him concern, but I cannot promise one in the immediate future.

Mr. Frank Cook (Stockton, North): In responding to the question of the hon. Member for Caithness and Sutherland (Mr. Maclennan) about the Dounreay reports, the Leader of the House confessed his ignorance about the source of the information. I have copies of reports from *The Guardian*, the *Financial Times* and *The Independent*, and I shall let the right hon. Gentleman have them. If there is substance in these reports, there is no need for me to remind the right hon. Gentleman about the importance of jobs and the protection of jobs, or about the shift in long-term energy policy that such a move would bring about. Knowing how difficult it is to get a debate in Government time—it is like trying to find rocking horse droppings—will the Leader of the House prevail upon his right hon. Friend the Secretary of State for Energy to make a statement after energy questions on Monday?

Mr. Wakeham: When I expressed some surprise about where the hon. Member for Caithness and Sutherland (Mr. Maclennan) had got his information, I thought that it was probably more reliable than the front page story in *The Guardian* which I, too, read. My information came direct from the Secretary of State, who said that no decision had been taken. I prefer to rely on his information than on anything that I read in *The Guardian*. The hon. Member asked about a statement. It is probably better for a statement to be made when there is something to say.

Mr. Kilfedder: May I refer again to the Anglo-Eire Conference meeting which took place yesterday and which the Secretary of State for Northern Ireland has described as a meeting at which crucial and important decisions affecting the people of Northern Ireland were made? Despite what the Leader of the House has said, the communiqué issued after the meeting amounted to very little. It hides more than it reveals and the Unionist people of Northern Ireland—I emphasise Unionist—are being kept in the dark about decisions being made about their future and the future of their children, whereas the SDLP is a party indirectly to all decisions made by the Anglo-Eire Conference.

Is it not a disgrace that right hon. and hon. Members are being kept in the dark about decisions being made in Dublin? Is it not a disgrace that the Secretary of State for Northern Ireland has not had the decency to come here today to make a statement about the meeting? Will the Leader of the House make sure that the Secretary of State for Northern Ireland comes to the House tomorrow, Friday, to tell us, the people of Northern Ireland and the people of the United Kingdom about what decisions are being made with Dublin?

Mr. Wakeham: I cannot accept the hon. Gentleman's analysis. My right hon. Friend the Secretary of State for Northern Ireland did the right thing in putting a full statement in the Library. It would not be right for him to make a statement in the House. I can tell the hon. Gentleman that decisions about the United Kingdom will be taken by the United Kingdom Government.

Mr. Seamus Mallon (Newry and Armagh): The Leader of the House will no doubt be aware that a recent public opinion poll in the Republic of Ireland showed that the third most important foreign personage was the Prime Minister, who was second only to the Pope and Mother Theresa of Calcutta. The same opinion poll showed that the most important Irish person was the Irish Prime Minister. Should we not capitalise upon the mutual popularity of the two Prime Ministers by having a debate in which we can properly assess the very successful outcome to date of the Anglo-Irish Agreement?

Mr. Wakeham: I recognise that there will be need for a debate on these matters, but I cannnot promise one next week.

Mr. Michael Fallon (Darlington): Will my right hon. Friend arrange an early debate on the social implications of the Church of England's new urban fund and the Bishop of Durham's new opportunity fund, under which every parishioner on the church roll in my constituency will be asked for a flat rate contribution of £20, irrespective of income or ability to pay? Would not such a debate be an opportunity to persuade the bishop to introduce the same generosity, tapers and benefits that we are introducing in the Local Government Finance Bill?

Mr. Wakeham: If the bishop were to take part in the debate, it would have to be in another place. I take my hon. Friend's point.

Mr. Greville Janner (Leicester, West): As it is now nearly three months since the Government set up their inquiry into the alleged involvement of Waldheim in the

[Mr. Greville Janner]

death of British commandos, may we have a statement from the Home Secretary about how the inquiry is progressing, or can the Leader of the House give some indication? Meanwhile, may we have an assurance that there will be no contacts between the British ambassador in Austria and President Waldheim unless and until he is cleared of these allegations?

Mr. Wakeham: The review is being conducted by the Ministry of Defence and it is intended to be as thorough and comprehensive as possible. It is being pursued as quickly as is consistent with proper consideration of the evidence and the need for accuracy. Although good progress is being made, this is a complex and important matter and it would be premature to speculate on when the review might be completed. It would not be appropriate for me to comment on the findings before the review is completed.

Mr. Bowen Wells: On Wednesday the harmonisation of VAT and excise duties is to be debated for only one and a half hours. Is it not absurd that we will be considering for such a short time matters that are normally the subject of a Bill—for instance the Finance Bill which occupies much time on the Floor of the House and in Committee? Does my right hon. Friend agree that the question of dealing with European legislation—a question that I have raised with him before—should be immediately considered by the Procedure Committee, which I am delighted to say he has been able to set up? Will he refer this matter to the Committee urgently because clearly he cannot find proper time for it in normal business hours?

Mr. Wakeham: My hon. Friend used the word "absurd". I suggest that he reads the Government motion before reaching such a conclusion. I think that what I have done is the sensible way forward, but, as I have said, I am prepared to have discussions to see whether we can find better arrangements.

Mr. Keith Vaz (Leicester, East): Will the Leader of the House make time available for an urgent debate about the state of Britain's footwear industry? Is he aware that there are 11,000 footwear workers in Leicestershire and in other parts of the midlands? Is he also aware of the new figures published by the British Footwear Manufacturers Federation which show that the imports have increased dramatically over the past month? When may we have a chance to debate this important matter?

Mr. Wakeham: As I am sure the hon. Gentleman will accept, there are many important matters calling for the time of the House and it is impossible to fit them all in. Perhaps an Adjournment debate would enable him to put some of the points that he wishes the House to appreciate.

Mr. John Marshall (Hendon): Will my right hon. Friend consider initiating a debate on the future of the confectionery industry which faces the threat of 80 per cent. of the industry being owned by companies in non-EC countries? Is my right hon. Friend aware that Rowntree is subject to a bid by two Swiss companies, both of which are immune to a counter bid from Rowntree?

Mr. Wakeham: Under the Fair Trading Act 1973 the Director General of Fair Trading has a duty to advise my right hon. and noble Friend the Secretary of State for Trade and Industry about whether a merger or a prospective merger should be referred to the Monopolies and Mergers Commission for further investigation. The Director General takes into account all matters which may raise questions of public interest, including the points that my hon. Friend raised, and the likely and significant effect on employment and other matters. I think we had best leave it at that.

Mr. Dennis Skinner (Bolsover): Why does not the Leader of the House arrange a debate next week about the seamen's dispute so that we can fully engage in an argument about the real facts? Will he tell his right hon. Friend the Secretary of State for Employment to have a more comprehensive list of the facts when he next appears at the Dispatch Box? Will he tell him, for example, that there is nothing wrong in Labour Members such as myself going to a picket line in Dover or anywhere else when the Prime Minister spends her time supping gin and tonic and whisky with Jeffrey Sterling in Downing street? He is employed as a special adviser to the Government and the Prime Minister and gives £100,000 for Tory party funds.

There is much talk about a ballot. The Leader of the House should tell his right hon. Friends that all the seamen in Britain wanted a ballot, but were stopped from having one by the Tories' friends in the courts. There is also an argument about safety. If the Leader of the House had watched the BBC programme the other night, he would know that many ships are in jeopardy and that Sterling wants to reduce even further the number of men and women who are employed. The Government are interested in seafarers only when they want them to fight their wars.

Mr. Wakeham: The one thing that is quite clear from that diatribe is that the hon. Gentleman does not want to resolve the dispute. I should have thought that he would be the first to understand that in all industrial disputes the resolution of the issues must be a matter for the parties operating within the law and taking cognisance of economic circumstances. I do not think that a debate would improve the situation one iota.

Mr. Ian Bruce (Dorset, South): Is my right hon. Friend able to organise a debate on office accommodation in the Palace of Westminster? In view of the comments made in the press by the hon. Member for Brent, East (Mr. Livingstone)—he said that the Labour Whips were not able to give him accommodation—is my right hon. Friend able to confirm that the Opposition Whips were given more than their fair share of accommodation? As all Conservative Members have offices, is it not strange that the Opposition Whips were unable to find the hon. Gentleman an office?

Mr. Wakeham: I cannot comment on the remarks of the hon. Member for Brent, East (Mr. Livingstone) about those matters. Office accommodation is not as satisfactory as some people would like, although both sides of the House do their best. The Opposition have their way of doing things and we have our way, and we had best leave it at that.

Mr. Harry Cohen (Leyton): May we have a full-scale debate on the P and O attempt to break the National Union of Seamen? Some hon. Members wish to make the point that the P and O management appears to be above the law as it has not been brought before the law for its part in the Zeebrugge tragedy. It is attempting to smash the trade union and to worsen——

Mr. Speaker: Order. The hon. Gentleman should ask for a debate, rather than participating in one.

Mr. Cohen: Is not P and O endeavouring to worsen working conditions and passenger safety? Is it not the real enemy within in that dispute, supported by the Government's secondary action.

Mr. Wakeham: The hon. Gentleman has confirmed my earlier view that the object of having a debate would not be to try to resolve the matter, if we were to follow his course of action. I should like to see the matter resolved, but I do not believe that a debate involving the expression of such sentiments will help to resolve the dispute.

Rev. Martin Smyth (Belfast, South): Does the Leader of the House accept that his answer to my right hon. Friend the Member for Lagan Valley (Mr. Molyneaux) concerning a statement by the Secretary of State for Northern Ireland leaves us absolutely amazed? The description of the statement in the Library as a full statement would not be accepted as such by anyone in Northern Ireland or by anyone reading it intelligently in the United Kingdom.

I impress upon the right hon. Gentleman the need for an urgent statement so that we can cross-examine the Government, in the new light that has dawned, on the fact that the Government will now be concerned about border patrol. Is the impact on the finances of the Republic of Ireland making that demand or is there no real concern that people in Northern Ireland have perished because there has not been proper frontier control? We must address such questions arising for innocuous statements unless we want to leave the Northern Ireland Office in orbit over Maryfield or Phoenix Park.

Mr. Wakeham: I hope that the hon. Gentleman is not suggesting that I am not concerned about the victims of terrorism, but I gave what I thought was a full answer to the question. A copy of the statement has been put in the Library, but the question whether it is a full statement is a matter of opinion and the hon. Gentleman is entitled to his opinion. I have nothing to add to what I have already said, but I shall refer his remarks to my right hon. Friend.

Mr. Tony Banks: Why should we not have a debate on the P and O dispute? After all, the Government have interfered so much through legislation in industrial relations that they have now made it virtually impossible for any trade union legitimately to pursue its aims and objectives? Why do the Government persist in acting like industrial warmongers rather than trying to bring some peace and satisfaction to what is clearly a troublesome situation at Dover?

Mr. Wakeham: Unlike the Labour Government, which the hon. Gentleman presumably supported, this Government have produced a framework of law so that the parties in dispute can find an orderly, civilised and legal way of settling their disputes. That does not involve debates in the House in the middle of such a dispute and that is why it would not be sensible to have such a debate.

Mr. Roy Beggs (Antrim, East): If the Leader of the House has not already read the statement placed in the Library regarding the Anglo-Irish Conference meeting yesterday, will he look at it carefully? The first part of the statement relates to those people who were present and covers almost half a page. The remainder is totally unsatisfactory to those of us who represent the Unionist majority. Will the right hon. Gentleman take that into account and recognise that we should have liked to have asked a Northern Ireland Minister, the Secretary of State, or the Prime Minister today whether the Secretary of State obtained the assurances from Mr. Haughey during yesterday's discussions that the Prime Minister demanded in this House? We have a right to know whether progress is being made and whether the nonsense of promising further steps to improve security is leading us anywhere.

Mr. Wakeham: I have nothing to add to what I have already said, but I shall refer the anxiety of the hon. Gentleman and his hon. Friends to my right hon. Friend the Secretary of State.

Mr. Tony Banks: On a point of order, Mr. Speaker.

Mr. Speaker: In a minute.

Anglo-Irish Conference (Meeting)

4.26 pm

Mr. Harold McCusker (Upper Bann): I beg to ask leave to move the Adjournment of the House, under Standing Order No. 20, for the purpose of discussing a specific and important matter that should have urgent consideration, namely,

"the outcome of yesterday's meeting of the Anglo-Irish Conference."

The matter is specific because yesterday's meeting dealt with the Gibraltar killings, extradition, terrorist cross-border racketeering, fair employment proposals, financial assistance to west Belfast, the murders of RAF personnel in Holland and the assurances that the Prime Minister has been seeking from the Dublin Government about their attitude to certain aspects of the Anglo-Irish Agreement. Those are all issues of great significance, not just to the people of Northern Ireland, but to people in the United Kingdom and further afield.

The matter is urgent because, by this evening, the only people on the island of Ireland who will know nothing in detail about the discussions or their outcome will be the Unionist community in Northern Ireland, for whom these may well be matters of life and death. For two and a half years, the Northern Ireland Office has governed Northern Ireland by this hole-and-corner procedure, never once coming to the House to report on its dealings with the Dublin Government. In the interests of democracy, if nothing else, it should be stopped and we should make a new start this afternoon.

Mr. Speaker: The hon. Gentleman asks leave to move the Adjournment of the House, under Standing Order No. 20, for the purpose of discussing a specific and important matter that he believes should have urgent consideration, namely,

"the outcome of the meeting held yesterday in Dublin of the Anglo-Irish Conference."

As the hon. Gentleman knows, my difficult duty in assessing applications under Standing Order No. 20 is to consider whether such an application should be given priority over the business set down for today and whether it meets the criteria. I regret to say that I cannot find that the matter that he has raised meets all those criteria and, therefore, I cannot submit his application to the House.

Points of Order

Mr. Tony Banks (Newham, North-West): On a point of order, Mr. Speaker. I tried to raise a point of order before the Standing Order No. 20 application and you said to me, "In a minute." That is normal and it is what we have come to expect, but during business questions two Conservative Members rose on a point of order and you did not say to them, "In a minute." You heard the point of order.

You have come up with a rule under which, in effect, points of order will not be taken until business questions, applications under Standing Order No. 20 and statements have been dealt with. We have accepted that. We simply ask that the rule should be applied equally to both sides of the House.

Mr. Speaker: The hon. Gentleman must not allege such things. I dealt with those points of order because they appeared to require my immediate intervention. If the hon. Gentleman had risen at that time, he would certainly have been heard in the same way. There is no change at all. In our debates, the points of order raised are dealt with immediately.

Mr. Michael Fallon (Darlington) *rose*——

Mr. Speaker: Order. I remind the House that 35 hon. Members wish to speak in the following debate, but I shall take the hon. Gentleman's point of order.

Mr. Fallon: I ask you, Mr. Speaker, to reflect further on the question raised by my hon. Friend the Member for Northampton, North (Mr. Marlow) about the standard of language that is acceptable in early-day motions. Unless a ruling is made soon, the Table Office will have an increasingly difficult position forced on it by the growing tendency of hon. Members to table early-day motions that express strong and often controversial views and describe events or policies in highly tendentious language. Some weeks ago the word "mongrelisation" was used. Last night, the events in Gibraltar were described in a highly prejudicial fashion as "assassination". Will you reflect on the standard of language acceptable in early-day motions?

Mr. Speaker: If there is any doubt about the submission of an early-day motion, it is always brought to my attention. That motion was not brought to my attention, and therefore it was considered to be in order by the Table Office.

Mr. Frank Cook (Stockton, North): On a point of order, Mr. Speaker. I am genuinely confused. I listen carefully to your rulings, and——

Mr. Speaker: I think that I can anticipate the hon. Gentleman's point of order. I took the point of order during business questions because I thought it arose out of something that had been alleged during business questions. As the hon. Gentleman knows, if something happens in a debate which requires the immediate attention of the Chair, it is raised as a point of order. That is the normal procedure, and that is what I did. If it is a point of order that requires my judgment on a general matter something not requiring immediate attention, it is taken in its proper place, which is after the applications under Standing Order No. 20. There has been no change.

Mr. Cook: Further to that point of order, Mr. Speaker. I am grateful to you and I accept what you are saying. The problem is that I recall clearly a lengthy exchange on just these issues, fronted by my hon. Friend the Member for Workington (Mr. Campbell-Savours). It seemed to me that at that time you were ruling in a different way.

Mr. Speaker: I disagree with the hon. Gentleman. That was a matter of points of order arising out of Question Time. It was completely different from a point of order that calls for immediate attention. *[Interruption.]* Is the hon. Gentleman saying that any point of order that requires the immediate attention of the Chair should be deferred?

Mr. Cook: With respect, Mr. Speaker, that was the reason why I could not understand the ruling in the first place.

Rev. Ian Paisley (Antrim, North): On a point of order, Mr. Speaker. Will you help Northern Ireland Members? Important events are occurring in our Province, and we have only this Chamber in which to speak. Now we are not

permitted to discuss anything that is happening in Northern Ireland. We do not have debates. Matters are announced by radio and television, and that is all we know about. Surely there must be more help. What is the use of our coming here when we cannot speak? When we did not come, it was said we should come, and when we do come, you do not let us speak.

Mr. Speaker: The hon. Gentleman wishes to take part in today's debate, and no doubt he will raise Northern Ireland matters, but as I told the hon. Member for Upper Bann (Mr. McCusker), who made an application under Standing Order No. 20, I must have regard to the criteria laid down in the Standing Order.

Mr. Ian Gow (Eastbourne): Further to the point of order about early-day motion 1053, Mr. Speaker. You told the House that the Table Office had not referred this early-day motion to you, and it is just possible that you had not had an opportunity of looking at it until the matter was raised with you on the Floor of the House today. That being so, would you undertake to consider the wording of this motion, and let the House have your advice on whether, if the allegation which relates to Gibraltar had related to somewhere within the United Kingdom, you would have allowed a motion such as this to go on the Order Paper?

Will you also bear in mind that some of those who signed the early-day motion are members of the national executive of the Labour party? In the opinion of many of us, a motion of this kind is deeply prejudicial to the proceedings that will take place in Gibraltar during the coroner's inquest, and are a gross abuse of the right of hon. Members to table early-day motions.

Mr. Speaker: I will reflect on what the hon. Gentleman has said, but it would be an intolerable imposition on the Speaker if he had to look at every early-day motion. I have to rely on the judgment of those in the Table Office. I have already ruled that this early-day motion was considered to be in order or it would have been brought to my attention and I would have had to adjudicate upon it.

Mr. Dennis Skinner (Bolsover): On a point of order, Mr. Speaker. It would be an irksome duty if you had to read the more than 1,000 early-day motions right through to the bitter end. You would, for instance, recently have been reading about the success of Hamilton Academicals, Wigan rugby football club, Bristol rugby club, which I believe lost, Sunderland and Lincoln, which, for some obscure reason, has been supported by the SDP. About the only sporting success that has not been delineated in an early-day motion is Steve Davis's success at the Crucible last week—and there must be a reason for that.

If you had to look at all the motions, you would not have time to notice in the House points of order that arise on spec and cause you trouble and worry. To conclude that little episode, I remind you that I told you about two years ago that it would be difficult to sustain the process for long, and today, you had to break that ruling. In the case of further interruptions by my hon. Friends—it probably will not be me—will you allow them the same privilege?

Mr. Speaker: If a matter requiring my attention arises during a debate or during Question Time, I would hear it. That is the doctrine of first opportunity, well enshrined in "Erskine May".

Mr. Robin Maxwell-Hyslop (Tiverton): On a point of order, Mr. Speaker. You may inadvertently have said something that you may wish to correct in a statement tomorrow. If I understand what you have said today, you have propagated a new doctrine—that, although Mr. Speaker is not inerrant or incapable of error, the Table Office is inerrant and incapable of error and that anything that is accepted by the Table Office cannot subsequently be challenged with Mr. Speaker. That must, with the greatest respect, be wrong, Mr. Speaker. It must be open to every hon. Member to challenge ad hoc decisions by Clerks in the Table Office and for you to apply your own judgment to matters that have not been referred to you. I do not believe that you would wish to live with a situation where, if something out of order has inadvertently been accepted by the Table Office, you are thereby debarred from subsequently ruling that it ought not to have been accepted.

Mr. Speaker: I hope that I did not say what the hon. Gentleman has suggested. Of course, if something is plainly out of order, then it is correct that it should be challenged. I am saying that early-day motions—there are thousands of them—are screened by the Table Office. If there is any doubt about them, they are brought to my attention. It happens with very few but plainly if any of them subsequently turned out to be out of order, it would certainly be in order for hon. Members to challenge them and bring them to my attention.

Mr. James Kilfedder (North Down): On a point of order, Mr. Speaker.

Mr. Tony Banks: On a point of order, Mr. Speaker.

Mr. Speaker: Order. I have already dealt with the hon. Member for Newham, North-West (Mr. Banks). I will hear the hon. Member for North Down (Mr. Kilfedder).

Mr. Kilfedder: On a point of order, Mr. Speaker. During business questions, I raised a point of order because I was provoked by what I had heard. I apologise to you because I believe that your ruling was absolutely right, and I should have waited until after business questions. I know that now and I wish to apologise to you for any difficulties that I may have caused you.

Mr. Speaker: On that happy note, may we finish?

Mr. Tony Banks: On a point of order, Mr. Speaker.

Mr. Speaker: Order. The hon. Gentleman is one of those who constantly seeks to take part in our debates.

Mr. Banks: I do not get much of a chance.

Mr. Speaker: I will have to bear that in mind, but a large number of hon. Members wish to speak in the debate today. It is a rare opportunity to debate agriculture, and I think we should proceed.

BILL PRESENTED

European Communities (Amendment)

Mr. Tony Benn presented a Bill to repeal section 2 of the European Communities Act 1972 and to return full and unfettered powers to the United Kingdom Parliament over all legislation enacted by the European Communities which has had, has, or would otherwise have, legal effect in the United Kingdom: And the same was read the First time; and ordered to be read a Second time tomorrow and to be printed. [Bill 153.]

DEA

PM agreed with Lord Pres to do his play. He assured her not or X. In any event, establishment of the Select Cttee maybe delayed until next Session

N.C.U. 8.5.

PRIME MINISTER

SELECT COMMITTEE ON SCOTTISH AFFAIRS

As you know, sufficient Scottish Conservative Members are not willing to serve on the Scottish Select Committee. Donald Dewar has now accepted that in a unitary Parliament the Conservative membership on the Committee can be brought up to strength with English Members. Mr. Rifkind is so strongly against this course, for political reasons, that he would not want the Committee to be set up. Both Mr. Rifkind and the Lord President believe that there is no prospect of persuading enough Scottish Conservative Members to change their minds and to serve.

The Lord President is now finding it difficult not to take action to set up the Select Committee in view of Donald Dewar's acceptance of the principle of English membership. But there is one further tactic which he could invoke. This is to say to Donald Dewar that the logic of his acceptance of English Members on the Scottish Select Committee applies equally well to membership of the Standing Committees for Scottish bills. He is therefore minded to suggest that the Committee of Selection should be asked to drop the inhibition that only Scottish Members can be nominated to these Standing Committees.

The Lord President believes that Donald Dewar will reject that course. If he accepted it, this would permit some Scottish Conservative Members to be taken off Scottish Standing Committees which would allow them sufficient time for membership of the Scottish Select Committee. This would permit the Select Committee to be fully manned by Scottish Conservatives, so removing the political obstacle to which Mr. Rifkind objected.

The Lord President would welcome your views on the possibility of removing the inhibition of the appointment of non-Scottish Members to Scottish Standing Committees. A point that you will want to consider is what happens if Donald Dewar accepts the Lord President's ploy.

- Is Mr. Rifkind ready to accept English Members on Scottish Standing Committees?

- Is it certain that the ploy would secure enough Scottish Conservatives to set up the Scottish Select Committee? Is there a risk that it would not so that there would be English Members on both the Select and Standing Committees?

I suggest that you have a brief word about this at the Business Managers' meeting on Monday.

N.L.W.

(N.L. WICKS)

6 May 1988

DA1AGM

The National Archives

DEPARTMENT/SERIES PREM 19 PIECE/ITEM 2793 (one piece/item number)	Date and sign
Extract details: Note from PM's Principal Private Secretary 5/5/88	X
CLOSED UNDER FOI EXEMPTION	
RETAINED UNDER SECTION 3(4) OF THE PUBLIC RECORDS ACT 1958	
TEMPORARILY RETAINED	6/12/16
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Instructions for completion of Dummy Card

Use black or blue pen to complete form.

Use the card for one piece or for each extract removed from a different place within a piece.

Enter the department and series,
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Enter the piece and item references, .
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Enter extract details if it is an extract rather than a whole piece.
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Extract details: Wicks to Butler 5/5/88	X
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Extract details: wicks to PM 4/5/88	X
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DEPARTMENT/SERIES PREM 19 PIECE/ITEM 2793 (one piece/item number)	Date and sign
Extract details: Hawtin to Wicks 4/5/88	X
CLOSED UNDER FOI EXEMPTION	
RETAINED UNDER SECTION 3(4) OF THE PUBLIC RECORDS ACT 1958	
TEMPORARILY RETAINED	6/12/16
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not Q 2

1. MR. WICKS
2. PRIME MINISTER

cc Mr Ingham

CHRIS MONCRIEF'S ARTICLE: PRIVILEGE

The Opposition have withdrawn their privilege complaint, on the basis that the Lord President has agreed to write to George Jones × registering the concern of the House about such articles, early next week.

S. Morris
D. Clerk.

pp M. E. ADDISON
28 April 1988

× as Chairman of the Lobby.

2

1. Mr Wicks — to see
I have passed to AS.
2. p.c.

1. MR WICKS
2. PRIME MINISTER

SCOTTISH AFFAIRS SELECT COMMITTEE

You ought to know of the latest state of play on the setting up of the Scottish Select Committee.

Sir Marcus Fox has reported that no Scottish Conservatives are willing to serve on the Committee (Hector Monro, Allan Stewart, Bill Walker, Alick Buchanan-Smith and Nicholas Fairbairn). The Lord President has informed Donald Dewar and Mr Dewar will be coming back to him next Tuesday.

It looks as if the Opposition will very reluctantly agree that the five seats should be taken by Conservatives with English seats. If they do so, it is difficult to see how setting up the Committee could be delayed, despite Mr Rifkind's misgivings.

Such a proposition will be tragic for us in terms of Scottish politics. Better

MT

to have no Committee at all.

MT

S. Morris
D. Clark

P.P. M. E. ADDISON
28 April 1988

DS2AGK

PRIME MINISTER

RON BROWN

The usual channels have agreed that there should be a debate tomorrow for 1½ hours at 10.00 pm. The Government are tabling a Motion, which is amendable, to:

(i) call attention to the conduct of Mr Brown

(ii) to suspend him for 20 sitting days

(iii) to hold him financially liable to the damage to the Mace.

This puts the suspension penalty in the second category of severity. The normal first suspension is for 5 sitting days.

MEA

MARK ADDISON

19 April 1988

VC3AYO

NJA

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

30 March 1988

Dear Nigel,

MEMORANDUM OF GUIDANCE FOR OFFICIALS APPEARING BEFORE SELECT COMMITTEES (MARCH 1988)

I attach for information a copy of the revised Memorandum of Guidance which is being sent to all main Departments and to the Clerks of both Houses. Copies are also being laid in the Libraries of the House, and publication announced in a Written Answer.

2 As recipients of this letter will know, officials giving evidence to Select Committees have, since 1976, been advised by a Memorandum of Guidance. While the Committees have not formally endorsed this Guidance, they have not in practice sought to challenge adherence to it. The Guidance was first updated and expanded in 1980, following the introduction of Departmental Select Committees. The new revision reflects the new established place of these Committees. The principles of the 1980 Memorandum remain unchanged. Most of the amendments involve relatively minor updating and reordering, but the opportunity has been taken to make some clarifications and amplifications of existing practices and an index has been added. Annexed to the Guidance is a copy of the Supplementary Guidance on civil servants giving evidence on matters of conduct, issued in April 1987, following the publication of Cm78 (the Government's response to Select Committee reports on Westland). Cm78 stated that the guidelines would be incorporated into future editions of the Memorandum of Guidance.

3 The revision has been agreed by Departments and has also been shown informally to the Clerks of the House, who, while not formally endorsing the new text, have indicated that they are content and do not anticipate objections from Select Committee members to any of the changes made. It has been approved by the Lord President, the Lord Privy Seal and Sir Robin Butler.

4 I am sending copies of this letter and attachment to PS/Lord Privy Seal, PS/Mr Luce, Murdo Maclean and Trevor Woolley.

Yours,
Alison

ALISON SMITH
Private Secretary

PS/Prime Minister
10 Downing Street

MEMORANDUM OF GUIDANCE FOR OFFICIALS APPEARING BEFORE SELECT COMMITTEES

CABINET OFFICE

MARCH 1988

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(MARCH 1988)

(This supersedes GEN 80/38)

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INTRODUCTION

This note is intended to give guidance to officials who may be called to give evidence before, or to prepare memoranda for submission to, Parliamentary Select Committees. It supersedes General Notice GEN 80/38. It should be read in conjunction with the supplementary guidance issued in April, 1987, (see paragraph 28A and Annex A). While it is primarily intended to cover the Select Committees of the House of Commons, it is also generally applicable to Select Committees of the House of Lords. It may not always be literally applicable to the Public Accounts Committee, in view of the special position of Accounting Officers and the access of the Comptroller and Auditor General to departmental records. Supplementary guidance on the procedure to be followed in respect of the Commons Select Committee on European Legislation (and the corresponding House of Lords Select Committee on the European Communities) and on the handling of European Community documents is issued separately by the Cabinet Office. Guidance in dealing with the Joint and Select Committees on Statutory Instruments is provided in "Statutory Instrument Practice".

SELECT COMMITTEE SYSTEM

General Description

2. The scope of the Select Committee system of the House of Commons has varied from time to time. The significance of the title is that the Committee's membership is "selected" for a particular task, generally of enquiry. The main practical House distinction lies between such Committees, with their role of investigation and scrutiny, and "Standing Committees", concerned with the examination of particular legislation and with their procedure based on debate rather than the taking of evidence. Most Select Committees (hereafter referred to as "Committees") are embodied in the Standing Orders of the House. Others are on a sessional basis, and can be established and their work completed within a matter of weeks or months. Some are Committees with a purely House function (eg the Committee of Selection), with which Departments will not normally come into contact. The principal Commons Select Committees with which this memorandum is concerned are those related to Government Departments (see paragraph 4); the Public Accounts Committee; the Committee on the Parliamentary Commissioner for Administration; the Committee on European Legislation; and the Services Committee (concerned with House administration). Certain coordinating functions on behalf of the various Commons Committees are carried out by the Liaison Committee; the normal Government contact with this is through the Leader of the House and the Government Chief Whip.

3. The House of Lords has two major Select Committees - the European Communities Committee and the Science and Technology Committee - which are re-appointed at the beginning of every session. Both Committees have sub-committees and there is power to co-opt additional members to these sub-committees. In addition, there is generally one ad-hoc Select Committee in the Lords, also appointed on a sessional basis, which undertakes enquiries into matters of policy, or into Private Members Bills (Overseas Trade and the Infant Life Preservation Bill are recent examples). Ad-hoc Select Committees do not have sub-committees, they cease to exist once they have reported, and now rarely last more than one session. All these Committees take oral and written evidence from Departments. The terms of reference of the Lords Select Committees are set out in the sessional order of the House which appoints them. Additionally, the terms of reference for specific inquiries by Sub-committees of the Science and Technology Committee are determined by the Select Committee itself. Lords Committees have an inherent power to send for witnesses. Documents are produced voluntarily. An Order of the House would be required to compel witnesses to attend or produce papers and none has in recent times been necessary.

Committees Related to Government Departments

4. The House of Commons Committees related to Government Departments and the principal Departments concerned are:

Agriculture	Ministry of Agriculture, Fisheries and Food
Defence	Ministry of Defence
Education, Science and Arts	Department of Education and Science

Employment	Department of Employment
Energy	Department of Energy
Environment	Department of the Environment
Foreign Affairs	Foreign and Commonwealth Office
Home Affairs	Home Office
Scottish Affairs	Scottish Office
Social Services	Department of Health and Social Security
Trade and Industry	Department of Trade and Industry
Transport	Department of Transport
Treasury and Civil Service	Treasury, Office of the Minister for the Civil Service, Board of Inland Revenue, HM Customs and Excise
Welsh Affairs	Welsh Office

The Committees on Foreign Affairs, Home Affairs and the Treasury and Civil Service each have power to appoint one investigative sub-committee. A joint sub-committee may be set up from time to time to consider any matter affecting two or more nationalised industries, with members drawn from the departmental Committees concerned. Matters within the responsibilities of the Secretary of State for Northern Ireland will be considered by the existing Committees as necessary.

5. The general terms of reference of these Committees are as set out in Standing Order No. 130. (Annex B of this Memorandum). The Committees are responsible for the interpretation of their own terms of reference. The Committees are entitled to examine the expenditure, administration and policy of the principal Government Departments, and also of their "associated public bodies". The terms of the Standing Orders do not define "associated public bodies" but the then Chancellor of the Duchy of Lancaster said in his speech on 25 June 1979 that:

> "The Government also accept the Procedure Committee's view that the Committees must be able to look at the activities of some public bodies that exercise authority of their own and over which Ministers do not have the same direct authority as they have over their own Departments. The test in every case will be whether there is a significant degree of ministerial responsibility for the body concerned."

Associated public bodies therefore include all nationalised industries, fringe bodies and other Governmental organisations within the responsibilities of the Department or Departments concerned for which Ministers are ultimately answerable. They do not, however, include bodies for which Ministers are not answerable to Parliament, even though these bodies may be in receipt of Government funds. There will no doubt be borderline cases, but in general the existing principles of Parliamentary accountability can be applied.

6. The work of Parliamentary Committees, whether Commons or Lords, is the concern of the House that appointed them and on whose behalf they conduct their enquiries. Therefore, questions about the work of a Committee, eg. how or when the Government will respond to a Committee's report, will normally only be raised in the relevant House. It is, however, acceptable for reference to be made in either House, in debates or during questions, to the substance of Committee reports and to their recommendations.

Powers of the Committees

7. Select Committees (and their sub-committees) normally have the power to "send for persons, papers and records". This power is understood as a power to "order" the attendance of persons and the submission of papers, but its interpretation and its application to Ministers are examined in detail in the memorandum by the Clerk of the House which was reproduced at Appendix C, to the First Report from the Select Committee on Procedure, Session 1977-78 (HC 588-I).

8. Any official who appears before a Select Committee or who submits papers to it does so on behalf of his Ministers. As the Procedure Committee emphasised in its Report:

> "The over-riding principle concerning access to government information should be that the House has power to enforce the responsibility of Ministers for the provision of information or the refusal of information. It would not, however, be appropriate for the House to seek directly or through its committees to enforce its rights to secure information from the Executive at a level below that of the ministerial head of the department concerned (normally a Cabinet Minister), since such a practice would tend to undermine rather than strengthen the accountability of Ministers to the House."

In practice, Committees normally proceed on the basis of "requests" for departmental witnesses and evidence rather than through the exercise of formal powers.

9. It should be noted that, in addition to examining the expenditure, administration and policy of Government Departments and associated public bodies, Select Committees are free to seek evidence from whomsoever they please, and are entitled to require the production of papers by private bodies or individuals so long as these are relevant to the Committees' work.

Summoning of Named Officials

10. Officials appearing before Select Committees do so on behalf of their Ministers. It is customary, therefore, for Ministers to decide which officials (including members of the Armed Services) should appear to give evidence. Select Committees have in the past generally accepted this position. Should a Committee invite a named official to appear, the Minister concerned, if he did not wish that official to represent him, might suggest that another official could more appropriately do so, or that he himself should give evidence to the Committee. If a Committee insisted on a particular official appearing before them - whether serving in the UK or overseas - they could issue a formal order for his attendance. In such an event the official would have to appear before the Committee. In all circumstances, the official would remain subject to Ministerial instructions as to how to answer questions.

Appearances Before Committees of Other Countries

11. Evidence may be requested from UK officials by Parliamentary Committees, and their equivalents, of other countries. Such requests should be discussed with the FCO and referred to Ministers. If it is decided that officials should attend, evidence should be restricted to factual matters and avoid anything with which the Minister might disagree. Separate guidance on appearances before Committees of the European Parliament is issued by the Cabinet Office.

External Expert Witnesses In Official Team

12. If Departments wish to include any external experts in the team of officials giving evidence, the Clerk should be consulted with a full explanation of the reasons for the inclusion. Most Committees are willing to accept departmental requests of this kind, but they are not obliged to do so.

Open Sessions

13. Select Committees usually admit the public and Press to hearings, and it is possible that proceedings may be broadcast. Departments may wish to ascertain from the Clerk to the Committee beforehand whether particular proceedings are to be recorded for broadcasting. Arrangements for the treatment of confidential information in oral evidence are referred to in paragraphs 49-51 below. Although the broadcasting authorities, not the Select Committees, control what recorded material is broadcast, it is up to the Select Committee to decide whether or not a session is a public or closed one, recording, of course, not being permitted in the latter.

Liaison Officers

14. Most Departments have a Liaison Officer as the main channel for communications between the Department and the Select Committee and its Clerk. The Clerks to the Select Committees will usually be glad to talk informally to Departments about their Committees' work and co-operate by, for example, providing the Departments most concerned with the confidential proofs of evidence taken by the Committee from other witnesses.

General Elections

15. Committees appointed by Standing Order continue to exist after dissolution of the House of Commons although they are technically inoperative. The point of contact for Departments continues to be the Clerk, whom Departments, usually through Liaison Officers, should keep supplied with information which would normally be supplied during the life of a Parliament. The Clerk will be the main source of initial background information for new Committee members. When re-established, the Committees may take up the topics selected by the previous Committee or resume partly completed investigations if they wish, although they are not obliged to do so. Lords Select Committees cease to exist, and are inoperative, after dissolution.

Charging Committees for Publications

16. There will be many Departmental publications which will be of interest to a Committee, either in relation to a current or past enquiry or more generally. Departments should provide the Clerk of their Committees with a copy of such publications free of charge. If more copies are requested they should also be provided free of charge, though Liaison Officers should if necessary discuss with the Clerks the need for multiple copies of exceptionally expensive publications. No costs need fall on Departments in respect of extra copies of HMSO publications, since HMSO provides for the costs of supplying its publications to Parliament without charge (see paragraph 64(i)).

Committee Staff

17. Responsibility for staffing support for Committees rests with the Clerk of the House, subject to the ultimate authority of the House of Commons Commission. The departmental Committees have, however, been given power to appoint specialist advisers either to supply information which is not readily available or to elucidate matters of complexity within the Committees' orders of reference. The Committees will thus be able, if they wish, to retain the services of experts, not only to assist with particular enquiries but to advise on future enquiries or to deal with problems arising in the course of enquiries. In the Lords, responsibility for staffing rests with the Clerk of the Parliaments. Each Committee will normally be serviced by a Clerk and will have power to appoint Specialist Advisers. In March 1988 authority was also given for the European Communities Committees and Science and Technology Committee each to appoint one Specialist Committee Assistant for an experimental period of two years.

Travel Overseas

18. Committees often travel abroad in connection with their enquiries. The Clerk will in the first instance contact Parliamentary Relations Unit at the Foreign and Commonwealth Office for advice on the timing and programme content. The FCO and the British High Commissions and Embassies concerned are closely involved in the organisation of these visits and someone from the overseas post will normally accompany the Committee on their calls. Meetings overseas are generally conducted on an informal off-the-record basis although formal evidence is occasionally taken. The FCO will ensure that Departments are aware of any proposals for overseas travel and will be glad to provide advice (Parliamentary Relations Unit, 270 2230 or 270 2231).

Ministerial Statements

19. It is desirable for Committees to be given warning where possible about impending Ministerial statements on matters which are relevant to specific enquiries which Committees are currently undertaking. A convenient method if the Minister is making the statement in Parliament is by way of notification to the Clerk at the same time as the Whips inform the Opposition, which is normally at noon on the day of the statement. This notification to the Clerk would be of the fact that the statement is to be made, but not including the text of the statement itself. If the statement is to be made other than in the House, similar arrangements should apply, and should continue to be observed during the Parliamentary Recess or after dissolution of Parliament (see paragraph 15).

PROVISION OF EVIDENCE

General

20. **The general principle to be followed is that it is the duty of officials to be as helpful as possible to Committees, and that any withholding of information should be limited to reservations that are necessary in the interests of good government or to safeguard national security. Departments should, therefore, be as forthcoming as they can (within the limits set out in this note) when requested to provide information whether in writing or orally.** This will also help to ensure that the reports of Committees are as soundly based on fact as possible. Oral

evidence is recorded verbatim. When oral evidence is to be given, it is advisable for Departments to send at least two witnesses so that they can divide between themselves the responsibility for answering questions. Because officials appear on behalf of their Ministers, Departments might want to clear written evidence and briefing with Ministers. It may only be necessary for Ministers to be consulted should there be any doubt among officials on the policy to be explained to the Committee. However, Ministers are ultimately responsible for deciding what information is to be given and for defending their decisions as necessary, and Ministers' views should always be sought if any question arises of withholding information which Committees are known to be seeking. It should be remembered that an extended and unexplained delay in providing the evidence requested by a Committee may be interpreted by them as a refusal. If Departments are asked by Committees to undertake research work or surveys on their behalf, it may be possible to meet such requests by the utilisation of existing information, modified as appropriate. But if the new work involved is likely to be substantial, and the Committee has power to appoint its own specialist advisers (see paragraph 17), it may be appropriate to suggest to the Committee that it considers this alternative, or possibly the employment of private research agencies or universities.

Accuracy of Evidence

21. Officials appearing before Select Committees are responsible for ensuring that the evidence they give is accurate. They are reminded to take particular care to see that they are fully and correctly briefed on the main facts of the matters on which they expect to be examined. Should it nevertheless be discovered subsequently that the evidence unwittingly contained errors, these should be made known to the Committee at the earliest possible moment.

Informal Discussions and Social Meetings

22. Some Committees, in addition to taking formal evidence, occasionally conduct informal discussions or arrange to meet officials at social gatherings. When that occurs, officials should apply the same considerations as apply to formal evidence, because the supply of information informally can affect a Committee's report as much as formal evidence.

Status of Information Supplied

23. Once information has been supplied to a Committee, it becomes "evidence" and, subject only to the conventions governing classified information (see paragraph 48-51), it is entirely within the competence of the Committee to report and publish it

or to refrain from doing so. Departments may not themselves make public use of any evidence prior to its publication by the Committee, without the permission of the Committee. Committees frequently publish on a daily basis evidence given in public as well as publishing the evidence as a whole with their Reports. Whether published as a "daily part" or in collected form, the evidence may be quoted without risking a breach of Parliamentary privilege, as may documents supplied to the Committee which are already in the public domain. Letters addressed to the Clerk to the Committee, however informal, are strictly speaking "evidence" and liable to be published. Copies of evidence may also be sent by the Committee which received it to other departmental Committees which might have an interest in it.

Inter-Departmental Liaison

24. Generally speaking the subjects of enquiry by Select Committees will fall clearly within the responsibilities of particular Departments. Occasionally, however, Committees may enquire into subjects which span the work of more than one Department, or where departmental responsibility is not self-evident. Inquiries by the Lords Science and Technology Committee are almost always "multi-disciplinary" and it is important in these cases that one Department takes the lead to ensure that the different Departments give evidence which is consistent. The aim must be to ensure that Committees direct their questions on each aspect of such subjects to the Department chiefly concerned with that aspect, and do not question Departments whose role is that of co-ordination about matters which go outside that role. This indicates that where in such cases the Committee needs a memorandum covering the interests of several Departments, it may be better for this to be submitted by the Department with the predominant role in the field concerned (rather than by a co-ordinating office such as the Cabinet Office.) If the Committee then asks that Department questions (whether in writing or orally) proper to some other Department, they can be re-directed.

25. In these cases it is clearly desirable for all the Departments concerned, in accordance with normal procedure, to keep in touch in the preparation of their evidence - eg by exchanging drafts (see also paragraph 23 regarding the copying of evidence between departmental Committees). Where there is no co-ordinating machinery already available for this purpose it may be best for the Department with the predominant role to act as a central point. The most convenient way of doing this is through the Select Committee Liaison Officer in each Department who should always be informed of requests for evidence involving other Departments. Since there is no separate Select Committee for Northern Ireland, a Department with this role should particularly ensure that Northern Ireland interests are taken into account as necessary. It is important that Departments should clear with any other Department which may have an interest both memoranda and the line to be taken in oral evidence, even if the time for this is short.

26. Greater difficulties may arise when the subject under enquiry is one in which no Department can be said to have a predominant interest, where in such cases the Committee needs a memorandum covering the interests of several Departments - eg setting out the range of Government activities in the field

concerned - it may well be necessary for the body which co-ordinates Government action in that field to submit it. It seems desirable, however, so to organise such memoranda as to indicate, for each aspect covered, which Department is primarily responsible and at least by implication the limitations of the co-ordinating responsibility. This should assist the Committee in summoning the witnesses appropriate to the aspects it wishes to investigate at each session; and if the questions asked are misdirected, no doubt the witnesses will say so.

27. Normally the Cabinet Office and other similar co-ordinating offices will not be required to give evidence to a Committee, though the Office of the Minister for the Civil Service (OMCS), a part of the Cabinet Office, may give evidence about its work (as did the former Management and Personnel Office and the Civil Service Department). Requests for evidence from co-ordinating offices such as the Cabinet Office and "non-departmental" units or officials, should be referred to Ministers. A Committee also might seek evidence from a particular official (for example the head of the Government Statistical Service) who is not directly answerable to a departmental Minister but who in his professional capacity has a special knowledge of the subject of an enquiry. In these cases too, Ministers should be consulted.

LIMITATIONS ON THE PROVISION OF INFORMATION

General

28. Committees' requests for information should not be met regardless of cost or of diversion of effort from other important matters. It might prove necessary to decline requests which appeared to involve excessive costs. However, requests for named officials who are serving overseas to attend to give evidence should not be refused on cost grounds alone. Most Committees will be willing to arrange for evidence from these witnesses to be heard on a mutually acceptable date. If it is proposed to refuse a request Ministers should be consulted.

Conduct Of Individual Civil Servants

28A. Further supplementary guidance, principally concerning evidence on the "conduct" of individual civil servants, was published in April, 1987, following the Government's Response, entitled Accountability of Ministers and Civil Servants (Cm 78, February 1987) to the First Report from the Treasury and Civil Service Committee (Session 1986/87, HC62) and to the First Report from the Liaison Committee (Session 1986/87, HC 100). This supplementary guidance is attached at Annex A.

29. The Procedure Committee recognised that there may be occasions when Ministers may wish to resist requests for information on grounds of national security. Appendix C, Annex III, of the Committee's First Report (Session 1977-78, HC 588-I) reproduces the text of a letter of 9 May 1967 to the Chairmen of certain Select Committees from the then Lord President of the

Council and Leader of the House, (see Annex C). This letter refers (among other limitations on the provision of information) to "information affecting national security, which would normally be withheld from the House in the national interest". Guidance to Departments on the release of classified information to Committees is given in the manual "Security in Government Departments". This manual is the overriding authority; what follows must be read subject to its guidance. Officials must not disclose information which the manual says must be withheld; they should consult their Departmental Security Officers if in doubt.

30. Officials should not give evidence about or discuss the following topics:

i. In order to preserve the collective responsibility of Ministers, the advice given to Ministers by their Departments should not be disclosed, nor should information about interdepartmental exchanges on policy issues, about the level at which decisions were taken or the manner in which a Minister has consulted his colleagues. Information should not be given about Cabinet Committees or their decisions (see paragraphs 31-33).

ii. Advice given by a Law Officer (see paragraph 36).

iii. The private affairs of individuals or institutions on which any information held by Ministers or their officials has been supplied in confidence (including such information about individuals which is available to the Government by virtue of their being engaged in or considered for public employment).

Officials should also, where possible, avoid giving written evidence about or discussing the following matters. Where appropriate further guidance is provided in the succeeding paragraphs:

iv. Questions in the field of political controversy (see paragraphs 34-35).

v. Sensitive information of a commercial or economic nature, eg knowledge which could affect the financial markets, without prior consultation with the Chancellor of the Exchequer, sensitive information relating to the commercial operations of nationalised industries, or to contracts; commercial or economic information which has been given to the Government in confidence, unless the advance consent of the persons concerned has been obtained (see paragraph 53 for the provision of information by Government contractors.)

vi. Matters which are, or may become, the subject of sensitive negotiations with Governments or other bodies, including the European Community, without prior consultation with the Foreign and Commonwealth Secretary, (see paragraph 37) or, in relation to domestic matters, with the Ministers concerned.

vii. Specific cases where the Minister has or may have a quasi-judicial or appellate function, eg in relation to planning applications and appeals, or where the subject-matter is being considered by the Courts, or the Parliamentary Commissioner (see paragraphs 38-39).

Where, exceptionally, matters such as iv-vii have to be discussed, application may be made for "sidelining" (see paragraph 51). There is no objection to saying in general terms why information cannot be given and it is very unusual for a Committee to press an official who indicates that he is in difficulty on such grounds in answering a question. If however this happens, it may be best to ask for time to consider the request and to promise to report back. Paragraphs 7 and 8 should be referred to.

Collective Responsibility

31. Departmental witnesses, whether in closed or open session, should preserve the collective responsibility of Ministers and also the basis of confidence between Ministers and their advisers. Except in a case involving an Accounting Officer's responsibility (see paragraphs 9 to 11 and 17 of the Accounting Officers Memorandum, reproduced in paragraph C4 of "Government Accounting") the advice given to Ministers, which is given in confidence, should not therefore be disclosed, though Departments may of course need to draw on information submitted to Ministers. It is necessary also to refuse access to documents relating to interdepartmental exchanges on policy issues. Equally the methods by which a current study is being undertaken, should not normally be disclosed without the authority of Ministers, unless they have already been made public. Nor should Departments reveal the level at which decisions were taken. It should be borne in mind that decisions taken by Ministers collectively are normally announced and defended by the Minister responsible as his own decisions, and it is important that no indication should be given of the manner in which a Minister has consulted his colleagues (see also paragraph 36 on the special position of the Law Officers).

32. In no circumstances should any Committee be given a Cabinet paper or extract from it, or be told of discussions in a Cabinet Committee. Nor should information be given about the existence, composition or terms of reference of Cabinet Committees, or the identity of their chairmen, beyond that information disclosed by the Prime Minister in answer to a Parliamentary Question on

26 January 1988 (see Annex D), and if witnesses are questioned on such matters they must decline to give specific answers. There is, however, no objection to pointing out in general terms that consultation between Departments runs through the whole fabric of government and occurs at all levels both official and Ministerial.

33. Departmental files will tend to concern the matters referred to in paragraph 30 above, and Departments should consult their Ministers, and should also advise the Office of the Minister for the Civil Service, when dealing with any request by a Committee to see or have quoted verbatim any interdepartmental correspondence or internal minutes. The PAC is in a special position in view of the C & AG's access to departmental papers, and in considering any request from the PAC for access to departmental papers the Treasury should be consulted in addition to the Office of the Minister for the Civil Service. In the special case of the Select Committee on the Parliamentary Commissioner, it may be necessary to quote from departmental documents in connection with Parliamentary and Health Service Commissioner cases. But it is not the practice of the Committee to require evidence which would amount to the "retrial" of a Parliamentary or Health Service Commissioner case.

Policy

34. Official witnesses, whether administrative, professional or Services, should as far as possible confine their evidence to questions of fact relating to existing Government policies and actions. Officials should be ready to explain what the existing policies are and the objectives and justification, as the Government sees them, for those policies, and to explain how administrative factors may have affected both the choice of policy measures and the manner of their implementation. It is open to officials to make comments which are not politically contentious but they should as far as possible avoid being drawn, without prior Ministerial authority, into the discussion of alternative policy. If official witnesses are pressed by the Committee to go beyond these limits, they should suggest that the questioning be addressed, or referred, to Ministers. If there is a likelihood of a material issue of policy being raised by a Committee in its questioning of official witnesses, Departments will wish to consult Ministers beforehand. (On appearance by Ministers, also see paragraphs7-8.)

35. A Select Committee may invite specialist (as opposed to administrative) civil servants to discuss the professional or technical issues underlying controversial policies. This may raise particular problems in the case of, for example, economists, if Committees discuss issues of economic reasoning which bear upon controversial policy questions and which are also matters of technical and professional controversy among

economists. When this is so, and where Economic Advisers to the Government appear as official witnesses, they may find themselves in the difficulty that their own judgement on the professional issues has, or might easily appear to have, implications critical of the Government's policies. It is not open to them to explain the advice which they have given to the Government on such a matter, or would give if asked by the Government. They cannot therefore go beyond explaining the economic reasoning which, in the Government's view, justifies their policy. This will only be possible where the underlying theory has indeed been explicitly formulated; and the status of what was being presented would have to be made clear. If there is no quotable public evidence of a Government view and the witness is asked for his own professional judgement on the issue, or his judgement of the view that the Government would be likely to take, he should refer to the political nature of the issue and suggest that the questioning be addressed or referred to Ministers. Similar considerations apply in the case of other specialist civil servants.

Advice Given by a Law Officer

36. There should not be disclosed to a Committee any advice that may have been given by the Law Officers. There is a well established convention that the advice which Law Officers give to Ministers is confidential. It is only when Law Officers expressly authorise the disclosure of that advice, or themselves report to or advise Parliament or a Committee, that such advice is revealed.

International Relations

37. Negotiations with other Governments are normally conducted in strict confidence. Officials should take care in discussing or giving written evidence matters which may affect relations with other Governments or bodies, including the European Community, or relations between British officials and those of other Governments. Texts of communications between Governments, unless already made public, should be regarded as confidential and should not be submitted as evidence without prior approval of the Minister concerned.

Matters Sub Judice

38. Committees are subject to the rules by which the House regulates its own conduct and that of its Members. It is normally possible to work on the assumption that if a matter already before the Courts seems likely to come up for discussion before a Committee at a public session, the staff of the House would be aware of that fact and would have drawn the attention of the Chairman to the relevant rules of the House relating to discussion of sub judice questions. However, when officials know that sub judice questions are likely to arise, they might wish to

check with the Clerks that they also are aware and that the Committee has in fact been informed. But the Chairman has an overriding discretion to determine what is appropriate in the hearing of evidence.

39. Officials should take care in discussing or giving written evidence on matters which may become the subject of litigation but which as yet do not strictly come under the rules which preclude discussion on sub-judice questions. Such caution should be exercised whether or not the Crown is likely to be a party to the litigation. If such matters seem likely to be raised when a Committee takes evidence, officials should first consult with their own departmental solicitor or the Treasury Solicitor for advice on how to handle the questions which might arise.

Reports Commissioned by Departments

40. On a number of occasions Committees have made requests to see copies of reports commissioned by Departments. These requests can often cause particular difficulty. Such reports may come from a variety of sources, ranging from the purely internal working group to the major outside committee, but where publication was not intended. The fact that a report is known to have been prepared does not of itself oblige a Department to reveal its contents. In deciding whether to accede to requests for particular reports, the primary consideration must always be the contents of the document concerned, ie whether it contains classified information or information of the kinds discussed elsewhere in this memorandum which should not normally be disclosed.

41. In addition the following considerations may be relevant:

i. While Select Committees should not press for internal advice to Ministers to be revealed, they are less likely to accept without argument a refusal to reveal a report from a departmental committee containing outside members, and even less likely to accept a refusal in the case of a wholly external committee. In particular, they will be understandably reluctant to accept a refusal where the establishment of the committee in question has been announced, together with its membership and terms of reference, and where its report is known to exist. These implications need to be taken into account in deciding how much publicity should be given to the establishment of committees of this kind.

ii. In particular cases Departments may consider that, while a report cannot be published, it would be helpful to provide it to a Committee, provided it was treated in confidence (see paragraph 48).

iii. In certain cases, where a Select Committee might reasonably expect to receive a certain amount of detailed information, Departments may be able to provide a written memorandum in place of the report itself. If Departments can assist Committees in this way, it is generally desirable to do so.

iv. Ministers are responsible for decisions about the release of Rayner scrutiny reports. This was confirmed by the Prime Minister's answer to a PQ on 22 February 1980:

> 'The reports referred to are prepared by departmental officials for their Ministers. It is for the responsible Minister to decide how each should be handled'.

(Official Report, Vol. 979, Col. 351 WA.)

The general principle is that reports should be released unless their content or classification preclude it.

v) Departments should always seek the views of Ministers before refusing a request from a Select Committee for a particular report, since the Minister personally might be called on to defend the decision to the Committee, or, indeed, to the House as a whole.

Documents Relating to the Internal Administration of Government

42. The Procedure Committee recommended that:

> "Select committees should regard any refusal by government departments to provide information relating to departmental or interdepartmental organisation - unless fully explained and justified to their satisfaction - as a matter of serious concern which should be brought to the attention of the House."

A considerable amount of information about the internal distribution of business is already available in published form (eg in the Civil Service Year Book) and the normal presumption should be that more detailed information about Department's organisational structure, such as directories and organisation charts, should be provided to Committees if it is requested. Where a description of duties of a sensitive nature necessitates the revelation of classified information, the considerations in paragraphs 48-51 apply.

43. Requests for documents which go beyond a description of the existing organisation of a Department and deal with methods of operation (eg arrangements for formal and informal co-ordination or for delegation of authority) or with reviews of existing departmental organisation or methods may raise more difficult questions, since these will frequently be internal working papers. Ministers should be consulted about any requests for information of this kind, with the presumption that information on these matters should be provided, in an appropriate form, unless it would conflict with the guidance in paragraph 30 above. Except where particular arrangements have been made public, information about interdepartmental organisation may present more difficulty (see paragraphs 31-32).

Documents of a Previous Administration

44. There are well-established conventions which govern the withholding of policy papers of a previous Administration from an Administration of a different political complexion. Since officials appear before Select Committees as representatives of their Ministers and since Select Committees are themselves composed on a bipartisan basis, it follows that officials should not provide a Select Committee with papers of a previous Administration which they are not in a position to show to present Ministers. If such papers are sought, Ministers should be consulted about the request. The general rule is that documents of a former Administration which have not been released or published during the period of that Adminstration should not be released or published by a subsequent Government. Where Ministers propose to make an exception, it would be necessary to consult a representative of the previous Administration before showing the papers either to present Ministers or, with Ministers' agreement, releasing them to a Select Committee.

TREATMENT OF EVIDENCE

Open Sessions

45. Unclassified memoranda prepared by Departments for a Committee may be published by the Committee before its full report is presented to the House, and may be available to the Press and public at the time of the related session. Open sessions of Committees often attract publicity since evidence before them may be reported forthwith by the Press. Departments are in these circumstances free to comment immediately to the Press on matters raised in their evidence. If a Select Committee takes evidence in public from a Minister or senior official, therefore, it may be considered desirable for a Press Officer also to attend, so as to be able to answer Press queries. Such Press briefing should not, however, extend to comment on matters of policy since such comment might be regarded as impeding the Committee in its task and hence as contempt. Care should be

taken not to go beyond the evidence given by the Minister or official in commenting on any suggestion made by another witness, eg the Chairman of a nationalised industry, at the same hearing, or to disclose information not yet given publicly.

46. Written memoranda of evidence on which departmental witnesses are examined in public and which are included in the printed copy of the proceedings reported that day to the House, inasmuch as they may have been available to the public attending the session, may at the Department's discretion be issued to other interested parties thereafter. Copies of oral evidence given in public, however, should not be disclosed by Departments until the final published version is available, as the first copies are confidential proofs subject both to correction and to explanation by footnotes. Amendments to the proofs of evidence sent to witnesses by the Clerk cannot normally go beyond minor corrections of grammar and transcription, although the Chairman may be willing to consider suggestions about "sidelining" (see paragraph 51).

47. Evidence critical of a Department or its agents may be given in open Session by persons outside the Department on occasions where departmental witnesses are not also present or at sessions held after the departmental evidence has been given. In these circumstances Departments should not seek publicly to respond to such criticism outside the ambit of the Committee. Instead, the Chairman of the Committee concerned may be asked to consider inviting the Department to express their view or provide further comments to the Committee as soon as possible.

Disclosure of Confidential Information in General

(see also Sir Douglas Allen's letter of 19 August 1975 to Heads of Departments about the disclosure of classified information to Select Committees, at Annex E).

48. The general aim of Departments should be to assist Committees by disclosing to them whatever official information they may require for the carrying out of their Parliamentary functions, provided that there are not overriding reasons of security or other grounds for withholding such information. It may be, however, that particular information requested by a Committee, or other information which a Department consider might have a relevant bearing on a Committee's enquiries, should only be made available on the basis that it will not be published and will be treated in confidence. Where this is so, the Department should inform the Clerk to the Committee that the information can be made available only on this basis, explaining the reasons in general terms. Such information should not be made available until the Committee has agreed to treat it accordingly; or, in the case of information with no security classification, at least until the Department are satisfied that the Committee is prepared to agree to a reasonable degree of sidelining (see paragraph 51b). The interpretation of "evidence" at paragraph 23 should be noted in this context. In considering the submission of

confidential evidence to a Committee, Departments should bear in mind that the final authority as to whether or not evidence shall be published rests with the Committee. Arrangements have occasionally been made whereby certain classified evidence is given only to a sub-Committee of a main Commons Select Committee. Formally, however, Departments should proceed on the basis that main Committees and sub-Committees represent a single entity. No evidence given to Committees in closed sessions (ie when the public and the Press are not admitted) should be disclosed by Departments before the evidence has been published by the Committee.

Disclosure of Confidential Information in Oral Evidence

49. It would clearly be inappropriate for any evidence which a Department wished to be treated as confidential to be given at a session of the Committee to which the public and Press are admitted or which may be recorded for broadcasting. Accordingly, if it appears likely that topics to be discussed at a forthcoming public session of a Committee are such that the departmental witnesses would only be able to give substantive answers if they could be treated in confidence, the Department should write to the Chairman or the Clerk to the Committee explaining why this is so: in most cases it is likely that it would be appropriate for the departmental Minister to write to the Chairman. If, despite such an approach, a Committee questions an official witness in public session on what he considers confidential matters, or if such matters are raised unexpectedly, he should inform the Committee that he cannot answer the question on grounds of confidentiality: he should not himself suggest that the Committee should go into closed session. In certain technical fields (eg defence research) it may be useful for a department to hold off-the-record "presentations" for Committee members.

Procedures for Avoiding Publication of Confidential Evidence

50. Where confidential written evidence is submitted to a Committee on the understanding that it will be published, this understanding should be made clear in the covering letter to the Clerk to the Committee accompanying the evidence.

51. In the case of confidential evidence given orally to a Committee in closed session, the following procedures should be followed in order to ensure that such evidence is not made public:

a. Information with a security classification - TOP SECRET, SECRET, CONFIDENTIAL, RESTRICTED. (See also Sir Douglas Allen's letter of 19 August 1975 to Heads of Departments, Annex E). In cases where information with a security classification is revealed to a Committee, the

following procedure should be followed in order to prevent publication. (The disclosure of TOP SECRET information may only be made on the personal authority of the Minister concerned.)

i. The witness, before leaving the Committee Room, should let the Clerk to the Committee know what portions of his evidence contain matters with a security classification.

ii. The Clerk will then instruct the shorthand writer not to send for printing the transcript of those portions, but instead to send 3 copies to the Clerk (5 copies in the case of the Public Accounts Committee).

iii. The Clerk will send 2 copies to the witness: one is for his retention; on the other he should sideline any passage containing information which, in his opinion, it would be undesirable on grounds of security to print.

Since this procedure involves delay in the printing of evidence, it should only be used where strictly necessary.

b. **Other confidential information**

If a Department propose to reveal confidential (but not classified) information which, in view of the Department, it would not be desirable on grounds other than security to include in the published evidence, they should first ask the Committee to agree that it should not be published or at least be certain that the Committee is prepared to agree to a reasonable degree of sidelining. Procedures on the lines of a. above will then be followed, and the attention of the Clerk to the Committee should be drawn to passages marked in accordance with the procedure at a. but which do not have a security classification (see also paragraph 30). Alternatively it may be sufficient to settle the details of sidelining at a later stage when the proof of evidence is available from the Clerk.

It should be noted that Select Committees may sometimes challenge a request for sidelining, and officials must always be sure that they can justify such a request if they make one. Challenges are more likely to arise, and sidelining is likely to be more difficult to defend, in the case of b. above than where the information has a standard security classification.

EVIDENCE FROM OTHER BODIES

52. Committees may, as stated in paragraph 5 above, call for evidence from non-departmental bodies for which Departments have responsibility. If a Department become aware that a non-departmental body for which they are responsible has been invited to give evidence, they may wish to consider whether it would be

advisable to discuss the lines of evidence with the witnesses before the hearing. The Department may also wish to seek the Committee's agreement to their being represented at the hearing; whether this is allowed is entirely a matter for the Committee.

53. Committees may occasionally call for evidence from commercial firms, particularly those handling Government contracts. A contractor is normally prohibited from publishing without written consent the details of Government contracts. Departments may have to discuss with firms how far the latter can provide a Committee with a general picture of their work without going into the details of specific contracts. Sensitive information of a commercial nature should not be disclosed (see paragraph 30(v)).

54. The normal relationship between Departments and non-departmental bodies or private firms may be sufficient to ensure an awareness on the part of witnesses from these bodies of the need to deal with the Committee's enquiries in a manner consonant with the rules about the security of classified information etc. To the extent that this is thought not to be sufficient, however, Departments should take steps to ensure that classified information in any evidence given by witnesses from these bodies is protected (see also paragraphs 40-41 about reports commissioned by Departments).

55. Departments may also wish to ask non-departmental bodies for which they have responsibility to show them written evidence or replies in draft before submitting them. The purpose of this would be consultative, under the normal arrangements which may be expected to exist between Departments and such bodies for consultation on matters of importance; the bodies would, of course, remain free to express their independent views, subject to their statutory or contractual responsibilities and subject to there being no questions of security involved. It is usual practice for sponsor Departments and nationalised industries to see each other's initial memoranda. It should be noted that the Procedure Committee has recommended that memoranda by Government Departments and non-departmental bodies should include a declaration of the persons and organisations with whom consultations have taken place prior to their submission. This recommendation should be drawn to the attention of non-departmental bodies when such consultations take place; and departmental memoranda which have been shown in draft to non-departmental bodies should include a declaration of the bodies concerned.

DEPARTMENTAL REPLIES TO COMMITTEE REPORTS

Publication of Committee Reports

56. Interested Departments and the Press normally receive advance copies of the Reports of Select Committees 48 hours before publication; the power for Committees to provide these is embodied in Standing Orders. While Committees are usually co-operative over this, such advance issue is at their discretion

and Departments cannot insist on seeing copies. If a Report is known to be imminent, it may help Departments if their liaison officer can contact the Clerk to the Committee on an informal basis about the likely time-table, so that Departments can have as much notice as possible.

Immediate Comment

57. This period of notice enables Departments to prepare Press briefing as appropriate for comment on the Report as soon as it is published. These immediate comments are, however, subject to certain rules and conventions because it is vital that they should not appear to anticipate or prejudice the Government's final and considered reply to the Committee's recommendations (see paragraphs 64-66), which must first be given to Parliament.

58. When they are aware of the prospective publication of a Select Committee Report with which they are concerned, the Department should consider what, if any, form of Press briefing is desirable, eg whether to issue an immediate Press Notice at the same time as the publication of the Report or simply to provide material to the departmental Press Office against the possibility of Press enquiries. It should be borne in mind that the Press are entitled to get advance copies at the same time as the Department (cf paragraph 56 above), so that questions may arise almost as soon as the copies are available.

59. It is a point of overriding importance that the Government's final and considered reply to the specific recommendations of a Select Committee should be delivered first to Parliament. This means that nothing in the comments given to the Press (immediately on publication of the Report or in the intervening period up to the delivery of the Government's reply) should seem to anticipate that reply. On the other hand, there is no objection to the provision of relevant background information or to the correction of mis-statements of fact; and, if desired, it may be possible to answer specific criticisms or comments by reference to other paragraphs in the Report or to evidence given to the Committee and published with the Report, which may be quoted without risking a breach of Parliamentary privilege. Questions from the Press about a Committee's recommendations should be answered by saying that they will be fully considered and answered as soon as possible by an official reply.

60. Where a Select Committee Report concerns more than one Department, the Department with the major interest should co-ordinate the Press briefing, though Press enquiries may be answered by the other Departments concerned on the agreed lines.

61. In respect of Reports from the Public Accounts Committee, it is for Departments to prepare their own Press Notices, if any, and information to be given to the Press. There is, however, a specific undertaking given to the Committee by the Treasury in December 1968 that information provided by Departments to the Press will be confined to background and supplementary information of a character not intended to be "controversial comments", will not contain argument about the Committee's recommendations, and will be "vetted" by the Treasury. As far as possible a record should be kept of these departmental statements so that disputes about their form and content may be avoided. The arrangements in this paragraph also apply to immediate comment on Reports of the Comptroller and Auditor General.

Timing

62. Select Committees have often been critical of the time taken by Departments to reply to their Reports, and the Procedure Committee has recommended that Departments should normally be required to publish their observations on Select Committee Reports within two months of publication of the Reports. The Committee proposed that, in the event of insuperable difficulties which make this impracticable, an interim set of observations should be produced within two months, and within every two month period thereafter.

63. Previous Government statements have drawn attention to the practical difficulties there would be in giving a firm undertaking to reply in all such cases within this timescale. It has been pointed out that Committee Reports tend to cover issues which require consideration in some depth, and consultations within and outside Departments are frequently necessary before a substantive reply can be provided. Departments should however do their best to meet the two-month timetable recommended by the Procedure Committee. Where this is not possible, the reply should certainly be provided within six months and letters should go to the Committee before the expiry of the two-month period explaining why the earlier deadline cannot be met. If these deadlines fall in the summer recess Committees may prefer publication of the Government's reply to be held over until Parliament reconvenes. In these circumstances, Liaison Officers should consult the Clerk as early as possible for guidance.

Form of reply

64. In considering the form which the Government's considered reply to a Select Committee report should take, it is important to remember that the reply must in all circumstances be delivered first to Parliament. Replies usually take one of the following forms: (i) a Command Paper; (ii) a memorandum or a letter to

the Chairman of the Committee, together with a Written Answer, if wished; or (iii) in an oral statement on the floor of the House or to the Committee. In the Lords, Select Committee Reports are normally debated - very often before the written response has been provided. If there is any problem about a debate the Government Whips Office in the Lords should be consulted. The Government has agreed that substantive replies to Select Committee Reports will not be made in the form of answers to written PQs alone.

i) Command Paper

Departments should bear in mind a number of points when contemplating using it. This is the traditional form of reply and further comments by the Committee are not possible until after publication. It must always be used for matters of substance.

The Secretary of the Cabinet should be given notice of impending Command Papers as early as possible and at least one month before the final proof of the publication is required, in order that adequate arrangements can be made, where appropriate, for collective Ministerial consideration, including possible reference to Ministerial Committees, and, if necessary, for the Cabinet to clear the draft. Even if the draft of a Command Paper has been considered by a Ministerial Committee, it is customary to circulate the paper to the Cabinet for information at the draft or confidential final revise (CFR) stage.

Where several Departments are concerned, the Command Paper may be issued either by the principal Minister concerned, or by several Ministers acting jointly, each Department contributing a separate section of the paper. Replies to Reports of the Public Accounts Committee are always collated and presented by the Treasury. Where a Select Committee's recommendations concern another public body, that body may reply direct to the Committee, or its reply may be annexed to the Government's.

Advance copies of any Command Paper in reply to a Select Committee Report should be made available to the Committee concerned, up to 48 hours (total not working) before publication (the counterpart of the arrangement described in para. 56 above); Committees find it helpful to be advised informally, where possible, that a reply is imminent. Advance copies may also be made available to the Press; these should normally be provided on the day of publication. Any proposal to issue advance copies to the press more than 24 hours before publication must be cleared with No 10.

One advance copy of the final Command Paper for every committee member should be provided by the Department, free of charge. If further copies are required, the Clerk should be advised to obtain these from HMSO in the usual way. (See paragraph 16).

ii) **Memoranda or letters to the Committee.**

A Memorandum by a Department to the Committee, or a letter from a Minister to the Chairman, may be a more readily applicable form of reply to minor recommendations. The reply still becomes evidence submitted to the Committee, which the Committee may publish (or not) if it so decides and, if desired, with its own further comments on the Government's reply. Publicity thus is in the Committee's hands. Alternatively, Committees may, on request, agree to earlier publication by a Department. This is usually done by the Department placing a copy of the reply in the House Library and drawing attention to this by means of a Written Answer, preferably in response to a question asked by the Committee Chairman.

iii) **Oral Statement**

In the case of an oral statement on the floor of the House, whether made separately or as part of a Ministerial speech, Departments should write to the Committee as soon as possible drawing their attention to the statement and, if appropriate, making it clear that no further reply is envisaged.

65. There is no obligation to reply individually to every point made by a Committee: some may be obiter dicta: some may not be addressed to the Government but to the House (eg certain recommendations of the Procedure Committee) or to other bodies: some may be conveniently covered in one omnibus comment. Occasionally, the report may contain observations by the Committee which, while not recommendations, do require a response. In the period between a Committee's report and the formal Government reply, there need be no constraint on Departments taking action on any recommendation made by the Committee. However, when such action is taken the Committee should be informed, a Parliamentary announcement should be considered, and in any event the formal Government reply to the Committee should refer to the action taken (see also paragraph 19). Conversely, if acceptance or implementation of a recommendation occurs some time after the formal reply has been given the Committee should be made aware of the fact. A copy of all Government replies to Committee recommendations in whatever form, should be sent to the office of the Leader of the House of Commons and, where appropriate, to the office of Leader of the House of Lords.

66. Replies to reports by Committees which have not been reappointed can take any of the forms noted in paragraph 64, other than reply by Memorandum to the Committee.

CABINET OFFICE
OFFICE OF THE MINISTER FOR THE CIVIL SERVICE
MARCH 1988

ANNEX A

GUIDELINES FOR OFFICIALS GIVING EVIDENCE TO DEPARTMENTAL SELECT COMMITTEES*

Officials who give evidence to departmental Select Committees do so on behalf of their Ministers in accordance with the principles that civil servants are accountable to Ministers, and that it is Ministers who are accountable to Parliament. In giving evidence, civil servants are therefore subject to the instructions of Ministers and remain bound to observe their duty of confidentiality to Ministers.

2. In the course of Select Committee inquiries into the expenditure, administration and policies of Departments and their associated bodies, the evidence given by officials will normally be concerned with explaining the policies and actions undertaken by Ministers, and by Departments on their behalf, and the reasons for those policies and actions. Sometimes, however, a Select Committee's inquiries may involve questions relating to what has been done by individual civil servants. On such occasions, the principles of Ministerial accountability are still applicable, even if officials have acted outside or contrary to the authority given to them by Ministers.

3. Subject to the general principles set out above, official witnesses should in all Select Committee inquiries be as helpful as possible in answering questions concerned with the establishment of the facts of what has occurred in the making of decisions, or the carrying out of actions in the implementation of Government policies.

4. There may however be occasions when questions put by members of a Select Committee in the course of an inquiry appear to be directed to the "conduct" of individual civil servants. "Questions directed to the conduct" in this context means more than the establishing of facts about what has occurred; it carries the implication of allocating individual criticism or blame. In such circumstances, in accordance with the principles of Ministerial responsibility, it is for the Minister to look into the matter and if necessary institute a formal inquiry. Such an inquiry into the conduct and behaviour of individual civil servants and consideration of disciplinary action is properly carried out within a Department according to established procedures designed and agreed for the purpose, and with appropriate safeguards for the individual. It is then for the Minister to be responsible for informing the Committee of what has happened, and of what has been done to put the matter right and to prevent a recurrence. Evidence to a Select Committee on this should be given not by the individual civil servant or servants concerned, but by the Minister or by a senior official specifically designated by the Minister to give such evidence on his behalf. This would include the result of any disciplinary or other departmental proceedings against individual civil servants.

5. It is agreed that Select Committees should not act as disciplinary tribunals. Accordingly, if in the course of an inquiry a Select Committee were to discover evidence that called in question the "conduct" of an individual named civil servant, the Committee should be asked not to pursue their own investigation into the "conduct" of the person concerned, but to take up the matter with the Minister, for whom it would then be to deal with it on the lines described above.

6. If, when officials are asked to give evidence to a Select Committee, it is foreseen that the inquiry may involve questions about the "conduct" of the individual officials in question or about other individual named officials, it should be suggested to the Committee that it would be appropriate for a Minister or a senior official designated by the Minister to give evidence, rather than the named officials in question. Any question which appears to relate to the "conduct" of individual civil servants, such as the allocation of blame for what has occurred, can then be answered by the Minister or designated senior official. If an official giving evidence to a Committee is unexpectedly asked questions which he or she believes are directed at his or her individual "conduct", or at the "conduct" of another named individual civil servant, or if the official is uncertain whether or not questions fall into this category, the official should indicate that he or she wishes to seek instructions from his or her Minister, and the Committee should be asked to allow time for the Minister's instructions to be sought.

28 April 1987

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* These guidelines supplement, and should be read in conjunction with, the memorandum of guidance for officials appearing before Select Committees, and will be incorporated in future editions of that guidance.

ANNEX B

EXTRACT FROM STANDING ORDERS OF THE HOUSE OF COMMONS

Select Committees related to Government Departments

130(1) Select committees shall be appointed to examine the expenditure, administration and policy of the principal government departments set out in paragraph (2) of this Order and associated public bodies, and similar matters within the responsibilities of the Secretary of State for Northern Ireland.

(2) The committees appointed under paragraph 1 of this Order, the principal departments of government with which they are concerned, the maximum numbers of each committee and the quorum in each case shall be as follows:

Name of Committee	Principal government departments concerned	Maximum number of Members	Quorum
1. Agriculture	Ministry of Agriculture, Fisheries and Food	11	3
2. Defence	Ministry of Defence	11	3
3. Education, Science & Arts	Department of Education & Science	11	3
4. Employment	Department of Employment	11	3
5. Energy	Department of Energy	11	3
6. Environment	Department of the Environment	11	3
7. Foreign Affairs	Foreign and Commonwealth Office	11	3
8. Home Affairs	Home Office	11	3
9. Scottish Affairs	Scottish Office	13	5
10. Social Services	Department of Health and Social Security	11	3
11. Trade and Industry	Department of Trade and Industry	11	3

12. Transport	Department of Transport	11	3
13. Treasury and Civil Service	Treasury, Office of the Minister for the Civil Service, Board of Inland Revenue, Board of Customs and Excise	11	3
14. Welsh Affairs	Welsh Office	11	3

(3) The Foreign Affairs Committee, the Home Affairs Committee and the Treasury and Civil Service Committee shall each have the power to appoint one sub-committee.

(4) There may be a sub-committee, drawn from the membership of two or more of the Energy, Environment, Industry and Trade, Scottish Affairs, Transport and Treasury and Civil Service Committee, set up from time to time to consider any matter affecting two or more nationalised industries.

(5) Select Committees appointed under this Order shall have power -

(a) to send for persons, papers and records, to sit notwithstanding any adjourment of the House, to adjourn from place to place, and to report from time to time;

(b) to appoint specialist advisers either to supply information which is not readily available or to elucidate matters of complexity within the committee's order of reference;

(c) to report from time to time the minutes of evidence taken before sub-committees;

(d) to communicate to any other such committee its evidence and any other document relating to matters of common interest; and

(e) to meet concurrently with any other such committee for the purposes of deliberating, taking evidence, or considering draft reports;

and the sub-committees appointed under this Order shall have power to send for persons, papers and records, to sit notwithstanding any adjournment of the House, and to adjourn from place to place, and shall have a quorum of three.

(6) Unless the House otherwise orders, all Members nominated to a committee appointed under this Order shall continue to be members of that committee for the remainder of the Parliament.

ANNEX C

FIRST REPORT FROM THE SELECT COMMITTEE ON PROCEDURE, SESSION 1977-78 (HC 588-I)

Appendix C, Annex III

Letter from the Lord President of the Council and Leader of the House of Commons to the Chairman of certain select committees, dated 9th May 1967.

The Specialist Committees and the Select Committee on Nationalised Industries have indicated that they wish to take evidence from Ministers, and it will of course be the Government's object to give Committees all the help we can in this way. There must, however, be certain limitations which Ministers must seek to observe in their evidence on grounds of public policy. While these limitations are, I think, in general, already well established in relation to evidence given by officials to Select Committees, and in relation to information given to the House as a whole, it may be convenient if I restate them in the present context.

These limitations extend to information affecting national security, which would normally be withheld from the House in the national interest; information relating to the private affairs of individuals or individual bodies, on which any information held by Ministers or their officials has been supplied on a confidential basis; and specific cases where the Minister has or may have a quasi-judicial or appellate function, e.g. in relation to planning applications and appeals. It may also, for obvious reasons, be necessary for Ministers to excuse themselves from discussing matters which are, or may become, the subject of sensitive negotiation with Governments or other bodies. Further, I think it will be generally recognised that the details of legislative proposals should first be communicated to the House as a whole and that Ministers should not, therefore, be expected to give particulars of such proposals prior to the introduction of a Bill, unless the proposals have already been published in the form of a White Paper or statement to the House. I would not think that these limitations, largely deriving as they do from existing practice, will handicap your Committee, but if you would like to discuss them I should be very ready to do so.

I am writing similarly to the Chairmen of the Select Committee on Nationalised Industries and the Select Committee on Science and Technology.

EXTRACT FROM HANSARD.
DATE 26.1.88
COL 133 WA

Cabinet Committees

Mr. Patrick Thompson: To ask the Prime Minister if she will make a further statement on her practice in answering questions on the numbers and names of the Cabinet Committees and Sub-Committees.

The Prime Minister: There continue to be four Standing Committees of the Cabinet: a Defence and Overseas Policy Committee and an Economic Strategy Committee under my chairmanship; and a Home and Social Affairs Committee and a Legislation Committee under the chairmanship of my right hon. Friend the Lord President of the Council. Attendance at these Committees will vary according to the subject under discussion. Sub-Committees of the Standing Committees will be continued or established as appropriate. Membership and terms of reference of the Standing Committees and their Sub-Committees will remain confidential.

ANNEX E

Civil Service Department
Whitehall London SW1A 2AZ
Telephone 01-839 7733 ext 1508

Sir Douglas Allen GCB
Head of the Home Civil Service

19 August 1975

DISCLOSURE OF CLASSIFIED INFORMATION TO SELECT COMMITTEES

Discussions have taken place with the Chairman of the Liaison Committee of Select Committee Chairmen with the object of formalising the working conventions governing the conditions under which classified information is disclosed to Parliamentary Select Committees. Agreement has now been reached on the following rules.

i. a. Subject to the continuance of the special arrangements for the Expenditure Committee referred to in b. below, any information classified SECRET or TOP SECRET which is disclosed should be restricted to those persons to whom the department has agreed to release it: in practice this would mean only the members of the Select Committee or of the Sub-Committee concerned and, in the case of a Sub-Committee, the Chairman of the main Committee (since, eg the Chairman of the Expenditure Committee is ex-officio a member of all the Sub-Committees). Information classified CONFIDENTIAL or RESTRICTED should be similarly restricted, except that when it has been disclosed to members of Sub-Committees it may also be made available to the main Committee concerned.

b. Any classified information, whatever its classification, disclosed to the Expenditure Committee's Sub-Committee on Defence and External Affairs should be made available only to the members of the Sub-Committee and the Chairman of the main Committee.

c. Notwithstanding the restrictions imposed in sub-paragraphs a. and b. above, classified information may be disclosed to Specialist Advisers who have been security cleared in accordance with arrangements agreed with the Clerk of the House.

d. The release of TOP SECRET information under these arrangements to members of Select Committee is subject to the approval of the responsible Minister in each case.

/ii.

ii. Classified memoranda or classified annexes to memoranda should be made available to members only during Committee or Sub-Committee meetings and on request in the Committee Office. Members should not be free to take classified documents away with them.

iii. Classified portions or oral evidence should be sidelined by the witness in the shorthand writer's transcript and then excised by the Committee before the evidence is printed in proof form and distributed to Committee members, the full record being retained in the Committee Office for perusal there by members authorised to have access to it in accordance with paragraph i above.

2. Current guidance on this subject in Chapter 17, paragraphs 22-25* of the Manual "Security in Government Departments" will be revised accordingly. Further guidance for Officials giving evidence to Parliamentary Select Committees was contained in a memorandum issued under cover of a CSD DEO letter dated 13 September 1972. Paragraph 9 reminds Departments that some Select Committees admit the public and press to hearings, and paragraph 24 advises on the action to be taken if an Official is asked a question in open session which he cannot answer on security or similar grounds.

3. Some Departments are already applying these rules under informal understandings with the relevant Select Committees. If your Department is not already applying the rules on an informal basis I should be grateful if you would put them into effect forthwith.

4. I am copying this letter to the Heads of Department on the attached list.

Yours ever,

Douglas Allen

* Now Appendix M. The remainder of this paragraph has been superseded.

Note : References in this letter to the Expenditure Committee and its Sub-Committees should now be read as referring to the Select Committees related to Government Departments (paragraph 4 of this Memorandum). The special arrangements at paragraph 1(i)(b) of the letter are no longer applicable.

MEMORANDUM OF GUIDANCE FOR OFFICIALS APPEARING BEFORE SELECT COMMITTEES (MARCH 1988)

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Questions file. See if any use for your files?

1. MR WICKS N.L.W.

2. PRIME MINISTER

I have spoken to the Leader's Office about the attached correspondence. It is a storm in a tea cup.

First, efforts by a Private Member to move his Bill into one of the Government's Standing Committees (in this case it happens to be Mr Day and his Rear Seat Belts Bill) are nothing to do with the Government. Mr Day apparently sought to do this because he was keen for his Bill to get on in any case.

Second, it now seems that Mr Day has decided not to seek to move his Bill across. It is not clear whether he has changed his mind following pressure from Mr Alton and his supporters or not. But either way the issue is now dead.

Mark Addison

Mark Addison

16 March 1988

MJ2CCY

David Alton M.P.
House of Commons
London SW1A OAA

David Hunt, Esq. M.P.
House of Commons.

15th March 1988

Thank you for your letter of the 15th March.

This issue is the subject of correspondence between Sir Bernard Braine and the Leader of the House.

If the Government were to allow precedence to a Bill in the queue which is behind my own this would effectively ensure that Government intervention would prevent my Abortion (Amendment) Bill from making any progress. I need hardly remind you that 296 M.P.s voted for the Bill at Second Reading - a majority of 45.

Not only have the Government been unable to promise any time to assist the Bill (as happened in 1967) but this decision would destroy my Bill's prospects of progress.

I cannot over-emphasise how much anger pro-lifers would feel if such a decision were taken; and I would feel obliged to consider withdrawing my Bill and stating where the blame would lie.

I would be grateful if you would urgently arrange to meet Sir Bernard and myself.

I am copying this correspondence to the Prime Minister and to the Leader of the House.

Yours sincerely,

David Alton M.P.

FROM THE DEPUTY CHIEF WHIP

Government Whips' Office
House of Commons, London SW1A 0AA

15 March 1988

Dear David

I thought it might be helpful if I were to write to you now to give you advance notice that a Government backbencher, whose Private Member's Bill is currently 'queueing' behind your Bill for Standing Committee 'C', is considering putting down a Motion to allocate his Bill to another Standing Committee.

As the Health & Medicines, Firearms, Education and Housing Bills have now completed their Committee stages, there are Standing Committees open where Government Bills take precedence. It will be to one of these Committees that the Member concerned will seek to move his Bill. I thought it only fair to give you notice of this, given the fact that this other Bill could thereby overtake your Bill in making further progress.

Yours sincerely

David Alton Esq. MP
House of Commons
London SW1

David

PARC PA

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

9 March 1988

Dear Alison,

POINTS OF ORDER ARISING OUT OF QUESTION TIME

The Prime Minister had a short discussion with the Lord President this afternoon about your letter of 8 March in which you reported the outcome of your discussion with the Clerk about this subject.

The Prime Minister thought that the amendments to the form of words agreed at the meeting on 7 March were not as minor as you suggested in your letter. The implication would be taken that the Speaker could ask that a Minister should be present when certain points of order were raised. This was not a matter for the Speaker. The Lord President said that the form of words proposed by the Clerk did not, if read strictly, require a Minister to be present. In any event, he would take responsibility in the House for dealing with these matters. After some further discussion, the Prime Minister did not dissent from the third version, suggested by the Clerk, described in your letter.

I am copying this letter to Murdo Maclean in the Chief Whip's Office.

Yours ever,
Nigel Wicks

N. L. WICKS

Ms. Alison Smith,
Lord President's Office.

Prime Minister

PRIVY COUNCIL OFFICE
WHITEHALL. LONDON SW1A 2AT

8 March 1988

Seen.

Dear Nigel,

POINTS OF ORDER ARISING OUT OF QUESTION TIME

Thank you for your letter of ~~7~~ 11 March recording the discussion the Prime Minister held with the Lord President and the Chief Whip about Points of Order arising out of Question Time.

In preparation for the Lord President's raising this with the Speaker, I have had an informal discussion with the Clerk of the House in which I put to him the last paragraph of the draft, as in the amended version contained in your letter. He suggested a couple of minor changes which he thought the Speaker might wish to see to that version. For ease of reference I have set out all three versions on the attached sheet, and should be grateful for your comments. The Lord President himself has not yet had a chance to consider the third version.

Yours,
Alison

ALISON SMITH
Private Secretary

Nigel Wicks Esq CBE
PPS/Prime Minister
10 Downing Street

POINTS OF ORDER ARISING OUT OF QUESTION TIME

Part of possible form of words for the Speaker, if needed.

ORIGINAL VERSION

Second, I recognise that when a Member raises a genuine point arising out of questions that involves Ministerial responsibility - for instance, the non-availability of documents to which a Minister has referred - he will quite properly wish an appropriate Minister to be present when the point is dealt with. If Members will let me or the Table know privately that they intend to raise a point of that kind, I will ask that a Minister be present to hear it.

VERSION REVISED AFTER MEETING ON 7 MARCH

Second, I recognise that when a Member raises a genuine point arising out of Questions that involves Ministerial responsibility - for instance, the non-availability of documents to which a Minister has referred - he will quite properly wish the matter to be dealt with. If Members will let me or the Table Office know privately that they intend to raise a point of that kind, I will see that the Leader of the House is informed so that he can take any appropriate action.

THIRD POSSIBLE VERSION

Second, I recognise that when a Member raises a genuine point arising out of questions that involves Ministerial responsibility - for instance, the non-availability of documents to which a Minister has referred - he will quite properly wish a Minister to be present when the point is dealt with. If Members will let me or the Table know privately that they intend to raise a point of that kind, I will see that the Leader of the House is informed so that whatever action is appropriate can be taken.

PARLIAMENT: Procedure Pty.

AM88

LORD PRESIDENT

cc Chief Whip

The Chief Whip will join you at 9 am this morning.

STATEMENTS

At present there are no bids for Statements next week.

SCOTTISH AFFAIRS SELECT COMMITTEE

You may wish to have a word with the Chief about the attached letter from the Scottish Secretary which points out the difficulties of reducing the number of Scottish Conservatives on the Scottish Standing Committee.

SOCIAL SECURITY BILL

While the DHSS is content, reluctantly, to accept the Government defeat in the Lords which requires the Government to review the level of Child Benefit in April each year. The Chief Secretary, however, clearly prefers to seek to resist the amendment, taking the view that it should only be accepted if the Chief thinks that this would imperil the whole Bill. I understand that the Chief Whip believes that resisting the amendment would jeopardise the desired timing of Royal Assent: you may wish to check this before, perhaps, having a word with the Chief Secretary in the margins of Cabinet.

SOUND BROADCASTING COMMITTEE

You may think it worth having a brief word with the Chief about the IRN proposal to let British Telecom have a live clean "feed" of the Chancellor's Budget Statement to be available on a telephone line. Although IRN think they had Treasury authority for doing this, they will now have received a letter from the Clerk who was dealing with the Sound Broadcasting Committee in the last Parliament explaining that the House has not authorised any arrangements of this kind. Nonetheless, presumably IRN will try and make substitute arrangements.

LORD PRESIDENT
OF THE COUNCIL
RECEIVED
9 MAR 1988
13

SCOTTISH OFFICE
WHITEHALL, LONDON SW1A 2AU

The Rt Hon John Wakeham MP
Lord President of the Council
Privy Council Office
Whitehall
LONDON
SW1A 2AT

8 March 1988

Dear John,

SCOTTISH AFFAIRS SELECT COMMITTEE

Thank you for your letter of 3 March about your discussion with Hector Monro on the Scottish Affairs Select Committee.

I am perfectly content for you to pursue your discussions with Scottish (and English) backbenchers in order to find some formula which would allow the establishment of the Scottish Affairs Select Committee. I agree with you that in the light of Donald Dewar's assurances about the inclusion of English Members, we should be seen to be exploring every possible avenue.

Having said that, I should point out that the solution suggested of Hector, Allan and Alick serving on the Select Committee with one of them sitting on Scottish Standing Committees on a rota basis has major difficulties. Standing Order 86(2) requires a Scottish Standing Committee to include at least 16 Members representing Scottish constituencies. If two of our Scottish backbenchers are committed to the Select Committee the size of any Scottish Standing Committee would have to be increased to at least 21, comprising 7 Scottish Government Members, 5 English Government Members, 7 Scottish Labour Party Members and 2 Scottish Alliance or SNP Members. I doubt if that is a sensible solution, but it had better be generally understood, in advance, that setting up the Select Committee on the basis you suggest would have this implication for any Bill Standing Committee.

I am copying this letter to David Waddington and to Hector Monro.

Yours ever,

MALCOLM RIFKIND

HMP06801

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

2 March 1988

Dear Malcolm

SCOTTISH AFFAIRS SELECT COMMITTEE

I had a meeting this morning with Hector Monro about the possible setting up of this Select Committee. He took this opportunity to express frankly the difficulties he sees with the position as regards Scottish business in the House. Before coming to the meeting, he had discussed the matter with Allan Stewart and Alick Buchanan-Smith.

I reminded him that he had seen the assurances we have received from Donald Dewar about the attitude the Labour Party would take to the setting up of the Select Committee with English Members included in it. In the light of what he had said about the Opposition's intention that all of the Select Committee members should play a full and useful part in the work of the Committee - and the contrast between this and the Labour Party's original position - I said that I saw very great difficulty if we could not now write to the Chairman of the Committee of Selection suggesting that they should explore again the prospect of setting up the Committee.

In response, Hector said that he recognised the strength of that argument but, in his view, the Government had to make a straight choice about what its backbenchers should do. He had consulted his two colleagues on this, and their position was that if they were to serve on the Select Committee, then they would not be prepared to serve on any Scottish Standing Committee and three additional English Members would have to be selected. Following this, I raised with him the position of the three of them other than Bill Walker and Nicholas Fairbairn serving on the Select Committee and determining on a rota basis which one of them would sit on the Standing Committee for a particular Bill. He agreed to consult Allan and Alick about this, and it may be that there is something here that we could pursue further.

More generally, Hector also added that he did not believe that the strain which was presently being put on the Government's backbenchers for Scottish seats was sufficiently appreciated: this strain was aggravated by the fact he did not believe their time was being particularly well used. He believed that the additional burden of the setting up of the Select Committee, particularly as it might meet in Scotland from time to time, would not be acceptable unless there were some alleviation of their present duties.

I am copying this letter to David Waddington and to Hector Monro.

Yours ever

JOHN

JOHN WAKEHAM

The Rt Hon Malcolm Rifkind MP
Secretary of State for Scotland

ARWBHQ

SUBJECT cc MASTER

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

7 March 1988

Dear Alison,

POINTS OF ORDER ARISING OUT OF QUESTION TIME

The Prime Minister had a discussion this afternoon with the Lord President and Chief Whip about your letter of 2 March regarding points of order arising out of Question Time.

The Lord President said that there were advantages to the Government in the Speaker's present practice of taking after statements points of order arising out of Question Time. The Speaker was under considerable pressure to revert to the earlier practice whereby points of order were taken immediately after Questions. Some leading Conservative Members were arguing that points of order should be taken at the appropriate time when they were raised. A statement on the lines of that attached to your letter would help preserve the present advantageous position for the Government. The Prime Minister said that she did not like the last paragraph of the statement which the Clerk had suggested and which was attached to your letter. Points of order were strictly a matter for the Speaker and it was wrong for him to give any implication that a Minister should be involved, as seen to be implied in the last paragraph of the Clerk's draft.

After further discussion, it was agreed that the last paragraph of the draft attached to your letter should be amended so that it read as follows:

> "Second, I recognise that when a Member raises a genuine point arising out of Questions that involves Ministerial responsibility - for instance, the non-availability of documents to which a Minister has referred - he will quite properly wish the matter to be dealt with. If Members will let me or the Table Office know privately that they intend to raise a point of that kind, I will see that the Leader of the House is informed so that he can take any appropriate action."

The Lord President undertook to discuss this with the Speaker.

I am sending a copy of this letter to Murdo Maclean (Chief Whip's Office).

Nigel Wicks

(N. L. WICKS)

Ms. Alison Smith,
Lord President's Office.

10 DOWNING STREET

From the Principal Private Secretary

3 March 1988

Dear Alison,

POINTS OF ORDER ARISING OUT OF QUESTION TIME

Thank you for your letter of 2 March.

I think the Prime Minister will wish to discuss the matter raised in your letter with the Lord President and the Chief Whip. Since next Monday's meeting of the business managers has had to be truncated (because of the launch of the Inner Cities document), I shall try to arrange an early opportunity next week for the discussion. I assume that you can prevail upon the Speaker not to use the formula described in the attachment to your letter until the Prime Minister and the Lord President have had a word to consider this matter.

BF

Meanwhile, you may wish to send a copy of your letter to the Chief Whip.

Yours ever,
Nigel Wicks

N. L. WICKS

Ms Alison Smith,
Lord President's Office.

PRIME MINISTER

POINTS OF ORDER ARISING OUT OF QUESTION TIME

The Lord President, in his Office's letter below, seeks your agreement to the line which the Speaker proposes to take, on the Clerk's advice, regarding points of order arising out of Question Time.

The Lord President is undoubtedly right that the new practice of postponing points of order until after Questions and Statements has been of considerable benefit to the Government (and to the good order of the House). But I wonder whether the formula proposed by the Clerk will not dilute the advantages which have accrued to the Government (and create the possibility of scenes of disorder). My concerns relate entirely to the last paragraph of the statement proposed by the Speaker. This paragraph says:

> "Second, I recognise that when a Member raises a genuine point arising out of Questions that involves Ministerial responsibility - for instance, the non-availability of documents to which a Minister has referred - he will quite properly wish an appropriate Minister to know about the matter. If Members will let me or the Table know privately that they intend to raise a point of that kind, I will ask that a Minister be present to hear it."

My concerns are as follows:

1. The main point is the suggestion that the Speaker should "ask" a Minister to be present to hear "a genuine point of order arising out of Questions that involves Ministerial responsibility". This seems to be an undesirable development. We do not want to put ourselves in a position where the Speaker can ask Ministers to attend to deal with points of order. Points of order are for the Speaker, not for Ministers. Furthermore, the arrangement could put Ministers to considerable

inconvenience. It could either mean that Ministers would have to be summoned back to the House at short notice; or that they would have to remain in the House if there was any prospect of one of these "genuine points of order" being raised.

2. The phrase "a genuine point arising out of Questions that involves Ministerial responsibility" begs many questions. Members will go to great lengths to fabricate essentially fake points of order to bring them within this heading. There is no definition of "a genuine point"; the non-availability of documents is simply an example, and not exclusive. In short, the definition can give rise to all the old problems of fake points of order.

3. The Speaker might reply that it is up to him to decide whether there is "a genuine point". But the paragraph envisages his decision to be made "privately". The mechanics for doing this are unclear. Would the Speaker consult while he is in the Chair, as Question Time is proceeding?

I may be seeing difficulties here when none really exist. But I think it worth discussing this through with the Lord President and the Chief Whip. It may be that the point can be met by re-drafting the end of the paragraph as follows: "..... he will quite properly wish an appropriate Minister to know about the matter. If Members will let me or the Table Office no privately that they intend to raise a point of that kind, I will ensure that the Leader of the House is aware of the Honourable Member's intention so that the Government's front bench can take whatever action it thinks appropriate."

Agree a meeting?

N.L.W.

N. L. WICKS
3 March 1988

Mr. Wicks.
A number of thoughts below.

I am sure this needs discussing. I am worried that this change might lead to Ministers wanting to go back to the previous system.

10 DOWNING STREET

Points

- inventing false points to get a Mster back

- private rulings by the speaker on whether Govt answerable on a particular matter.

- either it is a point of order — for the speaker — or it isn't. How can it be both for the Spkr and the Minister.

- Does the Spkr have the authority to ask a Mster to be present?

- Better surely to have a less categorical assurance that some point of order will get a Minister back.

- Ministers might well prefer — in that case — to have the point dealt with immediately after Questions.

CC BLP

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

2 March 1988

Dear Nigel,

POINTS OF ORDER ARISING OUT OF QUESTION TIME

As you know, in the latter stages of the last Parliament, the Speaker revived the practice of taking Points of Order, whether or not they arose out of Question Time, immediately before the Business of the day and thus after any intervening Statements. This proved very helpful in reducing the occasions when Points of Order were used as a means to try to continue Questions to Ministers at 3.30 when the House was inclined to give these matters a higher profile than they would have received later in the day. The Lord President's view is that this revived practice has been of considerable benefit to the Government, and that the Speaker should be supported in his continuation of it against pressure from Opposition Members and - to the Lord President's regret - some Government supporters to return to the practice of taking Points of Order arising out of Questions at 3.30.

On this point, I attach a copy of advice from the Clerk of the House to the Speaker about what he might say if this question is raised with him again. You will see that the final paragraph deals with what may happen if a Member wishes to raise a genuine Point of Order arising out of Questions which legitimately involves Ministerial responsibility - such as the non-availability of a document to which the Minister has referred. If there is an occasion when that occurs, provided that the Member informs the Speaker and the Clerk at the Table privately, the Speaker himself will make a judgement as to whether it is genuine or whether it is a continuation of Questions to Ministers. If he believes it appropriate, he will make a private and informal request to the Government Business Managers that the Minister concerned should be present when the Point of Order is taken, if this is possible. If this cannot conveniently be arranged, then a Junior Minister or indeed, the Leader of the House, would be asked instead to be present.

The Lord President believes that this informal arrangement will be helpful in ensuring that the Speaker remains firm in continuing the present practice. He therefore proposes to draw this to the atention of his Ministerial colleagues.

Yours,
Alison

ALISON SMITH
Private Secretary

Nigel Wicks Esq CBE
PPS/Prime Minister
10 Downing Street

Mr Speaker

POINTS OF ORDER ARISING OUT OF QUESTION TIME

If the issue of the time for taking points of order is raised again, you may care to say:

AS I RECENTLY UNDERTOOK TO DO, I HAVE RECONSIDERED OUR PRACTICE OF TAKING POINTS OF ORDER, WHETHER OR NOT THEY ARISE OUT OF QUESTION TIME, IMMEDIATELY BEFORE THE BUSINESS OF THE DAY, AND AFTER ANY INTERVENING STATEMENTS.

I SHOULD TELL THE HOUSE THAT, WHILE I AM OF COURSE PREPARED TO KEEP THE SITUATION UNDER REVIEW, I REMAIN CONVINCED THAT WE SHOULD NOT RETURN TO THE SITUATION IN THE LAST PARLIAMENT WHEN MEMBERS REGULARLY USED SO-CALLED POINTS OF ORDER TO OPEN A DEBATE ABOUT ANSWERS THEY HAD RECEIVED DURING QUESTION TIME.

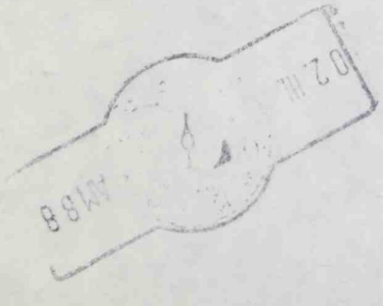
THERE ARE TWO POINTS, HOWEVER, THAT IT MIGHT BE HELPFUL FOR ME TO MAKE CLEAR. FIRST, IF A MATTER OF ORDER ARISES DURING QUESTIONS THAT REQUIRES THE IMMEDIATE INTERVENTION OF THE CHAIR - FOR EXAMPLE, THE USE OF AN UNPARLIAMENTARY EXPRESSION, OR REFERENCE TO A MATTER THAT IS SUB JUDICE, I SHALL, OF COURSE HEAR IT AT ONCE.

SECOND, I RECOGNISE THAT WHEN A MEMBER RAISES A GENUINE POINT ARISING OUT OF QUESTIONS THAT INVOLVES MINISTERIAL RESPONSIBILITY - FOR INSTANCE, THE NON-AVAILABILITY OF DOCUMENTS TO WHICH A MINISTER HAS REFERRED - HE WILL QUITE PROPERLY WISH AN APPROPRIATE MINISTER TO BE PRESENT WHEN THE POINT IS DEALT WITH. IF MEMBERS WILL LET ME OR THE TABLE KNOW PRIVATELY THAT THEY INTEND TO RAISE A POINT OF THAT KIND, I WILL ASK THAT A MINISTER BE PRESENT TO HEAR IT.

C J BOULTON
Clerk of the House

1 March 1988

PARLIAMENT : PMs questions pt 2.



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Enter the piece and item references, .
eg. 28, 1079, 84/1, 107/3

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002/4212

CONFIDENTIAL

CC/85

CHIEF SECRETARY TO THE TREASURY

Treasury Chambers. Parliament Street. SW1P 3AG

The Rt Hon Lord Young of Graffham
Secretary of State for Trade and Industry
Department of Trade and Industry
1 - 19 Victoria Street
London
SW1H OET

NBPM

AR16
16/2

15th February 1988

Dear David,

SELECT COMMITTEE FOR TRADE AND INDUSTRY: REQUEST FOR INFORMATION ABOUT COMPANIES ACT INVESTIGATIONS

I have seen a copy of your letter of 8 February to John Wakeham. I strongly support the line you are proposing. Apart from the Serious Fraud Office, Inland Revenue and Customs which you mention in your letter, the Bank of England undertake confidential investigations very similar to those under your Section 447 powers, as do the Building Societies Commission. It would clearly prejudice these investigations if you were to accede to the Committee's request, and I am sure you are right not to do so. I trust that the position you are taking will not be weakened by the rather different approach your Department apparently takes towards disclosure in insider dealing cases.

I am copying this letter to John Wakeham, Nigel Lawson, James Mackay, Douglas Hurd, Patrick Mayhew, Kenny Cameron, Malcolm Rifkind, Tom King, Peter Walker, Sir Robin Butler and Nigel Wicks.

Yours Ever,
John

JOHN MAJOR

PARLIAMENT. Procedure
PTQ

LCBG.

PRIVY COUNCIL OFFICE
WHITEHALL. LONDON SW1A 2AT

12 February 1988

RA
RECG
top enc.

Dear David

**SELECT COMMITTEE FOR TRADE AND INDUSTRY :
REQUEST FOR INFORMATION ABOUT COMPANIES ACT INVESTIGATIONS**

Thank you for your letter of 8 February about your proposed response to the Select Committee for Trade and Industry about Companies Act Investigations.

I agree with the line you propose. There are obvious dangers, as you describe, in providing the names of companies concerned, even in confidence. We should be on strong ground in explaining fairly fully the public interest reasons for the policy of non-disclosure of individual Section 447 cases, backed up with suitable, but anonymised, statistical material. If there is any inclination on the Committee's part to pursue matters further, I imagine our interest lies in diverting them away from fishing expeditions on individual cases and towards a more generalised discussion on the theoretical merits or otherwise of the principle of non-disclosure.

More generally, I think it is an unwelcome development for Committees to ask for quantities of detailed information without providing some indication of the context, or the nature of the overall enquiry or investigation they have in mind. If this seems likely to become a trend, it might be worthwhile for you or Kenneth Clarke to have a word with Kenneth Warren.

I am sending copies of this letter to the recipients of yours.

Yours ever

JOHN

JOHN WAKEHAM

The Rt Hon Lord Young of Graffham
Secretary of State for Trade and Industry
Department of Trade and Industry
1 Victoria Street
London
SW1H OET

PART: HIC Procedure

Pt. 9

dti

the department for Enterprise

CONFIDENTIAL

The Rt. Hon. Lord Young of Graffham
Secretary of State for Trade and Industry

The Rt Hon John Wakeham MP
Lord President of the Council
Privy Council
Whitehall
LONDON
SW1A 2AT

Department of
Trade and Industry

1-19 Victoria Street
London SW1H 0ET

Switchboard
01-215 7877

Telex 8811074/5 DTHQ G
Fax 01-222 2629

Direct line 215 5422
Our ref PS1AGS
Your ref
Date 8 February 1988

SELECT COMMITTEE FOR TRADE AND INDUSTRY : REQUEST FOR INFORMATION ABOUT COMPANIES ACT INVESTIGATIONS

I am writing to seek your support for the line I am proposing to take in response to a request from the Select Committee for Trade and Industry about Companies Act Investigations.

The Select Committee has asked for a list of all current investigations showing the dates they started, the names of the companies concerned, and when they are expected to finish. The Committee's interest has apparently been aroused by recent references to Companies Act enquiries in the press. It has not - at least so far - launched a formal investigation into this subject.

Companies Act investigations are carried out mainly under 3 sections - formal, usually large scale investigations, such as those into Guinness and House of Fraser (Holdings), under Sections 432 and 442, and confidential enquiries into a company's books and papers carried out by officials under Section 447.

There is no problem about providing information about the investigations under Sections 432 and 442 of the Companies Act, which are normally announced. The difficulty arises in connection with the much larger number of small scale enquiries under Section 447. These enquiries are essentially confidential and this confidentiality is protected by statutory provisions making it a criminal offence to disclose information obtained from such enquiries, except for specified purposes. There is no statutory prohibition on the disclosure of the existence of such an enquiry but it is our practice not to announce them and not to comment on rumours that we are investigating a particular company. The great strength of Section 447 powers is that they can be used to investigate suspicions of malpractice for which the more formal investigatory powers would not be appropriate. As these enquiries are confidential, no damage is done to the company if the suspicions prove to be unfounded. The effect on the Burtons share price of the press reports of Section 447 enquiries into that company show the damage that can be done if enquiries become public knowledge. If enquiries were not confidential, this potential damage would be a factor which had to be taken into account in deciding whether to start enquiries, and inevitably some suspicions would not be investigated which might well otherwise have been found to be justified.

I regard it as essential to protect the confidentiality of Section 447 enquiries. Similarly, I am concerned that if we were to meet the Committee's request, it would create a precedent which would make it difficult for colleagues with similar investigatory powers, eg the Serious Fraud Office, the Inland Revenue and Customs and Excise, to resist requests to provide information about their investigations. This would be damaging to our law enforcement work. I therefore propose to tell the Select Committee that I cannot let it have the names of the companies concerned, even in confidence. Providing names would not, in any case, resolve the problems as the Committee would then be expected to ask for further details, and this would present even greater problems. The right point at which to stand firm is to refuse to provide any details about individual enquiries.

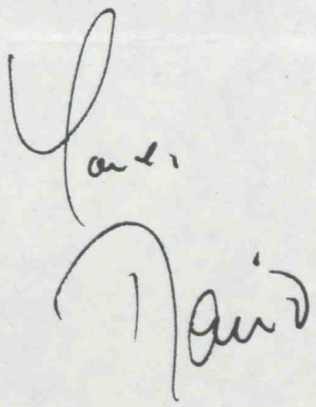
dti

the department for Enterprise

My aim would naturally be to avoid a confrontation with the Committee. We can supply it with a statistical breakdown of recent and current Section 447 enquiries, which should give it a good picture of the scale and size of our activities. This should meet its legitimate needs and I am reasonably hopeful that it will accept our reasons for not going further. But I am convinced that if it continues to press for names, we should stand by our refusal. I hope that I can count on your support in maintaining this line.

The Committee has asked for the information by 17 February and it is important to meet this deadline. I should therefore be grateful for a reply by the end of the week in order to give us time to finalise our memorandum. I will take it that colleagues to whom I am copying this letter are content if I do not hear from them by then.

I am copying this letter to the Chancellor of the Exchequer, the Lord Chancellor, the Home Secretary, the Attorney General, the Lord Advocate, the Secretary of State for Scotland, the Secretary of State for Northern Ireland, the Secretary of State for Wales, Sir Robin Butler and Nigel Wicks.



Told A. Smith
Seen + noted without
comment.

NLO
20.1

Prime Minister (2)

MEF 20/1

PRIME MINISTER

PRIVATE MEMBERS' TIME ON FRIDAY 22 JANUARY

I have been considering further with David Waddington the position with regard to private Members' time this Friday. From our inquiries it seems that the likelihood of disruption to proceedings sufficient to prevent an orderly Second Reading debate on the Abortion (Amendment) Bill may be less than was earlier feared. Nonetheless, the risk of disorder remains and will probably be raised with me at Business Questions tomorrow.

Our basic objective in handling this should, I believe, be to preserve the line that it is not our practice to provide Government time for individual Private Members' Bills, while doing what we can to protect our backbenchers' interests in an orderly debate on Friday. Accordingly, if it is raised tomorrow, I propose to refer to what I said last week when I pointed out that this was still a hypothetical matter and that I was sure the House would wish to protect private Members time if the chance to reach a decision on the Bill was threatened by the use of procedural devices.

On Friday itself, if the presentation of petitions did take so long that the House were unable to reach a considered decision on the Bill, there would certainly be points of order from senior backbenchers on our side calling on me as Leader of the House to take action.

If these points were raised during the course of business, I would say that I was sure that the whole House would deprecate using procedural tactics of this kind to stifle debate, and I would urge all Hon Members to proceed as quickly as possible to the day's main business for debate. But if these points were raised after the opportunity to vote on Second Reading had been lost, I would be asked what I was going to do about it.

Contd 2/...

I would say, in response, that I would give urgent consideration to the matter. This would not, of course, commit us to providing time for a debate on the Bill or on a procedural Motion. Having left our options open, I would then prepare a paper on the possible courses available to us, for discussion with you and colleagues on Monday.

I am copying this minute to John Moore and David Waddington.

Alastair Smith

PP JW
20.1.88
(approved by the Lord President and signed in his absence).

CONFIDENTIAL

8RW

MR

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

11 January 1988

Dear Alison,

HOUSE OF COMMONS SELECT COMMITTEE ON SCOTTISH AFFAIRS

The Prime Minister had a short discussion this morning with the Lord President, the Secretary of State for Scotland and the Chief Whip about the debate on Wednesday concerning the establishment of a Scottish Affairs Select Committee.

After discussion, it was agreed that the debate should take place on the basis of a take note motion tabled by the Government. The Lord President would listen to the debate and make the point that there was no basis of agreement at present for establishing this Select Committee. He should say that if an acceptable basis emerged, the Government would obviously reconsider the establishment of the Committee. The balance of argument was against stimulating a Government back bencher to table an amendment emphasising that the House of Commons was part of a unitary Parliament made up of members, with equal rights, drawn from all over the Kingdom. The Government should not accept any arguments from the Labour Party that there should be one, or any limited number of, English members on the Select Committee. If the Labour Party decided to withdraw in the debate their conditions for the establishment of the Select Committee, the Government spokesman should simply say that the Government would consider the matter and let their views be known. The Lord President should speak to the senior Scottish back bencher on the Government's benches, Sir Hector Monro, before the debate to inform him of the Government's approach. It was important that Government Scottish back benchers should be prepared to serve on the Committee in the unlikely event of the Labour Party accepting that the Committee should include members other than those from Scotland.

I am sending a copy of this letter to to David Crawley (Scottish Office), Murdo Maclean (Chief Whip's Office) Mike Eland (Lord Privy Seal's Office) and Trevor Woolley (Cabinet Office).

Yours sincerely,

Nigel Wicks

(N. L. WICKS)

Ms. Alison Smith,
Lord President's Office.

CONFIDENTIAL

8RW

1 RG
2 DN
3 AB

to see for general interest
NLW

FROM THE PRIVATE SECRETARY TO THE LEADER OF THE HOUSE
AND THE CHIEF WHIP

7 January 1988

Dear Nigel,

Before the Christmas holiday I promised David Norgrove that I would set down on paper a simple outline of procedures for disagreement between the two Houses over Bills, and the point at which a Bill would normally be deemed lost were disagreement to persist.

The general principle is that if at least one House insists on an amendment to which the other has disagreed, and the other insists on its disagreement without qualification, the Bill is lost at the end of the session. If any alternative proposal is made the Bill remains live.

For the sake of illustration let us take a Commons Bill, and let us assume that there is only one amendment made to it in the Lords but that it is so fundamental to the Bill that the Commons must insist upon it without qualification. The exchanges would be as follows.

Commons		Lords
Bill passed by House of Commons	→	Amended by House of Lords
Amendment disagreed to by House of Commons	→	Amendment insisted upon by House of Lords
Disagreement insisted upon by House of Commons (or no further action)		
↓		
Bill lost at end of session.		

The bill can be kept alive by deferring the moment of unqualified disagreement by one House or another offering an amendment in lieu rather than insisting on its original position; the same effect is served where one House amends the other's amendment. Amendments in lieu and amendments to amendments will keep the bill alive so long as the will to compromise exists.

N L Wicks Esq
Principal Private Secretary to the
Prime Minister

FROM THE PRIVATE SECRETARY TO THE LEADER OF THE HOUSE
AND THE CHIEF WHIP

In practice, exchanges between the Houses on Bills are more complicated than my example because disagreement may arise over more than one amendment; because various intermediate stages like amendments in lieu or amendments to amendments may be interposed; and because words may be left out or restored, and consequential amendments made. There is no point in trying to formalise arrangements for all the permutations possible. Pages 581 to 588 of Erskine May give a good account of the basic possibilities, however, and are worth reading (copies attached).

It is important to bear in mind that, when disagreements arise, the Public Bill Offices of both Houses - and of course Parliamentary Counsel - are available to help to ensure that Departments are fully aware of the consequences of their actions and of the options open to them. And the Leader of the House will always be vigilant in this regard.

Sincerely,
Rhodri.

R H WALTERS



Postponement of Lords Amendments. A Lords Amendment may be read and postponed and subsequent amendments may be taken into consideration,[10] but a motion for the postponement of an amendment cannot be made after the question for agreeing or disagreeing with it has been proposed.[11] Amendments have also been postponed before they have been read a second time.[12] The House has ordered that amendments should be taken in a different order.[13] Lords Amendments to the title are normally printed after the other amendments and taken last.[14]

The Lords reason for disagreeing to a Commons Amendment (see p. 584 below) has been read and further consideration thereof has been postponed,[15] or the consideration of the reason has been postponed without its being read.[16]

Lords Amendments agreed to. If the Lords Amendments are agreed to by the Commons a message is sent acquainting the Lords accordingly, and the bill is returned to await the Royal Assent.

Privilege amendments. The Commons may agree to Lords Amendments which infringe their financial privileges; but where such amendments involve a charge not sanctioned by any money resolution already agreed to in respect of the bill, a (further) money resolution must be agreed to by the House before the amendments are considered[17] (see also pp. 850–851). If no such money resolution is agreed to, the Speaker is required under SO No. 59(3) to declare that he is satisfied that an amendment imposes a charge on the public revenue. Thereupon the amendment is deemed to have been disagreed to and is so recorded in the Journal.

Consideration of Commons Amendments in the Lords. In the Lords a Message relating to Commons amendments is read out to the House and a day is appointed for considering the amendments which are printed and circulated. The amendments, may, however, be considered forthwith without notice (SO No. 38 (4)) at any convenient time during public business. Commons amendments may with the leave of the House be moved in groups provided that the amendments are all consecutive in the list.

Stages in process of securing agreement between the two Houses

It is now necessary to describe the stages which may arise when amendments made to a bill by the Lords are disagreed to by the Commons, or where amendments are made by the Commons to a Lords Amendment. In theory the process of securing agreement between the two Houses may be carried on indefinitely, but it is proposed here to review the successive stages and their complications only up to a point, beyond which it would normally be impossible to proceed.

Relevance of amendments to Lords Amendments, and of consequential amendments to the bill. Before describing the proceedings

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10 CJ (1835) 624; ibid. (1887) 456.
11 HC Deb (1919) 119, c 1869. See also Parl Deb (1891) 351, c 1470.
12 CJ (1917–18) 303, 305. 13 CJ (1972–73) 480.
14 HC Deb (1966–67) 737, c 1495. 15 CJ (1917–18) 315.
16 CJ (1887) 456. 17 See e.g. CJ (1968–69) 360–1; ibid. (1980–81) 485.

in the Commons, when that House desires to disagree to amendments which have been made by the Lords, or to make further amendments thereto, the general rules of practice with regard to such amendments must be noticed.

(1) An amendment made to a Lords Amendment should be relevant to the same subject-matter. If an amendment be proposed to a Lords Amendment not consequent on, or relevant to, such amendment, the question will not be put from the Chair.[18]

A departure from this rule was permitted, under peculiar circumstances, in the case of the Bolton Police Bill 1839; but the Lords agreed to it with a special entry in the Journal, that it was not to be drawn into a precedent; and a protest was signed by five influential peers against agreeing to the amendment.[19]

(2) No objection can be taken to a Lords Amendment on the ground of order.[20]

In the case of the Evidence in Criminal Cases Bill [Lords] 1898, the Speaker stated that it was his duty to put the question upon the motion for agreeing with one of the Lords Amendments to the Commons Amendments to the bill, in spite of the fact that the Lords Amendment, though relevant to the bill, was not consequential on the Commons Amendment. He left it to the House to agree to the amendment, or to disagree, on the ground of inconsequence or any other ground.[1]

(3) According to a long-established rule, the Commons, when considering Lords Amendments, may not leave out or otherwise amend anything which they have already passed themselves, unless such amendment be immediately consequent upon the acceptance or rejection of an amendment made by the Lords.

In 1678 it was stated by the Commons 'that it is contrary to the constant method and proceedings in Parliament to strike out anything in a bill which hath been fully agreed and passed by both Houses';[2] and in allowing consequential amendments either in the body of the bill or in the amendments, the spirit of this rule is still maintained.[3] Indeed, so binding has it been held that in 1850, when a serious oversight as to the commencement of the Act was discovered in the Pirates' Head Money Repeal Bill, before the Lords Amendments had been agreed to, no attempt was made to correct it by way of amendment, but a separate Act was passed for the purpose.[4]

In the case of the Representation of the People Bill 1918, when it appeared from the debate that a consequential amendment proposed to the bill was contrary to the decision to which the House had come in accepting a Lords Amendment, the Speaker stated that the question on the consequential amendment could not be put.[5]

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18 CJ (1860) 494.
19 LJ (1839) 643.
20 Parl Deb (1902) 116, c 1403; HC Deb (1916) 81, c 2690; ibid. (1916) 85, c 2695; ibid. (1919) 119, c 2105; ibid. (1921) 146, c 1057.
1 Parl Deb (1898) 64, c 241.
2 CJ (1667–87) 547 (1678); cf. CJ (1547–1628) 388 (1607).
3 CJ (1836) 592; ibid. (1837–38) 829; ibid. (1854) 443; Parl Deb (1854) 135, c 828; CJ (1876)) 268, 422. HC Deb (1968–69) 780, c 1823–4.
4 CJ (1850) 471.
5 CJ (1917–18) 315; HC Deb (1918) 101, c 2204.

The Commons disagreed to a clause inserted by the Lords in the Poor Law Boa[redacted]Payment of Debts) Bill 1859, on the ground of privilege, but inadvertently agreed to a subsequent amendment, which was consequent on that clause. The Lords did not insist upon their clause, and corrected the latter part of the bill by a consequential amendment to which the Commons agreed.[6]

In 1920 the Lords left out a clause in the Derwent Valley Water Board Bill but had not left out the passages of the preamble referring to it. The Commons agreed to the Lords Amendment and made the amendment necessary to bring the preamble into conformity with the bill as a consequential amendment.[7]

Lords Amendments disagreed to, or amended, by the Commons. Several alternatives are open to the Commons, when that House desires to disagree to amendments which have been made by the Lords.

(1) They may simply disagree with the amendment, either by agreeing to the question 'That this House doth disagree with the Lords in the said amendment', or by negativing the question, 'That this House doth agree with the Lords in the said amendment'.

(2) They may amend the Lords Amendment—

(a) by leaving out words in the amendment;[8]

(b) by leaving out words of the amendment and inserting or adding words instead thereof;[9]

(c) by inserting words in[10] or adding words to the amendment.[11]

(3) While agreeing to the amendment, they may make a consequential amendment to the bill;[12] or, where the Lords Amendment proposes to leave out words of the bill, an amendment may be made to the bill instead of the words left out.[13] A consequential amendment should be made to the bill immediately after agreement with the Lords Amendment to which it is consequential even though it is out of sequence with the subsequent amendments.[14]

The title of a bill has been amended to make it conform with the Lords Amendments,[15] and the short title of a bill has been changed in consequence of the House agreeing to a Lords Amendment[16] (see also p. 566).

(4) While disagreeing to the amendment, they may make an amendment to the bill in lieu of the Lords Amendment to which they have disagreed;[17] or, where the Lords Amendment proposes to leave out words or to leave out words and insert other words, an amendment may

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6 CJ (1859) 375.
7 CJ (1920) 430; HC Deb (1920) 134, c 1839.
8 CJ (1881) 445, 448; ibid. (1917–18) 308, 310; ibid. (1934–35) 323, 334; ibid. (1958–59) 278.
9 CJ (1882) 451; ibid. (1917–18) 306, 307, 310; ibid. (1920) 510, 511; ibid. (1930–31) 383; ibid. (1934–35) 325, 333; ibid. (1937–38) 343; ibid. (1938–39) 331; ibid. (1958–59) 278.
10 CJ (1882) 451; ibid. (1917–18) 305, 309, 310; ibid. (1920) 509, 512; ibid. (1934–35) 323, 324, 332; ibid. (1957–58) 283.
11 CJ (1881) 444; ibid. (1917–18) 308, 309; ibid. (1937–38) 345.
12 CJ (1881) 445; ibid. (1882) 452; ibid. (1917–18) 305, 309, 310; ibid. (1934–35) 334; ibid. (1966–67) 615; ibid. (1967–68) 340.
13 CJ (1919) 246.
14 CJ (1934–35) 324; ibid. (1947–48) 359; ibid. (1956–57) 253; ibid. (1967–68) 340.
15 CJ (1854) 486.
16 CJ (1981–82) 458.
17 CJ (1920) 512; ibid. (1922) 91; ibid. (1924) 374; ibid. (1967–68) 308–9, 383.

be made to the words so restored to the bill.[18] In both these cases consequential amendments may also be made to the bill.

(5) A Lords Amendment may be divided, and both parts may be agreed to,[19] part of it may be agreed to and part disagreed to,[20] two or more parts may be disagreed to,[1] or one part may be agreed to and the other amended and agreed to.[2]

(6) A Lords Amendment may be agreed to, but the proposed words may be transferred to another place in the bill.[3]

Committee to draw up reasons. If any Lords Amendment has been disagreed to by the Commons without any alternative proposal being offered (see also p. 849), it is necessary to appoint a committee to draw up reasons for such disagreement. The committee is appointed at the conclusion of the consideration of the Lords Amendments, withdraws immediately and reports its reasons at the same sitting, and these are taken as agreed to by the House and communicated by message to the Lords.[4] If, however, an amendment has been made to the bill in lieu of the amendment which has been disagreed to, or if words restored to the bill are amended, no reason for disagreement is offered and a committee is not appointed.[5]

> The House ordered on 10 November 1976 that for the remainder of the session any questions necessary to dispose of motions moved by a Minister and any amendments thereto selected by the Speaker relating to committees to draw up reasons were to be put forthwith.[6] No such order applying to all bills has been made in subsequent sessions, but since then similar provision in the case of particular bills has regularly been made in allocation of time orders (see p. 459).

In the Lords a committee to draw up reasons is appointed in the same circumstances, mutatis mutandis, as in the Commons. The motion for the appointment of the committee is not however formally moved in the House but is recorded in the Minutes of Proceedings. The committee ordinarily consists of the proposer of the disagreement and one of his supporters, together with the Lord Chancellor or the Lord in charge of the bill. The committee immediately withdraws and agrees upon the reasons, which are reported to the House by means of an entry in the Minutes.

Message to the Lords. A message is sent to the Lords to communicate the reasons for disagreement, together with the bill and the amendments

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18 CJ (1881) 445, 448, 449, 452, 453; ibid. (1917–18) 310; ibid. (1920) 509, 512, 513; ibid. (1930–31) 382, 383; ibid. (1966–67) 591; ibid. (1972–73) 482.
19 CJ (1937–38) 346; ibid. (1966–67) 522, 541.
20 CJ (1930–31) 384; ibid. (1937–38) 346.
1 CJ (1930–31) 382.
2 CJ (1920) 512, 514.
3 CJ (1890–91) 510; ibid. (1937–38) 343.
4 CJ (1852–53) 808, 809; ibid. (1932–33) 277, 278; ibid. (1937–38) 348; ibid. (1953–54) 213; ibid. (1955–56) 373. For instances when the committee reported its reasons to the House at a subsequent sitting, see CJ (1967–68) 313; ibid. (1975–76) 626.
5 CJ (1921) 236; ibid. (1932–33) 277.
6 CJ (1975–76) 619.

which the Commons may have made to any of the Lords Amendments, or any consequential amendments to the bill. When one House agrees to amendments made by the other, or does not insist upon its own amendments, or upon its disagreement to amendments, no reasons are offered; for the object of reasons is to persuade the other House, and not to justify a resolution of its own.

On 21 July 1858 the Lords, having made an amendment to the Oaths Bill, insisted upon it, after reasons had been offered against it at a conference; but in the meantime they passed a separate bill virtually to effect the object sought to be attained by the Commons—the admission of Jews to Parliament. In order to record the true circumstances of the case, without departing from the usage of Parliament, the Commons agreed to a resolution, 'That this House does not consider it necessary to examine the reasons offered by the Lords for insisting upon the exclusion of Jews from Parliament, as, by a bill of the present session, their lordships have provided means for the admission of persons professing the Jewish religion to seats in the legislature'. Subsequently a message was sent to acquaint the Lords that the House did not insist upon their disagreement, without giving reasons.[7]

Bill returned to Lords. The bill having been returned to the Lords, that House has now to consider (1) the Commons Reason for disagreeing to a Lords Amendment, (2) the Commons Amendment to a Lords Amendment, and (3) any amendments made to the bill by the Commons.

In regard to (1) the Lords may amend the bill in lieu of the former amendment to which the Commons have disagreed,[8] or may insist upon their amendment and give a reason.[9] On the other hand, if they do not insist on their amendment, agreement is reached.

In regard to (2), the Lords may disagree to the Commons Amendment to a Lords Amendment, with a reason,[10] or may further amend the Commons Amendment,[11] or may make a consequential amendment to the bill. If, however, they agree to the Commons Amendment,[12] in this case also agreement between the two Houses is achieved.

The same alternatives are open to the Lords in (3), where the Commons have made any amendments to the bill.

The bill is returned to the Commons with a message about the Lords' conclusions.

Further proceedings in Commons. On the message being received in the Commons, an order is made according to the facts of the case for the consideration of (for example):

(1) the Lords Reason for insisting upon their amendment;[13]
(2) the Lords Reason for disagreeing to the Commons Amendment to the Lords Amendment;[14]

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7 CJ (1857–58) 332.
8 CJ (1929–30) 407; ibid. (1930–31) 388; ibid. (1937–38) 361; ibid. (1948–49) 333, etc.
9 CJ (1881) 459; ibid. (1917–18) 314; ibid. (1919) 167; ibid. (1929–30) 407; ibid. (1968–69) 383.
10 CJ (1881) 459; ibid. (1917–18) 314; ibid. (1920) 514.
11 CJ (1881) 459; ibid. (1882) 463; ibid. (1917–18) 314; ibid. (1920) 514.
12 CJ (1881) 459; ibid. (1945–46) 326.
13 CJ (1881) 459; ibid. (1917–18) 314; ibid. (1919) 167.
14 CJ (1920) 514.

(3) the Lords Amendment to the Commons Amendment to the Lords Amendment;[15]

(4) the amendment which the Lords have made to the bill in lieu of their amendment disagreed to by the Commons.[16]

The consideration may be taken forthwith[17] or appointed for a future day.[18]

(1) Lords Reason for insisting upon their Amendment. Upon consideration of the Lords Reason for insisting upon their amendment disagreed to by the Commons, the latter may not insist upon their disagreement to the Lords Amendment, and thus agreement between the Houses is reached.[19] If, however, the Commons insist upon their disagreement, without offering alternative proposals, the bill would normally be lost.

In the case of the Education (England and Wales) Bill 1906, the order for the consideration of the Lords Reason was discharged, and the bill was withdrawn.[20]

In session 1912–13 the Lords insisted upon certain of their amendments to the Temperance (Scotland) Bill to which the Commons had disagreed, and proposed new amendments in lieu of certain other amendments to which the Commons had disagreed. The Lords Amendments were ordered to be printed, but further action was not taken (CJ (1912–13) 553).

(2) Lords Reason for disagreeing to Commons Amendment to Lords Amendment. On considering the Lords Reason for disagreeing to an amendment which the Commons have made to a Lords Amendment, the Commons can amend the bill in lieu of their amendment to the Lords Amendment disagreed to by the Lords[1] or may insist upon their amendment,[2] or not insist upon it.[3]

(3) Lords Amendment to Commons Amendment to Lords Amendment. The Commons may further amend the Lords Amendment to the Commons Amendment to the Lords Amendment,[4] or may disagree thereto and communicate a reason, or may agree to it.[5]

(4) Lords Amendment to the bill in lieu of Lords Amendment disagreed to by the Commons. In the same way as in (3) above, the Commons may amend the Lords Amendment to the bill, or may disagree thereto and communicate a reason,[6] or may agree to it.[7]

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15 CJ (1881) 459; ibid. (1917–18) 314; ibid. (1920) 514.
16 CJ (1917–18) 314; ibid. (1937–38) 361.
17 CJ (1917–18) 314.
18 CJ (1881) 459.
19 CJ (1919) 172, 422; ibid. (1930–31) 392; ibid. (1947–48) 373.
20 CJ (1906) 509.
1 CJ (1929–30) 504.
2 CJ (1917–18) 315.
3 CJ (1929–30) 504.
4 CJ (1917–18) 316.
5 CJ (1917–18) 314.
6 CJ (1929–30) 504.
7 CJ (1937–38) 367.

In order to secure agreement and save the bill, every effort at compromise is usually made, and this interchange of amendments, as has been already stated, can be carried still further. Usually, however, the proceedings do not go beyond this stage, and one House or the other waives its disagreement, or takes a step which results in the bill being lost.

The chain of events by which a bill originating in the Commons and amended by the Lords would normally be lost may be shown as follows:—

The Commons disagree to the amendment with a reason; and
The Lords insist on their amendment with a reason, and
The Commons insist on their disagreement to the amendment, or take no action.

Thus each House has one opportunity of receding from the position which it has taken up, unless it offers alternative proposals. It must be remembered, however, that there is no binding rule of order which governs these proceedings in either House, and, if there is a desire to save a bill, some variation in the proceedings may be devised in order to effect this object.

For example, in the case of the Evicted Tenants (Ireland) Bill 1907, the Commons, instead of insisting on their disagreement to an amendment upon which the Lords had insisted, merely disagreed again with the amendment.[8] In the case, however, of the Iron and Steel Bill 1948–49 the Commons insisted on their disagreement to certain amendments upon which the Lords had insisted, but proposed amendments in lieu which were subsequently agreed to by the Lords.[9]

Bill originating in the Lords

It is not necessary to describe at length the further stages of a bill originating in the Lords, which has been amended by the Commons; for, as has been observed above, the proceedings are, *mutatis mutandis*, the same as in the case of a Commons bill. The Lords may—

(1) agree to the Commons Amendments,[10] or disagree thereto, with a reason;[11] or
(2) amend the amendments,[12] and make consequential amendments to the bill;[13] or
(3) disagree to an amendment and propose an amendment to the bill in lieu thereof.[14]

When the bill is returned to the Commons the latter may—

(1) insist on their amendments with a reason, or not insist;[15] or

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8 CJ (1907) 453.
9 CJ (1948–49) 401–410.
10 CJ (1921) 75 etc.; sometimes with consequential amendments to the bill, CJ (1928) 286; ibid. (1952–53) 291; LJ (1979–80) 803.
11 CJ (1906) 475; ibid. (1922) 324; LJ (1972–73) 502.
12 CJ (1922) 324; ibid. (1933–34) 299; ibid. (1950) 229; LJ (1972–73) 664.
13 CJ (1906) 475; ibid. (1933–34) 299; LJ (1972–73) 502.
14 CJ (1906) 475; ibid. (1922) 324; ibid. (1931–32) 162; LJ (1972–73) 664.
15 CJ (1906) 482; ibid. (1922) 325; CJ (1980–81) 524.

(2) agree to any further amendments which the Lords have made;[16] or
(3) amend the bill in lieu of their amendment disagreed to by the Lords.[17]

To this last amendment the Lords may agree.[18]

III.—GENERAL MATTER RELATING TO THE PASSING OF PUBLIC BILLS

PROCEEDINGS ON HYBRID BILLS

Public Bills to which the Standing Orders relating to private business apply[19] are subject in the House of Commons to certain proceedings additional to the normal stages in the passing of public bills. The initial examination of such bills in the House of Lords has already been described on p. 496.

(1) Reference to Examiners of Petitions for Private Bills

(a) Before second reading. If on examination in the Public Bill Office it appears that the Standing Orders relating to private business may be applicable to a public bill[20] notice of this circumstance is sent from the Public Bill Office to the Member in charge of the bill; and the Examiners of Petitions for Private Bills (see p. 918) are ordered by the House to examine the bill with respect to the applicability thereto of those standing orders (SO No. 40). It is not the practice to order the examination of bills dealing with matters of public policy, whereby private rights over large areas or of a whole class are affected.[1] The order to the Examiners does not supersede the order for the second reading of the bill which remains on the notice paper, with a memorandum 'to be reported upon by the Examiners' in brackets after the title of the bill; but the second reading cannot be moved until the report of the Examiners has been received.[2] Pending that report the bill is described as 'prima facie hybrid' (see page 522). The Speaker has defined a hybrid bill as 'a public bill which affects a particular private interest in a manner different from the private interests of other persons or bodies of the same category or class'[3] (see page 896).

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16 CJ (1906) 482; ibid. (1922) 325; ibid. (1931–32) 185; ibid. (1933–34) 302; ibid. (1950) 235.
17 CJ (1922) 325.
18 CJ (1922) 327.
19 For a consideration of the differences between public, private and hybrid bills, see pp. 896–913.
20 E.g. Park Lane Improvement Bill 1957–58; Covent Garden Market Bill 1959–60; British Museum Bill 1962–63; Severn Bridge Tolls Bill 1964–65.
1 See the Speaker's remarks with reference to the Railways Bill, HC Deb (1921) 142, c 43, and the Electricity (Supply) Bills, HC Deb (1926) 193, c 1686–87; ibid. (1934) 295, c 1025; also Iron and Steel Bill, HC Deb (1948–49) 458, c 47–52; London Government Bill, HC Deb (1962–63) 669, c 45–8; Iron and Steel Bill, HC Deb (1966–67) 732, c 1215–23.
2 Parl Deb (1886) 306, c 425.
3 HC Deb (1962–63) 669, c 45.

1. Mr Wicks
2. Prime Minister (2)

cc BG

You will be able to discuss this with the business managers in the New Year.

MEA 18/12

PRIME MINISTER

HOUSE OF COMMONS SELECT COMMITTEE ON SCOTTISH AFFAIRS

I minuted you on 13 October analysing the options for setting up the Scottish Affairs Select Committee. Your Private Secretary's letter of 19 October indicated that you were content for us to proceed to seek to set up a Committee of nine members, on which our five backbencers for Scottish seats would form the majority. It was clear that none of the options was attractive even if all our backbenchers were willing to participate.

It became apparent, however, that none of them was enthusiastic to serve on the Select Committee, and at least one would certainly refuse to do so. This placed the Committee of Selection in a most difficult position, since Standing Orders oblige them to seek to ascertain whether the Members nominated for a Select Committee are ready to serve. In order to avoid the Parliamentary row and presentational problems there would certainly have been if the Committee of Selection had reported that our backbencher's unwillingness to serve had prevented the setting up of the Select Committee, we managed to keep our backbenchers quiet on the matter while the Labour members publicly took a firm stance against accepting any English members on the Select Committee. Thus, despite Bill Walker's refusal to serve, formal responsibility for the present failure to nominate the Select Committee lies with the Opposition's intransigence in refusing to accept the principle that any Member of the UK Parliament may serve on any of its Select Committee.

The present position is that the Committee of Selection has reported to the House that it is unable to nominate a Committee which would have the support of the House and be in accordance with the traditions of the House; and that it proposes to take no further action on the matter unless instructed by the House to do so. Our progress to date has encouraged our other four backbenchers to hope that we can avoid altogether setting up the Select Committee. They have had at least one meeting with the Secretary of State for Scotland, and he now feels that it would be acceptable to go along this course. I have no very strong views, and am perfectly content for the Committee not to be set up, but there is a risk that the Labour Party would use this as an occasion to adopt a campaign of disruption which might be directed against the legislative programme as a whole. They have already hinted at this.

The House will debate the Committee of Selection's Report on Wednesday 13 January, and I will need to table an amendable motion for the debate. My intention at present is that this should merely 'take note' of the Report. If no amendments were tabled I would intend to say that the Committee of Selection are right, and that at present there is no prospect of setting up the Select Committee, though the House could, of course, come back to the matter at any time. It is much more likely, however, that a number of amendments will be tabled. If these seek to restrict the Select Committee to Scottish members only, then we should have no difficulty in voting them down on the constitutional grounds that this is a unitary Parliament for the UK on whose Select Committees any Member may serve. The same arguments would apply in principle to an amendment which specifically allowed just one English member to be nominated.

I believe we would have a tenable position in rejecting either of these amendments, but there are a number of other options open to the Labour Party. Our position would be more difficult to sustain if, for example, they tabled an amendment explicitly accepting the 'United Kingdom Parliament' principle or referring the matter to the Liaison Committee. The first of these amendments I think they would be unlikely to table, but either might command general support in the House from those who attach particular importance to Select Committees. We could not vote either of these down in the same way as the other amendments I have mentioned above, and the known attitude of our own Scottish backbenchers would be a significant factor in the debate which would not help us in trying to avoid setting up the Committee.

In short, while I am content that there should be no Scottish Affairs Select Committee as our backbenchers wish, and this could be achieved at the debate on 13 January, the price would be a substantial row which might well spill over into disruption of proceedings more generally. The Government motion for debate must be tabled on 11 January, and you may feel it would be helpful to discuss this at the meeting with colleages that morning.

I am copying this minute to Malcolm Rifkind and David Waddington.

Yes

Alwyn Smith

pp JW

(approved by the Lord Privy Seal and signed in his absence)

18 December 1987

PARL: HC Procedure pt 9

CONFIDENTIAL

MS2

10 DOWNING STREET

LONDON SW1A 2AA

4 December 1987

From the Private Secretary

ANNOUNCEMENTS ON THURSDAY 3 DECEMBER

Thank you for your letter of 2 December.

The Prime Minister was grateful to the Lord Privy Seal for converting business questions into a business statement on Thursday so that she was able to stay in for most of the statement on steel before leaving for Copenhagen.

So far as the general point about the timing of business questions is concerned you can take it that the Prime Minister is sympathetic to the Lord Privy Seal's reluctance to "convert" unless there is a very good reason.

I am copying this letter to Murdo Maclean (Chief Whip's Office).

Mark Addison

Ms Alison Smith
Lord Privy Seal's Office.

885

cc BUp

PRIME MINISTER

This note sets out the Lord Privy Seal's views on the timing of statements tomorrow, and more generally about when it is appropriate to convert his business questions to a business statement.

So far as tomorrow is concerned, the Lord Privy Seal is perfectly content to convert, which would mean that the steel statement comes immediately after Questions (and of course any PNQ which is granted). This will enable you to leave the House for the European Council as soon as possible.

You will see that the Lord Privy Seal's view is that it is unwise to convert his business questions to a statement too often. In particular, he does not think it wise to do so simply to reduce any gap between Lord Young making a statement in the Lords and the Chancellor of the Duchy making it in the Commons.

There is of course a very good chance that there will be, tomorrow, a PNQ on BCal which would delay your departure for the European Council further. But, strictly speaking, the Speaker should not give a PNQ too long a run.

MEVX

Mark Addison
2 December 1987

MJ2BPV

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

2 December 1987

Dear Mark,

ANNOUNCEMENTS ON THURSDAY 3 DECEMBER

Following our conversation yesterday, I discussed briefly with the Lord Privy Seal the arrangements which might be made about the timing of the Statement from the Chancellor of the Duchy of Lancaster tomorrow, and whether the Business of the House should be announced in an oral Statement (to come after the Chancellor of the Duchy of Lancaster's Statement) or in its usual form of a Private Notice Question (so that it would be taken straight at the end of Question Time).

For his own part, the Lord Privy Seal is content with whichever arrangement would be more convenient to the Prime Minister. In particular, he recognises that she may well wish to be in the Chamber for the Chancellor of the Duchy's Statement, and that if this were delayed by the Business Question then there might be difficulties in her arrangements for going to Copenhagen to attend the European Council.

If it were solely a question of judging how best to handle the business, however, he believes that there is a strong case to suggest that the Business should be announced in a PNQ as is usually done. There are, of course, broadly accepted conventions about having aBusiness Statement when, for example, the Prime Minister or the Northern Ireland Secretary, is to make a Statement on a Thursday, or when a Statement is particularly market-sensitive. But in other circumstances, the Lord Privy Seal believes that if there are frequently Statements before the Business is announced on a Thursday, excuses are provided for the Leader of the Opposition to leave the handling of Business Questions to the Shadow Leader of the House, and not to ask the supplementary question himself. This in turn would enable him to disassociate himself from requests made by and agreements reached with, the Opposition Front Bench at Business Questions. The Lord Privy Seal does not believe this would be in the Government's interest. We have already had experience of one matter - the time at which points of order are taken at the start of the day's business - where the Leader of the Opposition and his Chief Whip had taken differing views. The Lord Privy Seal believes that in general we should seek to minimise the risk of this occuring, by ensuring that there are as few occasions as possible when the Leader of the Opposition might reasonably turn the handling of the Business Question to one of his Front Bench.

As far as the question of repeating in the House of Commons statements made by the Trade and Industry Secretary in the House of Lords is concerned, while the Lord Privy Seal appreciates the efforts made to minimise the difference in timing, he believes that if we try too hard to synchronise such announcements we run the risk of drawing Members' attention to the fact that the House of Lords has received the Statement first, thus aggravating rather than mitigating any discontent there might be about this.

From that point of view, there may be disadvantages attached to setting the precedent that when the Trade and Industry Secretary make an oral Statement in the House of Lords on a Thursday, the repeat of the Statement in the House of Commons by the Chancellor of the Duchy comes before the Business Statement.

I am copying this letter to Murdo Maclean.

Yours,
Alison

ALISON SMITH
Private Secretary

Mark Addison Esq
10 Downing Street



The National Archives

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RESTRICTED

cc PC

21/X.

PRIME MINISTER

HAGUE CONVENTION ON INTERNATIONAL ACCESS TO JUSTICE

ATTACHED

Cabinet on 30 July considered the Report on this Convention of the House of Lords Select Committee and invited us to consider whether further action is needed.

2. The Select Committee criticised Article 20 of the Convention for conferring immunity on a terrorist who might be a witness in civil proceedings. The Committee recorded the view expressed by our Departments in 1982 that a reservation should be entered by the United Kingdom to meet this concern. We agree that a suitable reservation is necessary and we believe that a similar reservation will also be necessary to meet similar concern about Article 12 of the European Convention on Mutual (Criminal) Assistance (which deals with immunity for witnesses in criminal proceedings).

3. Unless colleagues disagree, we shall put in hand the preparation of suitable reservations. The Government's intentions could be made public if there is any debate on the Select Committee's Report.

4. We are copying this minute to Cabinet colleagues and to Sir Robert Armstrong.

Douglas Hurd.

Secretary of State for the Home Department

Secretary of State for Northern Ireland

October 1987

RESTRICTED





10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

19 October 1987

The Prime Minister has seen the Lord Privy Seal's minute of 13 October about the House of Commons Select Committee on Scottish Affairs. She is content for the Lord Privy Seal to proceed as he proposes, and agrees with his analysis of the options.

I am copying this letter to Murdo Maclean (Chief Whip's Office) and to Andy Rinning (Scottish Office).

(P. A. BEARPARK)

Steven Wood, Esq.,
Lord Privy Seal's Office.

cc BG.

Prime Minister'

Content for the LPS to proceed on this basis?

PAJ 13/10

PRIME MINISTER

Yes - virtually no alternative

HOUSE OF COMMONS SELECT COMMITTEE ON SCOTTISH AFFAIRS

There is considerable pressure on both sides of the House for the early reappointment of the Departmental Select Committees. The Select Committee on Scottish Affairs has been widely recognised as a potential cause of difficulties, and it is therefore all the more important for us to have a clear and convincing line.

As you are well aware from our previous short discussion, the problem is more easily stated than solved. Standing Orders provide that a Select Committee on Scottish Affairs shall be appointed with a maximum of 13 members. (All the other Departmental Select Committees have a maximum membership of 11.) To reflect in a Committee of this size the Government majority in the House of Commons would mean that the Committee would comprise 7 Conservatives, 5 Labour Members and one Opposition Member from a minor party. Yet we have only 5 backbenchers who represent Scottish constituencies, and since the Committee's inception in 1979 it has comprised only Members for Scottish seats.

I have discussed with Malcolm Rifkind and David Waddington possible solutions to this difficulty. There seem 4 ways in which we could proceed. We could:

(i) not appoint a Select Committee on Scottish Affairs;

(ii) keep the membership at 13 but nominate as Members from the Government side only our 5 backbenchers for Scottish constituencies, and thus allow the Opposition the majority on the Committee;

(iii) keep the membership at 13, but achieve a Government majority by bringing in additional Conservatives who do not represent Scottish constituencies; or

(iv) reduce the membership of the Committee from 13 to 9, so that the 5 Conservatives representing Scottish constituencies would form a majority.

None of the options is attractive. Option (i) would, I think, make the issue a continuing sore that would come up time and time again. I have not, therefore, pursued it further.

We believe that option (ii) should be unacceptable to the Government. Select Committees derive from the House of Commons as a whole where we have a very clear majority, and it would be inappropriate for that majority not to be reflected in the composition of Select Committees. This is a line of argument which Terence Higgins - with whom we have discussed this in his role as ex-Chairman of the Liaison Committee - fully supports. Apart from this constitutional point, it would cause us difficulties also in relation to the Select Committee on Welsh Affairs where the Opposition would doubtless press for a similar concession, since we have the minority of seats in the Principality. Although we need not, of course, concede the point, it would focus attention on the number of seats we had won outside England in a way which would be unhelpful. More generally, the Labour Party would have the opportunity to make considerable political capital out of the arrangements and we could expect a string of hostile reports from the Committee which would damage the presentation of Government policies in Scotland.

Option (iii) would also be very controversial. Although there is legitimately an English interest in Scotland, we believe that putting Members for English constituencies on the Scottish Affairs Select Committee could result in a Committee which was unable to work properly because it would be boycotted by the Opposition. It would highlight the political position in Scotland unfavourably, and a boycott might have repercussions on the conduct of business more generally during a Session where we have a substantial and vulnerable legislative programme. The Secretary of State for Scotland would find this option particularly difficult to accept. In any case I think it would be difficult to find backbenchers for English constituencies of sufficient calibre and experience willing to serve on the Committee, especially if some of our backbenchers for Scottish seats were refusing to serve.

Despite the understandable views expressed by Bill Walker and the opinions which our other Scottish backbenchers are reported to hold, having considered the alternatives, option (iv) seems to us the least unsatisfactory solution. By adopting this course we would have maintained the principle of the Select Committee system as a reflection of the overall composition of the House, and by retaining the majority would have kept control of the speed at which the Committee would work and the subjects on which it would report in Conservative hands. In presenting this option to the House, we could also draw on the report from the Scottish Affairs Select Committee in the last Parliament, that its membership of 13 was too large for it to be as effective as it would wish. And, as the majority on the Committee, the Conservative Members for Scottish seats could themselves determine how much time they wished to devote to its work, the pace of the work and the frequency of meetings.

We believe it is vitally important for the revival of the party in Scotland that Scottish Members are prepared to play their full part in the discussion and presentation of our policies during this Parliament. The reappointment of Select Committees will be high on the agenda as soon as the House returns. Subject to your views, we would intend to talk soon to our Scottish Members on the basis of this minute to try to get their co-operation, so that we are able to deal with this Committee at the same time as the other Departmental Committees are re-appointed.

I am copying this minute to Malcolm Rifkind and David Waddington.

JW

13 October 1987


13 X.
PM 87

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
Telephone (Direct dialling) 01-215)
GTN 215) 5147
(Switchboard) 01-215 7877

From the Chancellor of the Duchy of Lancaster and Minister of Trade and Industry

THE RT HON KENNETH CLARKE QC MP

Rt Hon Douglas Hurd CBE MP
Secretary of State
Home Office
50 Queen Anne's Gate
LONDON
SW1H 9AT

15 October 1987

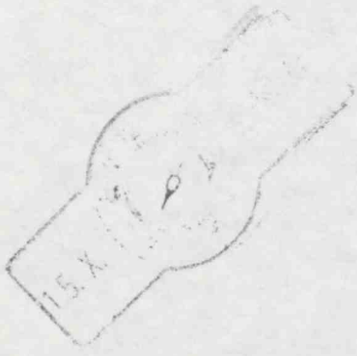
HOME AFFAIRS COMMITTEE REPORT ON BANGLADESHIS IN BRITAIN

In his letter of 17 July to you, Kenneth Baker indicated his Department's interest in the proposal for local conferences with Bangladeshis on the better use of resources, which appears in the Government's response to the Home Affairs Committee report. I should be grateful if you would also involve officials from the Inner Cities Unit in this Department in the preparation for and running of these conferences. The Unit has a clear interest in encouraging enterprise among the Bangladeshi communities in inner city areas.

I am copying this letter to members of H Committee and to Sir Robert Armstrong.

KENNETH CLARKE

OC2ABV





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AGN
b.c. Sir Robert
Armstrong

OK

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

9 September 1987

Thank you for your letter of 8 September about the request from Professor Griffith of the University of London, to talk to you about the operation of the "usual channels". I agree with the Chief Whip that you should talk to Professor Griffith on a strictly non-attributable basis. I suggest that you should accept his suggestion that he would submit to you for correction the draft of the relevant passage which he proposed to include in his book on Parliament.

My recollection from reading various articles by Professor Griffith is that he is no friend of the Government - recollection which is, I know, supported by those who know Professor Griffith personally. I suggest therefore that you should be very guarded indeed in your dealings with him.

N. L. Wicks

Murdo Maclean, Esq.,
Chief Whip's Office.

Government Chief Whip
12 Downing Street, London SW1A 2AA

From the Private Secretary

8th September 1987

Dear Nigel,

I enclose a copy of a letter from Professor Griffith of the University of London which I received shortly before the summer recess. Michael Ryle, Clerk of the Journals at the House of Commons, has spoken to me about this request and particularly asked that I should talk to Professor Griffith. The book which they are writing is the most serious study of Parliament which has been written in many years.

The Chief Whip would have no objection to me talking to them but I would very much welcome your advice on this. Clearly if I were to talk to them it would be on a non attributable basis and in a way that could give no offence to the Opposition Parties.

Yours ever,

Murdo

MURDO MACLEAN

Nigel Wicks Esq
10 Downing Street
LONDON SW1

2 The Close,
Spinfield Lane,
Marlow,
Bucks.

(Tel: 06284-2950)

16 July 1987

Mr. M. Maclean,
Government Whips' Office,
House of Commons,
London, S.W.1

Dear Mr. Maclean,

I am writing a general book on Parliament in collaboration with Mr. Ryle, Clerk of Journals.

I want to include a brief account of the working of the Whips' Offices and in particular of the relationship between the Government Whips' Office and that of the official Opposition: the "usual channels".

I am interested primarily in the structure of the Offices and the arrangements between them for dealing with business.

Would it be possible for me to talk to you about this? I would be glad to accept any conditions you wished to lay down and to submit for your correction a draft of what I proposed to include.

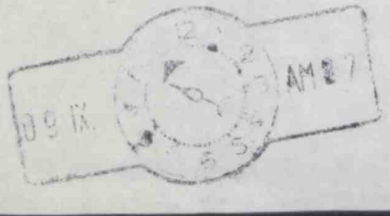
Would any time on 5th or 6th August be convenient? If not, could you suggest any later Wednesday or Thursday in August?

I would be most grateful.

Yours sincerely,

J A G Griffith

(J.A.G. Griffith)
Emeritus Professor of Public Law
in the University of London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10 DOWNING STREET

LONDON SW1A 2AA

28 July, 1987.

From the Private Secretary

Thank you for your letter of 15 July about Parliamentary procedures when the Secretary of State for Trade and Industry needs to make a statement about his own responsibilities. I have also seen Rhodri Walters' letter to Stephen Wood of 15 July, and Stephen's to Rhodri of 21 July.

I know the Prime Minister will be grateful that some thought has been given to the relative timing of announcements in the Lords and Commons, in advance of any particularly difficult case occurring. The message I draw from the correspondence is that there is little, in practical terms, that can be done to avoid the Secretary of State for Trade and Industry making such a statement at least half an hour ahead of the same announcement to the Commons. We shall have to live with that, and weather any rows if and when they occur; I hope that the more time that passes before such an occasion arises, the less likely it is that there will be a major upset. A key point for us I think is the need to consult you and Rhodri, as well as others of course, if there is any question of seeking, say, to convert a DTI PNQ to a statement, as of course happened in the celebrated Today case. I think the peculiar combination of circumstances facing us on that occasion is fortunately unlikely to arise very frequently. But we shall certainly bear the point in mind for the future.

I am sending copies of this letter to Stephen Wood (Lord Privy Seal's Office), Rhodri Walters (Government Whips' Office, House of Lords), Murdo Maclean (Chief Whip's Office) and Tim Walker (Department of Trade and Industry).

M. E. Addison

M. J. Eland, Esq.,
Office of the Lord President

PRIVY COUNCIL OFFICE

WHITEHALL. LONDON SW1A 2AT

21 July 1987

Dear Rhodri,

You wrote to me on 15 July about the relative timing in the two Houses of statements and PNQs involving a Secretary of State in the Lords. You explained that the Lord President had concluded that the convention, whereby statements are made in the Lords immediately after Questions where the responsible Minister is a Lord, could not now be departed from without causing great offence to the House of Lords. However, he did not rule out a reference to the Procedure Committee at some stage in the future, should circumstances require. You went on to set out the limits to which the rules should be applied in the case of the present Trade and Industry team.

The Lord Privy Seal has seen your letter. He has commented that the case of the Today newspaper, which indeed is well-remembered here, could have led to an awkward confrontation in the Commons and the timing of the statements to the two Houses, had not the Government offered an early debate in the Commons. Therefore, while agreeing in principle with the statement in your letter of the rules which the business managers should seek to apply, he believes that it would be wrong absolutely to forgo all freedom of manoeuvre. The business managers would have together to consider the handling of future DTI statements carefully and in good time, taking into account the circumstances then obtaining against the background of the rules and the considerations underlying them which are helpfully set out in your letter.

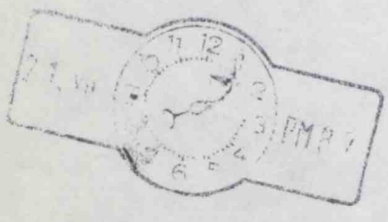
I am copying this to Mark Addison, Mike Eland, Tim Walker and Murdo Maclean.

Yours,

Steven.

S N WOOD

Rhodri Walters Esq
Private Secretary to the Leader of the House
and the Chief Whip
House of Lords



cc Switch
Q
D/clerk

Mr Speaker

Speaker's Office House of Commons London SW1A 0AA

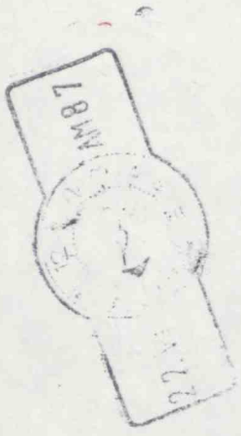
MGA

SUMMER RECESS 1987

Apart from the first week of the Recess - when the Office expects to be open every day except Friday, 31st July, the Speaker's Office will be open on Tuesday and Thursday mornings.

At other times, an alternative telephone number will be given on the Answerphone (4111 and 5300).

Speaker's Secretary
20th July 1987



MEA.

FROM THE PRIVATE SECRETARY TO THE LEADER OF THE HOUSE
AND THE CHIEF WHIP

15 July 1987

Dear Stephen,

I am sure you will remember the events surrounding the statement on Wednesday 1 July on the sale of the Today newspaper. When the Commons Private Notice Question became a Statement by the Secretary of State we ran into our customary difficulty over the timing of the statement in the two Houses.

A repeat in the Lords of a Commons statement or PNQ takes place at a convenient moment after the Minister has stood up in the Commons (usually 3.30 pm) with the result that the statements are more or less synchronised in the two Houses. But when the reponsible Minister is a member of the House of Lords the statement is made immediately after questions - at about 3.00 pm on Mondays, Tuesdays and Thursdays and 3.30 pm on Thursdays. This is up to half an hour before the statement can be repeated in the Commons and last Wednesday it was felt that the Commons might have taken offence at this.

In the event I don't think anyone took the point up at the time, but the Leader of the House has considered the events which took place and pondered whether there was any scope for changing our practices in case an issue were made of it on future occasions.

It is a convention set out in the Companion to Standing Orders that statements are made in the Lords immediately after Questions when the responsible Minister is a Lord. This convention was observed by Lord Home as Foreign Secretary, Lord Carrington as Defence Secretary and Lord Young himself as Secretary of State for Employment and the Leader feels it could not now be departed from without causing great offence to the House, including the Government's own supporters. If we referred the matter to the Procedure Committee, the Committee would resist any change and the House would back them - though a reference to the Procedure Committee at some time in the future need not be ruled out, should circumstances so require.

While there is virtually no scope for changing the rules at present, the Leader feels that there is, however, some advantage to be gained in setting out the limits to which it is necessary to apply them in the case of Lord Young and this is the principal purpose of this letter. They may be summarised as follows:

(i) Statements for which the Secretary of State for Trade and Industry has reponsibility will be made in the House of Lords immediately after questions.

Stephen Wood Esq
Private Secretary to the
Lord Privy Seal

FROM THE PRIVATE SECRETARY TO THE LEADER OF THE HOUSE
AND THE CHIEF WHIP

(ii) Statements in the Lords which repeat an answer given to a PNQ to the DTI in the Commons will be delivered by a Lord in Waiting after the Chancellor of the Duchy has stood up in the Commons.

(iii) In the absence of the Secretary of State from the House for any reason. Statements may be taken in the Commons at the usual time and repeated in the Lords as in (ii) above.

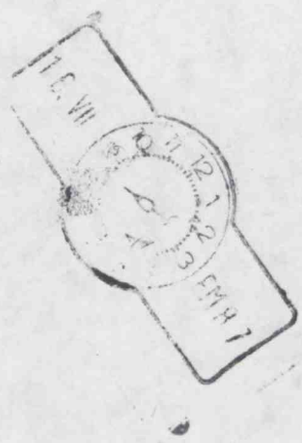
(iv) If any statement falls to be made by the Chancellor of the Duchy in respect of his own functions (principally related to the Duchy) then there can be no question of its having to be made by Lord Young.

Finally I should perhaps add that it is the Leader's view that the House of Commons will become used to the fact that DTI statements will often be taken in the Lords before they are repeated in the Commons. But there can be little doubt that the Commons will be the focus of media attention and receive the news coverage - as the events relating to the Today statement showed. And emergency statements can, of course, be made at any time and are not therefore subject to these conventions.

I am sending a copy of this letter to Timothy Walker, Mark Addison, Murdo Maclean and Mike Eland.

Yours ever,
Rhodri.

R H WALTERS



PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

15 July 1987

Dear Mark

We spoke about the best procedure to be followed concerning statements made by the DTI now that the Secretary of State is in the Lords. We agreed it would be useful to think through in advance some of the hypothetical situations that might arise with the aim of minimising the risk of Lords/Commons rows. The particular point of concern is that a statement in the Lords would precede the repetition of it in the Commons by at least half an hour.

The Lord President has now considered the point and discussed it with Lord Denham. As a result he has concluded that there is no alternative to the statement being made in the House of Lords by the Secretary of State and that this must be done immediately after Questions (3.00 pm on Tuesdays and Wednesdays and 3.30 pm on a Thursday). To do otherwise would be to breach the conventions of the House as set out in the Companion to the Standing Orders and indeed the practice of the last few decades under Lords Home, Carrington, Soames and Lord Young himself while Employment Secretary. Such a breach would precipitate a major row in the Lords in which many Conservative peers would take an anti-Government line. The resultant loss of goodwill and diminution of the Government's authority would in the Lord President's view simply be too high a price to pay. Nor does he think there would be sufficient support in the House to go the slower route of trying to procure a change in the companion to standing orders even if he were convinced that such a change were desirable, which he is not at the present time. Reference to the Procedure Committee might be an option for the future if a major row did occur but, particularly since the "Today" sale statement produced no such row there seems no reason to volunteer it; its outcome would be far from certain.

Mark Addison Esq
Private Secretary
10 Downing Street

Given this position, the Lord President thinks the best way to minimise the possibility of Commons/Lords rows is if the rules are made absolutely clear in advance so that the expected happens. To this end he has asked Rhodri Walters to establish some detailed ground rules on DTI statements, PNQ etc with the Lord Privy Seal's Office and the Department.

I am sending a copy of this letter to Steven Wood and Rhodri Walters.

Yours sincerely,
Mike Eland.

M J ELAND
Private Secretary

010

nbpm CCBE

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
Telephone (Direct dialling) 01-215) 5147
GTN 215) .....
(Switchboard) 215 7877

THE CHANCELLOR OF THE DUCHY OF LANCASTER
AND MINISTER OF TRADE AND INDUSTRY

THE RT HON KENNETH CLARKE QC, MP

Rt Hon Douglas Hurd MP
Secretary of State
Home Office
Queen Anne's Gate
LONDON
SW1H 9AT

15 July 1987

Dear Douglas.

WILL REQUEST IF REQUIRED

HOME AFFAIRS COMMITTEE REPORT ON BANGLADESHIS IN BRITAIN

Thank you for copying to me your letter of 13 July to Nicholas Ridley, attaching a copy of the proposed reply to the Select Committee's report.

I am generally satisfied with the draft reply, but would like to suggest one or two additional references to the new Spitalfields Task Force. The purpose and aims of the Task Force are already described in the body of the reply (paragraph 21), but I think it would also be useful to mention it in the paragraphs which respond to the Committee's specific recommendations, since people will certainly focus on these. The establishment of the Spitalfields Task Force is a positive response to the particular problems faced by people in that area, and is especially relevant to our answers to recommendation 18, about training, and 20, about access to services for small businesses.

Perhaps you would include the following passages:

Recommendation 18

At the end of the second paragraph, add "In addition, the establishment of the new Spitalfields Task Force under the Inner Cities Initiative will enable new approaches to training and employment opportunities to be examined, in association with other agencies, including the MSC."

EC4BPS

Recommendation 20

Continue the last sentence ", as has the Spitalfields Task Force, one of the aims of which will be to facilitate the most effective use of existing Government programmes for people in the area."

Subject to these two points, I am content for you to proceed with publication of the Government's reply in the way you propose.

I am copying this to members of H Committee and to Sir Robert Armstrong.

KENNETH CLARKE



EC4BPS

000.40

PRIME MINISTER

ELECTION OF THE SPEAKER

The revised draft speech is at Flag A.

Useful quotations are at Flag B. My minute on the procedure tomorrow and copies of the 1983 and 1979 Hansards are at Flag C.

If Scottish Members start making a fuss about the Government having no mandate in Scotland, it will be the unfortunate duty of Sir Bernard Braine to deal with it. But you may like, nonetheless, to have with you the notes at Flag D. These contain a number of points to make relating to the mandate of previous Labour governments in England, together with some Kinnock quotes from the passage of the Wales Bill in 1977. He was, of course, a passionate opponent of devolution.

Mark Addison

M E ADDISON

16 June 1987

DS2ABK

PRIME MINISTER

PARLIAMENT: THE FIRST TWO DAYS

Election of the Speaker: 17 June

The House will meet at 1430 with Sir Bernard Braine (the Father of the House) in the Clerk's Chair at the Table.

Black Rod will summon the House to the Lords, where the motion for opening the new Parliament will be read and the Lords' Commissioners will direct the Commission to proceed to the election of a Speaker. The procession to and from the Lords will be led by Sir Bernard Braine, followed by the Clerk and then Members, led by you and Mr Kinnock.

When the procession returns from the Lords, Sir Bernard will again take the Clerk's Chair and call the proposer and seconder. It looks as if they will be Cranley Onslow, unless you have any objection, and Michael Foot.

There will probably, at this point, be interventions by a number of Scottish Labour Members, arguing for special treatment and that the Government has no mandate in Scotland. When the fuss dies down, Mr Speaker-Elect will then make a short speech signifying his willingness to be elected. He is conducted with the traditional reluctance to the Chair, and says a few words on the upper step to acknowledge the honour done to him. He then sits down and the Sergeant places the mace on the Table.

Congratulatory speeches follow, with yours first. You should allow time for the mace being placed on the Table before rising to speak. You need only speak for five minutes. Notes are at Flag A.

There is usually room for some light-hearted remarks about previous Speakers, but you will also wish to say a few words about the responsibility the House has to behave properly in

accordance with the best traditions (especially in view of broadcasting); I have also included a passage on that. You need only speak for five minutes, so the notes can be cut down. 'A' or 'B' or both, might come out. It would be worthwhile, however, saying a word about the Speaker's "ambassadorial" role, and I have included a passage on that. Kinnock and other Party Leaders add their congratulations before the adjournment. Mr Speaker-Elect then leaves the House without the mace before him. In 1983, the adjournment took place shortly after 4 pm.

Swearing In: 18 June

The House meets at 1430. Black Rod will once again summon members to the Lords to hear the Royal Approbation by the Speaker. The procession is led by the Sargeant at Arms, the Speaker-Elect, the Clerk, the proposer and seconder, followed by other members, led once again by you and Mr Kinnock.

When the procession returns to the Commons, the Speaker reports that The Queen has approved his election, and then takes the oath first, before announcing the timetable for the swearing in of other members. You then take the oath. If you agree, the usual procedure is for you to invite Mr Kinnock to take the oath next, before the Government Front Bench. If you are content with this, I will tell his office of your decision.

M E ADDISON
15 June 1987

DS2ABH

ELECTION OF SPEAKER

Mr. Speaker-Elect, it is a great pleasure and an honour for me to be able to join the opening discussion of this new Parliament by offering you warm congratulations on behalf of my Rt. Hon. and Hon. Friends.

It is appropriate that our procedures should provide that our very first step following the return of a new Parliament should be the election of

a Speaker.

Just as the General Election secures the democratic right of our people to choose their representatives, so the role of the Speaker is to protect the rights of all Members of this House and to ensure that our democracy is the real and robust force it is, envied around the world.

It is of course difficult to find a fresh way of expressing our good wishes and of congratulating you when one follows such eloquent and powerful contributions as have already been put today.

(Refer to mover and seconder).

I cannot hope to match the skill of those speakers.

5

But we know Mr. Speaker-Elect from the qualities you have already shown in your office, that you will rule our discussions with firmness, with fairness and with kindness.

A

St. Paul himself had a go at identifying the qualities that matter though in a rather different context. The man he said should be:

"blameless, the husband of one wife, vigilant, sober, of good behaviour, given to hospitality, apt to teach.

"Not given to wine, no striker, not greedy of filthy lucre, but patient, not a brawler, not covetous.

"One that ruleth well his own house, having his children in

subjection with all gravity."

As one of those children, Mr. Speaker-Elect, I know that it is not possible to set out a blueprint or a job description for the onerous task that Mr Stanley Baldwin so accurately described as the "linch-pin of the chariot".

Our great Speakers of the

past have brought their own special skills and spirit to the task, which cannot simply be copied by their successors.//

B

It is of course difficult to please all the people all the time.

For instance, it was said of one of your predecessors many years ago that:

"He had always something to say that was agreeable to everybody, and used to take as much pleasure in telling a story to a man's advantage as others generally do the contrary."

But that was before the days when the impartiality of the Speaker was fully established, and I fear that a Tory also described this Whig speaker

as "a trifling vain man of ridiculous figure".

I doubt if trifling was however the right word.

The Speaker concerned fought a duel with a fellow Member, and on another occasion had to be restrained by the House from doing so again.

I trust we shall not need to protect any of your children, Mr. Speaker-

Elect, from your wrath in the same way.

But we know already of the special characteristics you have successfully brought to the job.

We know that when the tempers of others may shorten in the heat of debate, yours will not.

That when, in the excitement of a

forcefully contested issue,

when others may seek to draw you into

taking sides, you will remain

resolutely impartial.

We know when the noise of lively

debate threatens to drown speakers on

all sides, your call for Order will

carry authority, and your sense of

humour will defuse wrath.

Mr. Speaker-Elect, we know these

qualities are yours, and we know that the House will from time to time have need of them.

For it would be disingenuous to hope that your authority and your impartiality, would never need to be called upon. Like all its predecessors, this Parliament will generate heat as often as it generates light.

Ours would be a limp and lifeless democracy if it did not.

Sweet reason, kindly dispositions and quiet discussion will not always be the order of our day.

So, Mr. Speaker-Elect, we shall sometimes need you to remind us, as Maria had to remind Sir Toby Belch, when she said:

"you must confine yourself within

the modest limits of order";

and I hope Mr. Speaker-Elect that in such cases we shall be more compliant than Sir Toby proved to be.

It is often said that this House has become more unruly and noisy than in the past.

It is almost equally often said that

by comparison with the behaviour of some of our predecessors, we are a model of manners, generosity of spirit and calm.

I suspect the truth is that, since this House elected Sir Thomas Hungerford, its first Speaker 600 years ago, and with each of the many Speakers who have followed, it has aspired to better behaviour than it

has achieved, and it has on occasion presented spectacles which in retrospect its Members prefer to forget.

But there is today one important difference.

In the past, the number of people that have personal experience of the work of the House was unnecessarily limited.

Broadcasting has changed all that.

Many of our liveliest moments are now injected straight into millions of homes up and down the country.

We therefore have a special responsibility today to set an exammple, and to live up to our reputation and traditions as the focal point of the greatest democracy in the world.

Mr. Speaker-Elect, there is just one further point I should like to make. The special place this House occupies in the life of our nation, and in the wider world, mean that your work as our representative at home and abroad is a special and important part of your duties.

I know the whole House will join me in thanking you for the magnificent

work you have done as the House's Ambassador, and for the endless kindnesses and hospitality you and Mrs Speaker have shown not only Rt. Hon. and Hon. Members but many others too.

We also admire the tireless work you have undertaken on your Appeal where the impact of your efforts can now be seen as the work takes place to

restore St. Margaret's to its former glory.

At the beginning of this new Parliament we welcome you Mr. Speaker-Elect to your post.

We pay tribute to you for the work you have done already on our behalf, and we wish you well in the task ahead.

10 DOWNING STREET

From the Principal Private Secretary

SIR ROBERT ARMSTRONG

DEPARTMENTAL SELECT COMMITTEES, MEMORANDUM OF GUIDANCE FOR MINISTERS

I have shown the Prime Minister your minute of 8 June in which you seek her agreement to the circulation of a revised Memorandum of Guidance for Ministers on Departmental Select Committees.

She is content for the Memorandum to be circulated, provided that the new Leader of the House, Mr Wakeham, is similarly content.

N.L. Wicks
15 June 1987

NOTE FOR THE RECORD

c. Miss Drever

ELECTION OF THE SPEAKER

When a Speaker is re-elected, there is no need for a formal submission to go from No. 10 to The Queen, seeking her approval of the Speaker's appointment. This is because the Letters Patent signed by The Queen when the Speaker is first appointed, and held by the Crown Office, remain in force.

The Lords Commissioners are therefore able to convey The Queen's approval, when the Speaker-Elect goes to the Lords the day after his election, without any fresh formal authorisation from The Queen.

Mark Addison

MARK ADDISON

12 June 1987

Check with new leader of the House
MT

Prime Minister
There looks to be no problems here.
Content?
N.L.W.
11.6

Ref. A087/1595

MR WICKS

Yes MT

Departmental Select Committees, Memorandum of Guidance for Ministers

The existing version of this guidance was issued in July 1980 (C(P)(80) 2) to advise Ministers on dealings with the then comparatively new Departmental Select Committee structure. No changes were made after the 1983 Election. The current version is now, however, showing its age, and revision would be appropriate; --- I attach an updated version.

2. Most of the changes involve relatively minor updating and reordering, or reflect the now established place of the Select Committee system in comparison with 1980. A section on "Position of other Witnesses" has been removed from this version as being unnecessary. The most substantial alterations are the inclusion of paragraphs setting out the latest position on Civil Service accountability to Ministers and Ministerial accountability to Parliament in general and Select Committees in particular (paragraphs 7, 8 and 10), and on the revised guidelines for officials' dealings with Select Committees (paragraph 11). These draw heavily on the Government's statements in the White Paper replies to the Select Committee reports on Westland and Accountability.

RTA

ROBERT ARMSTRONG

8 June 1987

DEPARTMENTAL SELECT COMMITTEES

MEMORANDUM OF GUIDANCE TO MINISTERS

1. This note and its Annex give guidance about the relations between Ministers and Departmental Select Committees of the House of Commons.*

2. This guidance covers:

Attendance of Minister and officials (paragraphs 5-11)
Answers in oral evidence (paragraphs 12-17)
Requests for papers and records (paragraphs 18-22)

General

3. Select Committees normally proceed informally when asking for the attendance of witnesses and for written material. The terms of reference given to the Committees by the House confer on them formal powers to send for "persons, papers and records"; these formal powers are set out in more detail in the Annex to this note.

4. Select Committees have no independent penal jurisdiction to enforce their powers to send for persons, papers and records or to punish for contempt. These powers of enforcement can be exercised only by order of the House itself. If a Select Committee sought the backing of the House in any dispute, Ministers would be accountable to the House for their actions and those of their officials. The outcome would depend on the Government's ability to command a Parliamentary majority. Ministers and departments should however generally endeavour to comply with the requests of Committees, and Ministers should aim to avoid disputes unless a matter of principle or overriding importance is at stake. Any potential dispute with a Select Committee should be discussed at an early stage with the Leader of the House and if necessary, with colleagues collectively.

Attendance

Ministers

5. The general power of Select Committees to send for "persons" does not apply to Members of either House of Parliament. Ministers who are Members of either House can be "invited" by a Commons Select Committee to attend to give evidence to it. Only the House of Commons itself can order a Minister who is a Member of the House to attend before a Select Committee. A Minister who is a Member of the House of Lords has general leave from that House to appear before a Commons Select Committee 'if he thinks fit'. All Ministers should, so far as possible, accede to requests from Select Committees to attend before them.

---

*Although most of what is said in this note would be true of other committees of the House of Commons, there are some special considerations applying to those committees, and in particular to the Public Accounts Committee, with which this note is not concerned, and on which separate guidance is available as necessary.

6. When the Procedure Committee recommended the establishment of Departmental Select Committees, they included in their Report* recommendations for the increase and clarification of the formal powers of the committees, and in particular for the power to be given to those committees to order the attendance of Ministers. In the debate on the Procedure Committee's report on 25 June 1979, the then Chancellor of the Duchy of Lancaster explained why the Government did not think there need be any change in the present position:

> "There need be no fear that departmental Ministers will refuse to attend Committees to answer questions about their departments or that they will not make every effort to ensure that the fullest possible information is made available to them.
>
> "I give the House the pledge on the part of the Government that every Minister ... will do all in his or her power to co-operate with the new system of Committees and to make it a success. I believe that declaration of intent to be a better guarantee than formal provisions laid down in Standing Orders." (Hansard, 25 June 1979, columns 45-46.)

7. In addition, a formal undertaking was given by the then Leader of the House on 16 January 1981 that he would seek to provide time for the House to express its view "where there is evidence of widespread general concern in the House regarding an alleged Ministerial refusal to divulge information to a Select Committee ". (Hansard, 16 January 1981, col. 1312.)

8. More recently, the Liaison Committee and the Treasury and Civil Service Committee have both urged the Government to reconsider its response to this Procedure Committee recommendation.+ In reply, the Government** referred to and reaffirmed these two pledges and undertakings. The Liaison Committee also recommended "that the Government give an undertaking that in future it will always ensure that a Minister will be accountable to the appropriate Select Committee". In reply, the Government accepted that, if civil servants giving evidence to a Select Committee were unmable to answer a question to the Committee's satisfaction because they were inhibited by their duty to or the instructions of Ministers, the relevant Departmental Minister should be prepared himself to attend the Committee.

9. A Select Committee may choose to study a subject which concerns other Departments in addition to its "parent" Department, and there will therefore be occasions on which a Minister is invited to appear before a Select Committee other than that for his own Department to give evidence on matters within his own sphere of responsibility. Nevertheless, it might still

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*First Report from the Select Committee on Procedure 1977-78, HC 588.

+First Report from the Treasury and Civil Service Committee 1986/87, HC 62

First Report from the Liaison Committee 1986/87, HC 100

**Cm 78.

be a proper ground for refusal of an invitation that a Minister is not ministerially responsible for the matter about which he is asked to give evidence.

Officials

10. Officials appearing before Select Committees do so on behalf of, and subject to their duty and accountability to, their Ministers. It is customary, therefore, for Ministers to decide which officials (including members of the Armed Services) should appear to give evidence. Select Committees have in the past generally accepted this position. Should a Committee invite a named official to appear, the Minister concerned, if he did not wish that official to represent him, might suggest to the Committee that another official could more appropriately do so, or that he himself should give evidence to the Committee. If, however, these suggestions were rejected, and the Committee insisted on a particular official appearing before them, they could issue a formal order for his attendance. In such an event, the official would have to appear before the Committee. Arrangements might be made, if necessary, for the official to attend in company with his Minister. In any event, the official would remain subject to Ministerial instructions as to how he should answer questions. Detailed guidance for civil servants giving evidence is contained in the Memorandum of Guidance for Civil Servants appearing before Select Committees.

11. Select Committees have agreed that they should not act as disciplinary tribunals in respect of civil servants. Guidelines have been issued to civil servants advising them that, if in the course of an inquiry a Select Committee were to discover evidence that called in question the "conduct" of an individual named civil servant, the Committee should be asked not to pursue their own investigation into the "conduct" of the person concerned, but to take up the matter with the Minister. The Minister should look into the matter and if necessary institute a formal inquiry within the Department. The Minister is then responsible for informing the Committee of what has happened, and of what has been done to put the matter right and to prevent a recurrence. Evidence to a Select Committee on this should be given not by the individual civil servant or servants concerned, but by the Minister or by a senior official specifically designated by the Minister to give such evidence on his behalf.

Answers in oral evidence

Ministers

12. It is generally recognised that the extent to which a Minister gives a direct and full answer to a question must be a matter for his judgment, taking account of considerations of public policy. In the debate on 25 June 1979, the then Chancellor of the Duchy of Lancaster said:

> "Inevitably there will be occasions when Ministers will have to decide that it would not be in the public interest to answer certain questions or to disclose information. There are conventions governing these matters that the House has accepted over a long period and that the Government will respect. They are dealt with in the

Procedure Committee's report, and the Committee for the most part was satisfied with them.

"The Government will make available to Select Committees as much information as possible, including confidential information for which, of course, protection may have to be sought by means of the sidelining procedure. There may also from time to time be issues on which a Minister does not feel able to give a Select Committee as much information as it would like. But on these occasions Ministers will explain the reasons for which the information has to be withheld." (Hansard, 25 June 1979, column 45.)

13. The conventions to which the Chancellor of the Duchy of Lancaster referred, though never formally endorsed by the House, are generally followed. The matters identified on which Ministers would be unwilling to give information included matters of national security, the private affairs of individuals or companies where information had been given on a confidential basis, matters which were or might become the subject of sensitive negotiations with Governments or with other bodies, and specific cases where the Minister concerned had a quasi-judicial or appellate function. These categories are not exhaustive and Ministers should not, for example, disclose information which is commercially or financially sensitive.

14. Information may be given to Select Committees on a confidential "Not for publication" basis and Ministers can ask that a Committee sit in private session, rather than in public, if they are likely to be asked for information which they would not be willing to provide except on such a basis. The decision about publication rests, however, with the Select Committee. Such matters apart, the extent to which information would be given in answer to a Parliamentary Question is a useful, but not conclusive, guideline in considering whether it should be given in answer to a question from a member of a Select Committee.

Officials

15. In the past, Select Committees have recognised that officials who appear before them do so on behalf of their Ministers and under their directions. A Minister may therefore instruct his officials about the manner in which they should answer questions or about matters on which they should decline to answer questions.

16. The Memorandum of Guidance for Officials Appearing before Select Committees gives details of the matters on which officials should not provide information, including matters mentioned in paragraph 9 above. Officials are advised not to express opinions on matters of Ministerial policy or indicate the advice that they or other officials have given to Ministers, and they are to avoid, so far as possible, entering into matters of political controversy.

17. There is no record of a civil servant being ordered by a Select Committee to provide a substantive answer to a question when he has declined to do so, or of a Select Committee reporting such a refusal by a civil servant to the House.

Requests for papers and records

18. Select Committees normally proceed informally when calling for official documents and, subject to the important qualifications in the following paragraphs, their requests should normally be met. Ministers should see they are consulted before any request is refused by their Department. (The formal powers of the House and of Select Committees to order the production of official papers and records are complicated by a technical distinction between papers in the custody of a Secretary of State and papers in the custody of a Minister who is not a Secretary of State. The Government has however assured the House that the formal distinction will not be used to prevent the provision of papers to Select Committees (see Annex, paragraphs 5-6).)

19. There should be no departure from the existing rule that the advice of the Law Officers to the Government and the advice of officials to Ministers, including legal advice, should not be disclosed to Select Committees. Nor should documents be produced if they fall within the categories of private or confidentia material summarised in paragraph 13 above.

20. The decision about the release of other documents of the current Administration to a Select Committee is a matter of ministerial judgment. It would certainly be wrong to release documents which, by their nature, were confidential - for example, reports on staff. In case of difficulty it may be possible to provide a summary of an existing document as part of a fresh memorandum rather than to produce the document itself.

21. The documents of a former Administration are the property of the Government of the day, although by convention present Ministers do not have access to them. Where such documents were not released or published during the period of that Administration they should not, as a rule, be released to a Select Committee, even at the request of the former Administration. (The Memorandum of Guidance for Officials gives further detail.)

22. The 1982-83 Report from the Liaison Committee on the select committee system* commented that the Government's commitment to make every effort to ensure that the fullest possible information is made available to Select Committees had been satisfactorily honoured. In reply,+ the Government said they were "pleased to recognise the manner in which it has generally proved possible to reach agreement on these matters within the longstanding conventions that have applied in this field under successive administrations".

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* HC 92

+ Commons Official Report, 12 May 1983, cols. 444-7 WA

ANNEX

1. Paragraphs 2 and 3 of this Annex amplify what is said in the main note about the formal powers of departmental Select Committees and about the position that might arise if the orders of a Committee were not obeyed. Paragraphs 4 to 7 give further information about the extent of the power to send for papers and records.*

Powers: General

2. The powers of departmental Select Committees derive from the House and from their terms of reference. The House cannot delegate to a Committee more powers than it possesses itself and any individual Select Committee may exercise its delegated powers only within the area the House has defined. The terms of reference of the departmental Select Committees require the Committee to "examine the expenditure, administration and policy" of the departments concerned and "associated public bodies". It is for the Committee itself, and in the last resort the House, to interpret its terms of reference. The House has granted the Committees powers to send for "persons, papers and records". Penal powers and, in particular, the power to punish for contempt are possessed by the House itself and can be exercised only by the House and not by a Select Committee.

3. If a Minister declined to comply with an invitation to appear before a Select Committee, the Committee could be expected to report the matter to the House, and the House would decide what action to take. If an official were to disobey a formal order to attend before a Select Committee, he would probably be committing a contempt of the House. (This situation has never arisen so there are no precedents to learn from.) Since the matter would be one of privilege, the Speaker would almost certainly give it precedence and the Government's control over the business of the House could not prevent a debate taking place. Alternatively, but less likely, the matter could be referred to the Committee on Privileges.

Papers and Records

4. If a Minister or department refused to provide papers, a Select Committee would have to be certain that the papers requested fell into a category which could be required by the House. The papers concerned must:

(a) relate to a public matter in which the House or the Crown has jurisdiction;

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*The subject is dealt with at length in a memorandum by the Clerk of the House, reproduced at Appendix C to the Report of the Procedure Committee. Most of what is said in this annex applies to all Select Committees of the House of Commons. It does not deal, however, with some special considerations affecting the Public Accounts Committee and the Committee for the Parliamentary Commissioner for Administration arising from the access that the Comptroller and Auditor-General and the Parliamentary Commissioner have to official papers.

(b) be obtainable from public offices or from corporations, bodies or offices constituted for public purposes by Acts of Parliament or otherwise, and not from private associations or from individuals not exercising public functions; and

(c) when sought from Government Departments, be of a public and official character, and not be private or confidential.

There is no definition of what is meant by "private or confidential". Official papers are likely otherwise to be within these defined categories.

5. There is a difference in a Select Committee's formal powers to call for papers and records according to whether these are in the custody of a Secretary of State or a Minister. Where papers or records were held by a Secretary of State the Select Committee could only invite their production. If the invitation were refused the Select Committee might decide to report the circumstances to the House. The House itself could then proceed by way of an Address to the Sovereign requesting that the papers be made available. The Memorandum from the Clerk of the House reproduced in the Report of the Procedure Committee gives a number of examples mostly in the 19th century in which the House declined to make an Address. No action has been taken on a recommendation of the Procedure Committee to enable a Select Committee to claim precedence for debate in the House on a Motion for an Address for an Order for the Return of Papers. The Government, therefore, cannot be compelled to find Government time for a debate on such a Motion.

6. Where papers or records were held by a Minister who is not a Secretary of State, the Select Committee could make an Order for their production, though there is no record of this having been done. If the Order were refused the Select Committee might decide to report the circumstances to the House. In this case the refusal, being a possible contempt of the House, could be given precedence by the Speaker so that the Government's control over the business of the House could not prevent a debate taking place.

7. The formal position needs to be considered in the light of a commitment given on behalf of the Government by the then Chancellor of the Duchy of Lancaster on 16 January 1981:

> "I can, therefore, give the House a categorical assurance that whatever the formal position may be we certainly have not made, and shall not in future make, any distinction in considering whether particular papers should be made available to Select Committees on the question whether or not the Minister concerned is a Secretary of State."*

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*Commons Official Report, Col. 1312.

A.M.N.H. AM97

NEA to see gp interest
NLW

PERSONAL

PRIME MINISTER

The relevant Treasury expert gave me the following advice about applications for the Chiltern Hundreds by an MP, against whom criminal proceedings are pending.

The Chancellor of the Exchequer will, in such circumstances, consult you, the Leader of the House and the Chief Whip to ascertain that the will of Parliament is not likely to be frustrated if the application was granted. For example, if Parliament would have wished to pass a vote of censure against the MP, the Chancellor might well decide not to accept the application. The Chancellor would also want to consult the Attorney General. Apparently, Sir William Harcourt ruled in 1893 that applications for the Chiltern Hundreds should not be accepted when criminal proceedings were outstanding. But the then Attorney General overuled that understanding in the early Seventies in the case of Wilf Owen, the MP who was charged under the Official Secrets Act.

The Treasury expert's expectation is that, in the circumstances envisaged, the application would be accepted. The Chief Whip agrees.

N.L.W.

Thanks so

N.L.W.
14 April 1987

PERSONAL

Mark Addison
a copy please

Mr Speaker

Speaker's House Westminster London SW1A 0AA

10th April 1987

Prime Minister (1)

To note.

MEA 22/4

Dear John.

I am writing to let you know that, at my request, the Select Committee on Sound Broadcasting has been considering the positioning and the type of the microphones between the Despatch Boxes. I asked them to consider whether the present arrangements are the best that can be made for the two Front Benches.

As a result, Members may observe over the next few weeks additional microphones on the Table between the Despatch Boxes. Test recordings will be made from these microphones and assessed by the Select Committee. There will be no change to what Members hear over the sound-raising system, or to the sound used by the broadcasters, before these test recordings have been assessed.

If you would like further details, Mr Liam Laurence Smyth, the Clerk of the Select Committee, will be pleased to help.

Yours ever

Jack

Speaker

The Rt Hon John Wakeham MP
Government Chief Whip
House of Commons
London SW1

I have noticed that the PM sometimes leans forward in order to speak directly into the microphones so I hope this will help her (& hopefully the BBC)!


PM 6
22.IV.

Mr Speaker

Speaker's Office House of Commons London SW1A 0AA

8th April 1987

Prime Minister (4)

To note that the House will be experimenting with new microphones between the Despatch Boxes after the Recess.

MCR 9/4

Microphones in the Chamber

Many thanks for your letter of 6th April. The Speaker has read it with interest.

He would be grateful if you could let him have the draft of a possible announcement to consider. I suggest that it should be quite short - if you can get it into two or three sentences, that would be fine.

Liam Laurence Smyth Esq
Clerk to the Select Committee on Sound Broadcasting
House of Commons

Mark
you will wish to be aware of this.
Amanda
8/4.

COMMITTEE OFFICE
HOUSE OF COMMONS
LONDON SW1A 0AA
01-219 3259 (Direct Line)
01-219 3000 (Switchboard)

SELECT COMMITTEE ON SOUND BROADCASTING

Dear Mr Kitcatt,

MICROPHONES IN THE CHAMBER

The Select Committee on Sound Broadcasting has asked a group of officials to carry out experiments with the microphones on the Table between the Despatch Boxes to determine the optimum position and type of microphone to be used.

The first of the new arrangements will be installed for use by Wednesday 22nd April. Over the succeeding weeks, several variations will be tried out.

On Monday 18th May, the experiment will be reviewed. Throughout the experimental period, a test recording of the alternative microphones will be made. There will be no change in the system used for broadcasting or sound raising in the Chamber during the experiment.

The review will compare the test recordings using the different positions and types of microphones with the "clean feed" as produced as present.

The results of the review will be reported to Mr Speaker.

Mr Speaker may wish to announce that the experiment has begun at the beginning of Questions on Wednesday 22nd April. The visual impact of the microphones may draw comment, but there will be no effect on what is heard, before the experiment is concluded.

Yours sincerely

Liam Smyth

6th April 1987

Liam Laurence Smyth
Clerk to the Select Committee

Is this necessary?

P J Kitcatt Esq
Speaker's Secretary

PRIME MINISTER

You may be interested to see the points of order put by ~~Peter~~ John Townend and Eric Forth yesterday on the Chief Whip's concordat, a more subtle and more effective approach than Richard Hickmet's this morning.

You will also note that the Speaker refers to page 382 of Erskine May. If the Speaker were to interpret the relevant sentence consistently, and rule out EDMs, for instance, tendered in a spirit of mockery, the order paper would be a good deal thinner than it is now.

MEA

MARK ADDISON

20 February 1987

the Speaker, or to the Member who gave the notice. A notice which is wholly out of order, by, for instance, reflecting on a vote of the House,[1] may be withheld from publication on the notice paper.[2] If the irregularity is not extreme, the notice is printed, and reserved for future consideration.[3]

> The usual practice has been stated by Mr Speaker as follows: If the Clerk at the Table decides that a motion or question should be withheld, he informs the Member concerned. If the Member does not accept that view, he should ask for the matter to be referred to Mr Speaker. If Mr Speaker decides to uphold the view of the Clerk the Member is informed, and if the Member is still dissatisfied he can see the Speaker to argue his case further. If, at the end of this process, he is still dissatisfied, he can raise the matter in the House, and if he disagrees with the Speaker's ruling he can challenge it by a motion. The object of this procedure is to save the time of the House.[4]

The precedence to which a notice, if in order, would have been entitled cannot be claimed for it when it appears for the first time in an orderly form on a subsequent day.[5] It is not the duty of the Clerks at the Table to inform the Member who gave the notice of any informality that it may contain,[6] but communication regarding an irregular notice or question is made to Members if the pressure of business permits. When a notice publicly given is obviously irregular or unbecoming, the Speaker has intervened, and the notice has not been received in that form.[7] He has also directed that a notice of motion should not be printed, because it was irregular or obviously not a proper subject for debate, being tendered in a spirit of mockery, or being designed merely to give annoyance.[8] On the same principles, he has directed that certain titles given to their motions by Members should be changed before the motions were printed. Where notice has been given of a motion dealing with a matter which may be raised only on a substantive motion (see p. 378), it has been ruled that the motion should be confined to that matter and should not relate to other

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1 Parl Deb (1888) 329, c 157.

2 Parl Deb (1881) 263, c 1012; ibid. (1887) 313, c 232; ibid. (1898) 55, c 770; ibid. (1947–48) 454, cc 39–40; ibid. (1952–53) 510, c 845; Private Rulings, 22 May 1978, 10 June 1981.

3 See, for example, a motion published on 28 April 1953 which, because it appeared to infringe the rule against reflecting on a vote of the House, was withdrawn; a new motion was then set down in its place; Notices of Motions (1952–53) pp. 2718, 2754.

4 HC Deb (1974) 872, c 452.

5 Parl Deb (1884) 288, c 684.

6 Parl Deb (1892) 3, c 964; ibid. (1882) 270, c 1409; ibid. (1906) 158, c 1163; HC Deb (1920) 134, c 2100; ibid. (1926) 200, c 547.

7 Parl Deb (1861) 161, c 342; ibid. (1907) 170, c 1451; HC Deb (1927) 205, c 1630; ibid. (1928) 222, c 1090.

8 Among private rulings by the Speaker are the following: 9 February 1951 (motion imputing insobriety to a section of the Opposition); 11 December 1952 (motion reflecting on a Member's mental and physical condition); 9 February 1961 (motion advocating a memorial to mark the completion of the Suez operation); 11 July 1964 (motion containing copious quotations from private correspondence); 17 November 1965 (motion containing a reference to an obscene expression); 3 February 1971 (motion quoting the entire text of a newspaper article); 23 January 1978 (motion tendered in spirit of mockery); 2 June 1981 (motion containing references to the Bible). See also HC Deb (1967–68) 756, cc 647–50; ibid. (1974) 872, c 452.

Early-day Motions

4.54 pm

Mr. John Townend (Bridlington): On a point of order, Mr. Speaker. We always abide by your decisions and try to take your advice. It would be helpful if you could give a little guidance and clarification to the House. Over the past two or three years there have been a number of early-day motions which have attacked not only the personal integrity of the Prime Minister but members of her family. Indeed, they have included statements which, if repeated outside the House, would be actionable. Would you tell the House in what way those early-day motions differ from the proposed early-day motion tabled by my hon. Friend the Member for Shipley (Sir M. Fox), which was rejected by you? Is there a difference, or has there been a change of ruling? We need to know exactly where we stand in the future.

Mr. Eric Forth (Mid-Worcestershire): Further to that point of order, Mr. Speaker. I, like most other Back-Benchers, have become aware over the past 12 hours or so of the events yesterday and during the evening, and we have heard through the media about a certain involvement of yourself and the Chief Whips. Could you let me and other Back-Benchers know exactly where the House now stands with regard to statements, either in the form of early-day motions or, indeed, unsupported and unsubstantiated allegations and statements made in the House about individuals either in the House or outside? We need to know where we stand now, the importance of what has happened over the past several hours, and the effect that it will have on Back-Benchers on both sides of the House, particularly those who have been prone recently to make unsubstantiated allegations, so that we know exactly what may or may not be done within the House.

Mr. Peter Bruinvels (Leicester, East): Further to that point of order, Mr. Speaker. I was in my constituency yesterday and I came back to the House at about 7 o'clock and went to the Table Office wishing to sign the three early-day motions in question, all of which I supported. I would be grateful to find out from you when it was decided that hon. Members were no longer able to sign those early-day motions. Was one of the reasons the fact that the Leader of the Opposition was alleged to be anti the monarchy? If that had been removed, would that early-day motion have been——

Mr. Speaker: Order. Since the matter has been raised, I shall clarify the position. I do not usually refer in the House to rulings that I have made in private. However, the House may wish to know that last night I directed that three early-day motions submitted by the hon. Member for Shipley (Sir M. Fox) and others about the Leader of the Opposition should not be printed. That was at 7.30 in the evening. In my opinion they were irregular and not a proper subject for debate, being, in the words of "Erskine May" — the hon. Member for Leicester, East (Mr. Bruinvels) will find it on page 382—
"designed merely to give annoyance."

This gives me the opportunity to say that I deprecate the Notice Paper being used for personal attacks by one hon. Member upon another, and I hope that the House can conduct its affairs without recourse to such attacks.

Mr. David Alton (Liverpool, Mossley Hill): Further to that point of order, Mr. Speaker. In view of the support that the hon. Member for Workington (Mr. Campbell-Savours) has just been giving you in making your ruling, may I draw your attention to early-day motion 550 and ask that your ruling be made retrospective in view of the embittered, hateful and totally untruthful statement that the hon. Member for Workington makes about my right hon. Friend the Leader of the Liberal party when he says that he should
"advise the House what sums have been paid or agreed to be paid to the Alliance by Mr. Ernest Saunders and when and how such payments were arranged?"
It was suggested by the hon. Member for Workington that Mr. Ernest Saunders was offered a peerage by my right hon. Friend the Leader of the Liberal party. That is unsubstantiated and untrue. Therefore, I hope that you will also rule on that.

Mr. Speaker: I do not think that we want to have a debate upon this. I cannot make rulings retrospective. Every motion that is outside the normal scope is brought to my attention. I cannot recollect that long ago whether that particular motion was so brought to my attention. Nevertheless, I hope that the statement that I made today will make its impact on the House, because we should use our freedom of speech and the freedom of the Notice Paper with the greatest care particularly if we impute any motives or dishourable conduct to those outside the House who have no right of reply.

Mr. Campbell-Savours (Workington): Further to that point of order, Mr. Speaker. I should like to clarify the record. The hon. Member for Liverpool, Mossley Hill (Mr. Alton) referred to two amendments, one of which is mine. The one referring to money was tabled by the hon. and learned Member for Perth and Kinross (Mr. Fairbairn).

Mr. Alton: The hon. Gentleman added it.

Mr. Campbell-Savours: I did not. I tabled the amendment that appears before that. The hon. Gentleman has not read the first amendment. If he reads it he will note that I asked the Leader of the Liberal party to make a statement. Perhaps the subtlety of it has escaped the hon. Gentleman.

Mr. Alton: Further to that point of order, Mr. Speaker. As my right hon. Friend the Leader of the Liberal party has tabled an amendment to that proposed amendment, I hope that the hon. Member for Workington will withdraw his insinuations.

Mr. Barry Porter (Wirral, South): Further to that point of order, Mr. Speaker. I thought that the purpose of your ruling yesterday was to try to get the House to behave like adults and, if at all possible, like gentlemen. If that was the purpose of the exercise, I certainly support it.

Mr. Speaker: I am grateful to the hon. Gentleman.

CCL

2

PRIME MINISTER

You may be interested to see the points of order put by Peter Townend and Eric Faith yesterday on the Chief Whip's concordat, a more subtle and more effective approach than Richard Hickmet's this morning.

You will also note that the Speaker refers to page 382 of Erskine May. If the Speaker were to interpret the relevant sentence consistently and rule out EDMs, for instance, tendered in a spirit of mockery, the order paper would be a good deal thinner than it is now.

MARK ADDISON
20 February 1987

Prime Minister

This is what Rt Wedderburn said in the House on the Opposition point of order about Mr Hickmet's statement, reported on the PA tape attached WRW 10.2

I have not read what my hon. Friend has said but have only read the reports of it on the tape.

If the reports are in any way accurate then the Government would deplore them. Mr. Speaker commands the confidence of the Government and I believe the overwhelming majority of the House.

I have no doubt that the correct course of action for my hon. Friend is to seek an appointment with Mr Speaker to explain what he has said and it would not be right for me to comment further.

.NI1136 5 HHH 227

TORY MP HITS OUT AT SPEAKER

A CONSERVATIVE MP TOOK THE HIGHLY UNUSUAL STEP TODAY OF QUESTIONING THE EVEN-HANDEDNESS OF THE SPEAKER, BERNARD WEATHERILL, AS THE ''DIRTY TRICKS'' POLITICAL WAR RAGED ON.

MR RICHARD HICKMET, MP FOR SCUNTHORPE AND GLANFORD, ISSUED A STATEMENT SAYING: ''SINCE THE LAST ELECTION, THE LABOUR PARTY HAS MOUNTED A SUSTAINED ATTACK ON THE CHARACTER OF THE PRIME MINISTER, HER INTEGRITY, HER HONESTY, HER LOYALTY, HER PATRIOTISM AND HER STYLE OF GOVERNMENT.

''THE SPEAKER HAS ALLOWED THAT TO HAPPEN AND HAS NOT LIFTED A FINGER TO STOP IT.''

MR HICKMET SAID: ''THE CAMPAIGNS HAVE BEEN CO-ORDINATED AND CONDUCTED WITH THE KNOWLEDGE OF THE LEADER OF THE OPPOSITION AND IN CERTAIN CASES WITH HIS ASSISTANCE AND PARTICIPATION.

''WHY IS IT THEN, AS SOON AS A CAMPAIGN IS MOUNTED AGAINST HIM, ATTACKING HIS HONESTY, HIS INTEGRITY, HIS LOYALTY, HIS PATRIOTISM AND HIS STYLE OF OPPOSITION, THAT THE SPEAKER IMMEDIATELY INTERVENES?

''WHAT IS SAUCE FOR THE GOOSE MUST BE SAUCE FOR THE GANDER, AND WE LOOK TO THE SPEAKER TO BE EVEN-HANDED IN THESE AFFAIRS.''

MR HICKMET SAID: ''IF THE OPPOSITION LEADER HAS CHOSEN TO CONDUCT NATIONAL POLITICS IN THIS FASHION, WHY SHOULD HE COMPLAIN WHEN HE BECOMES A VICTIM OF IT?

''HE IS THE AUTHOR OF HIS OWN MISFORTUNES, AND THE SPEAKER HAS A DUTY TO EXERCISE AN EVEN-HANDED APPROACH.''

201036 FEB 87

Forthcoming publications. CF



SUE HOLT

The attached PQ will be answered at 4.00 pm today announcing the publication of the Government response to the TCSC and Liaison Committee reports (HC62 and HC100, Session 86-87).

The Lord Privy Seal has yet to approve the answer. I will let you know if it is any different.

Jane Sell

JANE SELL

5 February 1987

PARLIAMENTARY QUESTION FOR WRITTEN ANSWER

NO: 220

DATE: THURSDAY 5 FEBRUARY 1987

MR WILLIAM CASH (Stafford): To ask the Lord Privy Seal, when Her Majesty's Government expects to reply to the First Report of Session 1986-87 from the Treasury and Civil Service Committee on Ministers and Civil Servants, and to the First Report of Session 1986-87 from the Liaison Committee on Accountability of Ministers and Civil Servants to Select Committees of the House of Commons.

MR JOHN BIFFEN

The Government's response to both reports is published today as a Command Paper (Cm 78). Copies of the response have been placed in the Library.

Embargoed until 4 pm on 5 February

1 NEA
2 PM to see.
NLW
4.2.

PRIME MINISTER

On 29 January we considered in Cabinet the Government response to the reports from the Liaison Committee and the Treasury and Civil Service Committee on the accountability of Ministers and civil servants. Colleagues approved the draft response, and agreed that this should be published at 4 pm on Thursday 5 February, with no advance Lobby or Committee copies, except a personal copy which I shall give to Terence Higgins, Chairman of both Committees.

I now attach a copy of the Command Paper in its final form, to be presented to Parliament by you, me and Richard Luce. I also attach the Parliamentary Question and written answer with which I shall announce the publication.

I am copying this minute to members of the Cabinet, the Chief Whip, the Minister of State, Privy Council Office and to Sir Robert Armstrong.

WJB

WJB

4 February 1987

DRAFT PQ

Q. To ask the Lord Privy Seal when the Government expects to reply to the First Report for the Session 1986/87 from the Treasury and Civil Service Committee on "Ministers and Civil Servants", and to the First Report for the Session 1986/87 from Liaison Committee on "Accountability of Ministers and Civil Servants to Select Committees of the House of Commons".

A. The Government's response to both reports is published today as a Command Paper (Cmnd 78). Copies of the response have been placed in the Library.



Accountability of Ministers and Civil Servants

GOVERNMENT RESPONSE TO THE FIRST REPORT FROM THE TREASURY AND CIVIL SERVICE COMMITTEE (SESSION 1986/87, HC 62) AND TO THE FIRST REPORT FROM THE LIAISON COMMITTEE (SESSION 1986/87, HC 100)

Presented to Parliament by the Prime Minister, the Lord Privy Seal and the Minister of State, Privy Council Office
by Command of Her Majesty
February 1987

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Government Response to the First Report from the Treasury and Civil Service Committee (Session 1986/87, HC 62) and to the First Report from the Liaison Committee (Session 1986/87, HC 100)

Accountability of Ministers and Civil Servants

The Issue of Accountability

1. The Government recognises and welcomes the common ground which exists between it and the Committees on the basic principles underlying accountability, and which the Treasury and Civil Service Committee record in their Report. With these basic principles agreed, the Government is confident that understandings can be established which will enable the work of Select Committees to be carried on in a way which conforms with those principles and meets the needs both of Parliament and of Government.

2. The Treasury and Civil Service Committee consider as "too narrow" the Government's statement that "Select Committees exercise their formal powers . . . by virtue of the accountability of Ministers to Parliament." The Committee note that "Select Committees exercise their formal powers . . . because Parliament is sovereign and has established Select Committees to monitor Government Departments . . .". The Government agrees with this statement of one aspect of the constitutional basis on which Parliament oversees the actions of the executive. But the Government also believes that it is of fundamental importance to recognise another aspect of the constitutional relationships involved: that the oversight that is exercised is of policies and actions of Departments for which Ministers are formally and ultimately responsible and accountable to Parliament. This does not mean that only Ministers may give evidence to Select Committees; this has certainly not been the case hitherto and the Government has no wish to make it so. It does mean that, as a general rule*, when civil servants give evidence to Select Committees on the actions of their Departments in carrying out the policies of Ministers, they do so on behalf of, and subject to their duty and accountability to, their Ministers.

3. The Liaison Committee recommend "that the Government give an undertaking that in future it will always ensure that a Minister will be accountable to the appropriate Select Committee." And both Committees invite the Government to reconsider its response to the recommendation made by the Procedure Committee in their First Report of 1977-78, namely "that in future Select Committees should be empowered by the House to order the attendance of Ministers" (HC 588, paragraph 7.21). This recommendation was not accepted by the Government when the present Select Committee system was set up in 1979; the reasons were set out by the then Leader of the House in the debate on the proposed Select Committee system on 25 June 1979 (House of Commons, Official Report, cols. 44-46), the main one being the constitutional inappropriateness of a departmental Select Committee being empowered, without the specific authority of the House as a whole, to order the attendance of a Minister (or indeed any Member of the House of Commons). The then Leader of the House went on to give the House and Select Committees a pledge of the

*Special considerations apply to civil servants designated and giving evidence as Accounting Officers, and to those exercising powers vested in their offices by statute.

Government's determination to do all in its power to "co-operate with the new system of Committees and to make it a success. I believe that declaration of intent to be a better guarantee than formal provisions laid down by Standing Orders." A formal undertaking was also given by the then Leader of the House on 16 January 1981 that he would seek to provide time for the House to express its view "where there is evidence of widespread general concern in the House regarding an alleged Ministerial refusal to divulge information to a Select Committee."(House of Commons, Official Report, 16 January 1981, col. 1312).

4. The Government, having considered the matter further as requested, remains of the view that this is the appropriate way for matters of this kind to be handled and reaffirms the pledges and undertakings given in these respects in 1979 and 1981. While it may often — indeed generally — be convenient that departmental evidence to Select Committees should be given by civil servants, it is the Minister in charge of the Department concerned who is accountable. That being so, the Government accepts that it would be consistent with the earlier pledges and undertakings that, if civil servants giving evidence to a Select Committee were unable to answer a question to the Committee's satisfaction because they were inhibited by their duty to or the instructions of Ministers, the relevant Departmental Minister should be prepared himself to attend the Committee.

5. The Government agrees with both Committees that it is helpful to define "actions" and "conduct" of civil servants separately, and accepts the recommendation of the Liaison Committee that the position be clarified without delay. An unambiguous distinction is clearly vital to the guidelines that the Government proposes to issue to civil servants on answering questions relating to conduct. The Government believes that the most important distinction to be drawn in this context is between questions which seek to establish the facts of what has occurred ("actions") and those which explicitly or implicity seek to assign criticism or blame to individual civil servants ("conduct").

6. In discussing the definition of "actions" of a civil servant, the Treasury and Civil Service Committee note that they are "in no doubt that it would be quite wrong and entirely unacceptable for any restrictions to be placed" on the giving of evidence about "actions" and invite the Government to make clear that it has no intention of doing any such thing. On the understanding that the Committee are not calling in question the existing conventions which limit the provision of information on such grounds as national security, confidentiality, and the preservation of collective responsibility, the Government is happy to confirm that it has no such intention. As the Leader of the House said in his speech in the House on 29 October, referring to the Government's response to the Fourth Report of the Defence Committee (Cmnd. 9916): "It has been represented as a way of making any future Select Committee inquiry ineffective. It does not, and is not intended to, do anything of the sort." He went on to say: "As now, if something has gone amiss, a Select Committee will be free to seek an account from the Minister concerned or from a senior official representing the Minister. This could cover what has gone amiss, why it went amiss, what has been done to correct and remedy what has gone wrong and to prevent a recurrence. In short, we do not seek to prevent Select Committees from pursuing their inquiries into the expenditure, administration and policies of Departments." (House of Commons, Official Report, 29 October 1986, col. 415).

7. The Treasury and Civil Service Committee's report quotes at some length from the speech made in the course of a debate on the Crichel Down affair by the then Home Secretary, Sir David Maxwell Fyfe. The Government is of the view that the four instances set out by Sir David Maxwell Fyfe in that speech provide a comprehensive framework within which to consider the accountability of Ministers for the activities of civil servants, and wishes to point in particular to the concluding sentence of Sir David Maxwell Fyfe's explanation of his fourth category: "But, of course, he [the Minister] remains constitutionally responsible

to Parliament for the fact that something has gone wrong, and he alone can tell Parliament what has occurred and render an account of his stewardship." (House of Commons, Official Report, 20 July 1954, cols. 1286-7).

8. The Government welcomes the fact that the Liaison Committee agree with its view that Select Committees should not act as disciplinary tribunals. The Government for its part agrees that Select Committees should not be prevented from seeking to establish facts. If in the course of an inquiry a Select Committee were to discover evidence that called in question the "conduct" of a particular civil servant, the right course would be for the Select Committee to pursue the matter with the Minister concerned, rather than pursue their own investigation into the "conduct" of the civil servant. It would then be for the Minister to arrange for the matter to be looked into and for the Committee to be informed of the result in due course. Such a procedure would, in the Government's view, be consistent with the needs of Select Committees as expressed in paragraph 14 of the Liaison Committee's Report.

9. The Government has considered carefully the arguments put forward in the Reports from both Committees that guidelines to civil servants, on answering questions which are or appear to be related to "conduct", should not be issued. The Government understands the concern which has been expressed but remains of the view that civil servants appearing before Select Committees need to have guidelines within which to work when they are giving evidence. The Government has therefore prepared supplementary guidelines which take account of the views expressed by the Treasury and Civil Service Committee and the Liaison Committee. These supplementary guidelines are appended herewith. The Government believes that these clarify the distinction between "actions" and "conduct", that they are consistent with the principle of Ministerial accountability to Parliament, and that their operation will allow Select Committees to continue to discharge effectively their proper role of inquiring into the expenditure, administration and policies of Departments.

10. The Liaison Committee expressed specific concern about the ability of certain non-departmental Select Committees to function effectively if guidelines were instituted. Their report refers to the Government's acknowledgement (in the debate on 29 October 1986, House of Commons, Official Report, col. 415) of the special position of the Public Accounts Committee. The Government accepts also that several other Committees have requirements with respect to civil servants which differ from those of departmental Select Committees and confirms that nothing in these guidelines is intended to affect the way in which the Committees mentioned in the Liaison Committee's Report have taken evidence from civil servants hitherto.

Duties and Responsibilities

11. The Government notes the Treasury and Civil Service Committee's further views on these matters. As regards the provision of a right of appeal for members of the Diplomatic Service and of the Northern Ireland Civil Service (similar to that which the Government has agreed in principle should be provided for members of the Home Civil Service) it was not the Government's intention in its reply to the Committee's previous report to imply that similar provision should not be made. Appropriate arrangements for such appeals to the Heads of the respective Services will be considered in the light of arrangements made in respect of the Home Civil Service. Beyond this, the Government has nothing to add to the views it expressed on these subjects in its reply (Cmnd. 9941) to the Committee's earlier report (HC92).

Guidelines for Officials giving Evidence to Departmental Select Committees*

Officials who give evidence to departmental Select Committees do so on behalf of their Ministers in accordance with the principles that civil servants are accountable to Ministers, and that it is Ministers who are accountable to Parliament. In giving evidence, civil servants are therefore subject to the instructions of Ministers and remain bound to observe their duty of confidentiality to Ministers.

2. In the course of Select Committee inquiries into the expenditure, administration and policies of Departments and their associated bodies, the evidence given by officials will normally be concerned with explaining the policies and actions undertaken by Ministers, and by Departments on their behalf, and the reasons for those policies and actions. Sometimes, however, a Select Committee's inquiries may involve questions relating to what has been done by individual civil servants. On such occasions, the principles of Ministerial accountability are still applicable, even if officials have acted outside or contrary to the authority given to them by Ministers.

3. Subject to the general principles set out above, official witnesses should in all Select Committee inquiries be as helpful as possible in answering questions concerned with the establishment of the facts of what has occurred in the making of decisions, or the carrying out of actions in the implementation of Government policies.

4. There may however be occasions when questions put by members of a Select Committee in the course of an inquiry appear to be directed to the "conduct" of individual civil servants. "Questions directed to the conduct" in this context means more than the establishing of facts about what has occurred; it carries the implication of allocating individual criticism or blame. In such circumstances, in accordance with the principles of Ministerial responsibility, it is for the Minister to look into the matter and if necessary institute a formal inquiry. Such an inquiry into the conduct and behaviour of individual civil servants and consideration of disciplinary action is properly carried out within a Department according to established procedures designed and agreed for the purpose, and with appropriate safeguards for the individual. It is then for the Minister to be responsible for informing the Committee of what has happened, and of what has been done to put the matter right and to prevent a recurrence. Evidence to a Select Committee on this should be given not by the individual civil servant or servants concerned, but by the Minister or by a senior official specifically designated by the Minister to give such evidence on his behalf. This would include the result of any disciplinary or other departmental proceedings against individual civil servants.

5. So if in the course of an inquiry a Select Committee were to discover evidence that called in question the "conduct" of an individual named civil servant, the understanding is that the Select Committee should not pursue their own investigation into the "conduct" of the person concerned or act as a disciplinary tribunal, but should pursue the matter with the Minister, for whom it would then be to deal with it on the lines described above.

*These guidelines supplement, and should be read in conjunction with, the memorandum of guidance for officials appearing before Select Committees, and will be incorporated in future editions of that guidance.

6. If, when officials are asked to give evidence to a Select Committee, it is foreseen that the inquiry may involve questions about the "conduct" of the individual officials in question or about other individual named officials, it should be suggested to the Committee that it would be appropriate for a Minister or a senior official designated by the Minister to give evidence, rather than the named officials in question. Any question which appears to relate to the "conduct" of individual civil servants, such as the allocation of blame for what has occurred, can then be answered by the Minister or designated senior official. If an official giving evidence to a Committee is unexpectedly asked questions which he or she believes are directed at his or her individual "conduct", or at the "conduct" of another named individual civil servant, or if the official is uncertain whether or not questions fall into this category, the official should indicate that he or she wishes to seek instructions from his or her Minister, and the Committee should be asked to allow time for the Minister's instructions to be sought.

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