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CABINET

HOUSE OF COMMONS PROCEDURE

Memorandum by the Chancellor of the Duchy of Lancaster

1. We are committed to giving the House an opportunity to reach decisions on the outstanding recommendations of the first report from the Select Committee on Procedure for Session 1977-78. (We have already dealt with their recommendations to set up departmental Select Committees and about sessions and sittings.) Paragraphs 3 to 10 of this memorandum seek the agreement of colleagues to the line I propose to take in a debate later this month on the recommendations on Public Bills, subordinate and European legislation and some outstanding recommendations on Select Committees. Paragraph 11 deals with financial control. (The Annexes list all the relevant recommendations and the line I have it in mind to take about them.) I envisage a general debate followed by votes on a series of resolutions, some tabled by the Government and some by other Members interested in procedural matters. The House will expect a free vote on all resolutions and amendments.

2. I have consulted influential Members on all sides of the House. My consultations have shown a widespread concern to improve the House's scrutiny of legislation and subordinate legislation. The Procedure Committee's recommendations to this end will receive general support and little opposition in debate. Only on the extent to which the House should seek to bind the hands of Ministers in European negotiations (see paragraph 8 below) is opinion likely to divide on party lines. The consultations leave me in no doubt that if we were to reject out of hand the major outstanding recommendations and appear to be ignoring the considered views of the Procedure Committee we risk defeat. There is, however, general acceptance that any Government must control the business of the House and be able to get legislation through Parliament within a single Session. My aim is to preserve these essential elements of Government control while meeting the desire for further procedural reform.

PUBLIC BILLS (Recommendations 4-14)

3. The present procedure for considering Bills in Standing Committee has few friends. The Procedure Committee received much evidence favouring the establishment of pre-legislation Committees of the House or the reference of all Bills to the relevant departmental Select Committees. Recommendation 5 rejects these ideas in favour of a compromise whereby the majority of Bills would be automatically referred to new "Public Bill Committees". These would have powers to seek written evidence and to take oral evidence in up to three public sessions before considering a Bill clause by clause in the usual way. Evidence would come from Ministers and officials and from interested organisations. From a business manager's point of view, it would be simpler to take no action on the recommendation since it would involve more work for Ministers and Members and the procedure could add some weeks to the passage of a Bill.

4. My consultations have, however, convinced me that it would be neither safe nor wise to put before the House a proposal to reject recommendation 5. Such a negative stance would court a vote in favour of it, or even in favour of setting up pre-legislation committees which would radically alter our procedures and seriously delay Government legislation. Instead I believe an experimental approach is the right one. I have it in mind to go to the House proposing a limited experiment next Session in which two or three Government Bills which are significant but not contentious in party terms are sent to Public Bill Committees.

5. If colleagues favour the experimental approach I would propose a sessional order on the lines shown in Annex A (resolution 5) in which the Government would have the initiative in choosing the Bills. The oral evidence would be confined to a maximum of three sessions, to be concluded within, say, three weeks from the date of the first sitting of the Committee. I would indicate that even if the experiment were successful the Government would expect the procedure to be applied to selected Bills rather than to all Bills in future Sessions. I would also ask the House to agree to a parallel experiment with the same Bills with recommendation 6, allowing additional sittings at the end of the Committee stage to consider drafting amendments and amendments arising from Government undertakings. Such a procedure should save time on the floor of the House on report.

6. Recommendations 8 and 9 seek to prescribe minimum intervals between stages of Bills and to limit the Government's flexibility in the use of the guillotine. They are not acceptable as they stand. I would hope to persuade the House that the Government will continue to use its best endeavours to meet the spirit of these recommendations and that amendment of Standing Orders would bring undue rigidity. Recommendations 10-14 support earlier recommendations of the Renton Committee on the Preparation of Legislation (Cmd 6053). I do not propose to open up this large separate subject in the debate but, if the recommendations are discussed, to indicate the Government's view on the lines set out in Annex A.

SUBORDINATE LEGISLATION (Recommendations 15-21)

7. Recent exchanges in the House have reinforced the dissatisfaction with the present operation of the "merits" Standing Committee to which subordinate legislation can be referred. That Committee can resolve only that it has "considered" a Statutory Instrument. It cannot pass a substantive motion about it. Even if it resolves that it declines to consider the Instrument, the Government does not have to find time for a subsequent vote or debate on the floor of the House. If instead the Standing Committee were to consider substantive motions, votes in Committee would have more significance. There would be problems of finding sufficient Government backbenchers to ensure a Government majority. But the ineffectiveness of the present procedure cannot be defended. I therefore propose to accept with modifications recommendation 18 to give more powers to the Committee; details are in Annex B. On this basis, the Government would still remain in control of the situation on the floor of the House. There is less dissatisfaction with the work of the joint "scrutiny" Committee which considers the form and vires of subordinate legislation. Recommendations 15-17, which seek to give the Committee powers to delay Statutory Instruments coming into force, would unduly complicate the law. If we accept much of Recommendation 18 I believe we can ask the House to reject these other recommendations.

EUROPEAN COMMUNITY LEGISLATION (Recommendations 22-30)

8. The main interest here will centre on recommendation 25 for a declaratory resolution of the House about the circumstances in which the Government should be able to approve European Community legislation which has been recommended for debate by the "scrutiny" Select Committee on European legislation. As colleagues know, we have given an undertaking that only in exceptional circumstances will Ministers approve such legislation without prior debate. We must retain the flexibility of the present undertaking. We can, however, accept a declaratory resolution using the form of words given in Annex C, which does not tie the hands of Ministers at Brussels. It is based, with slight modification, on a draft suggested to me by the Scrutiny Committee itself. Our backbenchers will accept it, although many Labour Members will want a resolution containing a more binding form of words.

9. I have already consulted colleagues about the proposals in Annex D for our response to the other recommendations on the handling of European Community legislation. I need draw Cabinet's attention only to the proposal to accept part of recommendation 28 enabling a Standing Committee to hold substantive debates on documents we ask the House to refer to it. As with the parallel recommendation for subordinate legislation (paragraph 7 above) the change will make more demands on the time of Members in Standing Committee. But it should reduce the time needed for debate on the floor of the House.

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DEPARTMENTAL SELECT COMMITTEES

10. There is pressure from some departmental Select Committees and the Liaison Committee to set up new sub-committees. I have made clear in consultation the Government's view that it is too early to review the operation of the Committees. I shall not therefore include in the motion for debate any reference to Select Committees (thus preventing amendments about their structure or about sub-committees). I shall, however, note in my speech the outstanding recommendations about them and respond as necessary in the terms shown in Annex E.

FINANCIAL CONTROL (Recommendations 68-70)

11. The Procedure Committee did not study this subject in any depth (see Annex F). Recommendations 66-68 have been overtaken by our Green Paper on the work of the Comptroller and Auditor General, on which we now await comments. More generally, there is a widespread feeling in the House that the time has come for a much more radical review of the methods by which the House exercises control over supply and considers supplementary estimates. I would like, if colleagues agree, to confirm in the forthcoming debate that the Government would welcome the establishment next Session of a fresh Procedure Committee to undertake a major study with the following terms of reference:

"To consider the House's present procedures for considering and voting on the Government's requests for supply and to make recommendations".

CONCLUSION

12. While I propose to reject many of the detailed recommendations of the Procedure Committee which would unduly weaken our control over the business of the House, I believe that the proposals in this memorandum would show both party and Parliament that the Government remains committed to a practical and evolutionary path of procedural reform. In preparation for the forthcoming debate on the outstanding recommendations of the Procedure Committee, I invite my colleagues to agree that I should:

- a. propose a limited experiment next Session for the scrutiny of Bills by public bill committees;
- b. table a resolution of the House incorporating the present undertaking about the approval of European Community legislation;
- c. respond to the other recommendations of the Committee on the lines indicated in the Annexes of this memorandum;

d. support the establishment next Session of a Procedure Committee to undertake a major review of the control by the House of supply.

N St J S

Privy Council Office

11 July 1980

Recommendations

General Comment

Proposed Line for Debate

(4) Some bills, particularly of a technical, non-urgent, character, may be suitable for committal to select committees, but this procedure would not be desirable for the generality of bills. The membership of a standing committee on a bill should, however, include some members drawn from the select committee responsible for the scrutiny of the administration of the Government department or departments concerned (paragraph 2.17).

(5) Standing Committee on bills should in future be permitted to have up to three sittings in select committee form for the purpose of taking evidence in public; bills would automatically stand committed to committees with this power (to be known as "public bill committees"), unless the House otherwise ordered (paragraph 2.19-2.20).

(6) A Standing Committee, or public bill committee should be empowered to reconvene, before reporting a bill to the House, for the purpose of considering amendments arising from undertakings, consequential amendments and drafting amendments (paragraph 2.21).

(7) Unopposed drafting amendments should be allowed on the Third Reading of Lords Bills (paragraph 2.25).

(8) Minimum intervals between the stages of bills should be prescribed by standing order (paragraph 2.28).

(9) There should be a minimum period of notice for allocation of time motions and motions to agree with the Resolution of a Business Committee; it should no longer be possible to include provisions relating to more than one bill in an allocation of time motion or to provide that instructions to a Committee on a bill should be decided without debate; the Business Committee should in future be nominated on a motion moved by the Committee of Selection, and its membership should if necessary be enlarged to reflect the composition of the House (paragraph 2.38).

a. A procedure already exists for committing bills to select committees. It is largely used for private members bills.

b. The membership of a standing committee is not determined by the Government, but by the Committee of Selection.

Paragraphs 4 and 5 of the covering memorandum propose an experiment. Committal to a public bill committee should be on the initiative of the Government. A time limit should be placed ab initio on the first (evidence-taking) part of the proceedings of public bill committees.

Paragraph 5 of the covering memorandum proposes an experiment confined to bills sent to public bill committee.

Acceptable to the Government, if the House wishes it.

While the Government should continue to make every effort to allow sufficient time between the stages of a Bill, embodiment in Standing Orders would remove essential flexibility in the arrangement of the legislative programme. Some "emergency" Bills are needed by any Government in most sessions.

a. The Government have been sparing in using guillotines. They will continue to be so, and to meet the spirit of the recommendation, especially in not using a single guillotine motion to cover more than one bill. But the embodiment of these recommendations in a standing order would make for too much rigidity; the Government must retain some flexibility in the arrangement of the legislative programme.

b. There seems no case for altering the present arrangements for appointing members to Business Committees through the usual channels.

a. Note. No Government proposal.

b. Note.

Table motion for experiment including -

a. Government Minister may propose reference to Public Bill Committee without debate;

b. Public Bill Committee to have power to call for persons, papers and records, to hold one meeting for the organisation of its work and up to 3 evidence-taking sessions before a date specified in the committal motion;

c. Government Minister may table further amendments, at the end of the Committee stage and move that the Committee hold one or more sittings to consider them.

Offer to table motion to enable Member in charge of the Bill to table amendments to Lords Bill, to be moved at the outset of the Third Reading Debate and, if unopposed, to be added to the Bill. Any objection would lose the amendment.

Ask House to accept general undertakings, and reject any specific provision in standing orders.

a. Ask House to accept general undertakings, and reject any specific amendments to standing orders.

b. Ask House to reject any such amendment.

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Recommendations	General Comment	Proposed Line for Debate
<p>(10) The proposals of the Committee on the Preparation of Legislation relating to an expedited procedure for Bills, to re-enact for Scotland only the provisions of United Kingdom Acts should be implemented; a similar procedure should be applied in respect of Northern Ireland (paragraph 2.40).</p>	<p>It is not clear that in practice the expedited procedure would be quicker than the present consolidation procedure; new primary legislation may also be required to establish the expedited procedure. Not acceptable for Northern Ireland as would increase pressure from integrationists to use Bills instead of Orders in Council.</p>	<p>If raised, say case for new procedure not established.</p>
<p>(11) Explanatory memoranda should give a more adequate description of the purposes and effects of a Bill (paragraph 2.42)</p>	<p>Explanatory memoranda go in to more detail than heretofore; but they need to be kept to a manageable length.</p>	<p>If raised, note.</p>
<p>(12) A greater use should be made of Keeling schedules (paragraph 2.43).</p>	<p>Parliamentary Counsel will make use of such schedules when appropriate and likely to be helpful.</p>	<p>If raised, note.</p>
<p>(13) A procedure for correcting mistakes in bills before Royal Assent would be useful, but should contain complete safeguards against the introduction of substantive amendments (paragraph 2.44).</p>	<p>Unlikely to be possible to devise satisfactory safeguards, in particular difficult to define a "substantive" amendment. Procedure likely to be cumbersome and difficult to operate.</p>	<p>If raised, resist on grounds of practicability.</p>
<p>(14) The Statute Law Committee should be entrusted with the task of continuous review of the structure and language of the statutes and of the implementation of the recommendations of the Committee on the Preparation of Legislation (paragraph 2.46-47).</p>	<p>The Statute Law Committee, which at present meets annually, is unlikely to be appropriate for these tasks. Not clear how post hoc review could be used to improve future legislation.</p>	<p>If raised, resist.</p>

(15) A standing order should provide that no statutory instrument should be brought before the House or a Standing Committee until the Joint (or Select) Committee on Statutory Instruments has completed consideration of the instrument; the provision should apply to instruments subject to negative procedure as well as those subject to affirmative procedure (paragraph 3.13).

(16) Where the Joint (or Select) Committee on Statutory Instruments has drawn the attention of the House to an instrument subject to negative procedure, the period of praying time should be altered to 10 days from the date of the Committee's Report, if that period would be longer than the 40 days provided under the Statutory Instruments Act 1946 (paragraph 3.14).

(17) As an alternative to Recommendation (16), consideration should be given to legislation to convert instruments subject to negative procedure into instruments subject to affirmative procedure where the Joint (or Select) Committee had drawn the attention of the House to such instruments (paragraph 3.14).

(18) New procedures should be adopted for the consideration of statutory instruments by standing committees, to replace the existing Standing Order No 73A. Standing Committees should in future be empowered to consider substantive motions and, in certain cases, further debates of limited duration could be held in the House (paragraphs 3.15-3.18).

On occasion need to take statutory instruments on the Floor without waiting for the Joint Committee. If veto embodied in Standing Orders, opportunity for deliberate stalling by Joint Committee.

Effect would be to extend the potential period within which a negative instrument could be annulled from the usual 40 days to a date, if later, of 10 days after the Joint Committee on Statutory Instruments had drawn the attention of the House to the instrument concerned. This recommendation, which would require legislation, would increase uncertainty as to when negative instruments could be expected to have completed their passage, through the House. This could be detrimental to administrative efficiency. As with recommendation (15), time-table potentially taken out of Government control and certainty of implementation dates eroded. 40 days long accepted by Parliament as adequate praying time, and Joint Committee should normally be able to report in sufficient time to enable their views to be taken into account before normal praying time has expired.

This recommendation would require legislation. The effect would be to convert any negative instrument which the Joint Committee had drawn to the attention of the House into an affirmative instrument which would require debate and positive approval by the House. It would thus give the Joint Committee power to change statutory instrument categories agreed by the House. It would also, like recommendation (16), which would be the lesser evil, create potential uncertainty regarding the implementation dates of negative instruments.

This concerns the reference of statutory instruments (essentially affirmative orders and prayers against negative instruments) to Standing Committees on Statutory Instruments (the 'Merits' Committee) under SO 73A. At present a Minister may move that an order shall be referred to the Merits Committee, but 20 or more Members can block the reference. The Committee sits for up to 1½ hours on the basis of a nonsubstantive motion, and the question on report to the House is put without debate after 10 pm. The revised procedure proposed would provide, *inter alia*, for the debate in committee to be on a substantive motion and for there to be power to enforce debate on the Floor if committee do not approve the instrument or recommend annulment. Full implementation of these proposals might significantly add to pressures on Floor time and loss of flexibility in programme planning. On the other hand, the present impotence of the Merits Committee has led to Parliamentary criticism, and certain of its procedures (eg nonsubstantive Motions) are not readily defensible.

Acknowledge need to ensure that, whenever possible, debates on statutory instruments and prayers do not take place until Joint Committee has had opportunity to consider instrument concerned. But point out that occasions arise when pressures of Parliamentary business or the need for immediate administrative action prevent this, ie need to preserve loophole. Ministers will do all they can to keep these instances to a minimum. Advise House to reject adoption of recommendation.

Advise rejection of recommendation and avoid commitment to legislation.

Point out that this recommendation would enable a committee to overturn decisions of the House ie to change, in effect, an instrument which the House had previously decided should be subject to negative procedure into an affirmative instrument. Advise rejection of recommendation and avoid commitment to legislation.

Recommend revision of SO73A and powers of Merits Committee, modifying Procedure Committee proposals as necessary to avoid risks of increasing the amount of Floor time spent on statutory instruments, potential whipping problems at the commencement of public business, and loss of flexibility in programme planning.

[detailed proposals as in schedule A]

Recommendations	General Comment	Proposed Line for Debate
<p>(19) Standing Orders should provide for the reference of "proposals" for statutory instruments either to standing committees or to the relevant select committee (paragraph 3.21); the latter procedure should normally be followed (paragraph 3.24).</p>	<p>'Proposals' for statutory instruments is indefinite. In general terms a Departmental Select Committee can already under their broad terms of reference request a Minister about his intentions with regard to delegated legislation, and a Minister could inform the committee of his 'proposals'. Any general procedural requirement for select committees to be shown in advance all proposed statutory instruments would lead to problems of timing and confidentiality, eg in fiscal matters.</p>	<p>Avoid specific reference in Standing Orders as unnecessary and inappropriate.</p>
<p>(20) Departmentally-related select committees should be free to consider all statutory instruments falling within their fields of interest; standing orders should also provide for the formal reference of instruments to select committees, although the use of this procedure would increase only gradually (paragraph 3.22).</p>	<p>The terms of reference of the Departmental Select Committees already provide that the House could refer a statutory instrument to such a committee, or the Departmental Select Committee could take the initiative, consider an instrument and report to the House. In general, however, it would seem undesirable to avoid potential overlap with references of statutory instruments to 'Merits' Committee.</p>	<p>Avoid Standing Order as unnecessary.</p>
<p>(21) Select committees should be provided with regular information about instruments within their fields of interest; standing committees on statutory instruments should include some Members drawn from the relevant select committees; steps should be taken to inform the House, or a standing committee, of any reports from select committees relating to a statutory instrument to be debated by them (paragraph 3.23).</p>	<p>First part matter for House authorities and for arrangements between Departments and individual committees; second part is matter for Committee of Selection; the third a matter for House authorities.</p>	<p>Matter for House. Agree in principle. No Motion required.</p>

PROCEDURE FOR THE CONSIDERATION OF STATUTORY INSTRUMENTS IN
"MERITS" COMMITTEE (STANDING COMMITTEES ON STATUTORY INSTRUMENTS)
AFFIRMATIVE INSTRUMENTS

Aspect of Procedure	Existing Procedure Standing Order 73A	Procedure proposed by Procedure Committee	Recommended Government Proposal
Membership	Members nominated by Committee of Selection. Any other Members may take part in deliberations, but may not move Motions or vote or count in quorum.	As at present, but non-members able to move Motions or amendments.	As procedure Committee propose.
Who decides which instruments go to 'Merits' Committee?	Motion made by Minister at commencement of public business.	As at present.	As Procedure Committee propose.
Blocking power	20 or more Members rising may block reference. Otherwise Motion would need to be negatived on division.	Blocking power to be removed.	Let blocking power remain.
Basis of Motion in Committee	"That the Committee has considered the instrument."	"That the instrument be approved"	As Procedure Committee propose.
Length of debate in Committee	1½ hours.	Up to 2½ hours.	As Procedure Committee propose.
Floor procedure following report of Committee	Motion on Floor in relation to report by Committee put forthwith.	If Committee approve instrument, question on Floor put forthwith on commencement of public business. If Committee do not approve, or recommend with qualifications, provision for up to 1 hour's debate.	Retain existing position, ie question to be put on Floor after 10 pm without debate, whether Committee approve or disapprove instrument.
Miscellaneous	No prior notice required of Motions relating to these procedures.	Minimum period of two days notice to be given, no account being taken of Fridays and no proceedings under these provisions to take place on a Friday.	Leave position as at present.
NEGATIVE INSTRUMENTS			
Membership	Members nominated by Committee of Selection. Any other Members may take part in deliberations, but may not move Motions or vote or count in quorum.	As at present, but non-members able to move Motions or amendments.	As Procedure Committee propose.
Who decides which instruments go to 'Merits' Committee?	Motion made by Minister at commencement of public business.	Additionally to present procedure any Member to move Motion if prayer for annulment signed by half membership of the House.	Leave as at present.
Blocking power	20 or more Members rising may block reference. Otherwise Motion would need to be negatived on division.	Blocking power to be removed.	As Procedure Committee propose.
Basis of Motion in Committee	"That the Committee has considered the instrument."	"That the Committee recommend" the appropriate course of action.	As Procedure Committee propose.
Length of debate in Committee	1½ hours.	Up to 2½ hours.	As Procedure Committee propose.

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Aspect of Procedure	Existing Procedure Standing Order 73A	Procedure proposed by Procedure Committee	Recommended Government Proposal
Floor procedure following report of Committee	No procedural obligation to debate report by Committee. If Motion made, question put forthwith.	If Committee recommend annulment, precedence for one hour debate if no debate in Government time within seven days of report.	Question on annulment to be put on Floor after 10 pm without debate.
Floor procedure following report of Committee	No procedural obligation to debate report by Committee. If Motion made, question put forthwith.	If Committee do not recommend annulment, no further proceedings unless prayer originally supported by half voting Members. If so, provision for one hour debate.	If Committee do not recommend annulment, no further proceedings.
Miscellaneous	No prior notice required of Motions relating to these procedures.	Minimum period of two days notice to be given, no account being taken of Fridays and no proceedings under these provisions to take place on a Friday.	Leave position as at present.

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ANNEX C

DRAFT RESOLUTION OF THE HOUSE ON EUROPEAN COMMUNITY LEGISLATION

"In the opinion of this House no Minister of the Crown should give agreement in the Council of Ministers to any proposal for European legislation which has been recommended by the Select Committee on European Legislation etc for further consideration by the House before the House has given it that consideration unless -

- (a) that Committee has indicated that agreement need not be withheld, or
- (b) the Minister concerned decides that for special reasons agreement should not be withheld;

and in the latter case the Minister should, at the first opportunity thereafter explain the reasons for his decision to the House."

(22) There should be no extension of the powers of the Select Committee on European Legislation etc to enable that Committee to consider the merits of EEC legislation (paragraph 4.3)

(23) Departmentally-related select Committees should be free to consider the merits of any EEC documents within their field of interest, but, at least for the time being, there should be no provision for the formal reference of documents to these select Committees instead of to Standing Committees for consideration of their merits (paragraph 4.4).

(24) Select Committees should be provided with regular information about the progress of EEC documents within their fields of interest; the briefing material at present prepared for the use of the Select Committee on European Legislation etc should automatically be made available to other Select Committees (paragraph 4.5).

(25) The circumstances in which the Government should be permitted to give their approval to EEC legislation should be embodied in a declaratory Resolution; the balance of advantage lies with a firm commitment that the Government should not give its final approval to legislation prior to a debate, where debate has been recommended by the Scrutiny Committee (paragraph 4.13).

(26) The Government should undertake to provide time for debates on consultative documents issued by the Commission (paragraph 4.14).

(27) Debate on EEC documents should normally take place on a substantive motion (paragraph 4.15).

(28) New procedures should be adopted for the consideration of EEC documents by standing Committees, to replace the provisions of Standing Order No 73A. Standing Committees on European Communities Legislation should consider substantive motions, and be empowered to hold up to three two-and-a-half hour meetings for the consideration of a document. The subsequent decision in the House should be on a motion to agree with the Resolution of the Committee concerned (paragraph 4.17).

No change to existing arrangements. Would avoid duplication of work by Scrutiny Committee and the new Departmental Select Committees.

Within present terms of reference of Departmental Committees.

No government action required; briefing material already passed on by Scrutiny Committee to Select Committees. Extra requests can be met in usual way for all Select Committee requests.

Declaratory resolution as proposed would risk Ministers being in contempt of Parliament. But Parliament might prefer greater firmness of a resolution to the present undertaking. If present undertaking not to give agreement to proposals which have been recommended for debate prior to debate were embodied in a resolution necessary flexibility would be retained.

In practice consultative documents are already recommended for debate although they may not be debated until related implementing legislation is considered.

This stems from the fact that at the time the Report was made most debates were on simple take note motions. It has become the practice wherever possible to debate documents on expanded take note motions. To go further and have motions which agree or otherwise with proposals would impair negotiators' flexibility. Understood that House is generally content with current practice. The use of motions on the adjournment has fallen away because they are unamendable but an offer only to use such motions in exceptional circumstances might be acceptable.

The present provisions for Standing Committee consideration have proved unsatisfactory and it has fallen into disuse; chief objections were to the unamendable motion and only 1½ hours being allowed. Recommendations are very detailed but:-

- (i) debate on substantive motion
- (ii) 3 2½ hour sessions would be too much of a commitment but one full morning might be acceptable
- (iii) any member of the House may take part and move motions or amendments in such a Committee's deliberations but only Committee members may vote should allow for reasonable business management

Accept.

Accept.

Take note. Express readiness to meet other requests for Select Committees in the usual way.

Accept with some modification. The Resolution should simply embody the existing Government undertaking; the Scrutiny Committee's proposed format suitably prefaced could be largely adopted.

To use best endeavours, as now, within constraints of conflicting demands on Parliamentary time to find appropriate time.

Accept to the extent that where possible the motion will express Government's attitude. Agree to forego adjournment debate for EC proposals except in exceptional circumstances.

Accept with some modifications, ie debates on amendable motions indicating HMG's attitude to proposals to last a full morning. Any member of the House can take part in the deliberations but only Ministers may move the motion on the floor of the House.

(i) Accept that should be dealt with on same basis as motions of Floor of the House.

(ii) Offer one full morning

(iii) Accept

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Recommendations	General Comment	Proposed Line for Debate
<p>(28) Continued</p>	<p>(iv) abolition of the provision that more than 20 members might block a reference to the Committee is more likely to be seen as an erosion of the powers of the House</p> <p>(v) if a reference is negated time must be found for a debate within 7 days - this is unreasonable in terms of business management; the House is safeguarded by the undertaking on debates</p> <p>(vi) an amendable motion which may be put to the House either at the start of business or at 10 pm with the question being put forthwith by any member of the House is unreasonable for business management; the proposal could be acceptable if the motion were moveable only by Ministers.</p>	<p>(iv) Reject</p> <p>(v) Reject</p> <p>(vi) Accept that an amendable motion may be put to the House by a Minister at 10 pm</p>
<p>(29) The Government should publish lists showing the progress of Commission proposals through the Community institutions (paragraph 4.18).</p>	<p>The system of providing updating explanatory memoranda should meet this need. The compilation of a detailed list would be very costly but some limited information which is already available centrally could be made available to the Scrutiny Committee.</p>	<p>Use best endeavours to meet the spirit of the recommendation within existing resources. Continue to provide updating explanatory memoranda. Supply Scrutiny Committee with weekly lists of documents outstanding for debate.</p>
<p>(30) Treaties which are to be the subject of European Communities (Definition of Treaties) Orders should in future be considered by the Select Committee on European Legislation etc as well as by the Joint Committee in Statutory Instruments; the subject of the Treaty concerned should be included in the draft Order, and a more detailed memorandum should be provided (paragraph 4.19).</p>	<p>The first two parts have already been met to the satisfaction of the Scrutiny Committee. It should be possible to try to provide more information in Explanatory Notes in certain cases provided that the Notes do not then become misleading as to the purpose of the Order.</p>	<p>Note that much of this proposal has already been implemented and undertake to provide fuller Explanatory Notes within the constraints imposed by the generally narrow technical scope of such orders.</p>
<p>OTHER PROPOSALS</p> <p>Amend Standing Orders to bring them into line with Scrutiny Committee terms of reference so that all Community documents can be taken after 10 pm or in Standing Committee.</p>	<p>When the Scrutiny Committee's terms of reference were expanded to include all Community documents in 1976 Standing Orders were not amended as well. Such a change would be logical and convenient.</p>	<p>Propose to make amendments to Standing Order.</p>
<p>Motion for debate of EEC Document should be tackled at the same time as announcement in business statement.</p>	<p>The scrutiny Committee have made the recommendation several times over the years so that the House can have more notice of the proposed Government line.</p>	<p>If the question is raised, under pressure could concede to do so where practicable.</p>

Recommendation	General Comment	Proposed Line for Debate
<p>(44) Greater opportunities should be available for debates on select committee reports; to this end eight Mondays each session should be allotted as "select committee days"; the choice of reports to be debated on these days should be left to the Government, after consultation with other parties and with select committee chairmen; debates should take place on substantive motions moved by the chairmen of the committees concerned (paragraphs 6.2-6.13).</p>	<p>General purport of recommendation would be to double amount of time recently taken on Floor for debates on Select Committee reports. Present commitment is three days on Select Committee reports (2 in Supply, 1 in Government time). Three extra Government days might be needed. More time might be available if amount of legislation reduced.</p>	<p>Avoid commitment to additional time or 8 Mondays. Undertake to review in light of how many reports are produced and the extent to which they need to be considered separate or relate to issues covered in other debates.</p>
<p>(45) Government departments should normally be required to publish their observations on select committee reports within two months of publication of the reports; a record of reports made, and Government observations received, should be included in the sessional Select Committee Returns (paragraph) 6.17).</p>	<p>Major reports may require more than two months for full consideration.</p>	<p>Avoid absolute commitment but state that Departments have been instructed to do their best to meet the two months deadline and, where this is not possible, to explain to the Committee, before the expiry of the two month period, why the deadline cannot be met.</p>
<p>(46) Select Committees should in future be nominated on a motion tabled by the Committee of Selection (paragraph 6.19); the procedure for moving for the nomination of select committees under SO No 13 should not be available until objection had been signified to the Committee of Selection's motion (paragraph 6.21).</p>	<p>The Departmental Committees (and the Scottish and Welsh Affairs Committees) are now nominated on a Motion tabled by the Committee of Selection. The Government did not accept the extension of this practice, as recommended, to all select committees - for example, the Public Accounts Committee continues to be nominated on a Motion tabled by Government Ministers, and it is presumed that Ministers will wish to continue this practice. As regards SO No 13, the position under the present Sessional Order for the nomination of the membership of the Departmental Committees differs from the proposal made by the Procedure Committee, in that SO No 13 (rights of Private Members in respect of the tabling of Motions for the nomination of Select Committees) does not apply. Procedure Committee had recommended modified application.</p>	<p>Oppose, as necessary, the extension of nomination by the Committee of Selection to further Select Committees. Concede application of modified SO No 13 procedure to Departmental Committee nominations if pressed.</p>
<p>(47) The publication by newspapers, etc., of reports of evidence given by witnesses to select committees meeting in public should be permitted, before such evidence has been reported to the House (paragraph 6.25).</p>	<p>Essentially recognition of fait accompli since evidence may already have been broadcast.</p>	<p>Leave to House and table Motion accordingly, at a later stage, if appropriate.</p>
<p>(48) Select committees should report the Minutes of Proceedings of their Sub-committees (paragraph 6.27).</p>	<p>Terms of reference of Departmental Committees give committees power to report the Minutes of Evidence before sub-committees. But no power to compel them to do so.</p>	<p>Leave to House to decide and table Motion accordingly, at a later stage, if appropriate.</p>
<p>(49) The chairman of a select committee should have a substantive vote, like other Members, and no casting vote; questions would be decided in the negative unless supported by a majority of the votes cast (paragraph 6.30).</p>	<p>The present position is that the chairman of a select committee votes only where there is equality of voices in the committee. This, in effect, deprives the party to which chairman belongs of one vote unless voices are equal. The proposed change would favour the chairman's party, and would bring practice into line with that of House of Lords.</p>	<p>Leave to House to decide and table Motion accordingly, at a later stage, if appropriate.</p>

Recommendation	General Comment	Proposed Line for Debate
<p>(50) Select committees should continue to appoint their own chairmen, but the convention of appointing Members of opposition parties to the Chair of certain committees should be maintained and, if possible, extended (paragraph 6.31).</p>	<p>Convention of appointing opposition Members as chairmen of some committees has been extended. Five Departmental Committees and Scottish and Welsh Affairs Committees all have opposition chairmen.</p>	<p>No action required.</p>
<p>(51) Consideration should be given to the payment of a modest additional salary to the chairmen of select committees (paragraph 6.33).</p>	<p>Any such proposal best considered in general context of Members' remuneration.</p>	<p>Oppose consideration outside general context of Members' remuneration as a whole.</p>
<p>(52) The new select committees are likely to require more permanent staff resources; arrangements to recruit the necessary additional staff should be set in hand immediately (paragraph 6.37).</p>	<p>More staff have been appointed. On 1 April 1979, 59 staff allocated to select committees. On 1 April 1980, 78.</p>	<p>Matter for Commission. Point out increases.</p>
<p>(53) The restriction on the appointment of specialist advisers "for the purposes of particular inquiries" should be removed, and all select committee should be free to appoint whatever advisers they wish for the purpose of their work; the scales of fees for advisers should be laid down by the Commission (paragraph 6.40).</p>	<p>Terms of reference of Departmental Committees have removed this restriction on the appointment of specialist advisers. Departmental select committees have power "to appoint persons with technical knowledge either to supply information which is not readily available or to elucidate matters of complexity within the committee's order of reference". Fees a matter for Commission.</p>	<p>No Government action required.</p>
<p>(54) The Commission should establish suitable procedures for assessing proposals for the recruitment of full-time specialist staff required by select committees (paragraph 6.41); and should be responsible for considering requests for assistance for committees from the Exchequer and Audit Department (paragraph 6.44).</p>	<p>Matter for Commission.</p>	<p>No Government action required.</p>
<p>(55) Members should be able to call on personal research assistance, paid centrally by the House, and in addition to, and separate from, the provision of secretarial assistance (paragraph 6.46).</p>	<p>Proposal would cut across arrangements for the Members' secretarial allowance, which includes an element in respect of research assistance. Library can provide central research assistance.</p>	<p>Oppose consideration outside general context of Members' remuneration as a whole.</p>
<p>(56) The Select Committee on House of Commons (Services) should undertake an immediate review of the present accommodation available for committees and their staff and of future accommodation needs, and should produce a plan for accommodation for Members and parliamentary staffs (paragraph 6.47).</p>	<p>Matter for Services Committee. More committee room accommodation has been provided in the Upper Committee Corridor (estimated cost April 1980, £475,000).</p>	<p>No Government action required.</p>

Recommendation	General Comment	Proposed Line for Debate
<p>(57) For the time being the orders of reference of most departmentally-related select committees should not include the power to appoint sub-committees with investigative powers; specific exception should be made for the Treasury Committee, the Foreign Affairs Committee and the Home Affairs Committee, all of which should be empowered to appoint no more than two investigative sub-committees (paragraph 6.48).</p>	<p>The Treasury and Civil Service Committee, the Foreign Affairs Committee and the Home Affairs Committee have been granted powers to appoint one investigative sub-committee.</p>	<p>Oppose, as necessary, the establishment of further sub-committees by these committees this session. Review as part of general sub-committee position next session (see recommendation (58)).</p>
<p>(58) Other committees desiring to appoint investigative sub-committees (or joint sub-committees) should put appropriate proposals to the Liaison Committee which would, if it concluded that adequate facilities were available to support the work of the proposed sub-committees, table the necessary motions in the House; such sub-committees would be required to report within a specified period of time (paragraph 6.49).</p>	<p>Five committees (Defence, Energy, Scottish Affairs, Transport and Welsh Affairs) have, with the support of the Liaison Committee, sought power to establish sub-committees. Further sub-committees would cause additional work for Ministers and Departments. It would seem inappropriate for the initiative for their establishment to lie with the Liaison Committee rather than with Ministers.</p>	<p>Subsume as part of general review of select committee structure next session in light of experience of working of Departmental Committees.</p>
<p>(59) All select committees should be empowered to appoint sub-committees (or joint sub-committees), without the power to send for persons, papers and records, for such purposes as the analysis of evidence, the preparation of reports, or the consideration of a committee's programme of work (paragraph 5.56).</p>	<p>Not clear why informal arrangements inadequate.</p>	<p>If necessary, agree to table Motions if select committees and Liaison Committee thought it useful.</p>
<p>(60) All select committees should be empowered to take evidence and deliberate jointly with other committees, to exchange papers with other committees, to make joint reports or special reports, or formally to request the opinions of other committees on any matters (paragraph 6.53).</p>	<p>No approach so far made by select committees.</p>	<p>If necessary, agree to table Motions if select committees and Liaison Committee thought it useful.</p>
<p>(61) The informal Chairmen's Liaison Committee should be replaced by a select committee, to be known as the Liaison Committee, consisting of one representative of each permanent select committee, together with additional Members to ensure that the overall membership of the committee reflects the composition of the House (paragraphs 6.56 - 6.58).</p>	<p>Liaison Committee has been established but without additional Members.</p>	<p>No Government action required.</p>

POWER TO SEND FOR PERSONS, PAPERS AND RECORDS (Recommendations 62-65)

Recommendation	General Comment	Proposed Line for Debate
<p>(62) 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 (paragraph 7.15).</p>	<p>Instructions to Departments state that normal presumption should be that detailed information about the organisational structure of departments should be made available to select committees if requested. Information about inter-departmental organisation will be provided, subject to the need to take into account the principle of the collective responsibility of Ministers to Parliament.</p>	<p>As indicated by the First Special Report of the Education, Science and Arts Committee ("The Provision of Information by Government Departments to Select Committees"), to which a Government reply will be made shortly, select committees can already draw alleged departmental failures in this field to the attention of the House. The House may accordingly consider that the recommendation is effective without the need for further endorsement.</p>
<p>(63) Memoranda submitted to select committees by government departments and non-departmental public organisations should include a declaration of the persons and organisations with whom consultations have taken place prior to their submission (paragraph 7.16).</p>	<p>This recommendation has been drawn to the attention of departments and non-departmental bodies with whom departmental consultations take place prior to the submission of departmental memoranda to select committees. Departmental memoranda shown in draft to non-departmental bodies should include a statement of the bodies concerned (Memorandum of Guidance for Officials appearing before Select Committees (paragraph 50)).</p>	<p>Implementing action has been taken.</p>
<p>(64) Select committees should be empowered to order the attendance of Ministers to give evidence to them (paragraph 7.21), and to order the production of papers and records by Ministers, including Secretaries of State (paragraph 7.22).</p>	<p>By convention select committees "invite", and do not "order", the attendance of Members, including Ministers. Select committees may at present, in effect, order the production of papers held in the custody of a Ministers, but only if he is not a Secretary of State. In the case of a Secretary of State the House must proceed by way of an Address to the Sovereign.</p>	<p>Maintain line taken by Government in debate (June 1979) when departmental select committees established, ie maintain existing position but agree to reconsider if more formal powers are needed for select committees to enforce their wishes.</p>
<p>(65) In the event of a refusal by a Minister to produce papers and records required by a select committee the committee should be empowered to claim precedence over public business for a debate on a Motion for an Address or for an Order for the Return of Papers, unless time is provided by the Government by the sixth sitting day after the first appearance of the Motion (paragraph 7.25).</p>	<p>This would provide select committees with the power to enforce automatic debate on the Floor of any alleged Ministerial refusal to produce papers. This could be a threat to other business and might be exploited. It would seem necessary that there should be evidence of general concern in the House over such an alleged refusal before a debate was required to take place.</p>	<p>Maintain existing position, ie no select committee power to enforce debate on the Floor. But, if necessary, give general undertaking that when there is clearly widespread concern in the House over such a dispute regarding the production of papers by Ministers, time for a debate will be found.</p>

Recommendation

General Comment

Proposed Line for Debate

(66) The Government should enter into negotiations with the local authority associations with a view to preparing legislation to implement an amalgamation of the Exchequer and Audit Department and the District Audit (paragraph 8.13).

(67) New legislation should establish the principle that the accounts of all bodies in receipt of funds voted by Parliament should be subject to examination by the Comptroller and Auditor General, with the proviso that the C & AG may authorise alternative audit procedures in respect of individual bodies to whose accounts he has a right of access (paragraph 8.14).

(68) The audit staff should be regarded as servants of the House, and the cost of the national audit activities should be carried on the Vote of the House, thus allowing the Commission to determine the overall scale of the audit function and the grades, qualifications and salaries of audit staff; in addition, the House or its committees should be able to request the C & AG to undertake inquiries, but not to direct him to carry out his inquiries in a particular manner (paragraph 8.21).

(69) All departmental Estimates should be referred to the appropriate departmentally-related committees (paragraph 8.24).

(70) The Government should act expeditiously to respond to the suggestions of the Expenditure Committee concerning the provision of financial information and the manner of its presentation to the House (paragraph 8.28); a review of the structure and content of the accounts, statistical analyses and other regular reports presented to the House should be undertaken, perhaps by the Public Accounts Committee and the new Treasury Committee, with a view to improving the means of parliamentary scrutiny (paragraph 8.29).

Green Paper 'The Role of the Comptroller and Auditor General' (Cmd 7845) published earlier this year and comments from interested bodies at present awaited. PAC have launched a separate enquiry in response to the Green Paper. No conclusions likely this year.

Action by Treasury in hand. This will cover Estimates and Supplementary Estimates.

Government Memorandum 'The provision of Additional Information on Supply Estimates' sent to Treasury and Civil Service Committee and the PAC in November 1979, proposing, inter alia, changes, adopted for 1980-1, in presentation of comparative statistics in the Budget Memorandum on the Estimates. Some further integration of cash, volume and price information to be provided this year. PAC (13th Report 1979-80) did not wish to pursue integration.

Subsume in consideration of response to Government's Green Paper.

Necessary action already taken.

Government anxious to meet wishes of the House. For example, further comparative information in cash and volume terms has been provided in Budget Memorandum on the Estimates. Government will give further consideration to scope for further changes in the light of the reaction of the Treasury and Civil Service Committee to their Memorandum. Subject may be taken up again by Procedure Committee as part of the proposed general review of Supply Procedure.