



PRIME MINISTER

PROCEDURE COMMITTEE REPORT ON PUBLIC BILL PROCEDURE

Last year an important Report was published by the Procedure Committee. By far the most important of its detailed recommendations was that there should be automatic timetabling under the control of a "Legislative Business Committee", of all Government Bills that are considered likely to require more than twenty-five hours in Standing Committee. A detailed background note is attached.

The Chief Whip and I consider that this proposal would result in an unacceptable loss of the control that the Government has at present over the organisation of Business in the House. We are agreed, therefore, that this proposal must be rejected though a few minor recommendations of the Committee can be accepted.

The Official Opposition have indicated that they would not be attracted to the Procedure Committee's proposals for timetabling Government Bills. Nor has there been any obvious expression of support from our own backbenchers either by way of Early Day Motions or when I recently addressed the Executive of the 1922 Committee.

In the light of this, the Chief Whip and I propose to arrange, if possible, next week a "take note" debate on the Procedure Committee's Report as a whole. If Peter Emery or others put down an amendment proposing the acceptance of the Procedure Committee's timetabling proposals, we would propose to get it voted down. The Chief Whip and I would, however, see in due course whether some arrangements could be reached through the usual channels to reduce the present norm of one hundred hours in Committee before a guillotine Motion is introduced.

I am copying this minute to Cabinet colleagues, the Chief Whip and Sir Robert Armstrong.

W J B

W J B

11 February 1986





**BACKGROUND NOTE ON THE REPORT OF THE PROCEDURE COMMITTEE ON  
PUBLIC BILL PROCEDURE - APRIL 1985**

1. An important report on Public Bill Procedure made last Session by the House of Commons Select Committee on Procedure, under the chairmanship of Sir Peter Emery, is still outstanding (second Report from the Select Committee on Procedure Session 1984-85 HC 49-1). The Government has undertaken to provide an opportunity for a debate on this report, probably sometime in February. It raises some major issues potentially affecting control over the progress of the Government's legislative programme in the House of Commons, particularly in Standing Committee. A summary of the Committee's recommendations is attached at Annex A.
2. By far the most important of the Committee's recommendations (recommendations 9-11) relate to the proposed introduction of a procedure for the automatic time-tabling of Government Bills considered likely to require more than 25 hours in Standing Committee.
3. In recent years criticism has mounted amongst backbenchers that a considerable proportion of the time spent by Members in Standing Committee is wasted, and that delaying tactics on the early parts of some Bills, sometimes pending a 'guillotine' motion, have meant that the time available for scrutiny in Committee is not sensibly apportioned between the parts of a Bill as a whole. A further effect of the present procedure is that it sometimes leads to Government backbenchers being discouraged from taking an active role in debates in Standing Committee. Criticism along these lines was one of the principal factors in the establishment of the present Procedure Committee, and the allocation of time in Standing Committee was one of the matters specifically referred to in the Committee's terms of reference.



4. In his evidence to the Committee the Lord Privy Seal drew attention to the limited number of Government Bills in which problems of this kind arose, and suggested that it seemed unlikely that for the majority of Government Bills automatic timetabling would give results to the House more generally satisfactory than the present system of informal discussion through the usual channels. He acknowledged, however, that in certain instances (eg the Telecommunications Bill) an earlier guillotine than had been recent practice (ie not before at least 70-80 hours had been spent in Committee) might sometimes enable a Bill as a whole to be better considered. The problem lay in identifying the small number of Bills where an earlier guillotine would be advantageous, and in devising a procedure for their consideration in Committee which would be generally acceptable to the House as a whole.

5. Whilst the Committee acknowledge (paragraph 34 of their Report) that the problems they address only arise in 'a small minority of Bills', they nevertheless propose that a new committee, a Legislative Business Committee appointed by the Committee of Selection, should recommend a maximum number of hours for the Standing Committee stage (and, if necessary, subsequent stages) of any Government Bill it considers likely to require more than 25 hours in Standing Committee; and that a Business Sub-Committee (also appointed by the committee of Selection) should lay down the detailed allocation of time within the maximum hours laid down by the Legislative Business Committee.

6. There are some serious objections to the Committee's proposals from the viewpoint of the effective and certain management of the Government's legislative programme:

- i. It is obviously not possible to predict with any certainty how the proposed Legislative Business Committee would interpret its role, and how far the Government majority on the Committee could be relied upon. But the discretionary powers (eg the power to



decide which Government Bills were likely to take more than 25 hours in Committee) given to the Committee would make a very considerable potential shift in power over the control of business away from the 'usual channels'. The present system generally works well from a Government viewpoint, and in practice normally ensures that the passage of all Government Bills. The proposed new system would take a number of important 'business' decisions out of Ministerial hands, and would make the overall management of the Government's legislative programme more uncertain;

ii. The proposed changes would lead to a loss of flexibility and manoeuvre in the planning of the Parliamentary programme as a whole. The instances in which some reasonable accommodation is not reached through the usual channels are in practice fairly rare, and informal unpublicised time-tabling agreements are traded between Bills. If a rigid and publicised timetabling has to be formally laid down by a Committee for every Government Bill that, viewed on Second Reading, might possibly take more than 25 hours in Standing Committee, the overall time spent in Committee might well increase, rather than the reverse. Moreover, time-table Motions introduced, as proposed, without debate after Second Reading could provide ideal opportunities to maximise open and covert opposition to controversial Government measures and jeopardize their further progress. The Government need to maintain the initiative in deciding when a guillotine motion is most likely to succeed, and also the option, where necessary, of letting legislation 'run into the sand' in Committee.

7. Apart, however, from the uncertainties which the new procedures would introduce into the management of Government business, the Procedure Committee's proposals as they stand are open to criticism on grounds of practicality. For example, it is difficult to see how more than a minority of the Bills each Session which, under present procedures, would in practice require more than 25 hours in Committee, could be



confidently identified at Second Reading. There are bound to be cases within fairly broad margins of uncertainty where the demand - or lack of it - for extended debate will only emerge in the course of proceedings. And if an Opposition wanted to delay the Government's programme they could always choose a Bill which the Legislative Business Committee had not selected for time-tabling.

8. For the above reasons the Chief Whip and the Lord Privy Seal take the view that the Procedure Committee's recommendations on time-tabling should be resisted. But in view of the possible extent of backbench support for the proposals, the arrangements for the debate on this report will need careful handling. Present plans are as follows:

- i. the debate would take place on a 'take note' motion on the Procedure Committee's report as a whole, linked with a number of motions recommending the approval of certain of the Committee's minor proposals;
- ii. in the course of the debate the Lord Privy Seal would make clear the Government's strong reservations about the Committee's time-tabling proposals, but acknowledge the need to introduce 'guillotines', where necessary, at an earlier stage than recently, in order to ensure a more balanced apportionment of time in Standing Committee between the various parts of the legislation concerned;
- iii. if, as seems likely, Sir Peter Emery tables an amendment to the 'take Motion' proposing the acceptance of the Committee's time-tabling proposals, the House would be asked to reject it.

In the light of the outcome of the debate the Lord Privy Seal would then propose to see whether some agreement can be reached through the usual channels to bring toward to, say, 50 hours the normal 'guillotine' point in the Standing Committee proceedings. If agreement cannot be reached the Government may have to change the practice unilaterally as the need arises.



## SUMMARY OF RECOMMENDATIONS

46. Our Report is intended to be read as a whole. For convenience, however, we summarise below our principal proposals. We recommend that:

- (1) (a) All committal motions (other than those providing for divided committal) should be able to be moved by any Member.
- (b) In the case of divided committal motions, any Member should be able to move an amendment to allow for the whole of the bill to be committed to a committee of the whole House, or to propose a different division of the bill.
- (c) Notice should be given of divided committal motions and amendments to them.
- (d) There should be no debate on any committal motions or on any amendments moved to them (paragraphs 8 and 9).
- (2) Permanent provision for the Special Standing Committee (SSC) procedure should be made in Standing Orders. Greater use should be made of the procedure. In particular certain parts of the annual Finance Bill are well suited to the SSC procedure (paragraph 13).
- (3) Standing Orders should be amended to provide for a new motion "That the Question be now *proposed*" to deal with exceptionally long speeches moving motions or amendments in committee or at report stage (paragraphs 15 and 16).
- (4) Paragraph (3) (the so-called "kangaroo closure" provision) of Standing Order No. 31 should be repealed (paragraphs 15 and 16).
- (5) Standing Orders should provide that standing committees, or Special Standing Committees, should be able to reconvene for the purpose of considering amendments arising from undertakings given by Ministers, and consequential and drafting amendments (paragraph 19).
- (6) Standing Order No. 78 which provides for the committal of certain bills to a Standing Committee for Report Stage should be repealed (paragraph 20).
- (7) Paragraph (2) of Standing Order No. 58 relating to third reading motions should be repealed (paragraph 22).
- (8) Minimum intervals between the stages of bills should be prescribed by Standing Order (paragraph 23).

## TIMETABLING

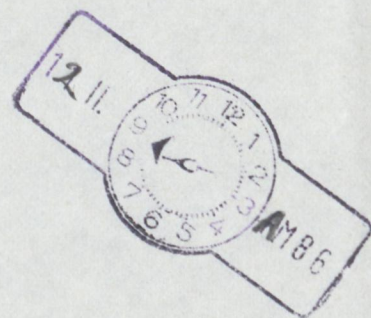
- (9) Timetables on controversial bills should be introduced much earlier than at present. To this end there should be a Legislative Business Committee (LBC) of thirteen Members appointed by the Committee of Selection (paragraph 36 (a)).



- (10) The LBC should consider all Government bills committed to a Standing Committee. If it considers that a bill is likely to require more than twenty five hours in standing committee the LBC should recommend a maximum number of hours for consideration of the bill by the standing committee (paragraph 36 (b)).
- (11) Such recommendations from the LBC should be implemented without debate (paragraph 36 (6)).
- (12) Business Sub-Committees, nominated by the Committee of Selection from the Members of the standing committee and larger than at present, should lay down the detailed allocation of time within the total time proposed by the LBC (paragraph 36 (c)).
- (13) The LBC should be able to make revised proposals to take account of new factors (paragraph 39).
- (14) Present timetabling procedures should continue to apply in respect of any bill in committee of the whole House or not previously timetabled by the LBC (paragraph 43).
- (15) Where, however, a bill has already been timetabled by the LBC and where there appears to be no informal agreement about the length of time to be given for remaining stages the LBC should be free to propose a timetable for these stages (including consideration of Lords Amendments). The motion to agree with a report from the LBC in these circumstances should be decided without debate (paragraph 44).
- (16) Proceedings in standing committees should not continue beyond 10 pm. (paragraph 45).

23 April 1985









File DSG  
CCBG ✓ (LO4ABM)

10 DOWNING STREET

From the Private Secretary

18 February 1986

Dear David,

The Prime Minister has now seen the Lord Privy Seal's minute of 11 February about the report of the Procedure Committee on Public Bill Procedure. She has also seen the subsequent minute of the Minister for Agriculture, Fisheries and Food. The Prime Minister very much agrees with the Lord Privy Seal's conclusion that the Committee's proposal for a Legislative Business Committee to control time on Government Bills in Committee should be rejected, and she has further agreed to the tactics he proposes for dealing with the Report. For the future, however, she shares Mr. Jopling's reservations about the Lord Privy Seal's proposals for bringing forward to 50 hours the normal guillotine point in the Standing Committee proceedings. She believes that 50 hours might well look high-handed and would therefore hope that the Lord Privy Seal would adopt a flexible approach to the negotiations through the usual channels which he envisages in paragraph 8 of the background note attached to his minute.

I am copying this letter to the Private Secretaries to members of Cabinet, to Murdo Maclean (Chief Whip's Office) and to Michael Stark (Cabinet Office).

Yours

Tm.

Timothy Flesher

David Morris, Esq.,  
Lord Privy Seal's Office.

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CBG/

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MINISTRY OF AGRICULTURE, FISHERIES AND FOOD  
WHITEHALL PLACE, LONDON SW1A 2HH



From the Minister

PRIME MINISTER

PROCEDURE COMMITTEE REPORT ON PUBLIC BILL PROCEDURE

I think 50 hours  
would look  
high-handed. A  
specific line is not  
HPS proposal to try to get  
earlier guillotine. Do you have  
a new ~~fact~~

The Minister:

as you will see,  
Mr Topling, wearing his former  
Chief Whip's hat, is against the  
HPS proposal to try to get  
earlier guillotine. Do you have  
a new ~~fact~~

WIT 14/2

I have seen John Biffen's minute of 11 February on the Government's reaction to the Procedure Committee's Report.

I am strongly in favour of his suggestion that we should reject the Committee's time-tabling proposals. But I am most concerned at his proposal to seek an agreement to bring forward to 50 hours the normal 'guillotine' point in the Standing Committee proceedings.

Over the last 6½ years we have carried out a highly radical legislative programme, whilst at the same time our use of the guillotine has been relatively sparing. I think I am correct in saying, that never once have we exceeded Michael Foot's famous 5 guillotines in one session. We have done this by using a much longer yardstick than 50 hours in Committee.

If we are now to make the guillotine procedure easier, this must be a bonus for opposition parties who see themselves as future Governments. In the event of our defeat at any future General Election, the subsequent Government would inevitably wish to spend a vast amount of time reversing our good work, by means of primary legislation. If we were to make it easier for them by endorsing guillotines at an earlier stage, it would inevitably lead to Governments being able to get significantly more primary legislation into the Statute Book in each session.

I do not think we ought to make this gift to the Opposition, when we are well able to continue to get the lion's share of our plans put into the Statute Book.

I am copying this minute to members of the Cabinet, to the Chief Whip and to Sir Robert Armstrong.

M J  
13 February 1986



MINISTRY OF AGRICULTURE, FISHERIES AND FOOD  
WHITEHALL, LONDON, S.W. 1



PROCEEDINGS COMMITTEE REPORT ON EAGLE HILL PROCEEDINGS

Report of the Committee on the Proceedings of the Eagle Hill Conference, 1954, held at Eagle Hill, New Hampshire, U.S.A.

The Committee, which was appointed by the Council of the British Association for the Advancement of Science, has the honour to report to the Council on the proceedings of the Eagle Hill Conference, which was held at Eagle Hill, New Hampshire, U.S.A., from 10 to 14 September 1954.

The Conference was attended by 15 members of the British Association, 15 members of the American Association for the Advancement of Science, and 15 members of the Canadian Association for the Advancement of Science.

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PRIME MINISTER

PROCEDURE COMMITTEE

Attached is a minute from the Lord Privy seal about the recent Report of the Procedure Committee which advocated that legislative time in Committee should be under the control of a "Legislative Business Committee" who will be responsible for automatic timetabling. The Lord Privy Seal's view is that it is quite unacceptable for the Government to abrogate its control of the legislative timetable and handed over to a Committee of the House. I am sure that is right and that you will wish to endorse what he proposes.

Agree

Yes mr

df

TIMOTHY FLESHER

12 February 1986