

Strengthening the British House of Commons: The Unexpected Reforms of 2010*

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On 10 June last year, the then Prime Minister Gordon Brown announced the establishment of a new committee to look at reform of the House of Commons. The committee was to be chaired by the highly regarded backbench Labour MP Dr Tony Wright, who was a well-known advocate of reform. The committee was to be asked, in Brown's words, to:

advise on necessary reforms, including making Select Committee processes more democratic, scheduling more and better time for non-Government business in the House, and enabling the public to initiate directly some issues for debate.¹

I will speak only about the first two of these three topics: making select committees 'more democratic', and scheduling more and better non-government time. These were the issues that the committee considered most substantive, and on which it made most progress.

I should clarify that in the British House of Commons select committees are specialist committees which shadow government departments, conducting executive oversight and investigations, but not looking at legislation. (The committee stage of bills is considered by a different set of committees, now called 'public bill committees'.) There had, as I will describe, long been controversy about how the select committees were appointed. As I will also describe, there had not been the same level of controversy about the scheduling of non-government business.

To cut to the end of the story briefly, following the establishment of the Wright committee, wide-ranging and significant reforms were both proposed and adopted. These included a complete overhaul of how select committee members and chairs were appointed, and the establishment of a new Backbench Business Committee, with responsibility for scheduling non-government business in the chamber for roughly one day per week. Both changes significantly reduced the power of the party whips: in terms of patronage, and controlling the agenda, respectively.

* This paper was presented as a lecture in the Senate Occasional Lecture Series at Parliament House, Canberra, on 5 November 2010.

¹ House of Commons Hansard, 10 June 2009, column 797.

I will explain a bit about these reforms: how they came to be devised, why the Wright committee proposed them, and what they will mean. But I also want to answer the obvious question which is probably already running through your heads: how on earth can this have been allowed to happen? In Britain, like Australia, the lower house of parliament is seen as a strongly executive-dominated institution. Like you, we normally have single party majority governments. Parliamentary parties are largely cohesive in their voting, meaning the government is pretty much assured a majority.² Hence it's considered very difficult to achieve reform which doesn't have government backing, and government is unlikely to back reforms that will result in a stronger and more independent House of Commons. Yet the Wright committee reforms did just that. So the obvious question is why? And indeed how? I hope to address these questions in my talk.

I will start by giving you three essential bits of background: on the debates in recent years on reform in the two areas that the Wright committee tackled, where I will argue that the circumstances pertaining to each were very different, and, third and crucially, on the political environment in which the committee was created. Next I'll describe the establishment of the committee, its deliberations, and conclusions. From here it will already be clear that achieving reform wasn't easy: there was resistance from the start. Third, I'll talk about the battle to get the committee's recommendations debated and agreed. Here things got very tough and reform might easily have been blocked. Finally I'll reflect a bit on what we are left with and what we can conclude about the new parliamentary arrangements and the reform process.

Parliamentary reform in the United Kingdom

First, a few preliminary words about parliamentary reform in the UK, from a slightly more academic perspective. In recent years, academics have asked which circumstances are necessary for parliamentary reform to happen, in our usually executive-dominated system. The best established answer has been provided by Philip Norton, who suggests that there are three essential prerequisites:

- First, a well worked out reform agenda, which has already set out what needs to be done;
- Second, a 'window of opportunity', which Norton says usually comes shortly after a general election, when politics is still to some extent in flux;

² Though the extent to which the British parties are cohesive should not be overestimated, and there are many more instances of rebellion (or 'floor crossing') in Britain than there are in Australia. See P. Cowley, *Revolts and Rebellions: Parliamentary Voting Under Blair*. London, Politico's, 2002; P. Cowley, *The Rebels: How Blair Misled His Majority*. London, Politico's, 2005.

- Third, leadership, which he suggests ‘may come from the back-benches but may also come from the Leader of the House (a government minister who also has a responsibility to the House), or from a combination of both’.³

Norton clearly based these criteria, published 10 years ago, on major reforms that had happened in Britain; particularly in the 1960s and 1970s. His three-point framework may help us consider what brought about the reforms of 2010. But as we will see, it has been questioned by other scholars.

The back story

So now I’ll say a bit about the background on the Wright committee’s two key areas of reform: to select committee appointments, and scheduling of business in the chamber. As already indicated, the circumstances with respect to each were very different. The first had been a long-running saga, but the second was less well established and well defined on the agenda of reformers.

Select committees

The modern select committees were established shortly after the 1979 general election. This is widely seen as the last time a major reform took place at Westminster to strengthen the Commons against the executive, and clearly influenced Norton’s framework. The committees are well-respected, but there had long been concerns about their powers, resources, and particularly how their members were chosen. In 2000, the ‘Liaison Committee’, made up of select committee chairs, published a critical report calling for reform.⁴ Their most contentious proposals related to the composition of the committees. In practice, appointment of members lay in the hands of party whips, though they had to be approved by the House.

The Liaison Committee proposed that committee appointments be made instead by a group of senior MPs who would act more independently in the interests of the whole House. But government strongly resisted these proposals, and failed to make time to debate them before the 2001 general election.

After each election the select committees are reappointed, and in 2001 matters got a great deal worse. The Labour whips used their power to block two troublesome former committee chairs from membership of their committees. This caused a huge

³ P. Norton, ‘Reforming parliament in the United Kingdom: the report of the Commission to Strengthen Parliament’, *Journal of Legislative Studies*, vol. 6, no. 3, 2000, pp. 1–14.

⁴ Liaison Committee. *Shifting the Balance: Select Committees and the Executive* (First Report of Session 1999–2000). London, House of Commons, 2000.

row when the chamber was asked to approve the names, and MPs actually voted against the list. The whips had to reinstate these members, with the revised lists then approved, and the members in question re-elected as chairs by their committees.⁵

It seemed that the Commons was ready for reform, and—unusually for a government minister—the new Leader of the House of Commons, Robin Cook, was ready to support this. Cook was a respected pro-reform parliamentarian, and had recently been reshuffled by Tony Blair—against his own wishes—from the position of Foreign Secretary. He had spoken out internally against the whips’ decision to remove these committee chairs, and now wanted to change the system.⁶ He therefore brought forward proposals for reform, similar to those previously proposed by the Liaison Committee.⁷ They were put to the vote in the chamber in May 2002. As Cook said in the debate the ‘nub of the matter’ was that:

Committees of Parliament, appointed by Parliament to scrutinise the Executive, should be free from party influence, particularly the party representing the Executive.⁸

MPs thus had a rare opportunity to vote to strengthen parliament against the executive.

But despite their previous move to block the whips’ choice of names, the House voted against Cook’s new system. Votes on procedural matters are officially unwhipped, but there was clearly collusion between whips on both sides to see the reform defeated. As some commentators bitterly noted, all of Norton’s three criteria had been met—established proposals, a clear window of opportunity, and leadership by the Leader of the House—and still reform had failed to happen.⁹

After this, there were no reform opportunities, but proposals continued to be made. In 2003 a cross-party group of parliamentarians proposed that, rather than being appointed by any kind of grouping, select committee chairs should instead be elected by a secret ballot across the whole House.¹⁰ This was later taken up as policy by the

⁵ For details, including of the subsequent failed attempt at reform, see A. Kelso, ‘“Where were the massed ranks of parliamentary reformers?” “Attitudinal” and “Contextual” approaches to parliamentary reform’, *Journal of Legislative Studies*, vol. 9, no. 1, 2003, pp. 57–76.

⁶ I was working for Cook at the time as a specialist adviser. See also his memoir: R. Cook, *The Point of Departure*. London, Simon and Schuster, 2003.

⁷ Modernisation Committee, *Select Committees* (First Report of Session 2001–02). London, House of Commons, 2002.

⁸ House of Commons Hansard, 14 May 2002, column 651.

⁹ Kelso, *op. cit.*

¹⁰ Parliament First, *Parliament’s Last Chance*. London, Parliament First, 2003.

Conservative Party. This is where the issue rested when the Wright committee was formed.

Scheduling of (non-government) business

While there had been bitter battles over this matter over a decade, the same could not be said for proposals about the scheduling of non-government business, and establishing a Backbench Business Committee. This proposal had been made in only one report, in 2007, and I am proud to say that I wrote it.

The research which spawned the report was inspired by the time I spent working for the reforming Leader of the House, Robin Cook.

Not only because of the 2002 debacle, but including this, it was clear that there was nobody who really ‘spoke for’ the House of Commons. The Leader was compromised by being a member of Cabinet. The Speaker, at that time at least, was weak.¹¹ The Liaison Committee only represented the select committee chairs. Furthermore, there was an clear problem of members’ access to the agenda. The Liaison Committee couldn’t get its suggestions for reform debated, because in practice only government could put procedural changes to the vote.

This was traceable to the infamous Standing Order 14, which starts, ‘Save as provided in this order, government business shall have precedence at every sitting’. There are exceptions, importantly for Opposition business, private members’ bills, adjournment debates and questions to ministers. But while standing orders protected time for government, Opposition, and individual members, there was little provision for backbench members collectively, including for select committees, to initiate debates—and no provision to force decisions. When working for Robin Cook—who ultimately resigned from the government over the Iraq war—this was illustrated by members’ inability, for months, to force a debate and vote on that matter. In practice government whips decided which debates would be held, and their plans were put to the House in a ‘business statement’ as a *fait accompli* every week.

In response to these kind of concerns, some had noted that many other parliaments had a committee officially representing the whole chamber, which made decisions about parliamentary scheduling. They therefore proposed that the Commons should adopt some kind of ‘business committee’.¹² But these proposals were often vague

¹¹ This Speaker (Michael Martin) was forced out as a result of the expenses crisis, and his replacement (John Bercow) has proved to be a more forceful and independent-minded character.

¹² E.g. Conservative Party, *Strengthening Parliament: The Report of the Commission to Strengthen Parliament*. London, Conservative Party, 2000; Conservative Party Democracy Taskforce, *Power to the People: Rebuilding Parliament*. London, Conservative Party, 2007; Hansard Society, *The*

about who should sit on a business committee, or what exactly its functions should be. Notably, they were not strongly grounded in study of the overseas committees to which they referred. There was therefore need for more detailed comparative study.

So what brought me to Canberra four years ago was a study of how other parliaments managed these questions, in New Zealand, Germany and Scotland, as well as Australia. The first three countries all have some kind of business committee, but what I found was that all these committees were completely dominated by party whips. They provided greater access to the agenda for non-government parties, but did nothing to promote opportunities for backbenchers or MPs working cross-party. Their meetings were a mere formality, lasting just a few minutes, to endorse the whips' decisions. This was not attractive. What seemed more interesting was how here in the Senate the default was not for time to be owned by government, but for it to be owned by the House. And in Scotland, the weekly business program was not presented as a *fait accompli*, but could be amended and voted upon.

Our research report therefore recommended a unique British system, drawing on the best of what we had seen.¹³ We concluded that:

- it was desirable ‘to establish a far clearer dichotomy between “government time” and time for “House Business” or “backbench business”, with the latter guaranteed ...’;
- ‘at least half a day, and up to a full day, per week’;
- that ‘the responsibility for allocating time between different items of business on this part of the agenda should no longer rest with the [whips]’; and
- instead that a ‘new committee made up of backbenchers (the “Backbench Business Committee”) should be established to determine the timetable’ of this business.

Furthermore, backbench business should allow members to force votes, including decisions on committee reports, members’ motions and bills.

These were detailed proposals, unlikely to attract much attention outside Parliament, but they were launched within Parliament to an audience of members and officials. The speakers crucially included Tony Wright, who was a member of the steering group for the project. The relevance of this will shortly become apparent.

Challenge for Parliament: Making Government Accountable. London, Vacher Dod, 2001; Parliament First. *Parliament’s Last Chance*, op. cit.

¹³ M. Russell and A. Paun, *The House Rules?: International Lessons for Enhancing the Autonomy of the House of Commons*. London, Constitution Unit, 2007.

The MPs' expenses crisis

The last crucial piece of background is one with which you must all already be familiar: the disastrous MPs' expenses crisis which engulfed Britain in 2009–10. This crisis began in May 2009, the month before Gordon Brown announced the establishment of the Wright committee, with publication of MPs' expenses details in the *Daily Telegraph*. There followed months of accusations, public and media outrage, parliamentary resignations, retirements and deselections, and the resignation of the Commons Speaker.¹⁴ This was genuinely a major crisis, raising concerns about whether public confidence in parliament, and the political class, could ever be restored.

The crisis also briefly focused attention, as it rarely focuses, on parliamentary reform. There were reforms to deal with the immediate problem: ultimately through establishment of the Independent Parliamentary Standards Authority to regulate and police expenses. But the calls from reform-minded pressure groups went far further, for example including demands for wholesale electoral system change and Lords reform. Most of these proposals had little or nothing to do with the problems at hand, but campaigners for reform seemed to share Rahm Emanuel's attitude, that one should 'never allow a crisis to go to waste'.¹⁵

It was in this febrile environment that Tony Wright wrote to Gordon Brown, suggesting that he:

announce a new special committee on Parliamentary Reform ... with a mandate to come forward quickly with reform proposals.

He went on:

The key reform would be to separate the control of Government business from House business. There is already a sensible proposal on this in a recent research study by Meg Russell at the Constitution Unit called *The House Rules?* It would not threaten Government business, but it would help to make a more vital Commons, from which other reforms would flow. A further and well-rehearsed reform would be to elect the chairs of

¹⁴ For details see A. Kelso, 'Parliament on its knees: MPs' expenses and the crisis of transparency at Westminster', *Political Quarterly*, no. 80, vol. 3, 2009, pp. 329–38.

¹⁵ Rahm Emanuel, Chief of Staff to President Obama, 7 November 2008. On 19 November he said: 'You never want a serious crisis to go to waste: what I mean by that is it's an opportunity to do things you could not do before ... The problems are bad enough that they lend themselves to ideas from both parties for a solution'.

Select Committees (and to improve committee selection procedure more generally) ...¹⁶

Wright did not know Brown well, and evidently did not have high expectations of success. He was therefore stunned to hear Brown's announcement creating just such a committee, with himself in the chair, nine days later. But in the depths of the crisis, Brown clearly saw this as an opportunity to restore parliament's reputation. And as a chance to restore his own reforming reputation, having disappointed so far on constitutional reform.

Establishment of the Wright committee

Following this lightning-fast action, things slowed down considerably and became gradually more difficult. First, there were significant delays in actually setting up the Wright committee. Given the restrictions on agenda access already outlined, it fell to the government to table a motion for the House to vote upon to create it. Such a motion was first tabled two weeks later. But due to wrangling over the committee's terms of reference and whether it should be able to consider scheduling of government as well as non-government business, it wasn't until 20 July that government made time for a debate, and the actual establishment of the committee.¹⁷ This was an early portent of the difficulties ahead. It also added to the practical difficulties already facing the committee, which was required to report by the end of the parliamentary session, on 13 November. As the Commons went into summer recess on the day after the motion was agreed, and didn't return until mid-October, the committee now had only four sitting weeks to deal with a large and complex agenda.

By the time the motion was agreed, the committee members had already been chosen. In an unprecedented move, again presaging what lay ahead, all parties chose to elect their members of the committee. Given that one of the key topics for the committee was how select committee members were chosen, it was clearly considered inappropriate that its members should themselves be selected by whips. What resulted was a mixed, but largely senior, membership.

Crucially, the committee was also well served by having a very senior clerk. At its first meeting it agreed that I should be appointed as its specialist adviser.

¹⁶ Letter from Tony Wright to Gordon Brown, 1 June 2009.

¹⁷ For a longer account of this process, see L. Maer and R. Kelly, *Establishment of the Select Committee on Reform of the House of Commons*. London, House of Commons Library, 2010.

The committee's work and its conclusions

The committee clearly had to work very fast, and drafting work began immediately, using existing proposals as an initial guide, and offering options over the summer to consider. Despite the Commons officially being in recess, papers were circulated to members, and an early meeting was held in September. Alongside this the committee held a more open seminar, to which outside experts on reform were invited. One of the themes that came through very clearly at this event was that the power of the party whips, and their resistance to reform, should never be underestimated. There were many people present who had been badly burned by the 2002 experience over select committee reform, including many members of the Wright committee itself. This proved to be highly relevant.

Aside from the initial seminar, the committee's time constraints meant it worked almost entirely in private, and took little evidence. It did hold a few closed-evidence sessions with key individuals. A particularly arresting session was that held with Hilary Armstrong, Labour government Chief Whip 2001–07 (i.e. including the time the select committee proposals were blocked). She passionately expressed a principled view—though most on the committee clearly disagreed with it—that any moves to strengthen parliament against the executive were essentially antidemocratic, as they threatened to undermine the government's electoral mandate to get its business through. Perhaps more worryingly similar sentiments were expressed, more mutedly, by the current Conservative Chief Whip. He clearly believed that he would shortly be government Chief Whip, given Labour's low standing in the polls, and he has since been proved correct.

While it had two key issues to consider, the committee made faster progress in drawing up its proposals for select committee reform. These were somewhat easier, as the proposals were well rehearsed, and the question was more mechanical. At an early stage, the committee rejected any notion of returning to 2002-style proposals of committee chairs or members being appointed by any kind of panel of 'wise persons', no matter how independent of the whips. They focused wholly on electoral options. One option was for selection of committee *members* to be democratised, with committees left to choose their own chairs. Another option was for chairs to be elected separately and in their own right. In either case, elections might take place either within party groups or across the whole House.

This last point opened up a real difference of opinion on the committee on a matter of principle. Some members believed that the fundamental building blocks of parliament were the political parties, and that parties should be responsible for choosing their own representatives, without interference. Others strongly believed that the role of the

select committees was to represent the chamber as a whole, not partisan interests, and that the chamber should therefore be responsible for selecting committee members and chairs. In the end, neither side won. The solution proposed didn't adhere to either principle, but sought to integrate both. It could therefore be described as a fudge. It was recommended that chairs of the most important select committees should be elected by all members in a secret cross-party ballot, with the members elected afterwards in secret ballots within their party groups. Partly, the challenges of devising a system whereby all committee members were elected in cross-party ballots were simply too daunting.¹⁸ This plus political pressures from some members, meant that the pragmatic 'pro-party' solution partly won out.

Discussions on the scheduling of business were more protracted and complex. The committee was convinced from an early stage that, despite its terms of reference having been widened to include government business, it should not simply recommend a single business committee responsible for all such decisions. This was for both principled and pragmatic reasons, as previously laid out in my report. First, there was a principle that there should be a clear delineation between government and non-government business, and that government whips should no longer have a role in scheduling the latter. But it was accepted that government whips would always legitimately wish to be involved in the scheduling of government business. This implied the creation of two separate bodies. Second, more pragmatically, had the committee sought to propose only one new business committee to take over all scheduling responsibility from the whips, this would have been strongly resisted. In contrast, a Backbench Business Committee with more limited powers over non-government business was less of a threat to the whips, and also harder for them to mount a case against. The committee therefore agreed, closely in line with my report, that there should be a new category of 'backbench business', 'for not less than the equivalent of one day a week', and that there should be an elected Backbench Business Committee responsible for scheduling it.

The committee didn't stop there, however. While they were convinced that organisation of government and non-government business should be kept separate, the majority also wanted to make recommendations for more transparent scheduling of government time. Consequently they recommended that there should also be a 'House Business Committee', with a wider membership, with overall scheduling responsibility. Members of the Backbench Business Committee would automatically be members of it, and would have delegated responsibility for scheduling of non-government business, which other members of the committee would not be permitted

¹⁸ On these narrow points of devising electoral systems for choosing party members and chairs, Professor Iain McLean of Nuffield College, Oxford, was employed as a second specialist adviser. The fact that even he found these questions taxing was clear evidence of their complexity.

to overturn. The other members of the House Business Committee would in practice, it was recognised, probably be party whips, though its chair should be the Deputy Speaker. The report suggested that the House Business Committee should operate by consensus, but that the government should be invited to present its proposals for agenda time and invite comments. It would then be encouraged to revise its plans following suggestions from the committee. Crucially, the weekly ‘business statement’ presented to the chamber would in future be amendable and could be voted upon. Hence, if the government had ignored objections in the House Business Committee, it might face challenge on the floor of the House. The Wright committee recognised that in practice the government could usually resist such objections by using its majority, but the new system would ensure that it defended its decisions publicly, and that it had majority support. If it wilfully ignored the wishes of its own backbenchers, in particular, it could be subject to defeat.

Put together, these three elements represented a significant agenda of reform. In its report, published on 12 November 2009, the committee stated:

We believe that the House of Commons has to become a more vital institution, less sterile in how it operates, better able to reflect public concerns, more transparent, and more vigorous in its task of scrutiny and accountability. This requires both structural and cultural change ... In order to address this we must give Members back a sense of ownership of their own institution, the ability to set its agenda and take meaningful decisions, and ensure the business of the Chamber is responsive to public concerns. We believe this is what the public demands, what the institution needs and what most Members want. The present crisis presents an opportunity to make some real progress with this.¹⁹

The struggle to get the committee’s recommendations debated and agreed

It is usual for select committee reports to receive a government reply within two months of publication. In this case, the committee stated that it did not seek a government response, as its recommendations were not aimed at government, but parliament. It therefore sought a debate on its proposals within two months: i.e. by 12 January 2010.

The committee’s report was well-received in the media. The right-leaning *Daily Telegraph* suggested that ‘this is a unique opportunity to rebalance the political

¹⁹ Reform of the House of Commons Select Committee, *Rebuilding the House* (First Report of Session 2008–09). London, HMSO, 2009, p. 7.

system to reduce the power of the executive and reinvigorate the legislature'.²⁰ Similarly the left-leaning *Guardian* carried an editorial entitled 'Reform of parliament: just do the Wright thing'.²¹ But the government's response was rather more ambivalent. Asked at Prime Minister's Questions for his views on the report, Gordon Brown stated that:

I welcome the report from my hon. Friend ... on the reform of this Parliament ... I believe that there will be a warm welcome for some of the proposals in the report.²²

Two months later, the Commons was still waiting for an opportunity to debate and agree the report. Many saw the irony that a report seeking to end the government's monopoly on placing items on the agenda was being blocked by government not allocating it agenda time. In the new year, concerns began to be expressed increasingly publicly, and a coalition of reform-minded groups was drawn together outside parliament to press for the committee's recommendations.²³

On 21 January the Leader of the House of Commons, Harriet Harman, announced that a debate would be held on 23 February, more than three months after the committee's report had been published. But worse, it emerged that this debate would be held using an unprecedented procedure (not used for other parliamentary reforms), whereby the House would be presented with a series of unamendable government motions, which could be blocked by the objection of a single MP. As consensus amongst 646 MPs is virtually impossible on anything, this made the proposals look doomed. Understandably alarmed by this news, the Wright committee sought to assert itself, by reconvening and invited the Leader of the House to give public evidence on the matter. This succeeded in extracting a promise of a second debate if this proved necessary. But time was running short, as it was widely expected that Parliament would be prorogued in April for an election on 6 May. This meant debating time was at a premium.

By now it seemed clear, to reformers both inside and outside the House, that the committee's proposals wouldn't be agreed without a struggle.

²⁰ 24 November 2009.

²¹ 25 November 2009.

²² House of Commons Hansard, 25 November 2009, column 529. Words omitted were 'It is right for us to consider how our Select Committee system can be reformed so that it is better in the future. It is also right for us to consider how non-Government business is dealt with, and how we can improve the workings of the House'.

²³ These comprised: Better Government Initiative, Constitution Unit, Democratic Audit, Electoral Reform Society, Hansard Society, Power, Unlock Democracy. Not all of these bodies signed all campaign communications.

The 16 government motions tabled for the first debate covered most, but not all, of the committee's recommendations. Those speaking in the debate were generally supportive of the committee's recommendations. However objections were raised, including by former Chief Whip Hilary Armstrong, to the motions on select committee chairs, election of select committee members, and establishment of a Backbench Business Committee, meaning that none of these could pass. And no motion on a House Business Committee had been put by the government.

Most of the more important business was therefore deferred to the second debate, on 4 March 2010. Again, most of those speaking were positive, but it was an established pattern that those opposed to reform kept quiet and simply used their votes against it, so the result remained uncertain. But there had been substantial lobbying for reform, from groups both inside and outside the House. As previously, the government's motions included a detailed standing order on election of select committee chairs, which would have immediate effect. Here a backbench amendment was moved to extend this to the chair of the Procedure Committee (responsible for recommending procedural reform). A more general government motion was proposed on election of select committee members by their parties, and here the chair of the Liaison Committee moved an amendment allowing committee members to be sacked if their attendance was below 60 per cent of meetings. Hence members were starting to push for even more than what the Wright committee had proposed. When it came to the votes, both these amendments were agreed unanimously, and then the substantive motions on select committees were also agreed unanimously. The issue of greater independence for these committees seemed to have gone from one of high controversy to one of total consensus.

The same could not be said for the issue of scheduling business. Here the government's motion supported the establishment of a Backbench Business Committee, and a new category of backbench business 'within 10 sitting weeks of the beginning of the next session of Parliament ... in the light of further consideration by the Procedure Committee'. To members of the committee this signalled unwelcome delay and likely watering down of their proposals. They debated how to respond, and whether to seek parity with the proposals on select committees by tabling a detailed standing order to bring the Backbench Business Committee into effect. But they settled for an amendment to bring the committee into existence 'in time for the start of the next Parliament' and referring to specific recommendations in their report, on make-up of the committee, and amount of time set aside for backbench business. This appeared on the order paper alongside a surprising amendment moved by the Conservative front bench. Surprising because it seemed somewhat inappropriate for key names on the Conservative front bench (including the party leader and the Chief Whip) to propose an amendment on backbench business. This Conservative

amendment would potentially speed things up, by establishing the committee ‘in time for the start of the next Parliament’, but also reduce the amount of time available to the Backbench Business Committee, from roughly 30 days per year to just 15.

At the start of the debate there was a further twist, when the Labour Leader of the House indicated that she would support the Conservative amendment to her own motion on the Backbench Business Committee, but not accept the amendment that had been moved by members of the Wright committee. This looked like a conspiracy between the two opposing frontbenches, against backbenchers’ demands. The moment of high tension therefore came at the vote on the Conservative amendment (which was taken first). In a direct reversal of what occurred in 2002, backbench wishes prevailed and the Conservative amendment (by now effectively a joint frontbench proposition) was defeated by 106 votes to 221.²⁴ Following this remarkable victory, effectively all other business collapsed. The Wright committee’s amendment on the Backbench Business Committee was agreed unanimously. A further amendment, signed by 131 members including most of the Wright committee, to require establishment of a House Business Committee ‘during the course of the next Parliament’ (since the House Business Committee had again not been mentioned in the government motions) also passed unanimously. In other words, all of the committee’s key recommendations were agreed unanimously by the House.

The struggle to get the chamber’s decision implemented

This felt like the end of the story. Britain’s famously sovereign parliament had taken a historic decision to reform itself. The standing orders on electing select committee chairs had been agreed, and it was for the parties to divide internal procedures for electing select committee members. All that remained was for the House to approve a standing order to establish the Backbench Business Committee ‘in time for the start of the next Parliament’, as the chamber had agreed.

On 11 March, Leader of the House Harriet Harman thus told members:

My mandate is the will of the House as expressed in the resolutions. We need Standing Orders to give effect to them—nothing less. There is no suggestion that we should try to do anything less than what the House agreed to in the resolutions, because that would not be right ... I can assure

²⁴ Supporters of the Conservative amendment comprised 33 frontbenchers and 73 backbenchers (66 of them Conservatives); opponents included 42 frontbenchers (mostly Liberal Democrats and minor parties) and 179 backbenchers.

the House that we will bring forward the Standing Orders, and there will be an opportunity for the House to endorse them before the next election.²⁵

The general election was imminent, and while the government was not best pleased with the outcome of the votes, it also had much other legislative business that it would rather pursue. Nonetheless, the House had spoken, and it was assumed that the government would accordingly act. To aid them doing so, the Wright committee published an ‘implementation report’, setting out a draft standing order.²⁶ All this now required was time, but only the government could give this.

Yet on Wednesday 7 April, a month after the vote and the day after the general election had been called, Harriet Harman set out the final business for the Commons. This allowed no time to debate the promised standing order, by then on the order paper. In a reversal of her previous position she protested:

I do not want to take time away from any of the Bills that need to reach the stage of Royal Assent by providing time for the implementation of Standing Orders that will not apply until the next Parliament ...²⁷

She further added that the standing order could be passed immediately, without debate, had not some members tabled amendments to it. She urged that ‘they should withdraw the amendments’.²⁸ In an angry exchange, Tony Wright stated that he had asked these members to do so, and one had agreed. But another, who just happened to be former Labour Chief Whip Hilary Armstrong, had left the building and was uncontactable. Her office responded by referring his enquiry to the Labour whips’ office. This seemed clear evidence that the objections were being engineered by the Labour whips. The usually even-tempered Wright concluded that the House was ‘being treated with contempt’.²⁹ Yet no change was made to the agenda, and the Commons broke up without the reform being put in place.

It would fall to the next government, in the next parliament, if the Backbench Business Committee was to be created. This was widely expected to be the Conservatives. Yet their leadership’s attitude had been ambivalent. This thereby became an issue—albeit a very specialist one—during the election campaign. The Conservative manifesto did promise to establish a Backbench Business Committee,

²⁵ House of Commons Hansard, 11 March 2010, column 433.

²⁶ Reform of the House of Commons Select Committee, *Rebuilding the House: Implementation* (First Report of Session 2009–10). London, HMSO, 2010.

²⁷ House of Commons Hansard, 7 April 2010, column 977.

²⁸ *ibid*, column 978.

²⁹ *ibid*, column 993.

but this of course would have been in line with their earlier watering-down amendment.

The outcome of the election was that the Conservatives did enter power, but in coalition with the Liberal Democrats. The coalition agreement promised to bring forward the Wright committee recommendations ‘in full’. But the standing order still required approval by the Commons, and while the new parliament provided opportunities it also created threats. The opponents of reform in the previous parliament had clearly believed that by delaying the decision, the reform might die. This was in part because the impending election had put pressure on all parties to appear reform minded, especially in response to the crisis, and this pressure was now removed. But also, 277 new first-time MPs had entered the Commons (representing over 40 per cent of its membership), while many established members more familiar with the issues departed. This included Tony Wright and other key members of committee. Hence the whips might well believe that the new parliament would not fight for reform as the old one had. Aware of this danger, the coalition of reform groups outside parliament sent a mailing to all new MPs explaining the background to the Wright reforms, and urging them to support them.³⁰

These pressures may have strengthened the hand of reform-minded members of the new government, because standing orders were brought forward on 15 June. These created the Backbench Business Committee in more or less the terms that the Wright committee had proposed, and gave it control over 35 days of business per session, at least 27 of them in the main chamber. This could include votable proposals. The standing orders were approved by the Commons without a vote.

The new rules in operation

With the exception of the House Business Committee, which awaits implementation ‘during the course of’ this parliament, the Wright committee’s main recommendations have thus all now been implemented.

At the start of the new parliament, elections were held for the chairs of 24 select committees. In eight cases the positions were uncontested, but 16 competitive elections were held, with in one case six Labour candidates fighting it out to become chair of the prestigious Public Accounts Committee. In total, 590 members voted in the secret ballot for these positions. This marked the beginning of a new outbreak of democracy in the House of Commons. Afterwards, elections were held within party groups for select committee members. These threw up some unexpected results, with

³⁰ The reform groups also set up a website, where these materials can be found: <http://wrightreforms.wordpress.com/>.

new MPs doing very well. Most notably, the Business Innovation and Skills committee includes 11 members, all but two of whom were elected for the first time in 2010.

An election was held for the chair of the new Backbench Business Committee on 22 June. The committee's seven other members were then also elected in whole-House ballots. To date the committee has scheduled three days of debate in the Commons chamber, one of which facilitated the first vote in Parliament on the country's nine-year-long military engagement in Afghanistan. The committee has issued a consultation paper on its method of working, realising that its biggest challenge is to prioritise from amongst the numerous topics which members want debated, in a way which is seen as fair.³¹ It hopes to experiment with new forms of backbench time, perhaps such as short statements by committee chairs when new reports have been published, on the Australian model. It will no doubt take time to get the system right, but the committee is proceeding carefully, to devise mechanisms that enjoy the confidence of members. In turn, hopefully, this process will ensure that the Backbench Business Committee, which has been created for just one session in the first instance, will become a permanent feature.

Conclusions

It is obviously too early to judge the impact of the Wright committee's changes fully. As the committee itself indicated, its principal recommendations were about changing structures, but a key objective was to change cultures.

The select committee chairs now truly represent the whole House, rather than owing their positions to party whips. This should give them a greater sense of legitimacy, and more confidence to speak for the House as a whole, plus perhaps an enhanced media profile to do so. The establishment of these new patterns will, however, take time.

Select committee members, likewise, are now answerable to all of their party colleagues, rather than just the whips. In future where a member is outspoken on an issue, even if this conflicts with their leadership, if other members of their group support them they may be rewarded with election to a committee. Both these changes therefore push in the direction of greater independence and more policy specialisation amongst members.

³¹ Backbench Business Committee, *Provisional Approach: Session 2010–11* (First Special Report of Session 2010–11). London, HMSO, 2010.

The creation of the Backbench Business Committee complements this. It explicitly allows for the organisation, and airing, of a backbench voice. Where this is in line with frontbench opinion, all will be harmonious. But there is now an opportunity for backbenchers, including committees, to put things onto the agenda that the frontbenches (sometimes jointly) find uncomfortable. The likely result is that the frontbench becomes more responsive to backbench opinion at an earlier stage, while backbenchers are less frustrated. And of course in future, if the Procedure Committee or others want to put new reforms onto the agenda, they have a direct route to do so which the government cannot block.

All in all, therefore, the changes make for a stronger and more independent House of Commons, in particular in respect to the executive. Like the select committee reforms of 1979 they may be looked back on in future as a watershed in this regard.

So returning to the awkward question at the start, of how such changes could have been allowed to happen, I think that some of the answers should be clear from what I have already said. For one thing, they almost didn't: it was a battle, particularly with respect to the Backbench Business Committee. But happen they did, and we should examine why.

It is useful here to return to Philip Norton's three essential prerequisites for major parliamentary reform: an established reform agenda, a window of opportunity, and leadership.

As I made clear at the start, there was an established reform agenda on both these issues, but one was far better established than the other. The select committee question had been well rehearsed over a decade, and opinion had crystallised. What was needed was a moment, and leadership. The general election, in fact, was likely to provide both, given that election of committee chairs had become Conservative policy. This helps explain why there was relatively little resistance to this change in the end: it had the backing of the government-in-waiting, and was liable to happen anyway. The same cannot be said of the Backbench Business Committee. This proposal had been set out in detail, but in only one report, 18 months before the Wright committee was formed. Unlike many previous reforms it had not been recycled repeatedly by different groups before being considered by the Commons. Given the normal run of events, it could be said to have jumped the queue.

Norton suggested that the usual window of opportunity is a general election. Here parties may be competing to show off their democratic credentials, and the new government finds itself faced with implementing policies which it—perhaps rashly—signed up to in opposition. A stronger parliament always seems more attractive when

you are in opposition to when you are in government! In this sense the general election certainly mattered. I've already suggested that it probably would have resulted in the election of select committee chairs, come what may. It also put pressure on both the outgoing Labour government, and its competitor parties, in terms of what went in their manifestoes. But as I indicated before, the election also brought threats. It allowed the previous government to stall on the Backbench Business Committee until time ran out, and opponents of reform clearly hoped that the new parliament, where many people stung by both the expenses crisis and the 2002 debacle had departed, would let this drop.

The election mattered, but the far more important window of opportunity was the expenses crisis itself. This focused attention, suddenly and powerfully, on parliamentary reform. Both the government and reformers reached for ready solutions that could help restore parliament's reputation. This explains why, alongside the select committee proposals, they reached for the relatively new proposal of the Backbench Business Committee. This responded to some members' concerns about the need for a more independent Commons and greater agenda control, without threatening the fundamentals of the system. These changes were both easier, and more acceptable to MPs, than changes such as electoral reform.

Norton's third requirement was leadership, which he suggested might come either from the government or from backbench parliamentarians. Particularly since the 2002 debacle, his suggestion that backbenchers could provide leadership has been criticised by other authors.³² Back then parliamentarians seemed incapable of standing up for their own interests, and it was suggested that clear leadership from government was essential. But in 2010, government leadership was clearly absent. Gordon Brown may have established the Wright committee, but Harriet Harman as Leader of the House did not champion its proposals, and at times appeared to block them. The Conservative leadership also took a rather lukewarm approach on the Backbench Business Committee. This reform was therefore approved against the wishes of both main party frontbenches. It wouldn't have happened without determined leadership amongst backbenchers, as well as outside groups. This appears to exonerate Norton's view. But more must be added.

Because backbenchers are a large mass, and many of them are not actually that interested in parliamentary procedure, they won't vote for reform without two things: good organisation, and a clear argument for why they should do so. This became clear in 2002, but not sufficiently until after the event. The everyday formal organisation of

³² Kelso. ' "Where were the massed ranks of parliamentary reformers? " ', op. cit.; G. Power, 'The Politics of Parliamentary Reform: Lessons from the House of Commons (2001–05)', *Parliamentary Affairs*, vol. 60, no. 3, 2007, pp. 492–509; T. Wright, 'Prospects for Parliamentary Reform', *Parliamentary Affairs*, vol. 57, no. 4, 2004, pp. 867–76.

backbenchers is of course the whips, so if they oppose reform they can block it fairly easily, unless there is a competing and more effective form of organisation. This is difficult to achieve. In 2010 it happened, because both the organisation and the argument for reform were very strong. The organisation composed people who were well aware of what went wrong in 2002, many of whom had been involved at the time. The argument was a compelling and almost unique one, linked to the crisis. Here is what one pro-reform MP said in a letter to colleagues:

There is no doubt that in the wake of the expenses scandal our constituents expect us to demonstrate that we are serious about putting reform of the House of Commons back on track ... It is difficult to believe that any member of this, of all Parliaments, seriously thinks it is sensible to go into the forthcoming election having voted against reform.³³

This was persuasion with a hint of menace! Similarly, a letter circulated by outside groups to MPs opened with the words that ‘This Parliament, more than any other in recent memory, needs to reform itself’.³⁴ The window of opportunity identified above thus operated as a powerful lever by which reformers could achieve their goals.

This may seem a depressing conclusion. The circumstances in 2009–10 were exceptional: there was an almost complete collapse of confidence in the House of Commons, in the political class, and indeed to some extent by the political class. Is it only in such apocalyptic circumstances that a reform to strengthen parliament can succeed? One has to hope not. In particular, the possibilities look brighter in the new British Parliament than in the old. It may be a factor in why the Backbench Business Committee proposals were ultimately accepted that already there had been an outbreak of democracy in the Commons in terms of the election of select committee members and chairs. New members are already becoming socialised to expect to control their own institution, and think independently of the whips. The establishment of the Backbench Business Committee reinforces this further. And of course in the new parliament reform proposals from backbenchers can reach the agenda far more easily. While it may have taken disaster to bring these changes about, the prospects for further reform in the future, if needed, therefore look far brighter.



Question — Pardon my ignorance about the basics but I’m just wondering if you could outline the underlying rules about who the members of the select committees

³³ Letter from Martin Salter (a member of the committee) to Labour MPs, 25 February 2010.

³⁴ Letter from reform coalition to all MPs, 18 February 2010.

will be. For example, are there rules that a committee will have so many members and so many of them will be from the government side or from the other side? In particular in relation to the election of committee chairs by the whole House, are there underlining rules that for a particular committee the candidates for chair will be from one side of politics to coincide with these rules about who will end up having the voting power or is it the case that the voting power on the committee might end up being affected by who is elected by the whole House as the chair and therefore is a bit unpredictable?

Meg Russell — Thank you, well you neatly allow me to include some detail which got cut out because the talk was already too long. With respect to the balance on select committees it's required that they reflect the balance in the whole House which means that under normal circumstances the government will have the majority but they are quite independent minded and particularly because they don't vote on legislation, they have quite an independent reputation. On the size of the committees they were in the previous parliament anything up to seventeen members but committee chairs were concerned that it was difficult to get a sense of ownership amongst 17 members and that this was a bit too big. There were also problems with attendance, so one of the Wright Committee's more minor recommendations which was accepted was to change the maximum size to 11 and that now applies.

In terms of the candidates for chairs there was a paragraph in the talk which I cut out because it was just too much detail. There was some discussion about that within the committee and my own preference would have been that it was up to the chamber to determine the balance amongst the chairs using some kind of proportional system. We actually had a very distinguished professor from Oxford University who's an expert in electoral systems working with us as a second specialist adviser and he tried his best to put together electoral systems which would allow these things to happen. But it was so phenomenally complicated that even he couldn't manage to do it. So what the committee settled for in the end was an adaptation of the previous system which was that the whips would get together and divvy up the chairs between them because the chairs are also allocated proportionally to the balance of parties in the House. The amendment to the existing procedure was that that division would be put to the House for a vote before the elections took place so that if somehow there had been some dirty deal done and the House didn't approve of it, there would be a vote to approve.

I said that there were six Labour candidates for chair of the Public Accounts Committee and the reason that there were only Labour candidates was because that had been decided. In fact it is now in the standing orders that that particular committee has to have an Opposition chair. But the rest of them are subject to the

whips' agreements and it was clear which party was to be controlling which committee so only candidates from that party put themselves forward.

Question — Can I ask one question about the business committee? Are the recommendations of the business committee subject to endorsement by the whole House?

Meg Russell — That's another interesting question which was discussed by the Wright committee and remains slightly contentious. Once it became clear that the House Business Committee was not going to be put in place, only the Backbench Business Committee—which was my prediction, you might guess, from the start, I had always felt that a House Business Committee was too ambitious and would not be acceptable to the whips and actually might not function as members had hoped because once whips are on there backbenchers would be excluded from its decisions effectively—there was some debate as to whether the Wright committee members should press for the backbench committee proposals to be votable in the House. I felt rather unsure about that. I felt that it was actually a bit wrong that the backbench committee proposals should be subject to approval when government's proposals were not subject to approval. To me there needed to be parity between the two so I incline towards thinking that the backbench committee should have the right to decide and then be judged by its electorate when it came to re-election and that's what they went for in the end. To me—not all members would necessarily agree with this, but to me, particularly having studied the overseas committees—the frightening part of the establishment of the House Business Committee was not the establishment of the committee itself because that was just formalising discussions that already took place between whips. The frightening bit of that proposal was the votable agenda and the fact that if there was backbench unhappiness on the government benches in particular, they could substitute one bit of business for another. That's the thing which I think would make an enormous difference and which I'll be very surprised if I see within my lifetime.

Question — Did the reforms concerning the election of chairmen affect the joint committees of the two houses at Westminster?

Meg Russell — The short answer to that is no. It applied to a list of committees, mostly departmental House of Commons committees. But I think there is now going to be democracy creep. It's going to begin to look a bit anomalous that some committee chairs are elected while others aren't, although how you elect a chair of a joint committee is another technically difficult question because you've got two chambers to decide jointly. Actually their chairs are not such a problem, but there is a problem with how the members of legislative committees are chosen. They continue

to be chosen by the whips and I think some democratisation of that process will be coming onto the agenda in the next few years. The chairs of legislative committees are actually chosen by the Speaker and act in a very neutral capacity and are fairly well trusted, but the committees themselves are very party dominated and rebellious members can be kept off. So that's the next frontier, if you like, for the reformers to aim at.

Question — One of the refreshing components about your presentation was the absence of any reference to Westminster either as a model, or as a term, or as a concept, or as a label. I say that because in Australia we always debate parliamentary reform by reference to some sort of Westminster norm or Westminster model and in this room I have heard Harry Evans on a frequent basis suggest that we lock ourselves into a dark tunnel of despair because there is no reality out there. It's just a term that people attribute to the version they want. Can you just help us with a little more of why you didn't mention Westminster at all and why maybe we could free ourselves from that as well?

Meg Russell — Well probably two reasons. The first is that Westminster is often used as a lazy term meaning House of Commons, but actually Westminster is a bicameral parliament and having spent a lot of time studying the upper house I think that when you mean House of Commons you should say House of Commons. Secondly, I've always found this idea of the Westminster model somewhat problematic: the idea that there is a family of legislatures which are in some way similar whilst outside of that family they are in some way different. I think that what this talk demonstrates is that 'the' Westminster—if not the Westminster model—is changing. It was already different to this place, and the house in New Zealand and the house in Canada and so on and the other members of the family, and it is becoming more so. Actually from an Australian perspective, given what I know about this parliament, I think that we are moving gradually in a direction of more independence and greater strength, which is not what most people think that the Westminster model means. So maybe Westminster itself doesn't follow the Westminster model as traditionally described, particularly well these days.

Question — You ended your talk quite optimistically about future reforms happening that would increase the strength of the parliament relative to the executive. I read in the *Spectator* though this week about a proposal or a bill that was reducing the numbers of MPs in the House of Commons by 10 per cent but not reducing the numbers of ministers. The way the piece was written it was saying that this reform increased the power of the executive against the rest of the parliament. Do you find it dispiriting?

Meg Russell — There are various legislative proposals going through at the moment coming from the coalition government. There's a proposal to move, as many of you may know, towards your electoral system for the House of Commons: the alternative vote rather than the so-called first past the post system that we use now. That will be subject to a referendum. There's a question whether we ever get to the referendum actually—personally I would support the change, but we may not get to the referendum and if we do I think it may fail. One of the reasons the referendum may not happen is that that reform has found itself shackled to another reform. It was the Liberal Democrats who wanted to change the electoral system but their reform is now tied in to a Conservative proposal to reduce the size of the House of Commons and that part of the bill is far more problematic. Some people say it's a gerrymandering bill and in a sense it is because the Conservatives think that they will get electoral advantage out of this reduction.

Two things will happen. The number of MPs will be reduced, and to be honest it's not a substantial change from 650 to 600. I'm not sure we're going to notice a lot of difference in the new parliament if we get there. But what will be noticed will be the redrawing of boundaries all over the UK and an awful lot of pain for existing MPs. The other thing that the Conservatives are trying to do in that redrawing is to ensure that the population size in constituencies is much more equal than it is now, because they believe that the fact that Labour-held constituencies tend to include fewer constituents means that the electoral system is biased against them. It is to a small extent, but the gain in the number of seats that they are going to get over a house of 600 is going to be something like five. So the amount of pain that we are going to be going through in order to get there I don't believe is worth the gain. And I don't think that they are going to get the gain that they think they will out of it.

It's true that a backbench Conservative MP suggested that the number of ministers ought to be reduced in line with the number of MPs and that is absolutely right and he has put his leadership in a difficult position on that because they'd previously been in favour of smaller government and cutting back and all the rest of it. When it comes to fewer ministers they actually opposed his amendment. Again, 10 per cent is not an enormous difference so if you've got a front bench of 100 in a house of 600 versus a house of 650 it is not a huge thing. But on the point of principle that backbench Conservative was absolutely right and I think he's put his leadership in quite an embarrassing position.