

Parliament

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Parliament is one of the most misunderstood parts of the Blair premiership – and especially of the second term. Critics of the government bemoan the Prime Minister's own lack of interest in the institution – as demonstrated by his poor voting record – and the government's approach to reform of both the Commons and the Lords. They bemoan the decline of Parliament and its increasing subservience to the executive.

Yet the true picture is more complicated – and more balanced – than this melancholy caricature. This chapter examines both the growing independence of Labour's backbenchers and the process of Commons modernisation during the second Blair term. It also examines the two key developments in the Lords during the same period: the cack-handed (and ultimately futile) attempts to enact Stage Two of Lords reform, alongside the growing activism and assertiveness of the partly-reformed Lords.

The combined result of these four developments was that throughout 2001-5 the government faced a partly-reformed but much more assertive House of Commons and a partly-reformed but much more assertive House of Lords. It is probably fair to say that it is not what the government had intended when it first took office – or what it desired – but it is also a more positive picture than the government's many critics appreciate.

I want to hold your hand

One of the earliest signs that things in Parliament were going to be rather different in Blair's second term came in July 2001, when viewers of BBC's *Frost on Sunday* were treated to the sight of Donald Anderson MP and Gwyneth Dunwoody MP holding hands on live television. The cause of this early-morning tryst – which surely ranks as one of the more disturbing sights of the 2001 Parliament – was the government's decision to remove Mr Anderson from the Foreign Affairs Select Committee, which he had chaired since 1997, and to do likewise to Mrs Dunwoody from the transport committee. The government claimed that both had had a fair crack of the whip, and that the committees needed some fresh blood. Critics saw it as an attempt by the government to nobble two independent-minded Select Committee Chairs, thus weakening Parliament's ability to scrutinise the executive. Their early morning appearance on Mr Frost's sofa was a sign of mutual defiance - and was enough to put any watching whip right off their cornflakes.

The following day the House of Commons sided with the handholding rebels. The new composition of the Transport Committee was voted down by 308 to 221 that of the Foreign Affairs Committee by 301 to 232. Some 125 Labour MPs voted against the government's wishes in the first vote; 118 did so in the second.¹ Anderson and Dunwoody were promptly reinstated onto their committees, which

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¹ Both figures include tellers.

they then went on to chair for the rest of the parliament. In themselves, the votes were of only moderate importance. It is hardly as if the Foreign Affairs Select Committee has any power (and not even that much influence); ditto for the transport committee.² But the dispute was emblematic of several of the key developments in the Commons during Blair's second term.

The first was the continuing lack of interest of many in the government in parliament, except as an institution that could be controlled to make life easier for the government. The second, however, was the increasing willingness of Labour backbenchers to defy their frontbench – and to make life harder for the government. Donald Anderson greeted the select committee result with the claim that it was 'a peasant's revolt and a great day for Parliament'. The select committee votes were just the first public manifestation of that growing independence. The third and perhaps the least obvious factor was the role played by Robin Cook, the new Leader of the House of Commons. Having been moved from the Foreign and Commonwealth Office after the election, Cook had declared privately that he was, determined to 'leave footprints in the sand'. Almost his first public act in his new role was to intervene in the Anderson and Dunwoody affair, promising Labour MPs that they would be given a free vote on the issue, and making it clear that the Commons had the potential to reverse the decision should it so wish. The view in the government Whips' Office was that, had they been able to whip the vote as they wanted to, they would have got their way – but Cook's intervention had stopped them dead in their tracks. This was the first public sign of how Cook would fulfil his role; and until he resigned in 2003 over the Iraq war, he was to prove an activist Leader of the House, intervening in the process of Lords reform as well as attempting to give some drive and direction to the 'modernisation' of the House of Commons begun, somewhat hesitatingly and sporadically, in the first Blair term.

Backbenchers get stuck in

During the first Blair term it became usual to refer to Labour backbenchers in disparaging term. They acquired a reputation for mindless loyalty and a distinct lack of backbone; routinely compared to sheep, poodles, clones, robots or – most bizarrely of all – daleks. Then, during Labour's second term, a remarkable transformation appeared to come over the Parliamentary Labour Party (PLP). Almost overnight it appeared to develop some attitude. Between 1997 and 2001 Labour MPs had attracted a reputation for asking patsy questions to the Prime Minister during Prime Minister's Questions (PMQs), in what occasionally became a cringe-making competition in sycophancy. It wasn't that Labour MPs were the first to do this – the practice had been rife under previous Conservative governments, many of whose MPs could toady with the best of them – but Labour MPs had certainly taken the practice to new lows. But in the very first session of PMQs of the new parliament Labour backbencher after backbencher stood up to challenge the Prime Minister, making clear their opposition to proposed changes to incapacity benefit. It was a remarkably assertive series of questions, which appeared to leave the Prime Minister taken aback by their ferocity. One journalist jokingly described it as 'Day One of the Intifada'.³

² Although it was to be Mr Anderson's Committee which interviewed the MoD scientist, Dr David Kelly and concluded, erroneously as it turned out, that he was not the source for Andrew Gilligan's claims about the 'sexing up' of the government's Iraq dossier.

³ The first private meeting of the Parliamentary Labour Party was similarly argumentative.

This was followed by the Anderson/Dunwoody votes, which were then followed in turn by a remarkable series of backbench revolts against the whip. The 2001 parliament was noteworthy both for the frequency and size of the backbench rebellions that took place. Labour MPs defied their whips on a total of 259 occasions, more than in any other post-war Parliament (save that of 1974-9). But the Wilson/Callaghan government of 1974-9 lasted for five parliamentary sessions, whereas the second Blair government consisted of just four. Measured as a percentage of the divisions (votes) to occur in the parliament, the period from 2001 to 2005 tops the post-war list. It saw Labour backbenchers rebel in 20.8% of divisions, more than in any other parliament since 1945. Some of the revolts were especially large. The 65 Labour MPs who voted against the government in the largest rebellion over Foundation Hospitals in 2003 broke the record for the largest health policy rebellion by Labour MPs against their own government, ten more than the 55 who rebelled against the Wilson government over charges for NHS false teeth and spectacles in July 1969. The 72 Labour MPs who voted against the Second Reading of the Higher Education Bill in 2004, the Bill which would have introduced so-called top-up fees, was precisely double the 36 who rebelled over voluntary schools in 1931 (until then the largest education rebellion by Labour MPs) and exactly matched the post-war record for a rebellion by government MPs at a bill's Second Reading. And the rebellions over Iraq – the largest of which saw 139 Labour MPs vote against their whip in March 2003 – were larger than any foreign policy or defence rebellion ever before against a Labour government.

Indeed, the Iraq revolts were the largest rebellions by MPs of any governing party – Labour, Conservative or Liberal – on any type of policy since modern British party politics began.⁴ To find a larger rebellion than Iraq, you had to go back to the Corn Laws in the middle of the nineteenth century. Then Robert Peel had seen two-thirds of Conservative MPs vote against their own administration and just a third backing him in the division lobbies. But since then - since the beginnings of modern British politics in other words - there had been nothing to match the Iraq revolts.

Moreover, Foundation Hospitals, top-up-fees and Iraq were just the best known revolts. In the four years after 2001 there were also decent-sized rebellions over anti-terrorism legislation (repeatedly), Community Health Councils, smacking, asylum and immigration (again, repeatedly), faith schools, living wills, trial by jury, gambling, the firefighters, the Housing Bill, organ donation, the Enterprise Bill, the European constitution, ID cards, and the banning of incitement to religious hatred.

Peter Osborne, writing in the *Spectator* (as the government was struggling to pass its Higher Education Bill) argued, 'Tony Blair has achieved the impossible. Three years after winning a landslide majority of 160, he is forced to conduct his business as if he were leader of a minority government.' It was, Osborne concluded, 'a failure of party management on a heroic scale'.⁵ The talk was of sheep no more; but how had a group of politicians routinely dismissed as second-rate and cowardly become so rebellious?

⁴ They shattered all existing records: the 93 Liberals who had voted against Gladstone's proposals for Home Rule in June 1886, the 95 Conservatives who had defied the Major government over aspects of its post-Dunblane firearms legislation, or the 110 Labour MPs who had rebelled in July 1976, during the passage of the (now long-forgotten) Rent (Agriculture) Bill.

⁵ Peter Osborne, 'Blair downgraded the Labour whips – and now he is paying the price', *The Spectator*, 17 January 2004.

It was certainly not because of any change in personnel. Only a handful of seats had changed hands in the standstill election of 2001, with 85% of the Commons exactly the same after the election as it had been before. The people who caused so much trouble in the four years *after* 2001 were therefore much the same ones who had been dismissed as sheep for four years *before*.

Part of the answer was that the sheep and robots of the first term were a myth. Certainly there were relatively infrequent rebellions between 1997 and 2001 (although still more, for example, than those against the Attlee government), but those that took place were large, and involved a total of 133 Labour MPs, far more than the so-called 'usual suspects'.⁶ Another part of the answer was that whilst Labour MPs became more rebellious in the second term, party discipline did not collapse. The majority of rebellions consisted of fewer than 10 MPs; those that made the whips sweat – such as those over Iraq, top-up fees or foundation hospitals – remained infrequent occurrences. And although more than 200 MPs rebelled at some point during the Parliament, most did so only sporadically. Even the rebels were overwhelmingly loyal. The most rebellious Labour MP, Jeremy Corbyn, voted against his party whip on 128 occasions out of the 1246 votes to take place during the Parliament: that is, he rebelled against his whip in just 12% of votes. Cohesion therefore remained the norm after 2001, with dissent the exception – and when cohesion weakened, the result was usually splinters rather than splits. The 2001 election therefore did not mark the point at which the PLP changed from being poodles to rottweillers – both because Labour MPs were not poodles before, and because did not become rottweillers afterwards. But something did change. There were four main reasons why Labour MPs became more willing to defy their whips in the 2001 Parliament, when compared to 1997.

The first was what Tony Benn calls 'the ishoos'. Even the most independent-minded Labour MPs does not vote against the party just for the hell of it. It takes the right issues to trigger revolts. Iraq was just such a trigger. So too were many of the pieces of legislation through which the government tried to enact the 'reform' of the public services. Yet a moment's reflection shows that the issues alone do not fully explain the growth in backbench dissent in the period. Compare, for example, the reaction of the PLP to the government's Higher Education reforms in the 1997 Parliament with those in the 2001 Parliament, when it introduced variable post-graduation fees. The former produced a rebellion of 34 MPs, despite removing grants and introducing up-front fees which were likely to be a far greater disincentive to working class students than deferred fees. The latter saw 72 Labour MPs vote against their whips – cutting the government's majority to just five – despite the variable fees being deferred and grants being reintroduced for students from low-income families.

A second reason why backbench dissent increased was that the backbenches increasingly contained more MPs with personal reasons to be disgruntled with the leadership, including all those who were sacked from ministerial office or passed over for promotion: what one senior whip called 'the dismissed and the disappointed'. By the end of the 2001 Parliament, almost a quarter of the PLP had been in, but left, government. The influence of these ex-ministers was as much qualitative as quantitative; they lent the later rebellions gravitas that those in the first term had lacked. Many of the ex-whips now knocking around on the backbenches also lent the rebellions some of the organizational flair lacking in the first term. In addition, there was also a sizeable group of MPs from the 1997 cohort who realised that they were now unlikely to make it into government, and who began to rebel as a consequence. This latter group included the much-

⁶ See Philip Cowley, *Revolts and Rebellions: Parliamentary Voting Under Blair* (London: Politico's, 2002).

maligned Helen Clark, who (as Helen Brinton) had become synonymous with excessive loyalty during the 1997 Parliament – loyalty was once jokingly said to be measured in ‘Brintons’ – but who voted against her whip on ten occasions between 2001-05.

Thirdly, the self-discipline that was exercised by many Labour MPs for much of the first Parliament continued to decline. When first elected to government many Labour MPs, even those on the left, took a conscious decision – motivated in part by the spectre of squabbling Conservatives in the 1992 Parliament – not to rebel unless forced to. Faced with a choice of being seen as clones or being seen as disunited, many chose the clones. As time went on, especially as the Conservatives continued to fail to make any obvious (half-decent) recovery, so the pressure to be self-disciplined receded. Blair’s speech to the Parliamentary Labour Party in 2003, in which he appealed to the party not to let disunity allow the Conservatives back in, was an (unsuccessful) attempt to reinstall some of that self-discipline.

Fourth, what made things even worse for the government is that once an MP has rebelled, he or she is much more likely to rebel for a second time (and then a third, and a fourth, and so on). And so with each new rebellion, the number of likely rebels for any subsequent rebellion increases. The dangers of recidivism are very real and it was for precisely this reason that the Whips’ Office began the 2001 Parliament with the explicit aim of keeping the number of new rebels down to a minimum. This was not because they were especially worried about the effect of rebellions in Blair’s second term, but rather to avoid storing up trouble for the third term. The events of the second term meant that they failed in their aim. By the end of the Parliament, 218 Labour MPs had voted against their whip at least once.

Despite all of the revolts, however, the government did still manage to reach the end of its second term undefeated in the Commons on a whipped vote. Prior to 1997, every government since Wilson’s elected in 1966 had been defeated at least once in the Commons. By 2001, Blair had survived eight years without suffering a defeat. In part, this was because of the sheer size of the majority enjoyed by the government. For all that large majorities can engender revolts (with MPs knowing that they can defy the whip without it having any consequences for the government) they also provide useful cushions against those occasions when MPs are more seriously disgruntled. Not only this; some Labour MPs were prepared to bark but not to bite, rebelling only on those occasions when they knew they would not defeat the government. Over foundation hospitals (2003) and top-up fees (2004) and the Prevention of Terrorism Bill (2005) there were enough Labour rebels to have defeated the government, had they all voted the same way at the same time. They did not and so the legislation survived. Also the government frequently gave way on legislation in order to ensure its passage through the Commons. That was true, for example, in all three of the above cases. It was also true on other occasions, with Ministers agreeing to water down or amend legislation in order to pacify backbench critics. The lack of defeats should not be assumed to imply a lack of backbench influence.

But perhaps the clearest example of backbench influence came over the proposed ban on fox hunting (more accurately hunting with hounds). It was long clear that many at the top levels of government – especially the Prime Minister and both his first two Home Secretaries – did not want to see a total ban on hunting reach the statute book. But ever since they voted in such overwhelming numbers for Michael Foster’s Private Members’ Bill in November 1997, Labour MPs refused to allow their government to wriggle away from the issue. When he was Home

Secretary Jack Straw attended a packed meeting of Labour's backbench committee on Home Affairs, at which, nearly all of the 100 or so MPs in attendance made it clear that they wanted to see a ban. As he left the meeting Straw was heard to say that he could see no point 'laying in front of a tank'. Every time that the government tried to offer a compromise, or a delay, or some other concession to the hunting lobby – and they did try, repeatedly – their backbenchers refused to concede the issue. In the end (after yet another desperate attempt at a compromise solution), the government relented, and agreed to use the Parliament Act to force the measure past a reluctant House of Lords.

The ban on fox hunting is on the Statute Book precisely because Labour MPs refused to let it go. As one anti-hunting Labour MP remarked after the final vote: 'I'm quite proud of the PLP for getting us here – shows what one can achieve by polite persistence.' Whatever one's views about the policy, and whether one thinks hunting should continue or not, that aspect of the process is striking. The eventually successful struggle by Labour backbenchers to secure a ban on hunting deserves to go down as one of the clearest examples of backbench influence in the post-war period.

Modernisation

The story of Commons modernisation in the first term of the Blair government was a mixed one.⁷ The process was variously criticised for detracting from the ability of the Commons to hold the government to account, for being too piecemeal, and for lacking coherence. Some of the Modernisation Committee's proposals – such as removing the requirement for MPs to wear a top hat when making a point of order during a division – had been useful and sensible. Some of the ideas – such as the Westminster Hall debating chamber – did some little good (or little harm, depending on your point of view). But few of the proposals had the potential to enhance the scrutinising role of the Commons. Of the 15 substantive reports published by the House of Commons Modernisation Committee between 1997 and 2001, only two contained proposals to help enhance the power of the Commons in relation to the Executive. The others were designed for cosmetic or tidying up purposes, or for the convenience of Members. As one observer argued, although many of the changes introduced by the committee were desirable in themselves, '[t]he basic questions of scrutiny and accountability – of power – have not been addressed.'⁸

One problem had been that neither of the two Leaders of the House during the 1997 Parliament, Ann Taylor and Margaret Beckett, had been especially interested in the process of parliamentary reform, except insofar as it could expedite the government's programme. Robin Cook, by contrast, was a much more reform-minded Leader of the House. In addition to being determined to enjoy a political Indian Summer in the post, Cook was anyway temperamentally a more Parliament-focussed individual. His own predilections for reform were given extra impetus (somewhat bizarrely in our view) by the low turnout in the 2001 election, which had generated an elite-level perception that the public was dissatisfied with the institutions of representative democracy (as if strengthening select committees, say, would somehow make the voters of Liverpool Riverside happily troop out to vote with a song in their heart). Shortly after the election, the Hansard Society's 'Commission on Parliamentary Scrutiny', chaired by the former Conservative Leader of the House, Tony Newton, published its final report,

⁷ See Philip Norton, 'Parliament' in A. Seldon (ed.), *The Blair Effect* (London: Little, Brown, 2001), pp. XX-XX.

⁸ Peter Riddell, *Parliament Under Blair* (London: Politico's, 2000), p. 248.

The Challenge for Parliament - Making Government Accountable. It was well received by commentators and practitioners, and added to a growing body of influential literature urging reform of Parliament. June 2001 also saw the formation of a cross-party group of MPs called 'Parliament First', whose first act was a motion stating that 'the role of Parliament has weakened, is weakening and ought to be strengthened'. The momentum for reform was clearly present.

Cook's approach was to push forward a package of reforms, rather than the somewhat piecemeal approach taken before – in order to prevent opponents of reform picking off individual reforms. And so, in December 2001, he published the so-called Cook memorandum, in which he made clear his intentions for a wide-reaching set of reforms.⁹ Many of the proposals were similar (in some cases, identical) to the proposals made in the various reformist publications – such as the report from the Hansard Society – with the key proposals addressing select committees, parliamentary hours and the passage of bills.

However once the Commons began voting on the measures it became clear that whilst reforms could be *presented* as a package, there was no guarantee that the Commons would *accept* them as a package. The first batch of proposed reforms was debated in May 2002, when MPs agreed to improve the resources available to Select Committees. This included introducing payment for Select Committee Chairs in order to make backbench careers an attractive alternative to entering government.¹⁰ But in response to the Anderson/Dunwoody controversy at the beginning of the Parliament, the Modernisation Committee had also proposed establishing an independent selection panel to choose the members of Select Committees.¹¹ The proposal was designed to shift the power to decide which MPs are to sit on Select Committees away from the Committee of Selection (which was, in reality, controlled by the party whips) to an all-party committee.

Despite Cook's very vocal support, the proposal was defeated by 209 votes to 195. While 133 Labour MPs voted in favour, 103 voted against. There were complaints that the government whips – keen to hold on to their power – had pressurised some Labour MPs into voting against Cook's proposals.¹² The behaviour of the whips certainly did make some MPs vote against the proposals and because the vote was so close the whips' behaviour ultimately explains why the decision went nay rather than aye. But this handful of MPs (and it was only a handful) did not explain why the vote was so close in the first place. There was also much genuine opposition from some backbench Labour MPs. For example, Dennis Skinner – hardly a whip's nark – argued that: 'The new-fangled Select Committee System would have handed over power to the political enemy – the Tories – who were going to sit on a joint committee to select Labour Members of Parliament.'

⁹ HC 440 (2001-2002), *Modernisation of the House of Commons: A Reform Programme for Consultation*, Memorandum submitted by the Leader of the House of Commons.

¹⁰ After referring the matter to the Senior Salaries Review Body, it was eventually agreed that most Select Committee chairs would be paid an extra £12,500 per annum.

¹¹ HC 224 (2001-2002), *Select Committees*, First Report from the Select Committee on Modernisation of the House of Commons.

¹² See, for example, Alexandra Kelso 'Where were the massed ranks of parliamentary reformers?' – 'attitudinal' and 'contextual' approaches to parliamentary reform', *Journal of Legislative Studies* 9 (2003): 57-76. It was striking, for example, that 11 whips voted no, whilst the Chief Whip Hilary Armstrong was joined by only three whips in the aye lobby.

A further batch of changes – a veritable collection of parliamentary reformers Greatest Hits – came up for decision in October 2002.¹³ They included:

- Ending the sessional cut-off, allowing Bills to carry over from one session to another, thus stopping the legislative logjam which routinely occurs at the end of each parliamentary year.
- Further changes to the Parliamentary timetable: for the first time there would be a House of Commons calendar (to be announced a year in advance) that would allow MPs an extra week to work in their constituencies; and the Commons would return earlier from its Summer recess.
- Changes to the parliamentary day: from Tuesdays to Thursdays the Commons would sit earlier, usually starting at 11.30 am (and finishing by 7pm rather than 10.30pm), while constituency business would be given precedence on Fridays.
- More bills to be published in draft form, thus allowing for earlier and routine legislative scrutiny, and a more regular use of time limits on backbench speeches.
- An earlier start to Prime Minister's Question at noon on a Wednesday, instead of 3pm, in order to generate better media coverage.
- More of an effort to connect with the public by improving public access to Westminster, including on Saturdays.

Supporters argued (as they had with all previous votes on modernisation) that the proposals would make Parliament both more efficient and effective - and that these changes would improve the public's perception of the institution. Robin Cook argued the 'the best case for modernisation is that this House will lose its authority if it is seen by the nation to be out of date'. Opponents argued (again, as they had with all previous votes on modernisation) that the proposals simply made it easier for the government to get its business through, and undermined the House of Commons. As Eric Forth, the Shadow Leader of the House said: 'Everything the government is proposing makes life easier for MPs and easier for the government. That surely isn't what Parliament should be about.'

Some of the biggest splits came over the issue of parliamentary hours (and, as a result, this was the issue that attracted most attention in the media). Although a majority of Labour MPs backed the Modernisation Committee's proposals, a sizeable minority (over a third in two cases) opposed the reforms. They argued that there was little benefit in finishing early for MPs who represented constituencies too far away from Westminster to be able to return home at night. Chris Mullin conjured up images of hundreds of MPs 'roaming the streets of the West End with too much time on their hands and too much money in their pockets'.

Despite a fairly heated debate, the modernisers won the votes, albeit narrowly in some cases. The votes were a triumph for Cook and for the modernisers in general. Collectively the reforms of May and October 2002 constituted a more comprehensive set of reforms than would have seemed possible a year before - and more than had been achieved in the preceding four years. They generated a letter to the *Times* from Michael Ryle, a former Parliamentary Clerk and one of the founders of the academic Study of Parliament Group, who argued that the reforms brought 'almost to completion the most systematic package of

¹³ HC 1168 (2001-2002), *Modernisation of the House of Commons: A Reform Programme*, Second Report from the Select Committee on Modernisation of the House of Commons. The House also debated (and accepted) reforms proposed by the Procedure Committee on parliamentary questions.

parliamentary reforms for 100 years'. His letter ended: 'As a campaigner for parliamentary reform for more than 40 years, I can now retire happy.'¹⁴

Several years on, it is however possible to be slightly more sceptical. The impact of several of the reforms has turned out to be peripheral at best. Little in the way of meaningful legislative business has been conducted in the new two week period in September (although in mitigation reformers blamed the whips for trying to undermine the new timetables by only scheduling unimportant business during the period).¹⁵ The new carry-over facility has been restricted to a very small number of bills, with (see below) most sessions ending with the now-familiar legislative ping-pong between the Lords and the Commons over key government bills. The innovation of pre-legislative scrutiny – a favourite of parliamentary reformers for years – has proved less than entirely satisfactory. Several bills that had gone through the process, such as the Gambling Bill or the Mental Capacity Bill, exploded into exactly the sort of partisan controversy that pre-legislative scrutiny was supposed to avoid. Peter Hain, one of Cook's successors as Leader of the House, was to remark that the reformers' zeal for pre-legislative scrutiny had somewhat naively reckoned without the intervention of party politics.

Although many of the reforms made parliament more efficient and several made it more open and accessible (and doubtless all made it more 'modern'), it was possible to argue – just as it had been in the first Blair term – that few of the reforms did much to strengthen the capacity of the legislature to hold the executive to account. Even if one did not buy the anti-reformers' line that parliament was weakened as a result of several of the changes, it was hard to make much of a case that the institution had become stronger. At best, the effect of the reforms was probably neutral. The loss of the vote over select committee nominations was particularly unfortunate in this respect. It was the one reform that would unquestioningly have weakened the control of the whips and created (however marginally) a more independent select committee system – and it was the one Cook reform proposal to be defeated.¹⁶

It was also unfortunate that the process of modernisation ceased to be a cross-party initiative in any meaningful way. Many of the reforms in the 2001 Parliament were driven through the Commons using the bulk vote of the PLP (albeit on free votes), supported by very few opposition party MPs. Perhaps the most important of any of the reforms in terms of its impact on the legislative process was the automatic timetabling ('programming'). The process had begun in the 1997 parliament but was made permanent in 2004 (the House previously voting annually to renew the procedure). The vote to make programming of government bills permanent saw not a single Lib Dem or Conservative MP vote in favour. This did little to weaken the suspicion that many of the reforms were not aimed at improving the scrutiny of government.

Moreover, whilst Cook showed the impact that a reformist Leader of the House could have, it also meant that his absence – following his resignation over the Iraq war in 2003 – led to the process of modernisation slowing down, and, in some cases, even going into reverse. His immediate replacement as Leader of

¹⁴ *The Times*, 5 November 2002.

¹⁵ In 2004, the House did use the time to debate all the stages of the reintroduced Hunting Bill, but one of the first moves after the 2005 election was to suspend the September sitting, with no guarantee that it would be returning.

¹⁶ Independently of the defeat, the PLP did democratise the process by which it produced nominations for select committee membership, thus achieving greater transparency in the process.

the House was John Reid, although he was barely in post before being moved on again to be Secretary of State for Health. Reid was in turn replaced by Peter Hain, who combined the role with being Secretary of State for Wales. Under Hain, the process of modernisation continued, but with none of the intellectual verve brought to the subject by Cook, and without any great enthusiasm.

Hain's period as Leader of the House did see some of the earlier reforms bedded down by being made permanent as well as seeing yet further reforms to public access. Symbolically, the terms 'stranger' or 'strangers' when referring to visitors to the House of Commons were replaced by 'the public' or 'member of the public'.¹⁷ This period also saw the partial reversal of one reform, following MPs' complaints about the new hours, especially those involving a late ending on Mondays, followed up by an early start for committees on Tuesday mornings. As a result, the hours were partially reformed again in January 2005, with the hours of business on Tuesday reverting to those that had existed prior to October 2002: 2.30pm to 10pm.

Other reforms

The parliament also saw two other reforms in the Commons, neither part of the process of modernisation *per se*, but both equally important. The first was the Prime Minister's decision to appear before the Liaison Committee – the committee consisting of the chairs of the other select committees – twice a year. The first meeting took place in July 2002. The Prime Minister's appearances last for two-and-a-half hours at a time, during which he is quizzed by the MPs in depth. Each session covers a different theme or set of themes, with the Prime Minister knowing in advance the themes to be covered but not the exact questions. These sessions have not attracted the attention that they deserve, partly because the Prime Minister proved rather good at answering or deflecting the MPs' questions that the committee rarely land blows (although the questioning over Iraq was far from gentle). But the innovation remains considerable. It represented a significant advance in the scrutiny of the Prime Minister; it was the first time for 65 years that a Prime Minister had been before a select committee – and it will now be very difficult for any future Prime Minister to refuse to attend such meetings.

The other significant reform occurred in late-2004, when, anticipating the coming into force of the Freedom of Information Act in January 2005, the House of Commons authorities published details of the expenditure claims made by each MP. It revealed that MPs claimed a total of just over £78 million in allowances and expenses between April 2003 and March 2004, an average of £118,000 per MP.

Entirely predictably, the media worked themselves up into a lather of contrived moral indignation, with newspapers depicting MPs as a 'bunch of thieving, fiddling, wasteful, good for nothing, feather bedded spongers', languishing in the Palace of 'Wasteminster'. Most headlines talked of MPs getting an extra £118,000 on top of their salary of just over £54,000. But anyone giving the figures even a cursory glance could see that most of the expenditure was not 'expenses' in the way that the phrase was normally understood. Most of the money went on staff costs (around £72,000 on average), on allowances for second homes if the MP

¹⁷ One of the golden rules of parliamentary reform is that there is an inverse relationship between the importance of any reform and the amount of coverage it receives in the media. This entirely symbolic reform attracted widespread discussion on phone-in programmes and in the newspapers; the permanence of programming – done at the same time – went without a mention.

lived outside London (up to £20,000 on average), and office space (again, about £20,000), plus stationery and travel expenses. As Stephen Pound, Labour MP for Ealing North, said: 'This is not about filling our boots. This is not about trousering a lot of money. This is about the money it takes to do the job.'

The majority of the 'expenses' were being spent on the ever increasing constituency work of MPs. Although the growth of the constituency role of MPs dates back to the 1960s, there is little doubt that the large influx of (largely Labour) MPs elected in both 1997 and 2001 have been especially constituency-focussed. Seen from this perspective, therefore, it becomes a moot point whether an MP who runs up large expenses may be deemed to be working hardest for their constituents. When Claire Curtis-Thomas was identified as 'the most expensive MP', she said that she didn't 'know whether to be worried or honoured'. However, the consequence of this growth in constituency work is also just as interesting as its cause. The state is now providing around £100,000 per year for MPs to interact with their constituents. Few challengers can afford to cough up £100,000 'working' a constituency (let alone each year) and there is now the potential of a real incumbency advantage developing.

Lords Reform: Or How Not To Do It

The first Blair term had seen the government enact what it called Stage One of Lords Reform. The House of Lords Act 1999 had removed all but 92 hereditary peers from the Lords. Further reform was to be left to a second stage, preceded by a Royal Commission (the Wakeham Commission) which duly reported early in 2000. The intention was to deliver Stage Two of Lords reform during the government's second term. But – just as elsewhere – the reality did not live up to the intention.

In November 2001 the Lord Chancellor unveiled the government's White Paper, *Completing the Reform*, following Labour's manifesto commitment to implement the report of the Royal Commission chaired by Lord Wakeham 'in the most effective way possible'. The 92 remaining hereditary peers left over from stage one would lose their place in the Lords, and the link between the peerage and members of the Lords would be broken, so that future members would not become peers of the realm, but Members of the Lords (ML). A cross-party Appointments Commission would control the appointment of 120 non-party peers (to serve for more than 15 years) but, in defiance of the Wakeham proposals, which proposed that the Appointments Commission should be in charge of all appointments, the political parties would remain responsible for selecting most peers. Quotas would ensure increased representation for women and ethnic minorities, while the number of Church of England bishops would be reduced from 26 to sixteen. In this transitional period, the Appointments Commission would be handed the almost impossible task of overseeing the political balance of the Second Chamber. The power of the Lords to veto statutory instruments would be removed, but otherwise its basic scrutiny functions would remain unaltered, and the House of Commons would retain its status as the predominant chamber.

But it was Lord Irvine's plans to allow only 20% of peers to be elected that caused the greatest opposition.¹⁸ Some 140 Labour backbenchers signed Fiona Mactaggart's Early Day Motion calling for a second chamber that was 'wholly or substantially elected', and on 9 January 2002, Labour MPs jeered the Lord Chancellor during a meeting of the PLP. By February, 119 Conservatives had also

¹⁸ The Wakeham Commission had failed to agree on a directly elected element, proposing three options with 65, 87 or 195 elected members – 12%, 16 % or 35% of the total – with the remainder appointed.

put their names to Mactaggart's EDM, following the Shadow Cabinet's decision to support a Second Chamber or Senate of which 80% was to be elected. A majority of the House of Commons therefore had come out in favour of a substantially elected Second Chamber.

Robin Cook, who had been (not-so) privately opposed to Derry Irvine's scheme, admitted early on that he wanted to find a 'centre of gravity' on the Labour backbenches concerning the proportion of the directly elected element. During January 2002, 14 Labour MPs conducted a survey of their 268 backbench colleagues. When Graham Allen, a former whip, collated the survey's findings, the average preferred percentage for the directly elected element in the Second Chamber came out at 58%. This informal survey of Labour MPs was strengthened further by the publication of a Public Administration Committee report, which called for 60% of peers to be directly elected.

Cook was forced to ask for patience among the most vociferous of the opponents of the White Paper. But finally, on 13 May 2002, the government announced their surrender. In one of the biggest U-turns since Labour came to power, Cook announced that Irvine's scheme had been ditched and the establishment of a 24-member Joint Committee drawn equally from both Houses, and chaired by Jack Cunningham, to draw up a range of options for reform, particularly the thorny question of composition. These options would then be subject to a free vote by Labour backbenchers, with the government then introducing legislation in the light of these free votes.

This 24-member body, with 12 members from each House, had several meetings – meetings which were described by one of its senior members as 'the biggest waste of time I have ever been involved in' – and eventually decided not to decide, merely suggesting that both Houses be offered a series of different options, ranging from a wholly appointed House through to one that was wholly elected.

On 4 February 2003, the Lords rejected all of the elected options, coming out in favour of a wholly appointed Chamber by a margin of three to one. The outcome in the Commons on the same day, however, was less clear-cut. The Commons managed to reject all of the available options for reform. Three – including the 20% elected option that had originally been government policy in *Completing the Reform* – were rejected on a voice vote, with not a single supporter.¹⁹ The option that came nearest to succeeding – an 80% elected Chamber – failed by just three votes.

The reasons for this illogical outcome – the Commons rejected an all-appointed House by 323 to 245, yet ended up with almost exactly that – are many and varied.²⁰ One of the few decisions the Joint Committee did take was to reject the idea of a secret ballot (as the House of Commons has now agreed to use when electing the Speaker), as well as the idea of using an Alternative Vote system. The latter would have forced MPs to rank their preferences, ensuring that one of the options would have been chosen at the end of the voting. The former might have been problematic in terms of accountability but would have prevented pressure being applied to Labour MPs – especially once the Prime Minister had

¹⁹ There was an extra division in the Commons after the Speaker accepted an amendment in the name of George Howarth calling for the abolition of the Second Chamber. Their Lordships had not desired a vote on their abolition.

²⁰ Well discussed in Iain Mclean, Arthur Spirling and Meg Russell, 'None of the Above: The UK House of Commons Votes on Reforming the House of Lords, February 2003', *Political Quarterly* 74 (2003): 298-310.

made his own position clear. On 29 January 2003, during PMQs, Blair came out in favour of an all-appointed House, arguing that the Lords should be a revising chamber, not one that would rival the authority of the House of Commons. Although the votes on Lords reform were technically free, many of the Labour whips – who themselves voted overwhelmingly for an all-appointed House – privately urged MPs to ‘support Tony’. It is difficult to estimate how many Labour MPs were persuaded by such calls but it is certainly enough to have made the difference between the success and failure of the 80% elected option.

Additionally, the way MPs were voting caused problems; a group of ten MPs (nearly all Labour) who favoured abolition of the upper House and who – once that option had been defeated – then voted against all the other options. There was also the difficulty of co-ordinating MPs’ actions. As McLean *et al* point out, of those who voted, a majority supported one of the elected options. ‘If they could have co-ordinated their preferences on any one of them, it would have been carried.’²¹ But despite the best efforts of Robin Cook and a team of MPs who were trying to organise MPs behind-the-scenes, they were unable to get enough pro-election MPs through the same division lobby at the same time. Moreover there was a group of MPs who voted for the 80% elected option, but against 60%, even when they knew that 60% was the last elected option remaining, and even when the only alternative was no election at all, something they had already opposed. This group - largely Conservatives – may have genuinely preferred zero election to 60%, but they might also have been motivated by a desire to be able subsequently to criticise the government for having failed to deliver on its election promise. Then, lastly, there were those MPs who voted the wrong way by accident. At least four MPs are thought to have voted against 80% elected by mistake (believing they were voting against 80% appointed). These four alone were enough to have caused the 80% elected option to fail.

After the voting, a dejected Robin Cook conceded that it might be a good time to ‘go home and sleep’ on the events of the day. Few people came out of the episode in a good light. The Commons did not appear able to make what to most outsiders seemed like a simple decision. The Prime Minister had had his position rejected by the House, by the majority of his own MPs, and by four of his Cabinet colleagues and 21 other ministers. The Leader of the House had also seen his own position rejected, and – less noticed – the Conservative leader, Iain Duncan Smith, had seen the majority of the Conservative MPs who voted oppose his party’s position.²² The only winners – albeit largely by default – were those who wanted an all appointed House. They had lost the vote in the Commons by a substantial margin but the outcome was effectively exactly what they wanted.

The government’s initial reaction was to announce that it intended to introduce a House of Lords Bill to *inter alia* remove the remaining 92 hereditary peers, but in March 2004, faced with the parliamentary reality of trying to enact such a bill, it announced that it would not be introduced until the next Parliament. At roughly the same time, its proposals for the reform of the Lord Chancellorship (and the creation of a Supreme Court) all of which were less glamorous aspects of Lords reform ran into serious trouble in the Lords but were passed just before the 2005 election.²³

²¹ Mclean et al, ‘None of the Above’, p. 304.

²² See Philip Cowley and Mark Stuart, ‘Still Causing Trouble? The Parliamentary Party’, *Political Quarterly* 75 (2004): 356-61.

²³ There were other, less glamorous but important, changes to the internal proceedings of the Lords, including a compulsory register of interests. See Philip Cowley and Mark Stuart, ‘Parliament: More Revolts, More Reform’, *Parliamentary Affairs* 56 (2003): 188-204.

Their Lordships Get Stuck In

The government's reform of the House of Lords used to be a central part of complaints about Parliament's marginalisation. By removing most of the hereditary peers, the government was said to be emasculating the one remaining check on its dominance of Parliament.²⁴ For example, of the first 53 defeats the government suffered in the Lords after 1997, all but six occurred as a result of the votes of the hereditary peers. And so, the argument went, remove the hereditary peers and you remove any effective opposition.

In fact, as was clear within a year or two of the House of Lords Act 1999 coming into effect, the exact opposite occurred. The pre-reform House of Lords – conscious that its legitimacy was limited by the presence of so many hereditary peers – frequently practiced a self-denying ordinance, pulling back from many confrontations with the government. But with the hereditaries largely gone, those peers that remain see themselves as more legitimate and have become more assertive than before. If the government hoped it had created a poodle of an upper chamber, then it was very much mistaken. The full consequences of reform became increasingly clear during the second Blair term.

The 2001-5 Parliament saw the government defeated on 245 separate occasions.²⁵ This was more than double the number of defeats in the first Blair term (108). The (mean) average number of Lords defeats per session during the extended period of Conservative government between 1979 and 1997 was just over 13. The (mean) average for the 2001 Parliament was just over 61. In other words, the Lords were defeating the Labour government of 2001-5 more than four times as often as they defeated the Thatcher and Major governments, and more than twice as often as they had defeated the first Blair government.

These defeats ranged across almost every major piece of government legislation. In the first session, the Lords caused the government serious problems during the Animal Health Bill and the Nationality, Immigration and Asylum Bill (both were passed only after last-minute concessions), with its continued power to stand up to the government best illustrated during the passage of the Anti-Terrorism, Crime and Security Bill. The Lords inflicted no fewer than 13 defeats on the government before the Bill became law. The then Home Secretary, David Blunkett, was forced to make a humiliatingly large number of concessions.

As the Parliament progressed, so the Lords became more intransigent and less willing to give way at the end of the session, with the result that the sight of a bill ping-pong back and forth between Commons and Lords became commonplace. As the 2002-03 session came to an end, for example, the government ran the risk of losing both its plans for foundation hospitals and judicial reform. Peter Hain was forced to make arrangements for the Commons to sit right up until the Queen's Speech, if necessary, before the Lords eventually gave way on foundation hospitals but only allowed the government's plans for jury trials to pass after demanding extra compromises. The 2003-04 session saw a similar dispute over the Pensions Bill, and the final session of the Parliament saw the mother of all ping-pongs, over the Prevention of Terrorism Bill. On 10 March 2005, the Lords dug their heels in over three aspects of the government's proposed legislation. Peers wanted a so-called sunset clause allowing the bill to expire, they demanded

²⁴ Read almost any Conservative contribution to the parliamentary debates over the House of Lords Bill removing the hereditary peers.

²⁵ The 2002-03 session alone saw 88 defeats, more than there had been in any one session since 1975-76.

a higher standard of proof on control orders, and they insisted that a group of Privy Counsellors review the legislation. The result was the longest day of parliamentary business since Labour came to power in 1997, with the Bill passing between Lords and Commons for twenty-eight-and-a-half hours.

Eventually, as exhaustion set in the government conceded that although no formal sunset clause would be introduced, Parliament would have the opportunity to review or repeal the current legislation when a fresh bill on tackling terrorism was introduced early in the next Parliament. As one opponent of the Bill commented wryly, there was now 'a sunset clause that smells and sounds as sweet by any other name'.

The problems which the government face in the Lords is sometimes ascribed to the greater sagacity of peers, their great wisdom, and their increased independence of thought. In fact, as Lord (Philip) Norton has shown, the parliamentary parties in the Lords are no less cohesive than those in the Commons.²⁶ The difference – and it is a crucial one – is that in the Lords no one party holds a majority. Despite Labour increasing its membership in the Lords throughout the Blair years the government remains permanently in a minority position. The process of Lords reform since 1999 has created a permanently hung second chamber, and one which is willing to stand up to, and regularly defeat, the government of the day. Predictions that Stage One of Lords reform would produce a poodle legislature, packed with acquiescent legislators, therefore now look very silly indeed.

Conclusion

In an interview with the *Spectator* in late 2004, Lord Butler, the former Cabinet Secretary, complained about the weakness of Parliament. 'We should', he said, 'be breaking away from the party whip. The executive is much too free to bring in a huge number of extremely bad Bills, a huge amount of regulation and to do whatever it likes — and whatever it likes is what will get the best headlines tomorrow.'²⁷ Lord Butler's complains were characteristic of a routine critique of Parliament during the Blair government.

It is at least plausible, however, to argue that the events in Parliament during Blair's second term contradict much of Butler's argument. It is, of course true that the government's overall record on modernisation of the Commons (especially before and after the period where Robin Cook was Leader of the House) was not especially impressive. Its record with respect to Lords reform in the second term was even worse. Labour's record in the Lords between 2001 and 2005 consisted of a hapless White Paper followed by a U-turn followed by a farce followed by another U-turn. It was not their finest hour. Labour had still not properly implemented its manifesto pledges of 1997 and 2001 to make the House

²⁶ Philip Norton, 'Cohesion without Discipline: Party Voting in the House of Lords', *Journal of Legislative Studies*, 9 (2003): 57-72.

²⁷ 'How not to run a country', *Spectator*, 11 December 2004. He also criticised the use of the Parliament Act to enact the Hunting Bill. But is a curious paradox between those who perpetually complained about the weakness of Parliament and the over-bearing dominance of the executive but who complain when the lower House – after a repeated series of votes, and quite clearly against the wishes of the executive – insists on getting its way. For all the talk about executive dominance, and the weakness of Parliament, fox-hunting was a victory for the latter over the former.

of Lords more 'democratic and representative'.²⁸ And it is also true that Parliament does not have the influence that many people – including the authors – think it should have, and that governments today are able to introduce 'a huge number of extremely bad Bills'; possibly whenever they think it will get them positive headlines.

Yet this is hardly new. To blame the Blair government for much of this is about as sensible as blaming it for the loss of the American colonies. Moreover, much of the evidence suggests that things are getting better, not worse. The Blair government - particularly the period from 2001-5 - resulted in a partial rebirth of Parliament. Almost none of this was intentional on the part of Blair or his immediate circle. The House of Lords Act 1999, for example, was not intended to result in the far more assertive body that it created - but it did. Similarly, it was not the wish of the government that its backbenchers, routinely dismissed as weak and feeble during the preceding Parliament, should become increasingly rebellious during the second Blair term – but they did, with the result that MPs are now increasingly 'breaking away from the party whip', with clear consequences for the government's legislative programme.

Even the much maligned record of Commons modernization had its plus points. If some of the reforms have done little to strengthen the Commons, they have at least made it more efficient and more accessible. And, although not part of the modernisation process itself, the Prime Minister's twice-yearly appearance before the liaison committee is an unprecedented extension of parliamentary scrutiny.

The Blair effect in Parliament was almost certainly not what Blair had intended – but it was far more positive than many realised.

²⁸ *Because Britain Deserves Better*, 1997, p. 32. By 2001 the phrasing had changed to 'representative and democratic'; *Ambitions for Britain*, 2001, p. 35. At best, the government can – at a stretch – argue that things have got slightly 'more' democratic and representative since 1997 (although plenty of people would challenge even that claim); but such achievements as there were all came in the first term.

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