

Enhancing the Role of Backbench MPs

Proposals for Reform of Private Members' Bills



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Executive Summary

Private Members' Bills (PMBs) should provide an important opportunity for backbench MPs to initiate legislative proposals and to respond to issues of public interest and concern. However, in recent decades, the number of PMBs receiving Royal Assent has largely been in decline.

A number of procedural obstacles in the PMB system inhibit its effectiveness:

- Friday sitting times cause difficulties in relation to the attendance of Members;
- the procedural mechanisms facilitate filibustering rather than effective debate and scrutiny;
- the existence of low yet complex procedural and voting thresholds enable even limited opposition to thwart popular bills; and
- the resources made available to Members to develop and promote PMBs are limited.

Despite the many changes to the parliamentary process that have been made over the last decade reforming zeal in relation to the PMB process has been noticeably absent. But in the last two

years there has been a noticeable change in attitude due to:

- the aftermath of the expenses scandal and the increased interest in measures to rebalance the relationship between Parliament and the executive, to give backbenchers more authority and power in the running of the House of Commons and to inject more vitality and topicality into the issues being debated by Members;
- the election of a reforming Speaker of the House of Commons who has expressed his desire to initiate reforms to empower backbenchers;
- the emergence of a new generation of MPs – the 'class of 2010' comprising a third of the House – who show early signs of frustration with the complex procedures of the House, particularly in relation to PMBs.

A political opportunity for reform of the PMB process now exists and we recommend the following changes for consideration.

1. PMB sitting times should be reformed: the key to management

of PMB time should be to maximise opportunities for debate as flexibly as possible. We propose PMB time should be increased from the current 65 hours to perhaps 80 hours to be allocated by the Backbench Business Committee in, for example, any combination of the following:

- a. on Monday, Tuesday and Wednesday evenings;
 - b. on Wednesday mornings for up to two hours;
 - c. on Thursday afternoons or evenings (including in Westminster Hall); and
 - d. on Fridays (on a limited basis and for second reading only).
2. Each stage should be able to accumulate over more than one sitting if required, as is the case with government bills, in order to maximise use of time and build flexibility into the system.
 3. Timetabling should be introduced through an automatic guillotine applied to each stage of a PMB on the floor of the House: three hours for second reading; three hours each for consideration of a bill reported back from a Public Bill Committee and from a Report Committee (see below); and one hour for third reading.
 4. Time for consideration of PMBs should be allocated according to a fixed order of priority to eliminate the opportunity for Members to speculatively 'game the system' by laying down a PMB on a non-sitting day.
 5. Carry-over motions could be applied to a small number of well-supported bills to ensure they are not lost at the end of each session.
 6. The House should reach a settled view on the value of time limits on speeches during PMB debates.
 7. The Public Bill Committee (PBC) stage should be reformed by removing the government's current power to decide whether more than one PBC for PMBs should exist at any one time. Where appropriate, PBCs might also hold public-evidence hearings.
 8. A PMB Report Committee should be established to take report stage off the floor of the House.
 9. The resources available to help those Members who top the PMB ballot to draft their bill should be updated (from the current £200 agreed in 1971).

INTRODUCTION

Private Members' Bills (PMBs) should provide an important opportunity for backbench MPs to initiate legislative proposals as well as policy debate, to check the executive, and to respond to issues of public interest and concern. In recent decades, however, the number of PMBs receiving Royal Assent has largely been in decline. Executive control of the timetable has strangled many, and procedural vulnerability has thwarted others, including many that enjoyed broad parliamentary support and commanded public interest.

The Westminster Parliament provides few opportunities for backbench Members to successfully pilot bills into law. In a system that enshrines the dominance of the executive, backbench MPs have been marginalised, denuded of legislative freedom and autonomy.

Despite the many changes to the parliamentary process that have been made over the last decade – for example, enhancement of Select Committees, the replacement of Standing Committees by Public Bill Committees, carry-over of bills, programming and the use of pre-legislative scrutiny – reforming zeal in relation to the PMB process has been noticeably absent. The executive and key parliamentary committees have proven

impervious to calls for reform. The Procedure Committee examined the subject in 1995 and then again in 2003. On neither occasion did it recommend any significant changes, though in 2003 the Committee noted its concern that too few bills were passed, that Members had to attend on Fridays and that the existing procedures had not altered substantially since the 1940s.¹ In 2006 the Modernisation Committee produced a major report on the legislative process, making a series of detailed recommendations that were subsequently adopted: yet once again, PMBs were conspicuous by their absence.²

But in the last two years there has been a noticeable change in tone towards PMBs driven largely by three factors. Firstly, in response to the institutional crisis of confidence in the House of Commons arising from the expenses scandal and the wider sense of public dissatisfaction with the functioning of politics and Parliament, there has been increased interest in measures to rebalance the relationship between Parliament and the executive, to give backbenchers more authority and power in the running of the House of Commons, and to inject more vitality and topicality into the issues debated in the House by Members. This was best evidenced by the implementation of the Wright Committee reforms, resulting in

the establishment of the Backbench Business Committee and the election of select committee chairs and members.³ The Committee's report touched only briefly on PMBs but made clear that 'merely procedural devices' should not obstruct them.

Secondly, in the summer of 2009 a new Speaker was elected after campaigning for the position on a reform manifesto. In his first speech on parliamentary reform following his election – given at the Hansard Society in September 2009 – he described the backbencher's lot in life as 'often not a happy one' and made clear his desire to preside over a range of reforms which would see the backbencher 'move from the parliamentary version of the stalls to centre stage'.⁴ Outlining what he described as a backbenchers' Bill of Rights he made 10 suggestions for reform, five of which concerned PMBs and the broad thrust of which are reflected in the recommendations outlined in this paper.

Finally, last May's general election resulted in the election of 232 new MPs (227 new MPs and five returning Members who had previously been elected but subsequently lost their seats). The 'class of 2010' – comprising a third of the House of Commons – show early signs of being increasingly frustrated with

the complex procedures of the House particularly where the PMB process is concerned. Recent Hansard Society research exploring the first year experience of new MPs found that 43% of the new entrants are dissatisfied with the current PMB system. Only Early Day Motions (70% dissatisfied) and the sitting hours of the House of Commons (51%) registered higher levels of dissatisfaction on a list of 19 different aspects of the workings of Parliament about which we sought their view.⁵ It is important to note that these results are based on a survey undertaken at the half-way point of the MPs' first year in office when most of them will have had only limited exposure to PMBs compared to EDMs and sitting hours. The newly elected Green Party MP, Caroline Lucas, suggested several reforms to the PMB system in a paper she published after just a few months in office⁶ and a number of MPs – new and old – echoed her concerns in a debate about parliamentary reform priorities in February 2011.⁷

For the first time in many years there is both a political opportunity for reform and an emerging consensus around what form any changes might take in order to reinvigorate and enhance the unique 'parliamentarian as legislator' role of MPs and provide an alternative way for public concerns to be addressed through the

legislative and parliamentary process.

Over the years the Hansard Society has put forward a number of proposals to promote and reform PMBs.⁸ This report augments and updates our last set of recommendations outlined in an article published in the Society's *Parliamentary Affairs* journal in January 2010.⁹ It explains the current PMB process and the procedural obstacles in the system that inhibit its effectiveness, particularly focusing on:

- the difficulties caused by Friday sitting times and excessive control of time by the executive;
- the procedural mechanisms that facilitate filibustering rather than effective debate and scrutiny;
- the existence of low yet complex procedural thresholds which enable even limited opposition to thwart popular bills; and
- the resources made available to Members to develop and promote PMBs.

The PMB system began in its current form in the late 1940s and enshrined the notion that certain parliamentary time should be made available for legislation by individual MPs and peers, thus providing backbenchers with some freedom to respond to public concern or

to set an agenda that is not determined primarily by the executive. The most successful and well-known route to pilot a PMB to law is through the Ballot held early in each parliamentary session. Two other methods are Ten Minute Rule Bills and Presentation Bills. In addition PMBs can originate in the House of Lords but when they have completed all their stages in the Lords they must be adopted by an MP if they are to progress in the House of Commons.

As Table 1 makes clear, however, over half of all PMBs that have received Royal Assent in recent decades have been Ballot Bills and it is these that are the focus of our reform proposals in this briefing paper.¹⁰ Further information about the other PMB routes is, however, set out in Boxes A, B and C.

IS IT TIME TO RESTORE THE 'GOLDEN AGE' OF PMBs?

There is often a tendency to look back on parliamentary history and view it through a 'golden age' lens. Usually any such view of a 'glorious past' is nostalgically false but where PMBs are concerned there is a genuine case to be made that the 1960s was such a golden age. In that decade a number of trailblazing PMBs passed into law which were to have a lasting and profound impact on society: for example

BOX A: TEN MINUTE RULE BILLS (TMRBs)

Under Public Business Standing Order No. 23 Members may move a motion to bring in a TMRB by giving notice to the Public Bill Office between five and 15 sitting days beforehand with slots divided up between the parties according to their representation in the House. Ten Minute Rule motions are essentially policy aims put into legislative language in order to secure a 10 minute speaking slot during 'primetime' in the Chamber after question time on Tuesdays and Wednesdays. The Member moving the bill is permitted 10 minutes to make their case after which a Member opposed to the bill has a similar period to state their objections. The bill need not be printed, and this is often the case where the Member is primarily interested in achieving publicity for the issue through his or her speech in the Chamber. If the bill is not printed before second reading then it cannot progress, though in reality there is rarely time for bills to be considered beyond their introductory stage. As Table 1 shows, between the 1983-84 and 2009-10 sessions 1,328 TMRBs were introduced but only 12 successfully became law. They are, however, a useful mechanism to enable Members to generate debate about an issue and to test the opinion of the House on the subject.

the suspension of capital punishment in the Murder (Abolition of Death Penalty) Act 1965, the Abortion Act 1967 and the decriminalisation of male homosexual acts in the Sexual Offences Act 1967. All these PMBs had the active support of the Labour Government of the day: it allowed parliamentary time for individual MPs to take through what were often highly contentious measures. But even with this government support, in the last analysis it was individual parliamentarians who put these Acts on the statute book.

In the years since however, the PMB process has gone into decline. Between the 1960-61 and 1969-1970 sessions a total of 172 PMBs became law. In

contrast, as Table 1 demonstrates, PMB success rates in both Houses have dropped markedly over the last quarter century but particularly so in the last decade.

Whereas in the 1960s PMBs were the preferred method to pilot socially controversial legislation through Parliament, increasingly such measures are dealt with through a free vote as part of a government bill. Today PMBs tend to be used to make laws in areas that are generally less contentious or as a mechanism for taking through special interest issues.

Government control and involvement in

Table 1: The success of Private Members' Bills introduced since 1983

Session	Total PMBs introduced	Successful PMBs receiving Royal Assent					Total successful
		Ballot	Presentation	Ten Minute Rule	Lords		
1983-1984	118	9	2	0	2	13	
1984-1985	97	11	4	2	4	21	
1985-1986	112	13	4	0	4	21	
1986-1987	85	7	4	0	4	15	
1987-1988	119	9	2	0	2	13	
1988-1989	141	6	2	0	1	9	
1989-1990	126	8	2	0	1	11	
1990-1991	119	11	8	0	1	20	
1991-1992	58	8	2	0	3	13	
1992-1993	166	6	3	2	5	16	
1993-1994	116	8	2	0	6	16	
1994-1995	113	9	1	3	4	17	
1995-1996	89	12	1	1	3	17	
1996-1997	76	14	0	1	7	22	
1997-1998	147	5	2	1	2	10	
1998-1999	104	7	0	0	1	8	
1999-2000	104	5	0	0	1	6	
2000-2001	63	0	0	0	0	0	
2001-2002	114	5	0	2	1	8	
2002-2003	97	13	0	0	0	13	
2003-2004	102	5	0	0	0	5	
2004-2005	55	0	0	0	0	0	
2005-2006	130	3	0	0	0	3	
2006-2007	96	3	0	0	1	4	
2007-2008	100	3	0	0	0	3	
2008-2009	110	2	2	0	1	5	
2009-2010	67	5	0	0	2	7	

Source: House of Commons Information Office, *Legislation Series Factsheet L2: Private Members' Bills Procedure*, June 2010.

the PMB system has been further cemented by an increase in what are termed 'handout bills'. These bills generally make technical changes to existing laws or a discrete addition to the law, which the government wishes to introduce but may not have space in the timetable to do so. Such legislation is handed to an individual MP or peer by the government which usually guarantees

support for it, thus providing an incentive for a parliamentarian to adopt it. They are also attractive to Members because they relieve them of much work.

Today, even in uncontentious policy areas, the current PMB procedures mean that generally only MPs who come high up in the PMB ballot and successfully attract government support for their

BOX B: PRESENTATION BILLS

Any MP is permitted under Public Business Standing Order No. 57 to introduce a bill of their choice having given prior notice to the Public Bill Office. Bills are formally presented during a Friday sitting only – there is no speech by the MP presenting the bill and therefore no debate – and they can be presented only after all the Ballot Bills on the order paper have been presented. As Table 1 shows, between the 1983-84 and 2009-10 sessions 773 Presentation Bills were introduced but only 41 successfully became law of which only two were in the last decade. Presentation Bills can be used to address discrete, non-controversial policy issues such as, for example, to resolve an anomaly in the law. They can also be a useful means of keeping a bill before the House that has perhaps been introduced previously under a different PMB procedure. However, as there are no speeches and debate they can be less useful to Members than TRMBs and Ballot Bills. As with TRMBs there is no requirement for Presentation Bills to be printed, but they will not progress beyond second reading unless they have been.

proposal have any chance of seeing their bill progress. Successive governments have used their dominant position, particularly in the House of Commons, to keep close control over the progress of PMBs by denying parliamentary time or by organising opposition to a bill through party discipline and the whips. Exiled to consideration on Friday mornings, even the most popular PMBs will sometimes struggle to amass sufficient support in the chamber, as they are forced to compete for attention against backbenchers' weekly constituency commitments.

In-built procedural devices also make a PMB too readily subject to being torpedoed by just one or two backbench MPs who disagree with it. During the 1997–2001 parliament, just two

Conservative backbenchers, Eric Forth MP and David Maclean MP, thwarted many PMBs that came before the Commons, regularly 'talking out' the bills on sitting Fridays. They believed that too many PMBs were ill conceived or poorly drafted and needlessly added to an already excessive volume of legislation. The diminished success rate of PMBs in this period must, at least in part, be attributed to their campaign.¹¹

Procedurally what matters today is often not how popular a PMB is but rather whether it attracts any opposition. Few would argue against procedures that allow legitimate opposition to be heard and challenges made; but PMBs, regardless of how well supported they may be, are extremely vulnerable to fatal

attack from just a handful of opponents.

These fault lines in the PMB process have serious repercussions that extend far beyond the PMB process itself. As Table 1 demonstrates, between the 1997-1998 session and the 2007-2008 session a total of 1,096 PMBs were introduced to Parliament but of these only 60 actually passed into law. Yet each introduction of a PMB took up parliamentary time and resources. The cumulative impact of the current procedures as measured in terms of wasted resources over a number of sessions is therefore significant and needs to be addressed.

Private Members' Bills also generate considerable public interest driven particularly by campaign group interests

and specialist media. For these members of the public the PMB process is arcane: the procedural reasons for a bill's failure are difficult for MPs to explain to their constituents and even harder to justify. As Joan Walley MP noted of her own Public Bodies (Sustainable Food) Bill, 'Thousands of people, organisations and businesses have been mobilised in support of the bill, many of whom were contacting their MP for the very first time. If they had known that it would not even get debated – and that it would simply get deferred to the back of the queue – I believe they would question getting involved again. At a time when trust in Parliament is at an all time low, we ignore such perceptions at our peril.'¹³ The Hansard Society's annual *Audit of Political Engagement* demonstrates declining

BOX C: HOUSE OF LORDS PMBs

In the Upper House backbench and opposition frontbench peers have an unrestricted right to introduce a PMB but when they have completed all their stages in the Lords they must be adopted by an MP who is willing to steer the bill through the House of Commons. Currently PMBs in the Lords are usually heard by a Committee of the whole House. The House of Lords Leader's Group on Reform of Working Practices has recently recommended that the rule limiting the number of bills that can go to Grand Committee each day be lifted and all PMBs should be committed to Grand Committee for consideration. Additionally, if no amendments are tabled by the deadline of 5pm the previous day the Member bringing forward the bill would be free to move a motion to discharge this order of commitment.¹² Together these proposals would introduce greater flexibility into the Lords timetable: they would allow PMBs to be scheduled after other business and therefore increase the time available for consideration of private Members' legislation.

levels of public satisfaction with Parliament, with just one in three people (30%) agreeing that Parliament 'is working for you and me'.¹⁴ It is hard enough to get the public to engage with politics at any level; to then disappoint – for reasons rooted in procedure not policy – those who do become interested through a PMB is unacceptable.

THE PURPOSES AND BENEFITS OF PMBs

While MPs may wish to see their PMB proposals enacted, given the current procedural challenges they face it is often not their primary goal in introducing the bill. Even those PMBs that fail to reach the statute book can be useful. A number of different motivations for taking forward a PMB and the distinct outcomes that can accrue as a result can be identified.¹⁵

They can be a useful means of prodding the government to change policy. Ministers, for example, sometimes agree to bring forward their own legislation in order to avoid the passage of an unwanted PMB. It is widely believed that a succession of PMBs on rights for disabled people from 1992 onwards eventually led the Conservative government to pass the Disability Discrimination Act 1995. Similarly, in 1997 Michael J Foster MP introduced the Wild Mammals (Hunting with Dogs) Bill. This

was not the first PMB on the subject – indeed no fewer than seven since 1949 had addressed the issue of hunting – but it was the first introduced during a new Labour administration that had promised a free vote in its manifesto on whether hunting with hounds should be banned. After numerous defeats as a PMB, an identical bill was introduced by the government which, through the use of the Parliament Act to overrule the Lords' objections, became the Hunting Act 2004.

More recently, the Autism Bill was introduced in January 2009 by Cheryl Gillan MP after she won first place in the ballot. The original bill was opposed by the government, which had already announced a commitment to publish an adult autism strategy by the end of the year. However, Cheryl Gillan and autism campaigners argued that unless the policy commitments were enshrined in primary legislation the government could not be held accountable. Initially resistant to the need for primary legislation, the government had to re-think the issue in the face of cross-party support for the bill and at the third meeting of the Public Bill Committee announced new clauses that would require the publication of an adult autism strategy and accompanying statutory guidance. The amended bill did not extend as far as that originally

submitted – it did not, for example, extend to Wales and cover services for children with autism – but nonetheless it represented a marked turnaround in government policy and so progressed with the agreement of the sponsoring MP.

A gap in the law can also be plugged through a PMB. Lord Lester's Forced Marriage (Civil Protection) Bill, for example, addressed the issue of forced marriage which was not a crime in the UK. It was given a consensual second reading in the Lords in January 2007. Subsequently the government introduced a single amendment completely re-writing the bill. The new wording passed easily with the endorsement of Lord Lester and other supportive peers, and report stage and third reading in the Lords were similarly smooth. When the bill came to the Commons, the government provided time to ensure its passage and it received Royal Assent in July 2007.

PMBs can also be a useful instrument to introduce new ideas into the legislative process and ensure they get a hearing. In 2002, for example, Frank Field MP introduced the Housing Benefit (Withholding of Payment) Bill, proposing that in certain circumstances housing benefit payments could be withheld from

tenants on the grounds of anti-social behaviour. An example of an unsuccessful PMB, the bill initially received mixed reviews, some supportive, others hostile. The idea was subsequently subject to various consultations and ministerial discussions but was then dropped for several years, only to re-emerge in the 2006 welfare reform green paper and be finally implemented in watered-down form in the Welfare Reform Act 2007.

Alternatively, rather than helping to initiate and promote debate about new policy ideas, PMBs can also benefit from or mark the culmination of a policy debate, putting the capstone on a confluence of topical public and media concerns about an issue. In normal circumstances, for example, Jim Sheridan's Gangmasters (Licensing) Bill might not have succeeded in the face of initial opposition from the government. However, in February 2004, just three weeks before the bill's second reading, 20 Chinese cockle-pickers died in Morecambe Bay and the issue of gangmasters was suddenly thrust into the media spotlight. The bill was consequently taken up actively by the government and in committee it was broadened and strengthened, with amendments tabled to include gangmasters based outside the UK and tougher penalties for those committing

an offence under the new laws. With cross-party support it passed comfortably through both Commons and Lords, receiving Royal Assent on 8 July 2004.

Finally, PMBs are particularly useful in helping to attract publicity and build a campaign for a proposed change in the law. For example, a succession of PMBs on rights for disabled people from 1992 onwards eventually led to the Government passing the Disability Discrimination Act 1995.

Collectively these objectives and outcomes underscore the inherent value of the PMB process. It enables individual parliamentarians to develop their role as legislators, initiators of policy and as campaigners. It provides a useful check on the executive, and it offers a valuable channel to ensure Parliament can address emerging topical issues, thereby demonstrating its responsiveness to evolving matters of public concern. But given the low success rate of PMBs, the examples above are very much the exception rather than the rule, reinforcing the case for much needed reform.

RESOURCING THE DRAFTING AND PROMOTION OF PMBs

Members wishing to submit a PMB have only a limited array of resources to assist them in drafting their bill, generating the

media and public campaign to support it and then shepherding it through Parliament. A sum of £200 – fixed in 1971 and never revised – is made available only to those who occupy the top 10 places in the ballot to assist with drafting costs. The Procedure Committee recommended in 2003 that the sum be uprated for all bills that receive a second reading¹⁶ but the government rejected this proposal and the present position is that the government will provide drafting resources through the Office of the Parliamentary Counsel 'to bills which are likely to pass'.¹⁷

This resource limit is not necessarily as great a constraint on MPs as might be expected. The last time the £200 was claimed was in the 2005-2006 session and even if it is uprated, a sum of approximately £1,100 will only buy a limited amount of external legal drafting advice.¹⁸ All MPs who secure a top 20 ballot spot are currently offered drafting support by the Public Bill Office¹⁹ supplemented by additional support from several legal experts in the Parliamentary Scrutiny Unit.²⁰ The clerks work on the principle that the draft should provide 'a debatable proposition' for second reading. And even where external drafting support is secured – e.g. through a campaign group or a non-governmental organisation that supports a particular bill

– additional drafting advice and support by the Public Bill Office may be needed in order to ensure the technical and stylistic compliance of the bill. MPs can also enlist the research services of the House of Commons Library and support from their own office staff if other work commitments are sacrificed.

Collectively, however, these resources do not add up to a substantial package of support, particularly when compared to the resources available to the government legislative machine. As a consequence, there is an in-built incentive for parliamentarians and interest groups to team up in order to utilise the latter's resources. Indeed, each year the 20 MPs who are successful in the ballot find that they are inundated with communications from external lobbying and campaign groups pressing them to introduce a bill on their particular topic of interest. In January 2010, Brian Iddon MP, speaking in the second reading debate on his Mortgage Repossession (Protection of Tenants Etc.) Bill reported that his office 'received more than 3,000 items of correspondence from individuals outside this place who offered me advice on the Bill to select. In most cases, that has obviously led to disappointment, and I apologise to all those whose Bills I have not chosen to proceed with today. I hope they will understand why I do not have

the time to write back to them all individually. However, I thank them.'²¹

Many of these external organisations offer assistance to MPs in drafting their bill and can provide them with the campaigning and communications infrastructure to support it, all of which can play an important role in determining the success or failure of the bill and provides a tangible example of constructive engagement between Westminster and civil society.

Alternatively, the government itself may offer MPs placed high in the ballot a 'handout bill' that it has been unable to find time for in its own legislative programme or for political reasons does not want to steer through Parliament itself. As they have government support these bills have a higher than average chance of becoming law.

There is a case for uprating the £200 for all Members in possession of a top 10 ballot bill. However, this would provide only very limited help with drafting, support for which can be resourced through alternative routes. We therefore recommend that if the sum is uprated broader use of the money, for purposes beyond drafting, should be permitted – for example, to fund research in support of the bill or to finance communications

with interested organisations about the bill. Uprating the sum would reflect the importance attached to PMBs in a reformed system but the cumulative sum would not represent a significant imposition on the parliamentary budget.

CURRENT PMB PROCEDURES: FLAWS AND FAULT-LINES

(1) Sitting times

Thirteen Fridays sittings are formally set aside in the House of Commons each year for consideration of PMBs signifying a commitment to provide some freedom from the normal constraints that 'Government business shall have precedence at every sitting'.²² Unless the House decides otherwise, these are the only Friday sittings held each session. Cumulatively this amounts to 65 hours of parliamentary time for consideration of PMBs each session (each Friday sitting being five hours in length, 9:30am – 2:30pm). However, this time can be encroached upon by petitions, urgent questions, points of order to the Speaker and government statements (as happened recently (on Friday 18 March 2011) when the Prime Minister made an urgent statement to the House about events in Libya which took up an hour of time followed by a 20 minute statement by the Leader of the House setting out

revisions to the order of business for the following week arising out of the statement). The government can make additional time available other than on Fridays to facilitate discussion of a PMB if it so wishes but it is rare for it to do so. There is a strong case for increasing the number of sitting hours beyond 65 per session. At a minimum, however, provision should be made where necessary to ensure that any reduction in PMB time as a result of government business is compensated either by extending a sitting or allocating an additional sitting day.

Priority in the use of these 13 Friday sittings is established by means of a ballot held at the start of each session. Hundreds of backbenchers participate in the ballot hoping to draw one of the 20 places that will have priority for PMB consideration. The sitting days are set out by the Leader of the House at the start of each session after which the Member may nominate their preferred day for a second reading of their bill.

Any backbencher can lay down a PMB for consideration on a Friday even when there is no planned sitting that day. In the event that sitting days are extended – as happened recently after the government extended the current session to spring 2012 – then the bills on the order paper

for these new sitting days have priority. A small number of MPs have adeptly used knowledge of this Commons procedure to lay down PMBs on non-sitting days and their speculative bids for parliamentary time have paid off. There are 35 PMBs currently listed for the four additional sitting days for PMBs that have been announced for this extended session, of which six belong to Christopher Chope MP, five to Peter Bone MP and three to Philip Hollobone MP. At the time of writing, between Friday 20 May 2011 and Friday 30 March 2012 there are 24 occasions when PMBs have been tabled on a Friday when the House of Commons is not scheduled to sit. On these 24 Fridays a total of 35 PMBs have been laid of which 26 belong to those same three MPs.²³ If an additional sitting time were scheduled for any of these dates – and, pro-rata, additional sitting days for PMBs still need to be allocated given the lengthened parliamentary session – then these bills would also have priority. The effects that this ‘gaming of the system’ – or ‘adept use of parliamentary procedure’, depending on your point of view – can have was illustrated on the 18 March when Christopher Chope had four PMBs listed on the Order Paper, three of which occupied the second, third and fourth slots.²⁴

But it is the confining of PMB sitting times

to Fridays – a difficult day for MPs to attend – that is one of the biggest problems with the current process. As Shadow Leader of the House, Hilary Benn MP, said during the debate on parliamentary reform in February, ‘It is wrong that Members should have to make a choice on a Friday between their constituency responsibilities – many choose to exercise them, myself included – and considering legislation.’²⁵

The procedural defects in the system which facilitate filibustering also mean that many Members who do opt to attend Friday sittings to support a PMB feel that it has often been a futile exercise and they have wasted half a day that could have been spent more productively in their constituency.

(2) Procedures

At the beginning of each PMB Friday sitting a motion that ‘the House do now sit in private’ is moved. If fewer than 40 MPs vote (40 being the current quorum including the Speaker or Deputy Speaker and tellers) then the bill will be deferred to the next PMB sitting day, in practice spelling the end for that bill. This is a problem for PMBs because attendance by Members is often low due to the Friday sittings; if PMBs were held on another day then the issue would not arise in the same way.

Many of the procedural devices that can be deployed to destroy a PMB derive their potency from the fact that PMBs, unlike government bills, are not timetabled. As a consequence only the first bill each Friday is certain to be debated. If the debate ends before 2:30pm then the second bill and possibly subsequent bills may be reached in the remaining sitting time. But after 2:30pm only those bills that are unopposed make progress. If a bill is objected to then the Member can nominate another Friday for consideration of their bill and in the meantime seek to persuade those who opposed the bill not to do so the next time. Often, however, it is the government that objects to a bill and without government support a bill will have no realistic chance of making progress under the current rules.

Without a programming motion to manage the allocation of time for debate on each bill then just one or two Members can 'talk-out' a bill and ensure that debate is not reached on bills lower down the order paper. Although the Speaker has the power under Standing Order No. 47 to place time limits on speeches, the culture of PMB proceedings over many years has been such that they are not used. If debate is still ongoing at 2:30pm and there has been no interruption then the debate

ceases and the bill is scheduled to resume at a later Friday sitting. The only way to bring debate to an end and avoid a rescheduling – which can be months later – is through a closure motion: if opponents of a bill are speaking as the 2:30pm deadline nears then supporters of the bill must move 'that the Question now be put'. The timing of a closure motion is crucial as the Speaker will not allow a closure motion to be put on the bill at second reading stage or on an amendment at report stage if he deems that there has been insufficient debate. However, closure motions can usually be requested successfully within the final hour of the sitting. But to win the closure motion and successfully bring debate to a close at least 100 MPs must vote in favour of the motion. If a closure motion is lost then debate resumes and the clock continues to run down on the bill. If the closure motion is successful then the bill progresses on to its committee stage.

Supporters of the current arrangements argue that if MPs cannot persuade 100 of their colleagues to support a bill then it does not deserve to progress. However, it is the combination of the voting threshold and the sitting time on a Friday that conspires to create a problem with PMBs that does not exist for other forms of legislation. Can it be right to strangle bills at birth that would otherwise have a

chance of surviving were the debate and/or the vote held on another sitting day? And the peculiarly unique procedural rules on a Friday – particularly the lack of timetabling – make it difficult to persuade 100 MPs to remain in Westminster rather than attend to their constituency business. The conduct and outcome of the Friday sittings is felt by many Members to be such a futile and dispiriting experience that they do not consider it a valuable use of time to waste hours in Westminster even when bills they support are due to be considered.

The lack of a programming motion and any agreed view about how speeches might be time limited means a handful of Members can time-waste and filibuster in a myriad number of ways. In the words of Labour MP Kerry McCarthy, for those wanting to thwart consideration of PMBs 'The opposite rules to Just a Minute apply: the more hesitation, deviation and repetition they can work into their speeches without being pulled up by the Speaker, the better.'²⁶ Exaggerated courtesies and compliments are also an effective weapon in the time-wasters' armoury. 'As long as time-wasting isn't too blatant,' notes the BBC's parliamentary correspondent Mark d'Arcy, 'they can drone on as long as they are physically capable.'²⁷ As Duncan Hames MP has stressed, 'Without a

sufficient number of Members on Fridays, Private Members' Bills are at the mercy of obfuscation, filibusters and even poetry-tactics that only damage the reputation of the House'.²⁸ In an infamous incident in November 2010 new Member Jacob Rees-Mogg managed to leave colleagues fuming during debate on the Sustainable Livestock Bill when during a 20 minute speech he opened his contribution by reciting 12 lines of poetry as detailed on a mug he had possessed in childhood before moving on to extol at length on a range of issues including motherhood and apple pie, the 19th century sewage system, the battles of Agincourt and Crecy, the quality of Somerset eggs, French agricultural subsidies, Thai egg and chicken production, and food labelling.²⁹ As Caroline Lucas MP remarked despairingly to followers on her Twitter feed, 'Jacob Rees-Mogg reciting poetry was particularly low point'.³⁰

The Speaker will often interrupt to reprimand Members for straying into issues beyond the bill under discussion – as happened during Rees-Mogg's contribution – but, in the absence of a collectively agreed view on the time limiting of speeches and a programming motion, the Speaker cannot curtail a filibuster.

Indeed the rules militate against any

proper debate of PMBs because any interventions by speakers in support of a bill simply help run down the clock and thereby serve the purpose of the bill's opponents. As Kerry McCarthy again noted with regard to the Sustainable Livestock Bill, Rob Ffello MP spoke for only 10 minutes in support of his own bill after which 'Every minute we spoke, every intervention we made to challenge or correct the patent nonsense spewing from the mouths of the bill's opponents was a gift to them, another minute they didn't have to fill.'³¹

An MP opposing a bill may not actually be interested in the bill under discussion but be engaged in procedural tactics in an attempt to prevent debate on a bill lower down the order paper, to which they do have objections, being reached. By running down the clock on the first bill on the order paper it limits and often eliminates any time for consideration of other bills scheduled for discussion. Additionally, the act of voting itself can be used as a time-wasting tactic on either the quorum or a closure motion. The Speaker will usually try to adjudicate a vote on the basis of the shouts of 'ayes' and 'noes' when the question is put but if the shouting is vociferous then a division will be called and more time will be wasted as Members head off to the division lobbies and the results are

counted. Votes – in which just a few dozen MPs may be participating – can take up to 20 minutes and it is not uncommon for the Speaker to have to call on the Serjeant at Arms to investigate the delay.

If a PMB does progress beyond second reading it will generally be committed to a Public Bill Committee (PBC); only in exceptional circumstances might the committee stage be taken by a Committee of the Whole House. (A rare such example was witnessed last year when Anthony Steen MP's Anti-Slavery Day Bill was committed to a Committee of the Whole House without notice on 5 February 2010. The bill commanded considerable support among MPs and the government, supporting the principles behind the bill, adopted a neutral stance which helped smooth its passage.)

The Member sponsoring the PMB must provide the Committee of Selection with the names of Members willing to serve on the PBC, which will then formally nominate them. However, under current Standing Orders only one Public Bill Committee to consider Private Members' Bills may be active at any one time. As a result if a number of PMBs pass through second reading stage they can face delays as they wait in the queue for the PBC to become available. Only the

government can table a motion to support the nomination of a second PBC to sit simultaneously. What the Speaker, John Bercow MP, has described as the government's 'monopoly of decision' regarding whether a Private Members' Bill can go into a PBC, needs to be addressed.³² Additionally, at the PBC stage there is currently no facility for the taking of external evidence on a PMB from experts or members of the public. Given the interest that PMBs can generate in the public domain it might be useful to provide this option.

Finally, having overcome the PBC hurdle it is at report stage that PMBs frequently face a fatal end. Under the current procedural rules governing debate a bill can be readily talked-out through the tabling of just a few amendments, thereby providing effectively a single-member veto on the legislation.

REFORMING PMBs

The fact that a proposal is put forward as a PMB and does well in the ballot does not automatically mean it is a good bill. Nor will providing more time for debate of PMBs automatically ensure that more bills pass into law. If the government objects to a bill it is likely that it will fail at some stage of the process. The key to reform is not that the PMB process should be simplified such that PMBs get passed

more easily but rather that a reasonable number of PMBs are given at least a fair wind and are defeated by a majority of the House once the merits of the bill have been properly debated and scrutinised rather than simply talked-out by a minority of Members. To address the full range of problems with the PMB process we therefore propose a comprehensive package of inter-related reforms.

(1) Adopt new sitting times

There is value in providing some flexibility to the timing of PMBs and we would resist being too prescriptive. There is no reason why all PMB time needs to be allocated together in the way that is currently the case with Friday sittings; it could be split across several sitting slots each week as is the case with government legislation. However, we would suggest that wherever possible debate should not be split across more than two such debating slots. There seems to be a growing consensus among Members that sittings on Tuesday or Wednesday evenings at the end of government business would be preferable. But there is also the potential for further scope in the timetable if a flexible approach is taken: for example, up to two hours prior to ministerial question time on a Wednesday morning might also be used on occasion. Three hour slots on a Monday – similar to an unallotted opposition day – might also

be utilised from time to time. And PMB time on Fridays need not be abandoned wholesale: the combined introduction of timetabling through an automatic guillotine, speech limits and deferred midweek voting for Friday sittings could facilitate more effective use of Fridays for some second reading stages of PMBs, particularly if pressure on time elsewhere in the parliamentary week is proving especially acute. Finally, there is no reason why all PMB business has to be heard in the Chamber; greater use of Westminster Hall would facilitate more capacity in the timetable. The key to the management of PMB time should be to maximise opportunities for debate as flexibly as possible.

We therefore propose that PMB time should be increased from the current 65 hours per session to perhaps 80 hours to be allocated by the Backbench Business Committee in, for example, any combination of the following:

- on Monday, Tuesday and Wednesday evenings;
- on Wednesday mornings for up to two hours;
- on Thursday afternoons or evenings (including in Westminster Hall); and
- on Fridays (on a limited basis and for second reading only).

The Backbench Business Committee has a role to play in a number of the reforms we outline here. Since it was formed in 2010 it has empowered backbenchers and begun to fundamentally change the nature of the use of backbench time for debate, enhancing topicality and enabling Members not only to have greater control over the use of time and what is debated but also to express an opinion on the issues by putting them to a vote. The Backbench Business Committee already has responsibility for some aspects of the PMB process and is therefore the most appropriate body to take a number of new decisions that arise from the reforms suggested here.

To facilitate flexible use of sitting times deferred voting could be extended to PMB second readings held on a Friday. Deferred voting would enable most MPs who wished to do so to express their view on a PMB without having to sacrifice their constituency commitments on a Friday to be at the House. Critics will say that it is inappropriate for Members to vote on a bill at a later date, some days after the conclusion of a debate at which they were not present. Indeed, many MPs and parliamentary officials consider it simply un-parliamentary to split the debate and decision-making process. However, deferred voting is already used in the House for limited areas of business and at

present, even if MPs turn up on a Friday to support a colleague's PMB by being available to vote, they do not necessarily spend all morning in the Chamber listening to the arguments. Many spend time in their offices catching up on other work and not all will be tuned in to the debate on the TVs in their offices. MPs on all sides of the House also participate in whipped votes on government bills without necessarily having heard the earlier debate. We agree, however, that deferred voting should not be used for those stages when Members are being asked to vote on consequential amendments and therefore recommend that Friday sittings only be used for second reading of PMBs.

We acknowledge that there are risks in divorcing the vote from the argument: it may, for example, be easier for Whips to apply pressure on MPs to vote a preferred way. Deferred voting on a Wednesday for the previous Friday's sittings would, however, ensure that Members could more readily express their view on the merits and principles of the bill and whether it should proceed beyond second reading having had several days to read the debate in Hansard or listen to the audio or video recording if they so wish. It is not a perfect solution but it is a way to keep alive the possibility of using some Fridays

for consideration of PMBs at second reading should Members wish to do so.

(2) Introduce timetabling

An automatic guillotine should apply to each stage of a PMB on the floor of the House: three hours for second reading; three hours each for consideration of a bill reported back from a Public Bill Committee and from a Report Committee (see below for explanation of the new Report stage process); and one hour for third reading. At the end of each period the Speaker would simply put the Question to dispose of that stage of the bill as happens with a programming order of a government bill. Consideration of Lords amendments should also take place under a guillotine: we propose three hours' debate on the first occasion and an hour's debate for any subsequent occasion. However, there may be a small number of bills which are particularly controversial or sensitive and which Members may wish to spend more time debating: for example, abortion or euthanasia legislation. On a limited basis there is a case for allowing the Backbench Business Committee, having taken the temperature of the House, to recommend an extended sitting, with a member of the committee moving a motion to suspend the relevant Standing Order to extend the debate to no more than six hours.

In order to maximise use of time and

build flexibility into the system, the length of each stage should be able to accumulate over more than one sitting if required. Thus, in theory, the second reading of a bill could begin on a Monday evening and continue on a Tuesday or Wednesday sitting until at the end of the three hours the knife would fall and the Question would be put. Given that the sitting lengths would be limited to three hours, however, it would be preferable if debates were held over for no more than one sitting but the Standing Orders could be drafted in such a way as to give the Backbench Business Committee some flexibility in arranging business to take account of exceptional circumstances.

Time for consideration of PMBs should also be allocated according to a fixed order of priority, with top priority being accorded to ballot bills in the order determined by the ballot. By fixing the order in advance the nature of business will be clearly known to all Members and the opportunity to 'game the system' as currently exists by laying down PMBs for non-sitting Fridays will be eliminated.

For a small number of well-supported bills carry-over motions could also be utilised, if Members wished, to ensure that they are not lost at the end of each session as is possible with government bills. This would ensure that valuable parliamentary

time is not wasted on bills that command broad support across the House but which would otherwise run out of time before completing all their stages.

Finally, the Speaker has the power under current Standing Orders to announce time limits on speeches, and to vary these subsequently if required. The culture of PMB proceedings is such that these are not exercised. The House therefore needs to reach a settled view on the value of speech limits during PMB debates. Filibustering is not a threat under the reforms we propose and therefore time limits on speeches are not required to guard against it. However, where there is pressure on debating time it may on occasion be useful to apply them. For example, the Member proposing the bill and the government spokesperson responding could be allocated a maximum of 20 minutes each with other speakers allocated six, eight or 10 minutes or more by the Speaker depending on the level of interest in the PMB and the number of Members who wish to participate in the debate. A three hour slot with speech limits of a maximum of eight minutes would thus facilitate participation by the mover of the bill, the minister, and potentially up to 17 other speakers.

(3) Reform Public Bill Committee stage

In order to 'remove the Government's monopoly of decision as to whether a Private Member's Bill can go into a Public Bill Committee' the number of PBCs that can be in existence at any one time should be expanded.³³ Bottlenecks do occur from time to time as PMBs await allocation to the PBC but these are rarely large, perhaps a delay of just a few weeks. However, making provision for up to three PBCs to be available for PMBs at any one time would provide what the Speaker has described as a 'sort of taxi rank system' for more timely consideration of the bills after second reading.³⁴ The PBC process could also more closely model that for government bills by taking evidence from experts or interested members of the general public.

At present there is no set outdate (end point) for a PMB PBC: the time required for committee consideration of a PMB will be dependent on the nature of the bill and the level of interest in it. If an outdate were deemed useful, Standing Orders could be amended to provide a timeframe for committee stage: for example, that the PBC should report back to the House no later than 40 days after second reading.

(4) Establish a PMB Report Committee

Report stage is frequently fatal to PMBs because under the current procedural rules a bill can be talked-out through the tabling of just a few amendments, thereby providing effectively a single-member veto on the legislation. We propose instead that there be up to three hours of debate on a bill that comes back from Public Bill Committee, thereby allowing time for discussion of any points that MPs have objections to, after which the Question would be put to commit the bill to a PMB Report Committee. This would take the report stage off the floor of the House, allowing debate to more clearly focus on the content of the bill and freeing time in the Chamber or Westminster Hall to be used more flexibly for consideration of other PMB stages.

The Report Committee should be time limited – we suggest a maximum of 21 hours of debate (equivalent to three full days' debate on the floor of the House) would be sufficient for most bills – and any Member of the House would be permitted to attend the committee and move amendments, although only members of the committee would be able to vote and would be counted for quorum purposes. In terms of membership composition the committee

might conform with the regular Public Bill Committee model but we would recommend that a certain number of Members from a bill's PBC should also be chosen to sit on the Report Committee in order to facilitate the transfer of interest and knowledge of the legislation from one stage to the next.

Following the conclusion of its deliberations, the Report Committee should then report the bill back to the House, amended or not, for a further three hours of debate at the end of which the House should vote on whether to accept the bill in the form recommended by the Report Committee. Provision could also be made here for the House to vote to send the bill back to the Report Committee for further consideration if it is thought that through further amendments a compromise could be reached with Members who still have objections. Once agreed, a bill should progress to third reading for a final one hour debate.

At all stages safeguards could be established to prevent overtly partisan manipulation of the process and to protect the legitimate objections of opponents of a bill. As the Procedure Committee noted in 1995, 'it is a matter of debate whether a majority in the House, not supported by an electoral mandate, should be allowed to overcome

serious objections from a minority of Members on one issue'.³⁵ Safeguards might include, for example, a threshold or minimum number of votes that must be cast in support of a bill to enable it to progress to the next stage.

CONCLUSION

The Wright Committee report on reform of the House of Commons stated that 'One essential test of the House's control of its own business is whether the handful of legislative propositions tabled by those backbenchers fortunate enough to win one of the top seven places in the sessional ballot should be able to see their bills progress in the House unless and until defeated by a majority.'³⁶ To date no reforms of the PMB process have been forthcoming and even a PMB that tops the ballot can be killed off by just a handful of opponents.

Unless the flaws that inhibit the PMB process are dealt with then bills will not stand or fall on the strength of parliamentary argument and support, but will continue to be destroyed purely through procedural vulnerability. If so, then the credibility and legitimacy of Parliament in the eyes of the public will risk being diminished still further. As Caroline Lucas has asserted, the current procedural arrangements are 'an insult to other Members who want to seriously

debate the bill, to the Speaker and most importantly the electorate, who do not want to pay to run a debating Chamber that is being mocked by its participants'.³⁷

Our recommendations for reform would give PMBs the same opportunity as a government bill to get through all their stages. At each stage they would need to command a majority in the House and it would be open to the government to whip against any to which it was wholly opposed. At any stage a bill could be killed by a majority vote of the House but under this reformed system bills could not be taken out by just a small handful of opponents and the opportunities for filibustering would be much reduced. The changes to sitting times, the introduction of a Report Committee and the provision of procedural opportunities to facilitate compromise should lead to better focused and higher quality debate of the actual issues at stake in each bill. Collectively the reforms should also mean that time in the Chamber, Westminster Hall and committee can be used more efficaciously than is presently the case.

Even with reform, the finite resource of parliamentary time and the requirement to receive the backing of both Houses will mean that there will never be a flood of successful PMBs that might overwhelm the broader parliamentary agenda. There

are real and legitimate concerns about the volume of legislation being produced but these are matters to be addressed to the government; the PMB process – through which far fewer laws are passed – should not be the focus of discontent on this issue.

There are some challenges and risks with these proposals and therefore any procedural changes the House chooses to adopt should be reviewed after the first year to ensure that they are achieving what Members intend. For example, moving PMB debates earlier in the week may, in practical terms, enhance the power of the whips over PMB votes, contrary to the spirit of reforms that seek to empower backbenchers. There will also be increased cost pressures on the House as it will have to provide additional staffing resources to cover extended sitting times and unsocial evening hours. We acknowledge that at a time when the House of Commons is engaged in a cost-savings exercise this may be difficult. However, we believe the additional investment is justified and better value for money would be extracted from a reformed PMB process than is secured from the current, badly flawed system.

Above all, at a time when the role of MPs in particular has been under such scrutiny, reform of PMBs would provide an

important avenue to help fundamentally overhaul and rejuvenate the parliamentary function of MPs as legislators and better connect them with the concerns of the wider public.

APPENDIX: Suggested drafting guidance for amending Standing Orders for Private Members' Bills

Below are some suggested changes to Standing Orders that we believe may be needed in order to implement the core reforms of the PMB process outlined in this paper. We offer these as nothing more than guidance for drafting – they are NOT technically flawless and will require further consideration and work. However, we hope that by providing a draft framework for the changes we recommend this will help facilitate further discussion about the reforms and provide a foundation for implementation of much needed changes as soon as possible in this Parliament.

Standing Order No. 9 (Sittings of the House)

In paragraph (1), at the end to add: "And also provided that the House may sit on Wednesdays between 9:30am and 11:30am to consider private Members' bills in accordance with Standing Order No. 14(6)(b), if the Backbench Business Committee so determines."

Standing Order No. 10 (Sittings in Westminster Hall)

In paragraph (7), after "Minister of the Crown" insert ", or by a member of the Backbench Business Committee in respect of a private Member's bill,"

Standing Order No. 14 (Arrangement of public business)

Replace existing paragraphs (4) to (9) with:

"(4) Private Members' bills shall be considered for no fewer than eighty hours in each Session, at such times and on such days as the Backbench Business Committee shall appoint.

(5) The time allotted to Private Members' Bills under paragraph (4) of this order shall be additional to the time specified in paragraph (3A) of this order.

(6) Private Members' bills may be considered—

(a) after the moment of interruption on Mondays to Wednesdays in accordance with Standing Order No. 15(1)(ba);

(b) on Wednesdays between 9:30 am and 11:30am;

(c) on Thursdays at 2:30pm in accordance with Standing Order No. 10 (c); or

(d) on Fridays;

as the Backbench Business Committee may determine."

Standing Order No. 15 (Exempted business)

After sub-paragraph (1)(b) add a new sub-paragraph as follows:

"(ba) Proceedings on Private Members' Bills during time appointed for their consideration under paragraph (4) of Standing Order No. 14, provided that those proceedings do not continue for more than one hour."

Standing Order No. 41A (Deferred divisions)

In paragraph 2(a), at the end add 'except on the Question for second reading of a private member's bill taken on a Friday;':

New Standing Order (No. 57B): Private Members' bills

(1) A ballot for Private Members' bills shall be held from time to time under arrangements to be made by the Chairman of Ways and Means, and each bill shall be presented by the Member successful in a ballot who has given notice of presentation, or by another Member named by him/her in writing to the Clerks at the Table, at the

commencement of public business on a day appointed by the Chairman of Ways and Means no later than the third Wednesday on which the House sits after a ballot has taken place.

(2) Private Members' bills shall be arranged on the order paper on any day on which they have been set down by the Member in charge of the bill in the order of precedence determined by the ballot, save that precedence will be given to bills at the following stages in the following order: consideration of Lords amendments, third readings, motions to agree with a bill as reported from a report committee, motions to agree with a bill as reported from committee, second readings.

(3) For private Members' bills not introduced following a ballot under paragraph (1) of this order, they shall be arranged on the order paper for any day after any ballot bill in the order of the date of introduction, save that a bill brought in under Standing Order No. 23 (Motions for leave to bring in bills and nomination of select committees at commencement of public business) shall have precedence over a bill presented under Standing Order No. 57 (Presentation and first reading) and a bill presented under that standing order shall have precedence over one which has been brought from the Lords.

(4) Private Members' bills shall be considered at the times allotted by the Backbench Business Committee under paragraph (4) of Standing Order No. 14, and may be considered at sittings in Westminster Hall under paragraph (3A) of Standing Order No.10.

(5) Any Question relating to a private Members' bill (save the Question that the bill be read the third time or Questions relating to consideration of Lords Amendments) shall be put by the Chair no later than three hours after proceedings relating to that Question

were entered upon; and the Question on third reading shall be put no later than one hour after proceedings relating to that Question were entered upon.

(5A) A motion may be moved on behalf of the Backbench Business Committee at any sitting at which a private Member's bill is to be considered, that the time limit referred to in paragraph (5) of this order may be extended by up to three hours, and if such a motion is opposed, the Speaker, after permitting if he thinks fit a brief explanatory statement from the Member who makes and from a Member who opposes the motion shall, without permitting any further debate, put the Question on the motion.

(6) The periods referred to in paragraph (5) of this order may be accumulated over more than one sitting; but once the House has entered upon consideration of a Question relating to a private Member's bill, that Question must be disposed of before the House can enter upon another Question relating to a private Member's bill; save that a Question proposed at a sitting in Westminster Hall shall not preclude consideration of a Question by the House.

(7) The Questions that can be put in relation to a private Members' bill are:

- (a) that a bill be read a second time;
- (b) that the House agrees with a bill as reported from committee;
- (c) that the House agrees with a bill as reported from a report committee;
- (d) that a bill be read the third time;
- (e) that the House agrees, or disagrees, with a Lords Amendment;
- (f) a motion made under paragraph (9) of Standing Order No. 10.

At least two Sundays must have passed between the House agreeing to any of the Questions above in relation to a private Member's bill and the moving of another Question relating to that bill,

except for Questions relating to consideration of Lords amendments.

(8) If the House agrees with a private Member's bill as reported from committee, whether that bill has been amended or not by the committee, the bill stands referred for consideration to a private Members' bill report committee appointed under Standing Order No. 91, save that an amendment may be moved to omit consideration on report.

(9) If the House agrees with a private Member's bill reported from a report committee, then the bill is ordered to be set down for third reading on a future day; but an amendment may be moved to the Question for the bill to be referred once more to a committee for further consideration.

(10) An order for the second reading of a private Member's bill shall lapse at the rising of the House on the preceding sitting day if at that time the bill has not been printed and delivered to the Vote Office, and no further order for the second reading of the bill may be set down until it has been printed.

Standing Order No. 84A (Public bill committees)

In paragraph (1), replace "paragraphs (4) and (5)" with "paragraph (4)".

In paragraph (2) after "Standing Order No.83A (Programme motions)" insert "or Standing Order No. 57B (Private Members' bills)"

Replace paragraph 5 as follows:

"(5) It shall be an instruction to the Committee of Selection that it shall not normally nominate more than three public bill committees at any one time for consideration of private Members' bills.

(6) A public bill committee to which a private Member's bill is committed under Standing Order No. 57B (Private Member's bills) shall report the bill to the

House no later than the fortieth sitting day after the day on which the bill was read a second time.”

New Standing Order (No. 91): Private Members’ bills: report committees

(1) If a private Member’s bill stands referred to a report committee under paragraph (7) of Standing Order No. 57B, that committee shall report to the House that it has considered the bill and has made amendments or has made no amendment to the bill, as the case may be; and a motion may then be made that the House agrees with the bill so reported.

(2) A committee to consider a private Member’s bill on report shall consist of not fewer than sixteen Members, to be nominated by the Committee of Selection to serve on the committee for the consideration of each bill referred to a report committee; and in nominating the members of a private Member’s bill report committee the Committee of Selection shall have regard to the qualifications of the Members nominated and to the composition of the House; and where practicable it shall not nominate more than five members who were nominated to the public bill committee to which that bill was committed.

(3) Any Member, though not nominated to a private Member’s bill report committee, may take part in the committee’s proceedings and may move amendments, but such Members shall not make any motion, vote or be counted in the quorum.

(4) Proceedings in a private Member’s bill report committee shall be brought to a conclusion after the committee has sat for twenty-one hours, unless previously concluded; and at that time the Chair shall put forthwith the following questions (but no others) in the same order as they would fall to be put if this order did not apply—

- (a) any question already proposed from the chair;
- (b) any question necessary to bring to a decision a question so proposed;
- (c) the question on any amendment, new clause or new schedule selected by the chair for separate decision;
- (d) the question on any amendment moved or motion made by the Member in charge of the bill;
- (e) any other question necessary for the disposal of the business to be concluded.

(5) On a motion made for a new clause or a new schedule, the chair shall put only the question that the clause or schedule be added to the bill.

(6) If two or more questions would fall to be put under paragraph (4)(d) on successive amendments moved or motions made by the Member in charge of the bill, the chair shall instead put a single question in relation to those amendments or motions.

New Standing Order (No. 79A): Private Members’ bills: consideration of Lords’ amendments

(1) This order applies for the purpose of bringing proceedings on any message from the Lords relating to a private Member’s bill to a conclusion.

(2) Three hours after proceedings relating to the Lords message have been entered upon, the Speaker shall first put forthwith any question which has been proposed from the chair and not yet decided.

(3) If that question is for the amendment of a Lords’ amendment, the Speaker shall then put forthwith—

- (a) a single question on any further amendments of the Lords amendment moved by the Member in charge of the bill; and

- (b) the question on any motion made by the Member in charge of the bill that this House agrees or disagrees with the Lords in their amendment or (as the case may be) in their amendment as amended.
- (4) The Speaker shall then put forthwith—
- (a) a single question on any amendments moved by the Member in charge of the bill to a Lords' amendment; and
 - (b) the question on any motion made by the Member in charge of the bill that this House agrees or disagrees with the Lords in their amendment or (as the case may be) in their amendment as amended.
- (5) The Speaker shall then put forthwith the question on any motion made by the Member in charge of the bill that this House disagrees with the Lords in a Lords' amendment.
- (6) The Speaker shall then put forthwith the question that this House agrees with the Lords in all the remaining Lords' amendments.
- (7) As soon as the House has—
- (a) agreed or disagreed with the Lords in any of their amendments; or
 - (b) disposed of an amendment relevant to a Lords' amendment which has been disagreed to,
- the Speaker shall put forthwith a single question on any amendments moved by the Member in charge of the bill relevant to the Lords' amendment.
- (8) For the purpose of bringing to a conclusion proceedings on any further message from the Lords relating to a private Member's bill previously considered under the provisions of this order the Speaker shall, one hour after those proceedings were entered upon—
- (a) first put forthwith any question which has been proposed from the chair and not yet decided;
 - (b) then put forthwith the question on any motion made by the Member in charge of the bill which is related to the question already proposed from the chair;
 - (c) then put forthwith the question on any motion made by the Member in charge of the bill on or relevant to any of the remaining items in the Lords message;
 - (d) then put forthwith the question that this House agrees with the Lords in all of the remaining Lords proposals.
- (9) In respect of any committee to be appointed to draw up reasons after proceedings on Lords' amendments relating to a private Member's bill have been brought to a conclusion—
- (a) the Speaker shall put forthwith the question on any motion made by the Member in charge of the bill for the appointment, nomination and quorum of a committee to draw up reasons and the appointment of its chair;
 - (b) the committee shall report before the conclusion of the sitting at which it is appointed;
 - (c) proceedings in the committee shall be brought to a conclusion not later than half an hour after their commencement;
 - (d) for the purpose of bringing any proceedings to a conclusion in accordance with paragraph (9)(c), the chair of the committee shall—
 - (i) first put forthwith any question which has been proposed from the chair and not yet decided; and
 - (ii) then put forthwith successively questions on motions which may be made by the Member in charge of the bill for assigning a reason for disagreeing with the Lords in any of their

amendments.
 (e) The proceedings of the committee shall be reported without any further question being put.

ENDNOTES

- ¹ House of Commons Procedure Committee (2002-03), *Procedures for Debates, Private Members' Bills and the Powers of the Speaker*, HC 1097, paras 42 and 44.
- ² Select Committee on the Modernisation of the House of Commons (2006-07), *The Legislative Process*, HC 1097.
- ³ House of Commons Reform Committee (2008-09), *Rebuilding the House*, HC 117.
- ⁴ John Bercow MP, 'Parliamentary Reform: From Here to There', A Speech by the Speaker of the House of Commons to the Hansard Society, 24 September 2009, <http://www.hansardsociety.org.uk/files/folders/2188/download.aspx>.
- ⁵ Hansard Society (2011), *A Year in the Life 2010: From Member of Public To Member of Parliament* (ongoing research - publication forthcoming).
- ⁶ Caroline Lucas MP, *The Case for Parliamentary Reform*, November 2010.
- ⁷ House of Commons, *Hansard*, 3 February 2011, col.339-388WH.
- ⁸ See, for example, A. Brazier (2003), *Issues in Law Making 1: Private Members Bills* (London: Hansard Society); A. Brazier (ed.) (2004), *Parliament, Politics and Law Making: Issues and Developments in the Legislative Process* (London: Hansard Society); A. Brazier, S. Kalitowski & G. Rosenblatt with M. Korris (2008), *Law in the Making: Influence and Change in the Legislative Process* (London: Hansard Society).
- ⁹ A. Brazier & R. Fox, 'Enhancing The Backbench MP's Role As A Legislator: The Case For Urgent Reform Of Private Members

Bills', *Parliamentary Affairs*, 63(1), January 2010, pp.201-211.

¹⁰ Data from House of Commons Sessional Returns and House of Commons Information Office, *Legislation Series Factsheet L2: Private Members' Bills Procedure*, June 2010.

¹¹ H. Marsh and D. Marsh, 'Tories in the Killing Fields? The Fate of Private Members' Bills in the 1997 Parliament', *Journal of Legislative Studies*, 8(1), Spring 2002, pp.91–112.

¹² House of Lords Leader's Group on Working Practices (2010-11), *Report of the Leader's Group on Working Practices*, HL 136, pp.33-34.

¹³ Joan Walley MP, 'Private Members' Bills must be reformed', *BBC Democracy Live*, 20 January 2011, http://news.bbc.co.uk/democracylive/hi/comment/newsid_9367000/9367919.stm

¹⁴ Hansard Society (2011), *Audit of Political Engagement 8*, (London: Hansard Society), p.29.

¹⁵ See particularly Chapter 7 in A. Brazier, S. Kalitowski & G. Rosenblatt with M. Korris (2008), *Law in the Making: Influence and Change in the Legislative Process* (London: Hansard Society).

¹⁶ House of Commons Procedure Committee (2002-03), *Procedures for Debates, Private Members' Bills and the Powers of the Speaker*, HC 333, pp.3-4.

¹⁷ House of Commons Information Office, *Legislation Series Factsheet L2: Private Members' Bills Procedure*, June 2010, p.3.

¹⁸ An estimate based on the National Archives currency converter – <http://www.nationalarchives.gov.uk/currency/>

¹⁹ The Public Bill Office also provides drafting support for Ten Minute Rule and Presentation Bills.

²⁰ The then Clerk of Legislation (now Clerk Assistant) in the House of Commons, Robert Rogers, recommended as such in his '75 Point Plan' for reform of parliamentary procedure which was presented to all MPs who put themselves forward to be Speaker of the House of Commons. See, R. Rogers, *Possible Business Changes*, 11 June 2009.

²¹ Brian Iddon MP, *Hansard*, 29 January 2010, vol. 504 col. 1027.

²² House of Commons Standing Order 14.

²³ House of Commons Business Papers: Future Business. Business set down for specific days after Tuesday 24 May 2011.

²⁴ Christopher Chope MP, *Hansard*, 18 March 2011, vol. 525 col. 603.

²⁵ Hilary Benn MP, *Hansard*, 3 February 2011, vol. 522 col. 379WH.

²⁶ Kerry McCarthy MP, 'Friday Filibusters and Mug Poetry', *Labourlist*, 15 November 2010, <http://www.labourlist.org/friday-filibusters-and-mug-poetry>.

²⁷ Mark D'Arcy, 'That Friday Feeling....', *BBC Democracy Live*, 16 March 2011, http://www.bbc.co.uk/blogs/markdarcy/2011/03/that_friday_feeling.html.

²⁸ Duncan Hames MP, *Hansard*, 29 November 2010, vol. 519, col. 523.

²⁹ Jacob Rees-Mogg MP, *Hansard*, 12 November 2010, vol. 518 cols. 609-614.

³⁰ Caroline Lucas MP, *Twitter*, 12 November 2010, <http://twitter.com/#!/CarolineLucas/status/3115523386642432>.

³¹ Kerry McCarthy MP, 'Friday Filibusters and Mug Poetry', *Labourlist*, 15 November 2010,

<http://www.labourlist.org/friday-filibusters-and-mug-poetry>.

³² R. Rogers, *Possible Business Changes*, 11 June 2009, para C16.

³³ *Ibid.*

³⁴ John Bercow MP, 'Parliamentary Reform: From Here to There', A Speech by the Speaker of the House of Commons to the Hansard Society, 24 September 2009, <http://www.hansardsociety.org.uk/files/folders/2188/download.aspx>.

³⁵ House of Commons Procedure Committee (1994-95), *Private Members' Bills*, HC 38, para 16.

³⁶ House of Commons Reform Committee (2008-09), *Rebuilding the House*, HC 117, p.58, para 194.

³⁷ Caroline Lucas MP, *The Case for Parliamentary Reform*, November 2010, p.13.



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