

PARLIAMENTARY REFORM TODAY – LESSONS FROM 1911
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Thank you very much indeed for that introduction. It is an enormous pleasure to be here at the Guildhall tonight but also a slightly intimidating occasion. My remarks are to be followed by an assessment and deliberation from an astonishingly distinguished panel before wider questions from the floor, an arrangement akin to a student viva examination. As more than a quarter of a century has passed since I left Essex University this is a daunting prospect. I am, nonetheless, very grateful to our eminent guests and to all of you for being here this evening. I hope that my contribution tonight is worthy of your attendance.

This address is part of a diverse series of events marking the centenary of the Parliament Act 1911, a moment worthy of reflection and indeed celebration unless, that is, one is a rather unreconstructed sort of hereditary peer. I hope that I have played my part in seeking to draw attention to this anniversary. I delivered a lengthy lecture on the circumstances that led to the 1911 Act as far back as October 2010, to Queen Mary's College, London. Indeed I fear that my text that night was rather longer than the legislation which I was discussing. I take comfort in this regard from the fact that the notable American historian Gary Wills once wrote a much praised book on the Gettysburg Address which ran to a number of hundreds of pages despite Lincoln's oration itself being fewer than 300 words in duration. Fear not, I will be briefer than that this evening. I have also sought to stimulate interest in the Parliament Act 1911 by hosting a series of lectures in Speaker's House this year in which present parliamentarians have reflected on past parliamentary figures of the 20th Century. Sir Peter Tapsell MP, the Father of the House, gave a fascinating lecture on F.E. Smith in February, whilst from the new intake, Labour MP Tristram Hunt will in December

address us on Tony Benn.

I want to divide my remarks here into three distinct sections. The first consists of what I consider to be the fundamental themes behind the events of 1911 and the Act itself as these have somewhat broader relevance than the technical provisions of the legislation itself. The second comprises what I think are the core challenges not just for the House of Commons but for all legislatures in modern democracies today. Finally, I want to latch on to a specific issue which has excited the interest of parliamentary reformers past and present and which I believe should be their primary focus in the immediate future within the House of Commons at least, namely the role of select committees and what should be their remit and powers.

Let me start with the Parliament Act 1911 and the process which led to it becoming law. What are the fundamental themes around the politics of this statute that have an enduring legacy?

The first is that this was an exercise motivated by an absolutely seminal political principle. It was that with the expansion of the franchise that had occurred in 1867 and 1884, and with the momentum clearly established in the direction of further democratisation of the British electoral process, it was profoundly wrong as a matter of principle for the House of Commons to be subject to an effective veto by a wholly hereditary House of Lords. The collision between the House of Commons and the House of Lords united the fundamental issue of principle with the ancient claim of the Commons to have exclusive powers over finance, and the result was explosive. At various stages during the titanic struggle that occurred in British politics between the People's Budget of 1909, and 1911, numerous informal assurances were given and unofficial offers were made which were designed to produce a solution which would allow the supremacy of the House of Commons to be accepted in practice but which

would fall short of formally enshrining this in legislation. Those compromises, which at times would have been immensely convenient to accept, especially as the Liberal Party was a minority administration after January 1910, were not embraced. The only answer was a settlement in statute, and it was the right answer.

The second point to note here is that while it was the Government of the day, headed by Asquith, which had been so inconvenienced by the House of Lords, not only over the 1909 Budget but on a host of other domestic issues, what emerged was a Parliament Act and not a Government Act. The legislation related to the authority of the House of Commons vis-a-vis the House of Lords, not the authority of the Crown or Ministers or the Cabinet over the House of Lords. This Act is about the distribution of power within the legislature not between the legislature and the executive. This seems to me to be an underappreciated aspect of 1911. The meaning of it was certainly not lost on contemporaries. For example, the genesis of the statute was not Governmental but Parliamentary. It stemmed from a draft by the then Clerk of the House, the splendidly named Sir Courtney Peregrine Ilbert, the great-grandfather of the current Leader of the House of Commons my dear colleague Sir George Young. Sir Courtney crafted the provisions with a very fine eye as to how they might affect the entirety of the relationship between the House of Commons and the House of Lords in the decades ahead. He also well understood the potential risks of attempting to regulate the doings of Parliament through legislation. This lesson is just as relevant today. The business of Parliament is not for the Executive. The Business of Parliament is not for the Judiciary. The business of Parliament is for Parliament.

The third point to record at this stage is that Edwardian reformers had to demonstrate not inconsiderable patience, persistence and pragmatism to advance their cause. As we all know, it proved impossible then to reach a consensus upon the ideal composition of the House of Lords. The question was set aside in an aspirational preamble to the Bill to one

side rather than let it scupper the legislation. (Ilbert noted in his diary, after a conversation in which the then Lord Chancellor “poured out his soul” that the latter “hated” the preamble.) But it was sensible pragmatism. The best was not permitted to become the enemy of the good. Whether reformers then would have imagined that 100 years later the composition argument would still rage seems unlikely. The moral here, however, is that parliamentary reform was and is a long and hard exercise.

So to sum up this section. The central themes we should take from the 1911 episode are that parliamentary reform should be rooted in fundamental principle and is not a technocrat's charter; that parliamentary reform is about the will of Parliament, notably the House of Commons, and no other actor and that to achieve principled ends demands pragmatism about means.

What then are the overarching challenges facing not only our Parliament but, in my opinion, all legislatures in contemporary democracies? I elaborated on this subject in an address at Delhi University in August but as I am confident that I am the only person here tonight who was also present then I will take the risk and liberty of repeating myself sure that I might only be boring a statistically insignificant percentage of those in this splendid Hall this evening.

It strikes me that there are three essential rules or challenges of which all those who support parliamentary democracy rather than party, presidential or Prime Ministerial democracy on the one hand or plebiscitary, even post-modern, democracy on the other, should be aware.

The first is that modern parliaments have to strike the right balance between their whole and their parts. By this I mean that there are times when parliamentary scrutiny is best served through the chamber itself and then other moments when the better device is a

specialist parliamentary committee with a much smaller number of elected representatives involved.

This balance between the chamber and the committee system has been the source of often heated debate over the years in and beyond Westminster. Different democracies have found different solutions. In the United States, for example, the House of Representatives largely delegates real authority to its committees and the floor is rarely at centre stage. This is the formula which allows the comparatively large House to exercise control over the executive. In the Senate, by contrast, although committees are undoubtedly important, reputations are still made from outstanding oratory heard in the chamber itself and not in a committee room.

The evolution of this balance between the whole and the parts is especially interesting in this country. For a long time the collective ambition of the House of Commons appeared to be to have a parliamentary culture which was closer to that of the US Senate than the US House even though the House of Commons had a membership which has regularly been half as much again as the House of Representatives and at times exceeded it by an even larger ratio. This aspiration has proved very difficult to make effective in practice. The increase in the size of the State throughout the 20th century made it well nigh impossible to execute.

The result was the reform package accepted with some reluctance by the House in June 1979. Although forms of select committees had existed within the House for at least four centuries, a full-blown structure of departmental select committees was not established until that date and the House of Commons as a whole did not have true democratic control over the identity of the chairs and members of those select committees until last year. It is emphatically my view that this second wave of reform and the enhanced status of select committees is a hugely positive development. My

sense is that an effective modern parliamentary democracy requires chambers and committees which are complementary to one another rather than seen as competitors to each other and with considerable care it is entirely possible to reach that outcome.

A deft division of labour produces the optimal result. In the recent furore surrounding News International, for instance, does anyone think it would have been sensible for Rupert and James Murdoch to have faced questions from 650 MPs rather than 11 in what was supposed to be a forensic attempt to extract important information? Similarly, when the Prime Minister asked for a recall of Parliament in order to make a statement and face questions on this saga does anyone believe he should have done so in front of 11 MPs and not the whole House? Meaningful scrutiny demands strong select committees alongside a strong chamber.

The second of my three rules is that parliaments have to be relentlessly relevant in terms of the subject matters that they choose to address if they expect to be noticed by the country. If we are not discussing matters of real, immediate salience and which are part of the day's national conversation, then we risk being in a world of our own. This does not mean that every spare minute of each sitting day has to be filled with whatever is on the front pages of newspapers. Far from it. Topicality must, however, be a key part of the package. It is for this reason that I decided after my election as Speaker to reinvent a much underdeployed power of the Speaker, namely the capacity to permit Urgent Questions. This is a crucial parliamentary tool which allows any MP to apply to me to require that a minister appears in the House of Commons at very short notice to answer an important matter which has suddenly shot to prominence. In the 12 months before I was elected Speaker precisely two Urgent Questions were permitted. Since June 2009 I have given time for no fewer than 78 of them. In a relatively short period of time the UQ has become a vital part of the parliamentary process. I am certain that it has made for more effective scrutiny of the Government of the day and has demonstrated to the

public at large that what is said and done in Parliament focuses upon issues in which citizens are rightly very interested.

The third of these observations is that all modern legislatures need to embrace every aspect of and opportunity afforded by emerging technologies to get our message across. We need to do this to allow the public to participate in parliamentary proceedings as well as follow them at their convenience. We have to be absolutely relentless in this engagement via our website or through the likes of Facebook and Twitter. The Government and the House are currently experimenting to see how best to link e-petitions to the work of the House of Commons. There are some obvious dangers in this approach but this should not be seen as beneath our dignity. Modern parliaments need modern communications to reach out to the modern world.

In my final section I would like to draw together my initial thoughts about 1911 with my three reflections upon 2011 and make some specific suggestions about Select Committees today.

The introduction of departmental select committees 32 years ago was a notable reform. The status of select committees was, despite this, subject to challenge for two reasons. First, there was an ambiguity about their independence because of the method of selecting their members. Agents of those who were supposed to be scrutinised seemed to decide who scrutinised them. Secondly, there was uncertainty about their authority. The powers of select committees over not only ministers, officials and regulators but, crucially, third party witnesses were either vague or depended on threats which would be extremely difficult to enforce in practice. This combination of ambiguous independence and uncertain authority was a serious handicap.

The changes which were ushered in by the Wright Committee and endorsed by the

House of Commons in March 2010 have dealt with the ambiguity over independence very forcefully. A democratic deficit can no longer be identified as the chairs of select committees are elected by secret ballot via the whole House while the other members are chosen by a vote of their party colleagues. This has been a great leap forward and we can already see its impact.

Yet without a similar investigation into the uncertainties that surround the authority of select committees we may be left with, to borrow a phrase from a completely different context, an Unfinished Revolution. Select Committees have been half liberated to play the crucial role which I outlined earlier and that I consider central for legislatures in all modern democracies. Yet they have not been fully released to do so. Nor do I think it would be wise or acceptable for the House to wait for another 30 years before contemplating a third wave of reform here.

There are three areas which seem to me at least to merit some quite extensive exploration.

The first is the ability of select committees to compel the attendance of witnesses whom they regard as essential to their inquiries. Reluctant attendance of a witness is perhaps not unusual. Outright refusal is rarer, but of course it is precisely in these cases that the interests of Parliament and the public must be served.

We have some venerable and indeed picturesque procedures for securing the attendance of witnesses, but I think the time has come to consider whether we need something more in accord with modern constitutional and legislative circumstances.

The same goes for the ability to call witnesses to account should they give false evidence, or otherwise mislead a select committee.

The second relates to the influence which select committees should have over significant public appointments. The precedent set by the Chancellor of the Exchequer in 2010 when he volunteered to the Treasury Select Committee a de facto veto over his appointments to the Office of Budget Responsibility was a bold move for which George Osborne deserves credit. The willingness of other ministers to withdraw nominees for positions when certain select committees have been unanimously underwhelmed by them is also a welcome change. But there is a debate to be had, which I am confident that the Liaison Committee will advance, as to the extent to which these arrangements should be formalised, just as there is scope for asking whether the so-called “Osmotherly Rules” under which civil servants offer testimony to select committees are in need of substantial revision. I tend to conclude that they are.

Finally, we need to think further about how best to link the output of select committees to the chamber itself. Might this be done by introducing a “select committee slot” into the timetable with thirty minutes of parliamentary “prime time” on a Tuesday or Wednesday, as set out by the Liaison Committee in its *Shifting the Balance* report of March 2000, to allow a select committee report to be presented to the whole House on publication and to be subject to immediate comment? Should all significant primary legislation be directed to the pertinent select committee for their analysis? Should we allow select committees collectively formally to move amendments to Bills on the floor of the House? All of this seems worth discussion.

How should a contemporary reformer want to advance this cause if he or she accepts that this is an Unfinished Revolution worthy of completion? To my mind, the reformer of 2011 can look back at the themes of the reforms and reformers of 1911 for relevant inspiration.

For once again there is an issue of fundamental principle at the heart of this question. It is whether or not the House of Commons has the institutional means to serve as a check and balance within our political system to the extent that it should and if not what should be done about this. Once again it strikes me that Parliament, not the Government or anyone else, has to take the lead here. The business of the House of Commons is the business of the House of Commons. We need MPs and the contemporary equivalent of Sir Courtney Peregrine Ilbert to be in the vanguard again. And once more we require patience, persistence and pragmatism.

The ends in this strike me as an imperative, the means are not. The forum for examining these questions could be a sub-committee of the Liaison Committee, it could be an ad hoc device such as the Wright Committee in the last Parliament or it could be a mechanism that has either been deployed before or is completely original and designed for this special purpose. The important point is that this is where the energy of reformers should now be centred and that we must not wait for three decades before addressing the matter. It is more urgent than that.

It has been a real pleasure as well as an honour to address this audience this evening. I am aware that there are many passionate supporters of Parliament gathered here tonight. I truly believe our parliamentary democracy is a precious asset. Much has changed for the good of the House of Commons in the past few years. There is plenty more good still left for us to do. Thank you for listening to me. I now await my interrogation. It is what democracy is all about.