

**BETTER GOVERNMENT INITIATIVE**  
**Minutes of 3<sup>rd</sup> Ditchley Conference**  
**4-5<sup>th</sup> July, 2008**

Present: Sir David Arculus, Sir Alan Beith MP, Sir Michael Bichard, Lord Butler, Sir Geoffrey Chipperfield, Ken Clarke MP, Roger Dawe, Helena Djurkovic, Sir Andrew Foster, Sir Christopher Foster, Dominic Grieve MP, Helen Goodman MP, Sir Jeremy Greenstock, David Halpern, Nick Herbert MP, David Howarth MP, Lord Howe of Aberavon, Helen Irwin, Lord Jenkin, Paul McQuail, Lord Maclennan, Francis Maude MP, Sir Nick Monck, Sir Richard Mottram, Baroness Neville-Jones, Sir Gus O'Donnell, Sir David Omand, Peter Owen, Nick Raynsford MP, Lord Rodgers, Dame Sue Street, Andrew Tyrie, Baroness Williams, Michael Wills MP, Tony Wright MP, Sir George Young MP

**Christopher Foster, Introduction: Aims of the Conference**

A transcript of Christopher Foster's speech is given below:

"Welcome.

The objective of the BGI is indeed Better Government. Over the last two and a half years - in working parties and at conferences - it has discussed how this might best be done in modern circumstances with parliamentarians of all three parties and others expert in government.

Our concern is not about policy, but over the ability of a government of any political party to achieve its policy aims in to-day's circumstances. There have been too many policy failures in recent years. We believe it now almost self-evident that how new laws and policies are devised, explained and progressed in the United Kingdom is in many respects seriously flawed. Their outcome is frequently unpredictable, the consequence too often of insufficient preparation within the Executive and then over-rapid parliamentary scrutiny. Furthermore Parliament will never be able to scrutinise legislation and policy statements as it should, or the Executive to prepare them adequately unless the volume of legislation is very substantially reduced.

Six months ago we published our conclusions in *Governing Well*. It is in your conference pack. It has never been our intention to grab the media headlines. But within circles that share our concerns we have had far greater attention than we had dared expect even a year ago. We are delighted, if astonished, that three, perhaps soon to be four, parliamentary committees are explicitly studying our recommendations. We have not yet had the Government's response to our recommendations but we understand that is still to come.

The argument of the *Better Government Initiative* is that better process should help politicians avoid making as many policy promises that are not deliverable and instead more often deliver promises that are. Our belief is that it – both in

Parliament and the Executive, neither alone is enough – is a necessary, though not sufficient, requirement for helping restore public confidence and trust in politics and politicians. Given the frequency of bad laws entering Parliament and policy failure on the ground we believe that, despite some recent improvements, there remains a need for comprehensive reform of process across government. We will be interested to hear how much you agree with this and indeed with our particular recommendations.

Our objective at this conference is primarily to test how much common ground there is between parliamentarians of all three parties: first on the nature of the problem and then on the solution. To that end we have organised this conference differently from its predecessors. We have invited more politicians. But we also held a preliminary preparatory conference a month ago. It was attended both by experts and by serving officials from within the Centre of Government and Parliament. The minutes of that conference are also in your pack. We hope you agree that they give important insights into the ongoing tasks and problems of contemporary government. We are grateful to Ministers and the Cabinet Secretary who authorised such frankness.

Some disclaimers may help: (1) I am sure you will agree that good process cannot ensure good government, let alone historic fame. Outcomes are never certain. Circumstances change to defeat the best intentions. But it is possible to make the outcome of new bills, other policy changes and - we believe this a vital point too - re-organisations and other structural changes less likely to be a failure.

(2) I think you will also agree there never was a time of golden government. Every age has its problems. But even had there been a Golden Age, government has become so much larger, complex and demanding that what more or less worked once – there were implementation failures in every age - cannot be expected to work now.

It is worth pausing to see if we agree on the developments responsible for overloading, complicating and so weakening our system of government. Are they not:

- The increasing scale, depth, range and complexity of government activity.
- The greater amount of interaction between the UK and other governments - through the EU and otherwise – adding substantially to the volume of government business.
- A near doubling of the volume of legislation and of regulation since the start of the 1980s.
- A far higher proportion of bills entering Parliament incomplete, poorly explained, and requiring substantial amendment, so wasting scarce parliamentary time.
- The growing concentration of ministers' time, directly and indirectly, on responding to the media, lessening the time they can give their other ministerial tasks.
- The increasing media appetite for new and often instant policy initiatives.

- The greater demands constituency business makes on MPs' time, not excepting ministers.
- A tendency for some ministers to engage in policymaking with their political and media advisers while leaving subsequent implementation to their civil and other public servants, so insufficiently recognising that most significant successful policy and lawmaking requires interactive, sequential and sometimes iterative co-operation and consultation between those at all levels: from ministers through to users and to those who will have to implement innovations on the ground?

Every Cabinet is different. The chemistry between its members varies. History unsurprisingly shows that administrative arrangements alter to adapt to differences in personalities. But we believe experience – certainly recent experience - shows that no administration can safely enter office without giving prior thought to its working arrangements. The Better Government Initiative has - in its report *Governing Well* - set out what it believes are - within both Parliament and the Executive - the desirable, even necessary, components of effective government.

As long ago as November, 2007, we met Michael Wills for a most useful and optimistic discussion of these topics. Last February we were promised a detailed a detailed response to the 50 recommendations we made in *Governing Well*. While as yet we have not had that, we understand that in the last year there have been process improvements in the conduct of cabinet business. You will see them referred to in the minutes of our RAC conference. I was even told the BGI, along with the Hutton and Butler reports, and the Prime Minister's own instincts, were among the factors deserving credit for providing the impetus. However, it won't surprise you to learn that we do not believe that the Constitutional Reform Bill is all that is needed to complete the process and restore public trust. Far from it. How far improvement has gone, and whether it is sufficient, will no doubt be much discussed at this conference.

May I ask Robin Butler, a member of the BGI Organising Committee, to give his reflections on the issues we raise.”

**Robin Butler: “Constitutional Renewal and Governing Well: the Challenge”**

A transcript of Robin Butler's speech is given below:

“I have been asked to speak on the challenge represented by Constitutional Renewal and Governing Well. I do so under the headings of the break-out groups to give you some material to discuss in the break out groups.

I suppose that the starting point is that we are all here because we think that the processes of government in the UK could work better than they do. Much happens in our Government that none of us connected with it – whether in the Executive or Parliament or as commentators – can feel proud of. The

Executive and Parliament tend to get a bad press and are poorly regarded by citizens, who are disillusioned or apathetic, and this poor reputation is earned.

Why does this happen? Parliament and the Executive don't want to conduct government poorly. On the contrary, they would like the good opinion of their fellow citizens because on this depends their continuation in office.

So why do we want to press them to do things better? Not because we believe in good process for its own sake – we believe in it only as a means to an end. Nor do we urge the re-establishment of procedures that have lapsed or lost their force out of nostalgia or illusions about a golden age. We only urge them to the extent that there are specific reasons for thinking that they would produce a net improvement in Government. And here is the first challenge – it is no use advocating procedures that worked well in the past if they wouldn't work well in today's world; and it's no good urging procedures which would work well in theory but wouldn't work in practice.

And why do we need to urge these improvements? There should be no difference of interest between us and the Executive in wanting government to work better. The reason why we need to do it is that whatever our good intentions there are constant temptations on the Executive to short cut or by pass good procedures which make its life more laborious. An alcoholic may want to give up drinking but it is difficult if there are always bottles to hand and the pathway to taking them up is unimpeded. We need to be realistic about these temptations and try to close them off in the alcoholic's best interest; but the obstacles need to be both as effective and as realistic as possible and they mustn't seem or be unreasonable to the Executive.

Let's first consider Parliament and the Executive. We all know that, while the Executive pays lip-service to Parliament, the relationship is an adversarial one and has been so for three hundred years. The growth of party, the use of patronage within party, the control of business – all these things have developed over a long period to enable the Executive to get its way in Parliament.

Yet Parliamentary scrutiny is not only good, but essential to good government. There are always endless pressures on the Executive to take actions to address whatever are the day-to-day concerns of one pressure group or another. If it becomes too easy for the Executive to get its way with Parliament, the Executive will cease to take sufficient care. Power corrupts; and we see the consequence today. Too much legislation; legislation bulldozed through or let slip through; legislation poorly prepared and subsequently regretted or needing amendment. Nearly 70 Home Office Bills in 10 years. More legislation than those who have to implement, let alone enforce, it can possibly cope with. De-motivated public officials. Sullen citizens.

So how can one redress the balance? Parliament is neutered. The horse is out of the stable. One thing that can be done is to reverse or remove some of

the levers the Executive has put in place to achieve control. Persuade the Executive to give up the power it has established to control chairmanship and membership of Select Committees. Put the clock back on control of the timetable. Persuade the Executive to acknowledge that they have gone too far in their own interests in neutering Parliament.

Another way of influencing the Executive is to persuade them publicly to commit themselves to standards against which Parliament can challenge them. This only provides opportunities for embarrassment, but in my experience the Executive tries to avoid embarrassment. That is the thought behind the idea of a Parliamentary Resolution which Parliamentarians or the media can invoke when good procedures have been ignored. Look how much Parliament and the media have been able to use the Ministerial Code as a yardstick against which to compare the Government since it was made publicly available more than 15 years ago.

Then Cabinet Government. Cabinet Government is a tool, not an end in itself. Yet it has certain advantages. It exposes proposals to scrutiny from representatives in Government of all interests and areas of expertise. It submits proposals to the comments of colleagues with wider perspectives and longer political experience than the Minister bringing the proposal forward. It enables and enforces buy-in from the whole Ministerial team. Some of the worst decisions I saw made in Government were made because for one reason or another they by-passed Cabinet and the mistakes could have been avoided if Ministerial colleagues had had a chance to point out what was blindingly obvious to all but the Minister concerned.

So why would Governments want to do without such a useful tool? We have to be realistic about the reason why Prime Ministers want to do without such a valuable tool:-

- Widespread discussion inside Cabinet gives opportunities for leaking, either through indiscretion or as a tactic in discrediting the proposal or the Minister.
- Unless it is smartly organised, it can be too ponderous for today's fast-moving world. Yet this is often a pretext – most Government business is not urgent.
- There may be different political factions in Cabinet to which the Prime Minister may not want to show too much of the Government's hand. When I left Government and joined HSBC, I was deeply impressed by the techniques used to give Directors information about the performance of a world-wide and complex group and I was ashamed that we hadn't had in Government such sophisticated methods for synthesising and displaying information. But then I remembered that one of the instruments of power in government is withholding information rather than sharing it.

But on Cabinet as well as Parliament, the horse is out of the stable. Whereas Harold Wilson and Margaret Thatcher thought constitutional conventions required important decisions to have the assent of Cabinet, and proper

procedures had to be acquired in obtaining it, John Major and Tony Blair have shown that the constitutional conventions carry no sanctions for disregard. The Emperor was shown to have no clothes.

What can be done? In my view, we cannot – and should not – pass Companies Act – type legislation to require that no act of Government is valid unless properly approved by the Cabinet (although some countries have such legislation). But we can persuade a future Government to commit itself publicly to procedures against which it can be judged and which will strengthen the hand of members of the Cabinet in restraining future Prime Ministers from riding roughshod over them.

I only have time to mention the other two main areas briefly. First, the relationship between the centre of government and the service deliverers. While it is right for the centre of Government to set standards and hold service deliverers accountable, it has been shown that top-down government doesn't work. It is impossible for a few people at the centre of government to take account of the myriad of problems and circumstance which service deliverers face on the ground; and the attempt to do so produce pile upon pile of directives and bureaucracy which is ineffective and demoralising. This is in my view a policy matter rather than one requiring politicians to commit themselves publicly to certain standards or procedures. But it is important to demonstrate to those who will form future governments where, as a technique of management, past methods have been counter-productive. In this area the new Institute of Government will have an important role to play.

Finally, the Civil Service. The British Civil Service has been in my view, and is still capable of being, an effective instrument of government if it is used properly and its characteristics are recognised – that is, that it is recognised as a loyal and professional partner in policy making which should not be expected to be partisan; that it has a wealth of knowledge and experience which can be useful to politicians if it is allowed to be brought to bear; and that it is willing, indeed anxious, to be led, if it is not required to do the impossible and then used as a convenient scapegoat for failure. Above all, it should be recognised that, once its political neutrality is compromised, it can never be restored; and that is why, as the present government has finally accepted to its credit, its position needs to be entrenched by legislation.

To sum up, what is the challenge of better government? It is to persuade the present government, but perhaps more realistically a future one, that some changes in process, though not necessarily convenient in the short term, will promote better decisions and policies and in consequence will be in their own political interests; and, conversely, that in their absence bad decisions will be taken, the country will be poorly governed and the disillusionment of citizens will increase. Having persuaded them of that, it is to persuade them to put in place some defences against reversion to original sin – not by law because I believe that this is not an area for the law but by putting levers in the hands of Parliament and the public where, in a democracy, they ought to be.”

One of the delegates thanked RB for his speech. They said they felt he had talked very clearly about the weaknesses of top-down government but felt he did not talk about the weakness of local government, particularly when compared to other countries.

RB agreed that the weakening of local government was a very serious matter. Because the public wanted to be blame central government for everything, Margaret Thatcher brought local government under much tighter central control. There was an absence of a proper financial regime for local government. Allowing local authorities to raise a higher proportion of their own revenues was a way of making them more accountable to their voters.

One delegate observed that if the poll tax had been put to pre-legislative scrutiny in Parliament it would never have seen the light of day. It was devised at a time when many local authorities were extremely rebellious and many thought action was needed. He thought lessons had now been learnt and the current highly centralised system had to change.

Another delegate argued that when he went to the Treasury local government was raising 40% of what it spent. When he left the Treasury the percentage had risen to 60%. Today it was just 20%. Inflation had forced too many increases in rates and council tax, while successive governments had resisted a review of rateable values. He thought it important to restore to local government the greater fiscal independence of the past.

The discussion then turned to Parliament and its power relative to the Executive. One delegate asked whether the work of Professor Phillip Cowley at Nottingham University about the growing number of rebellions in Parliament was consistent with the idea of Parliament having been neutered. RB replied that whilst there had been some big rebellions in recent years, these had been the exception rather than the rule. Furthermore, the main problems with Parliament were that the routine day to day issues were not receiving proper scrutiny and that Parliament had no power to control the Executive's purse strings.

Supporting RB's position, another delegate argued that the decline of Parliament had accelerated under John Major with the introduction of the Jopling Reforms, which were intended to reduce the power of rebels to take to the floor. When Labour came to power it was happy to retain these reforms. He went on to say that those politicians who expected to be in the Executive had to have the courage to accept that Parliament's ability to rebel was important.

The argument was made that the strengthening of Parliament would not prove an effective remedy to the problems being discussed, since it would not address the problem of poor policy-making and implementation. He felt the main solution would be for governments to refuse to take on everything the public and media expected them to take on.

Returning to the question of Parliamentary rebellions, one MP noted that the fact that there had been spectacular rebellions did not suggest that Parliament was working properly. He thought that scrutiny was extremely poor, though he did feel that even within the emasculated system that existed, MPs could be doing a better job at scrutiny. This was because there was insufficient commitment amongst many MPs. He agreed with the former speaker that the media were a major problem and cited the way in which the media dictated the political agenda as another reason for poor policy. He gave the example of knife crime and claimed that the media were forcing constant announcements of new policy. He felt that a major advantage of a proper system of Parliamentary scrutiny would be the breathing space that it would allow the government of the day.

Moving on to the subject of the civil service, one delegate observed that while the civil service was indeed a loyal standing army, it needed to become the preferred partner of Government. In order to become this, it needed profound changes to give it greater understanding of what was going on the ground and greater financial expertise.

This view was endorsed by another delegate, who said there had been some spectacular civil service failures for many years now.

RB thought there had been a breakdown in the sense of partnership between politicians and civil servants. Another agreed, saying that policy-making was seen as something that politicians did, while delivery was something to be done by civil servants. This attitude was the root cause of so many policy failures.

He went on to say that as a society we expected too much of our governments and as a result they ended up doing far too much. It was vital to find mechanisms to allow government to do less but better. This meant restricting the volume of primary and secondary legislation. He thought it most important to focus on improving decision-making in Parliament.

Another delegate noted that in the US all new legislation required very clear, short statements of what it was seeking to achieve. If those objectives changed in any way, the statement had to change. He thought that impact assessments in the UK should carry the same clear statements of objectives. RB agreed that this was a very good idea. He thought that post-legislative scrutiny would also force the objectives of any given piece of legislation to be set more clearly in the first place.

One delegate thought it mistaken to refer to Parliament in any collective sense. He felt it was a place where the political parties met to do battle and the task of creating a collective sense into the place would be extremely hard work.

Another delegate took the view that so much of what went on in Parliament



was simply an act to be seen and reported on by the media.

RB ended by saying that politicians were more obsessed with the media than they needed to be. He reminded everyone that Margaret Thatcher never read the papers.

He ended by saying that everyone had to recognise that the Executive had all the cards in their hands.

### **Michael Wills, MP, “The Governance of Britain/Governing Well”**

Michael Wills thanked the BGI for its report. He said it had been invaluable in addressing a pressing problem but he said the Government did not respond to all reports formally.

He felt the system was not broken, but had, in fact, enormous strengths, flexibility and resilience.

He himself had been a journalist and felt that politicians were sometimes hyper-sensitive about the media. 24/7 news media created so much noise that sophisticated news management was necessary and provided an opportunity to change the way in which things were done. He said it was important to remember that media companies were businesses and could not be too far adrift from their readers – the public.

He said the country was facing a very particular form of challenge: there had been two very long term incumbent governments and this had bred certain dynamics which made good government more difficult, because parties felt that as soon as they came to power, after a long period in opposition, they had to act on everything immediately. He thought this urge for action made the partnership between the government and the civil service more difficult.

When Gordon Brown had become PM there were a wide range of issues that had to be addressed. The key concern of the new administration was to redistribute power in our democracy. So, for example, with the Constitutional Renewal Bill Jack Straw and MW wanted to signal that power had drifted too far towards the Executive and needed to be recalibrated towards Parliament and the people.

He went on to say that representative democracy was very precious and direct democracy always had to play a subordinate role. However, it was only a matter of time before technology would pose an acute challenge. He foresaw the possibility of a billionaire running a campaign on an issue and being able to deluge MPs with emails and other direct communications. He thought it critical that the Government and Parliament be very resilient to this kind of pressure. Nonetheless they had to be prepared to address the issue of direct democracy.

He thought it important to find a better role for local government. There had been far too many targets. In his view, as power shifted towards local

authorities scrutiny of what they did had to be improved, both by the media and within local authorities, yet all parties now accepted that there had to be a move in the direction of devolving power.

The Government was trying to encourage more citizens to get involved in policy-making between elections. It had already introduced the use of citizens' juries (involving 50-100 people on each jury) but was now moving towards citizens' summits (involving 500 people, selected randomly but representative of the population as a whole, over two days) for limited, rigorously defined issues. A citizens' summit would be used to decide whether general elections should be moved to weekends and whether a British statement of values needed to be formulated and if so what it should be. The findings would be presented to Parliament.

He said that the Government would soon be publishing a Green Paper on a Bill of Rights and Responsibilities.

A wide range of issues were raised in the ensuing discussion.

One participant commented that the Constitutional Renewal Bill (CRB) would have been enormously better if it had contained some ideas about empowering the citizen. In reply MW said that the Government was bringing forward proposals in these areas and the government was open to consideration of amendments to the Bill based on what the CRB Joint Committee had proposed.

On the subject of direct democracy, it was noted that there were dangers in moving from the representative democracy model. Nonetheless, the speaker agreed that it was not a bad idea to use direct democracy in some areas without undermining representative democracy. He thought it could be used to allow people to make decisions about what was permissible in their specific localities, such as hunting and super casinos, and on primarily moral issues such as opting out of organ donation.

Several speakers responded to MW's comments about local government. One said the reason the Government did not devolve power to local authorities was not because of the quality of local scrutiny but because of postcode lottery concerns. He felt that if governments sought to eliminate the postcode lottery the consequence was a stifling of innovation. He believed that political responsibility needed to be accepted at the local level, just as it had been accepted at the national level in Scotland, Wales and Northern Ireland. Another participant agreed that it was wrong to accuse local government of poor scrutiny, given the recent introduction of scrutiny committees and the fact that the Audit Commission had been more effective than the NAO. He was also less pessimistic about the scrutiny powers of local media.

In reply MW said that these resources are distributed unequally across the country and if people believed there needed to be an equitable meeting of need across the country there needed to be some equalisation mechanism that needed to be controlled by central government. If central government was accountable then it also had to have some control. He went on to say that in some parts of the country it was very difficult to find good people to stand for local authorities and research for the Ministry of Justice showed how few people

wanted to play any part in public life, whether as Councillors or School Governors or Magistrates. This was not an argument for the status quo but for recognising these difficulties and finding ways of addressing them. The Government's starting point was that in healthy societies power was plural and diffused as widely as possible.

It was noted that devolution in Scotland and Wales had created a great deal of interest and involvement amongst the general public and this in turn had created demand for more powers. People did not want to be councillors in England because local authorities had so little decision-making power. Similarly people did not want to be school governors because so much bureaucracy was involved in the role. Yet despite this councillors came from a broader background than MPs.

Commenting on the issue of the postcode lottery, one speaker observed that international research showed that there was no correlation between inequality and the level of centralisation in any given country.

Another argued that local government needed a greater degree of financial responsibility but in return had to be accountable for this responsibility.

It was noted by someone who had spent most of his life around local government and service delivery that Oppositions always made promises about devolving power but never followed through on these promises. Yet local government had improved significantly in recent years and could be contrasted very positively with the NHS, which had received huge sums of money but had not seen a proportionate increase in performance.

In agreement, another participant observed that every service delivery minister took the view that they could not concede power to local government. Unless the debate about the postcode lottery were to change, progress would never be made. In his view the Government was seeking to by-pass local government and use direct democracy and local engagement to challenge local government. Yet the Government was not going to find the people to participate in local engagement when the downside was so great.

MW observed that the London elections generated a great deal of interest because of the mayoral system. He said that far from participatory democratic mechanisms undermining local government it could support it and generate new enthusiasm and support for it. The two things could and should mutually reinforce each other.

In response to the latter point, one participant noted that the public was much more interested in consumerism than community and that it was very difficult, therefore, for politicians to follow the mood of the public.

One speaker said that the idea of a Parliamentary Resolution was relevant given the growing problems with good government. He thought this was an obvious area where the Government could make a positive move and see positive results.

When asked when the Government was going to deliver a response to

Governing Well, MW said it was not planning to produce a line by line response but had got a number of things underway – such as post-legislative scrutiny – that had been raised by the BGI. He said he had just sent CF a letter thanking the BGI for its work and outlining progress being made by the government.

He went on to say that the Law Commission did a great deal of work in keeping our law robust and that the Government was working very closely with it.

He finished by saying that the idea of a vibrant, vigorous local government system was not incompatible with direct democracy, as long as local government was recognised as the custodian of local representative democracy.

### **Ken Clarke MP, Chair, Conservative Democracy Task Force**

Ken Clarke began by saying that he agreed with everything that Robin Butler had said in his speech. He said this was not surprising, since RB had contributed to the work of the Conservative Democracy Task Force.

He said he would be more political than RB in his comments. He said he readily acknowledged that problems with collective government and the neutering of Parliament had not begun with the Blair premiership - the Jopling Reforms had been wrong; Margaret Thatcher had been through all forms of Cabinet government and John Major had started his premiership with a Cabinet of chums.

He thought things had got worse because of the deterioration in the quality of politics. In his view the contempt amongst the public for the political class was a very unhealthy development.

He asked why our political institutions had got so much worse at a time when the country had become so much wealthier and healthier.

The first reason, he believed, was because politicians had failed to come to terms with the transformation of the media. 24/7 news had led to constant campaigning and this had transformed the nature of the system. He noted that Andrew Neil had once told him that if you made it clear to the papers that they run the country, then they will do so. He felt all three parties were now driven by a media-facing agenda and the big lobby groups. Focus groups were used too heavily, yet were steered by the pollsters to give the answers they thought the politicians wanted. Politicians in the past were judged by their style and the results of their policies but today seemed to be judged by their knee-jerk response to issues the media placed high on the political agenda.

He felt that party membership no longer reflected the people who voted for

them. The parties had lost members in droves and reform of party funding now needed to be addressed.

He also believed that the need for Parliament to regain control of the timing and content of debates was critical. He regarded it as a farce that the Government determined what was debated and when, allowing it to minimise the debate of issues it regarded as embarrassing. He believed the introduction of a proper Business Committee with authority to determine the timing and length of debate to be an invaluable reform. He also thought that more time for debate at short notice should be made available to the Leader of the Opposition and the Chairmen of relevant Select Committees in place of some of the present Opposition Supply Days..

He observed that “topical debates” were now held once a week, the subject of which were chosen by the Leader of the House and to date had included the Holocaust, women and Zimbabwe. Very few MPs attended these debates. Instead the subject of topical debates should be in the hands of the opposition parties and Select Committee chairmen.

He went on to say that Parliament should control the amount of legislation that could be debated in any one session and the Opposition should be able to choose which bits of a bill should be given time for debate.

Another reform he proposed was that chairmen of Select Committees should be elected at the start of each session by a secret ballot of all members once the party affiliation of the chair of each Committee had been determined.

He remarked that the BGI had made a very valuable contribution on a number of issues but felt it should not overestimate the ability and willingness of MPs to engage in huge amounts of detailed scrutiny. He highlighted the fact that most MPs wanted to do things that got them media exposure.

He went on to say that the reforms introduced by the Government to date were not of the slightest significance. He thought the Public Bill Committees were an improvement on what had previously existed but thought all else to be a case of fiddling around the edges.

He said he had encouraged his colleagues to pursue Cabinet government when they returned to power.

He noted that unless deliverers were involved in decision-making the consequence would continue to be bad delivery.

He thought that the process of government had become far too politicised and that the number of external press advisors and special advisers needed to be reduced. He observed that the meetings of special advisers was now almost more important than meetings of the Secretaries of State.

He thought the Grid for public announcements to be ludicrous and the system

had to be made more flexible.

He shared Michael Wills' views on local government. He did not agree with Simon Jenkins who wanted to devolve too much power to local government, since the calibre of local councillors was poor, local authority scrutiny committees were not very good, and partnership working had cut elected councillors even further out of decision-making, leaving council officers to respond to the government's agenda. Local public opinion and local pressures were deeply conservative, meaning local government could be highly resistant to any change in the configuration or delivery of public services.

On the subject of participatory democracy, he said that pressure groups were capable of deluging politicians with emails and postcards and yet they were not accountable to anyone. The followers of these groups supported them because they agreed with the overall causes they espoused but not always with the specific policies being advocated. He felt that citizens' juries would be very vulnerable to pressure groups and the media.

**David Howarth, MP, Shadow Ministry of Justice spokesperson, Liberal Democrat Party**

David Howarth began his speech by asking the meaning of the word "effectiveness".

He suggested that Governing Well worked according to a very linear model in which central government decided where we should go and the machinery of government sought to get us there.

He suggested approaching matters from a different perspective. In his view there were three issues that were of particular importance:

- dispersing power
- the value of experimentation and innovation
- participation.

He noted that participation that was educative and helped people to get where they wanted was very different to a consumerist approach. Effective participation reduced the ability of the government to get its way, since the dispersal of power created checks and balances.

He thought that to achieve effective government we needed to fulfil all three values.

He went on to say that politicians had created Frankenstein's monster in seeking to manipulate the media. Politics now seemed to be part of the entertainment business and all the major political parties needed to agree to resist this. He gave the example of the criminal justice system, saying that all

politicians could agree with the research that suggested restorative justice was more effective than locking people up short term but that as soon as the spotlight of the media hit, politicians would assume the opposite because it was the populist position.

In his view politics happened too fast, yet quality could only come from taking things slowly. He thought the way to achieve this was by dispersing power and encouraging experimentation.

He said the problem with the House of Commons was that the primary function for the majority party was to sustain the government in office. So long as this was the case the House would never undertake proper scrutiny. He went on to ask whether Parliamentary majorities were a good thing and pointed out that minority governments – not coalition governments - were the norm in most of Europe. He added that in the UK, the loyalty of the clerks in Westminster was to the majority party and the loyalty of the civil service was to the party in power.

He observed that the great contrast between local government and central government was that in local government debates were about making decisions (including alternatives to the proposed policy and supporting budgets) whereas in Westminster debates were purely rhetorical. He went on to say that around the world rhetorical parliaments were associated with majority governments and working parliaments were associated with minority governments.

He agreed with an earlier suggestion that impact assessments should make clear the objectives of any given bill.

He thought it important that Parliament be given the opportunity to discuss where money was spent.

He pointed out that one of the reasons that the quality of local councillors was often poor was that no real decisions were made and hence many people regarded the job as unsatisfying.

He thought the fact that the local press was not very strong was positive and meant people were able to form their own opinions on a subject.

He ended by saying that MPs had brought the problem of pressure groups on themselves by saying that politics was about reflecting the views of others rather than reflecting on the views of others.

### **Tony Wright, MP, Chair, PASC**

Tony Wright, Chair of the House of Commons Public Administration Select Committee (PASC), observed that the BGI recommendations needed to be

considered against the wide context in which present day government had to operate. A key fact is that much – perhaps most – of what Government has to deal with, is not within its control. Current concerns about Zimbabwe and oil prices are examples of this. Given public and media expectations, how to govern in these circumstances is a major issue for government. He agreed with Ken Clarke's reminder that there had never been a golden age for governments; yet comparison with the 70s, when it was widely believed that Britain was on the verge of ungovernability, demonstrated that things could change for the better. It was important to keep a sense of perspective.

PASC were beginning an enquiry, drawing on the BGI work, with the aim of distilling, on the basis of evidence what we know about the components of good government and conditions for achieving it. The study would be based on analysis, and not be a list of assorted proposals. He warmly welcomed the establishment of the Institute for Government and its potential for improving government. He thought that *Governing Well* gave too little credit for what had been achieved since 1997, for example by the Delivery and Scrutiny Units, following the new government's resolve to strengthen the centre; to handle the media successfully; and to provide shock therapy for the public sector. It might be right to attribute shortcoming in outcome to sloppy process, but the BGI report was short of analysis of a number of big issues, among them

- the choice between incremental change and a big bang approach (such as politicising the civil service);
- the virtues of Ministerial cabinets;
- bringing people in from outside on a substantial scale.

TW identified two main aspects to politics, which needed to be distinguished; one was style, or culture – how we conducted political disagreement. There was a marked contrast between the adversarial character of much public discussion which made politics seem like a game and (for example) the style of the discussion in the present room. There was little doubt that people outside the game would favour the second mode. Indeed most politicians claimed that they wished for consensus, though not always behaving in a way designed to secure it.

The second aspect was machinery: the relations between the centre of governments and departments; between government and bodies (whether NDPBs, the NHS or local authorities) outside itself; and between Ministers and civil servants. In all these relationships, effective partnership was needed. In this connection, he disagreed with a point made by David Howarth to the effect that there was a trade-off between wide participation and good government. As to outside bodies, it was inevitable that so long as government was held ultimately responsible for services, it would be hard for it to give up control, even though this lead to a cultural cul-de-sac. Civil servants had been given an easy ride in the BGI report: The Capability reviews showed how far from satisfactory civil service performance was: it was not only Ministers who were responsible for faults of process. It was important that the civil service provisions of the Constitution Reform Bill should not tilt the



balance too far towards protecting permanent civil servants.

Concluding, he observed that the United Kingdom was now the most centralised country in Western Europe. The central challenge was how to run such a centralised state, combining strong government with strong accountability, while accommodating the requirements and benefits of localism: the present position was not stable: it was essential to take seriously the implications of devolution. These went far beyond the West Lothian Question into the fundamentals of governance of England in particular.

## **Breakout Sessions**

### **Parliament & the Executive**

The Group (see appendix 1) discussed 6 questions about ways of strengthening Parliamentary scrutiny of the executive on lines set out in *Governing Well*. The discussion was constructive and produced much agreement, though further work would be needed on some proposals.

It was agreed (Q1) that the ability of Parliament to hold the Government to account needed to be strengthened across the board; and not only or mainly in the areas of the Royal Prerogative covered by the Constitutional Renewal Bill (CRB). No argument was raised against making other changes in parallel with the CRB (Q2) e.g. setting standards of thorough preparation, reducing the volume of legislation by stronger tests, giving Select Committees (SCs) more power and relaxing the influence of the Whips on the choice of chairs and members.

It was agreed (Q3) that even if SCs acquired more influence through the changes proposed, there would probably remain a shortage of scrutiny capacity in the Commons.

It would be desirable (Q4) to identify ways of making better use of the available scrutiny capacity of Commons Select Committees, Lords Committees and Joint Committees.

The following suggestions were thought to be promising:

- the Commons Liaison Committee could propose which committee should scrutinise forthcoming legislative or policy proposals from the executive, perhaps a selection of them;
- these proposals could then be discussed and, if necessary, amended with a suitable body in the Lords, perhaps a new one since the existing Lords

Liaison Committee, unlike the Commons LC, was dominated by the front benches;

- more use should be made of Joint Committees than at present, but the decision on their use should be made by Parliament not by the Government;
- joint taking of evidence by Commons and Lords committees would sometime save members` time, though it might in practice be difficult to arrange.

The recent report by the Commons Liaison Committee (Q5) on *Parliament and Government Finance* and the Treasury's "Alignment Project", foreshadowed in the Governance Green Paper of July 2007, were felt to be a promising basis for extending the scrutiny of expenditure and outcomes by Select Committees.

Although there had been no Government undertaking (Q6), it had provided either a Green or a White Paper on 15 out of 18 Bills covered in the advance announcement of the current legislative programme.

It was agreed to be desirable for the choice of subjects, within the Government's legislative timetable, to be made by the opposition parties. Arrangements for this would need discussion.

### **Conduct of Cabinet Business**

The group (see appendix 1) considered a range of questions on the desirability and feasibility of ensuring that all major policy developments were subject to effective collective consideration by Ministers.

In discussion the following main points were made.

1. There had been many examples of failure of collective government over a long period of years. They had increased significantly after 1997.
2. The long periods in office of recent administrations meant that incoming ministers would have little if any practical experience of the operation of Cabinet and Cabinet Committees.
3. Long periods in office could also reduce the role of collective consideration as Prime Ministers consolidated their position and gathered increasing power into their own hands.
4. Cabinet Committees had generally been very effective in the eighties and early nineties. Their effectiveness had diminished with the emergence of powerful figures at the centre who had established their own networks and were sometimes perceived by departments to be more influential than their own official and ministerial departmental heads.
5. The reliance on intermediaries based in the centre also undermined the

role of junior departmental ministers and limited their ability to learn and progress.

6. A key factor in the decision to strengthen the centre after the 1997 election had been the perception that departments needed a strategic lead and a stronger analytical base. That did not, however, imply that detailed intervention was required.
7. It was arguable that the strength of the Prime Minister's support team should be reduced as part of a policy of returning initiative to departments; but the diminution of the capacity of departments to initiate policies would need to be taken into account.
8. An important element in reducing the scope for full collective consideration was the media's focus on the Prime Minister as lead government spokesman, providing an immediate answer on all issues. However this should not be a factor when the matter to be dealt with was the development of policy rather than reaction to events.
9. The strength of the Prime Minister's own position within Cabinet was also relevant. Prime Ministers would be reluctant to bring to the table issues on which they felt they might not succeed in persuading colleagues.
10. To ensure that collective consideration played its full part in the development of government policy it needed to be underpinned by recognised conventions based on an explicit code of conduct monitored by the Cabinet Secretary. This might be similar in some respects to those used in companies, stipulating the procedures to be observed before a board decision was formally adopted.
11. There would need to be a clear definition of the policies to which the rules would apply. *Governing Well* had proposed "matters that will reflect on the Government as a whole because of their importance, that cut across Departmental boundaries in a substantial way, or that require fresh legislation". The key phrase was "will reflect on the Government as a whole".
12. A factor to be reckoned with was the growing importance of global issues and cross-cutting domestic policies. The traditional role of the lead department had weakened and Cabinet Committees needed increasingly to drive rather than merely coordinate policy. The recent alignment of the Cabinet Committee structure with Public Service Agreements could be a helpful development.
13. The effectiveness of Cabinet Committees often depended on the availability of senior ministers without a specific departmental brief who could act as strong neutral chairmen on major cross-cutting issues, avoiding deadlock and ensuring that all relevant factors were fully considered.
14. The Cabinet Committee system ensured that Committee members saw all papers and had a right to attend all discussions. To play a full part they needed to be adequately briefed on matters outside their own departments' area of competence. Departmental special advisers could help with this, but briefing by the Centre could also be valuable.

In conclusion, it was agreed that, despite countervailing pressures to take power to the centre, structured collective consideration played a critical part in

securing the success of policy development. It should be underpinned by formally established rules defining the circumstances in which it was required. Strategic guidance from the centre could play a part in the development of a consistent government policy stance, but it should not be allowed to develop into detailed intervention in departments' operations.

### **Service Deliverers & Performance Management**

The group (see appendix 1) had focused on what should be the key approach to improving service delivery. They had reached the following main conclusions:

1. Too many changes had been made to structures and systems for delivery. This had not improved performance
2. The focus in future should be on the way services were designed from the ground up taking full account of the views of service users and of front line deliverers.
3. It followed that before changes in service delivery arrangements were made there should be consultations with and the full engagement of deliverers and users.
4. In all of this outcomes and not inputs were key. How services were delivered was best left to local level rather than imposing a single model from the centre for all services and institutions
5. Accountability systems should be simple and clear and should focus on what was important, i.e. outcomes.
6. PSAs were now moving in the right direction with wider objectives and fewer targets.
7. For all of this to work, e.g. in the NHS, there should be no further major re-organisations in the near future. And central government might need to be more patient about the speed of change, and more willing to see local variations in service arrangements
8. The merging of NAO and the Audit Commission was a good idea.

### **Michael Bichard, "The Training of Ministers, MPs and Peers"**

Under this heading Michael Bichard sketched the role of the Institute of Government (funded by David Sainsbury), though he would not start as its head until September. He stressed that it would be unique and avoid duplicating any existing body. It would be open to a wider range of groups: front- and back-bench parliamentarians of all parties, officials from central government departments [and other parts of the public sector?], the staff of NAO and Select Committees, and others. He hoped many of those present would participate.

He envisaged various activities:

- providing an attractive space with restaurant etc where members of all these groups could meet and talk to each other informally and formally e.g. in workshops; the address would be 2 Carlton Gardens.
- offering such people help with the issues they faced and in developing their skills throughout their careers; possible subjects for political parties might be: how the government machine works and how it might be improved, drawing on practice in other countries or other times; expectations of the civil service; processes and conventions of public expenditure; and perhaps induction for people appointed to new posts or likely to be candidates;
- doing or commissioning research, e.g. case studies, which would feed into b. above. Examples of suitable subjects might be: reconciling public sector accountability and innovation; the role of business plans; team-building; performance management; handling the media.

The Institute's success would depend on its ability to make its offer attractive. It would not be prescriptive and it would not be a "campaigning organisation". This would be different from the BGI which, having made its analysis, tried to persuade political parties to accept its recommendations.

In discussion the following points were made:

1. this was a most welcome initiative, particularly the proposed work on reconciling public sector audit with innovation;
2. the Institute would need support from whomever was Prime Minister;
3. "difficult conversations" between senior officials and ministers about ethics and propriety was suggested as a useful subject for help or research; another might be the length of Ministerial appointments;
4. much "basic" material was contentious e.g. relations between the centre of government, other departments, and deliverers.

Those present wished the new Institute success.

**After dinner discussion: "Collegiate Government", led by Geoffrey Howe and Shirley Williams**

Introducing the discussion, Lord Howe pointed out that many of the issues they were addressing were not new-for instance arguments over the impact of wider public participation in democratic Government went back to Walter Bagehot and beyond. He had been struck that the discussion about Parliament had tended to equate it with the House of Commons. But the House of Lords offered potential lessons, for example through the work of its Business Committee. Discussion of collegiate Government tended to focus on Cabinet but there were broader issues over whether the tone of politics could be less adversarial and more grown up. This had been David Cameron's original ambition in relation to Prime Minister's questions (PMQ's) but political imperatives had won out. The regulation of conduct in the House had been reduced to competitive sneaking with considerable damage to the reputation

of the whole system. Was there scope for more effective self-regulation and how could it be brought about? Recent experience was not encouraging.

Baroness Williams pointed out that national governments were losing powers upwards and downwards. This did not just apply in the UK but the UK Parliament was not well matched to this changing pattern. Below the UK level there were a number of institutions where no party had overall control. Above it there were a number of issues, such as climate change, where the requirement for new approaches was clear but where national governments had proved weak in generating consensus for the actions needed.

There were a number of mechanisms which had been used in the past or could be developed to help generate more collegiate approaches: for example, Royal Commissions; the use of pilots to establish the value of innovations in a transparent way; building into legislation what it was expected to achieve and a requirement for Government to report in due course whether the aims had been met; and using the Select Committee system to help shape opinion on complex and difficult issues. The challenge extended beyond the national level to find institutions capable of tackling global issues in ways which encouraged national governments to adopt necessary compromises.

In discussion, the following main points were made:

1. More collegiate government would be chimerical if we continued with the present electoral system and the media continued to dominate how politics was presented. The present quasi-Presidential system where each party claimed all the answers in an adversarial way was very destructive, particularly in tackling the most difficult issues that involved collective change.
2. PMQs were wholly unrepresentative of the way Parliament worked. Debates on the floor were sometimes dead but they were not so polarised; debates in Committee were sometimes of high quality but went unreported.
3. Pilots were a good idea but it should not be assumed their results would be addressed on merits as opposed to being represented or misrepresented to achieve political point scoring.
4. The approach to international and defence policy tended to be much more collegiate than was the case in domestic policy.
5. We should not be pessimistic about the current position compared with say thirty years ago. The big challenge was to shape sustainable solutions to long-term problems in a context in which public opinion, shaped sometimes in the form of media-led campaigns, was pressing for quicker, simpler fixes.
6. There was no need generally to fear the democratic will of the people. The general public often had more sense than the political class once they were engaged in an issue. Moreover public opinion did not necessarily drive division. In the US, for example, public opinion was driving the positions of the parties closer together.
7. We should be cautious about the role of some opinion shapers such as NGOs who had clear agendas but little accountability.

8. Politics was in part theatre and should be celebrated as such.
9. While Select Committee Chairs could help shape agendas and add to Parliament's reputation, we should not exaggerate their impact. More generally, as the gap between the parties narrowed, politics mattered less and less.
10. The consensual Great and Good approach did not necessarily lead to action. Political leadership was required for that.
11. Better Government should not be about forms of processes for their own sake but about what produced results in particular cases.
12. It would be helpful to focus on international experience in relation to particular techniques and processes, ways to build co-operation between institutions and the impact of broader cultural factors. As an example, PR might increase voting but it might not increase trust in politicians.
13. Handling at the national level was a less difficult problem than establishing international governance institutions that were fit for purpose.

### **Gus O'Donnell, "Cabinet Secretary Overview"**

Gus O'Donnell gave an overview of current trends in and issues affecting Cabinet Government.

Cabinet continued to represent the supreme decision making body of the British Government. In modern times, Cabinet could be used as a setting for a strategic discussion on the direction of the Government in a specific policy area, or group of areas. It could also track delivery, though there were other ways in which this could be done and as Prime Minister, Tony Blair had held public service stocktakes bilaterally with Ministers outside the formal Cabinet process. Modern Cabinet Government is not designed to take large numbers of specific decisions from a starting point of highly divergent positions among Ministers. However, both the Cabinet structure, and particularly Cabinet committees, continue to be used for specific decisions when appropriate. Political Cabinets - discussions without officials focussing on party strategy rather than Government business – tended to be exceptional: there tended to be one around the time of the governing party's conference, for example. The number of official Cabinet meetings last year was higher than at any time since 1986, following a modest dip in the preceding decade.

**Cabinet was not easily compared to a private sector board, which tended to be smaller, had a large non-executive component, and operated more separately from the company executive. Departmental boards in Government were beginning to operate in a similar way. Civil service wide governance was also moving in this direction, with the establishment of a small Civil Service Steering Board considering major trends, the reputation of the organisation and other risks.**

The *Role of the Cabinet Secretary* was multifaceted. Most narrowly, within Cabinet itself, it certainly included overseeing the accuracy and completeness of the minutes. Contrary to Professor Bogdanor's account, these minutes were not restricted to action points. They covered the main arguments,

naming the first speaker but not other participants in “discussion” who were named only in the Cabinet Secretary’s notebook. The Cabinet Secretary very rarely spoke and then usually only on points of official clarification and technical issues, and generally by Prime Ministerial invitation. In addition, the Cabinet Secretary had a wide policy advice and propriety portfolio, as well as a big challenge as head of the civil service and running a small but important central department.

*Special advisers:* A clear cyclical pattern can be identified with regard to special advisers. During long periods of single party Government, opposition front benchers form close ties with those who support them. Should that party then come into Government, it is inevitable that the new top Ministerial team will be supported by special advisers who have worked with them for many years toiling in Opposition, and to whom they are close. Moreover, having been out of Government for a long time, they are unlikely to know their new civil servants particularly well and will be used to them working in Government in support of their political opponents. So it is perfectly understandable that there can be a degree of suspicion between a new governing party and the civil service and this phenomenon has happened throughout history, not just in 1997. In 1997, it is fair to say that there was a rise in the number of advisers: this reflected not just this point about working relationships in opposition, but also the view that the Labour party in opposition had become better at communications than the previous civil service. Over time in Government, as Labour Ministers have seen what the civil service can provide, Ministers, advisers and officials worked more and more effectively together. Indeed the overall number of advisers has now fallen slightly and the Order-in-Council power has been removed. He stressed that good special advisers aided good government.

Some of the *big challenges of the future* included:

- the very high expectations of action by the state to deal with problems caused by others. So, for example, whilst few people blamed the state for obesity, the majority wanted the state to do something about it.
- An ageing population and a change in the ratio between people of traditional working age and people over 65 increased demands on public services. So too did the increase in single occupier households, and net migration in recent years was another factor;
- These demands came at a time when the factors of production internationally were increasingly competitively priced. So there were limits to what any Government could do in terms of taxation.

In terms of the civil service’s ability to meet these challenges, the fast stream civil service was still attracting many good applicants and appointments were becoming more diverse . But the capability reviews showed that improvement was needed . That was the point of the reviews: they gave the Cabinet Secretary and the departmental leadership much greater knowledge than in the past about weaknesses in departments.



Total numbers in the civil service had recently been coming down to about the level of ten years ago, and were projected to fall to the lowest level for decades very soon. But he stressed the great increase in the capacity of the civil service as a result of IT and the information it could provide about other countries and the research done throughout the world. One area where the system needed to improve as a whole was in commissioning skills.

It was important to be clear that the public sector should do only what it could do more efficiently or more effectively. In addition to the traditional civil service values of honesty, integrity, objectivity and impartiality he emphasised pride, passion, pace and professionalism.

In discussion the following main points were made:

1. Mrs Thatcher had used the Cabinet to ensure its members were on side after having had their say.
2. Her Cabinet had included a few who were equivalent to non-executive Directors with no departmental responsibilities. One Cabinet Secretary had done a good deal of brokering between Ministers with different views.
3. As a result of the long periods of Conservative and Labour rule, the civil service had little experience of the transition from a government of one party to another.
4. The civil service also had not had experience of working with a coalition or minority government, though this was common in Europe.
5. A collaborative relationship of trust and respect between Ministers and civil servants was essential and would feed into better policy.
6. Delivery was still a big problem; requiring people at the top to have had some delivery experience was not enough to solve this.
7. Reducing the civil service head count by transferring work to consultants was not desirable.
8. In Finland the main Ministers were in charge of problems not departments. Major issues were settled in Cabinet before its members knew what their responsibilities would be.

Gus O'Donnell's replies included:

1. Delivery was generally more complex in the public than in the private sector where the dominance of the bottom line simplified the task. The public sector had to provide for all, including the hard to reach. Bringing in people from outside the Government and determination to give the fast stream delivery skills were both essential for achieving good delivery.
2. Consulting spend was falling dramatically. NDPB staff numbers probably were rising, though some of them counted as civil servants.
3. Targets has led to a lot of improvement, but they had also raised expectations so that national perceptions had hardly shifted in some areas, despite improvements in local perceptions of some services.
4. Relationships between Ministers and civil servants had improved over time but, inevitably, they varied from department to department and from Minister to Minister.

**“Parliamentary Reform: The Art of the Possible”, a discussion led by Andrew Tyrie, MP, David Howarth, MP and Nick Raynsford, MP**

Andrew Tyrie noted that the breakout discussion on Parliament and the Executive had concluded that the Parliamentary scrutiny was not “broke” but needed improvements that would not be provided by the measures in the Constitutional Reform Bill. There was always a risk of “golden ageism” in considering this topic, but in fact there had been substantial improvements since the fifties and sixties resulting from the work of Select Committees (though not the Chamber), higher parliamentary standards and increased engagement with the electorate through a much increased flow of constituency business. Nevertheless the Executive was now extremely dominant and thrived on a focus on the floor of the House rather than effective scrutiny. Debates in the Chamber should be on big issues, but these had become increasingly rare. The media had taken over the traditional role of the House of Commons in scrutinising the executive. They bypassed Parliament with much more direct access to ministers and officials.

**Machinery changes could go some way towards improving the position: the establishment of a new Business Committee (though the Executive would oppose that); a larger role for the Speaker, including a power to require Bills that had been excessively amended in committee to be treated as new Bills; strengthened Select Committee support mechanisms, including Lord Howe’s proposed Office of Tax Simplification; election of Select Committee chairmen by secret ballot of the whole House; and a power for Select Committees to call for people as well as papers.**

There was an appetite for political theatre but the 19<sup>th</sup> century pantomime style, exemplified still by the “Punch and Judy” of Prime Minister’s Questions, did not fit the current political culture. Dealing with the media focus on the Prime Minister in a quasi-presidential role presented particular problems. This was now, however, a fact of life and Prime Ministers were bound to try to take advantage of the increased leverage over their senior colleagues that this provided. Parliament could respond by adapting its scrutiny of the Prime Minister to a more “presidential” model. The Liaison Committee arrangements were a start, though it would be more effective as a smaller, more senior group.

To sum up: the present scrutiny systems were not perfect but were not “broke”. Many in Parliament wished to see improvements made; a good number of productive reforms were possible. The principal opportunity for change would arise at the start of a new Parliament.

**David Howarth** said that he shared much of Andrew Tyrie's analysis of the problems and recommendations on the direction of change, in particular the need for better scrutiny of the Prime Minister. The Liaison Committee approach could be adopted more broadly. For example, the Prime Minister could regularly attend Departmental Select Committees, providing clearer answers about the position of Departments within overall Government policy. He could appear before *ad hoc* Committees of parliamentarians who were not Select Committee members, set up to deal with specific questions. The powers and resources of the Committees could be increased.

Political disagreements were of two main types: disagreements on the aims and priorities of Governments, which were rarely changed following debate, and disagreements on how the aims were to be achieved, which were more subject to influence. Parliament's primary role was political, but this often became confused with operational issues. Clarity on matters such as what Bills were intended to achieve was therefore of great importance.

The Private Member's Bill process was ineffective and needed reform. A Business Committee would provide the mechanism for identifying key debates. On expenditure, a matter of prime importance, there was no occasion for a pragmatic debate of the choice between differing Government and Opposition views. One way of dealing with this would be for one of the Opposition Days to be devoted to a counter-proposal. Lessons might be learned from the Dáil, where the Opposition were able to present their own Bills and could carry business forward from one Opposition Day to the next.

Public Bill Committees could be improved if there were a pause for reflection between the hearing of evidence and clause-by-clause consideration. Report stage needed to allow more scope for examination of amendments; the House of Lords might provide a useful model. The "ping-pong" process was indefensible: compromise drafting became ever more obscure. Something like the United States Conference Committee might provide a satisfactory alternative.

**Nick Raynsford** agreed with much of the preceding contributions. He considered that the two main evils to be tackled were overload and the artificial separation of policy and delivery into separate categories.

Parliament was doing more, and more effectively, but was often poorly focused and overwhelmed by the volume of activity. In consequence the quality of legislation and scrutiny was often not satisfactory. It was necessary to make a reality of the intention to do less, better.

We could not continue with a situation in which Ministers attempted to deal with everything from the centre; increased devolution, for example to local government, was essential. The lack of clarity about responsibilities needed to be tackled. The departmental capability reviews had revealed serious deficiencies in the area of delivery. It was impossible to separate policy from

delivery: they were part of an integrated process. This lesson applied equally to parliamentary consideration of legislation, where the practicalities of delivery were not sufficiently considered. An effective pre-legislative process was required, setting out clearly exactly what was the purpose of the legislation, how its objectives were to be delivered, what agencies would be used, what monitoring arrangements would be put in place and what corrective measures would be applied in the event of delivery failures.

The Public Bill Committees were better and could be further improved. Report Stage presented particular problems because of the huge volume of amendments. Changes in the timetable allowing more thorough consideration of detailed mechanisms at an earlier stage could save a great deal of time.

The House of Lords could provide an important resource. It included people with high levels of expertise in particular subject areas which could be linked into the Select Committee process. They could also play a valuable part in post-legislative scrutiny.

In discussion the following main points were made.

1. It must be recognised that many of the failings of Parliament were inherent in our political system. Governments that came to power by winning a majority of seats, so dominating the House of Commons, were likely to be reluctant to allow Parliament to transform itself into a truly effective scrutiny body.
2. Reform of the House of Lords offered an opportunity to redesign the legislative process. A possible approach might be for all legislation, after second reading in the Commons, to go to the Lords for detailed scrutiny then return to the Commons for committee and report stages.
3. Select Committees were now supported by appointed media officers, but were often reported as “all party groups”, which did not sufficiently reflect their status. It might be appropriate for them to adopt a bolder approach towards the media.
4. The Canadian system of financial scrutiny, which involved detailed consideration of 5 per cent of marginal expenditure, might offer some useful lessons.
5. Very slow progress was being made in improving the processes of government. The BGI had put forward lots of good ideas, but there seemed to be a risk that they would be allowed to trickle into the sand.
6. Nothing had been said on the quality of scrutiny of secondary legislation which was, however, a matter of serious concern. A subcommittee of the Select Committees dealing with this area could lead to significant improvements.
7. The Business Committee arrangements in Scotland, with the participation of all parties, appeared to be working satisfactorily, but this had to be seen in the context of a minority administration. In Westminster the Opposition controlled one third of the time.
8. Requiring the Prime Minister to attend Departmental Select Committees

might have the adverse effect of increasing detailed central involvement in departmental operations.

9. The Government would be considering the scope for improving pre- and post-legislative scrutiny by including performance criteria for Bills in the draft legislative programme. Further thought would also be given to the possibility for providing opportunities for a sensible overview discussion of public expenditure.

**Sir Christopher Foster**, closing the discussion, said that a number of points had been made that might be relevant to future amendment or expansion of *Governing Well*. It would be helpful if participants could email him on specific recommendations or practical suggestions.

### **“On Handling the Media”, a discussion led by Gus O’Donnell**

**Sir Gus O’Donnell** said that politicians tended to focus their attention on newspapers, but they were now in decline with plummeting circulation figures. There had been dramatic changes in transmission mechanisms for media. In 1995 over 200 television programmes had an audience of more than 15 million. Now there were none. The highly influential Today programme was listened to by a relatively tiny audience in absolute terms, mainly the so-called Westminster Village. There was overall a low level of public trust in radio. Despite the more fragmented market, television remained the best medium for communicating with people directly and was the most trusted.

**Online communication was thought by many people to be less biased than newspapers and its growth was dramatic. 20,000 new blogs, subject to wildly varying degrees of editorial control and standards, were being created every day. Children now spent around twenty hours a week online. The cost of online advertising would exceed that for television next year.**

In terms of public trust, technocrats were believed and politicians were not. As long ago as 1944, with a National Government and the country on a war footing, 67 per cent of people thought that politicians were out to serve the interests of themselves or their party rather than the country.

Nowadays, there was frequent public debate and concern about some aspects of contemporary journalistic ethics and the effectiveness of the regulatory system. More generally, public trust in any institution could be quirky; the loss of the HMRC data disc might have been expected to result in a fall in the use of Government online services, but in fact it increased by more than had earlier been forecast.

Government marketing was trying to get clear messages across and to do so the Government needed to understand the consumer's vision. The Central Office of Information programmes had originally been simple and authoritarian, often around public safety. Now it was necessary to persuade, and to understand the new economic messages about the non-rational basis of making individual choices. This could have major public policy implications: for example countering short-termism in relation to retirement pensions by changing the default position, obliging people to take action to opt out of a savings scheme if they wished to do so rather than seeking to convince them to save.

In discussion the following main points were made.

1. The decline in journalistic standards was a matter of grave concern. Using new technology to bypass the media and communicate with the public directly was of limited value. There was a case for imposing a statutory duty of care on the media to take reasonable steps to check their facts, backed by effective sanctions such as a requirement to publish prominent front page apologies. But the media were now so powerful that this would be a risky enterprise which would need the determined support of ministers. The judiciary might have a part to play in protecting rights of privacy.
2. It could be argued that it was wrong to use the knowledge of the non-rational basis of choice provided by "behavioural economics" to manipulate people's decisions. It needed to be employed in an ethical context.
3. The provisions of the Freedom of Information Act were having a negative impact on government, creating pressures on officials not to write things down and on ministers not to ask questions. It was arguable that Cabinet business should be exempt. Communication for effective delivery required some external and some internal messages. Departmental Boards might have a part to play.
4. Publication of memoirs could erode trust between officials and ministers. In the case of former public employees it might be possible to strengthen the present measures to influence the content of memoirs through contractual controls over publishing rights. This would not be possible with former ministers, but their memoirs should protect the anonymity of civil servants.
5. Many journalists retained high ethical standards. It might be possible to influence the overall climate of opinion through reputation websites commenting on the behaviour of individuals.
6. Better services could be provided if different data sources could be combined. If the public were unwilling to allow different arms of government to do this directly, the use of some form of mediator might be considered.
7. It was important for journalists and for government to maintain a distinction between informing and influencing. Television had largely succeeded in doing so and was well trusted. There were difficulties in this approach for government, however, since persuasion was a major part of its role.
8. The public's trust in government could be increased through the use of

independent bodies such as the Office of National Statistics (ONS). That could be of particular value where policies were succeeding, but public perceptions of success lagged far behind. There was a risk, however, that the ONS might compromise its authority by too much interpretation of statistics rather than concentrating on the pure data. They could play an important role in “kitemarking” departmental statistics.

9. Any attempt to draw a distinction between civil service and political press officers was difficult. All press officers were there to present the government’s case (as often were Special Advisers) and there had been a huge influx of people from outside with a political background who at one stage were perceived to be more effective. The chief practical distinction remained that civil servants could not authorise action or expenditure calculated to secure a party political advantage.
10. Effective government communication needed to take account of its effects on government employees and their motivation.
11. The lessons of “behavioural economics” posed real questions about how far it was sufficient or appropriate, in drafting Green and White Papers, simply to present the public with a complete and closely argued factual analysis.

**Sir Christopher Foster**, closing the discussion, thanked Sir Gus O’Donnell for his thoughtful and comprehensive contributions to the work of the Conference.

### **Concluding Discussion**

CF explained that everyone on the Organising Committee of the BGI worked on a voluntary basis but conferences, working groups and regular meetings required some level of funding. To keep the BGI going it would be necessary to find further funds.

CF went on to present a number of arguments for keeping the BGI going:

- Governing Well was written for insiders – those in Parliament and in government who knew and understood the political environment of today’s Britain. It might be of value to bring out another version more suitable for a wider audience. If this were the case should anything be either added or subtracted from the existing recommendations?
- It was important for all three major parties to continue to come together to discuss these kinds of issues. People from all the parties have a great deal to say in this area and it is important that they should have an opportunity to do so. Having a lot of politicians meeting together seemed to work well. If we were to continue meeting then it would be necessary to organise further RAC-type conferences, where civil servants, academics and others could share their views and provide context.
- There was a case for continuing to monitor the Government and the

Opposition. Would it be valuable to hold a further Ditchley conference after the next general election?

CF went on to say that a number of topics had been raised that would benefit from further analysis:

- The civil service (some had said that we had not been critical enough of the civil service and that there were further improvements to be made in how it was organised and operated)
- The role of Ministers vis-à-vis Departments and special advisers
- The Grid. Media handling in general was a topic of interest but a specific concern was whether there was a way of doing things that could prevent incomplete bills from being put through.
- Parliament
- Lessons from devolution
- Relations with local government, service deliverers etc.

CF ended by saying he hoped the BGI would develop a relationship with the Institute of Government. He recognised that the IoG had a different role but one that was related. He also observed that the IoG wanted to communicate with the type of people who had attended this conference. He noted, however, that the BGI was a campaigning group and the IoG was not and hence we needed to keep our identities separate.

The value of the BGI was widely recognised by the delegates and there was a clear desire for it to continue in existence.

A number of additional areas for analysis were proposed.

One delegate suggested the need to address the way in which international issues were handled by the government. He observed that almost all decisions were now affected by the international context and this would increasingly be the case. He felt government procedures had not yet accommodated this fact.

Another delegate concurred with this view and raised the specific issue of Parliamentary scrutiny of Europe. He said that the House of Lords was thorough in its scrutiny of EU legislation, yet it was not having any impact.

This view was endorsed by another delegate, who said there had been a major failure at both the Parliamentary and Governmental level to understand what participation in Europe meant. He said the debate on the Lisbon Treaty in the Commons had been extremely poor. He felt the government in general was not doing what needed to be done to get the best out of the EU and the issue merited a Ditchley of its own.

Another delegate observed that we had not discussed the impact of new technology, yet this was a critical issue looking forward.



It was observed that the BGI conferences were important for creating a “safe space” for the discussion of ideas. The question of crystallising the role of the BGI and how it was constituted was also noted.

In conclusion, one of the delegates thanked CF for having done a tremendous job in drawing people together to discuss such an important set of issues.

## **Appendix 1**

### **Breakout Group Membership**

#### Parliament and the Executive

David Arculus  
Alan Beith MP  
Helen Goodman MP  
Nick Herbert MP  
David Howarth MP  
Helen Irwin  
Patrick Jenkin  
Nick Monck  
Nick Raynsford MP  
Andrew Tyrie MP  
George Young MP

#### Cabinet Business

Ken Clarke MP  
Jeremy Greenstock  
David Halpern  
Geoffrey Howe  
Francis Maude MP  
Pauline Neville-Jones  
David Omand  
Peter Owen  
Bill Rodgers  
Shirley Williams

#### Service Deliverers and Performance Management

Michael Bichard  
Geoffrey Chipperfield  
Roger Dawe  
Helena Djurkovic  
Andrew Foster  
Dominic Grieve MP  
Chris Haskins  
Paul McQuail  
Robert Maclennan  
Richard Mottram  
Sue Street