

# Pre-chewed Politics

## How effectively does Parliament perform its various functions?

### Legislation:

#### **The fused executive and legislative branches can make it hard to challenge government bills.**

The UK has a fairly weak separation of powers. In America, the president, cabinet and heads of departments, are unable to vote on legislation in Congress. But, in the UK, the prime minister and government ministers are able to vote in Parliament, as they are simultaneously members of the executive and legislative branches of government. This gives the government a head start when counting up support for its legislation, as it is rather unlikely for members of the government to break the constitutional convention of Collective Responsibility in order to oppose government bills. The fusion of powers also allows the party whips to offer the prospect of future promotion into a ministerial position to keep MPs loyal. This can make the legislative process efficient as the government can quite easily carry out its agenda. But it also raises questions about whether backbench MPs are able or willing to question and improve bills.

#### **However... the Government has only a slim majority, and Parliament has become increasingly rebellious.**

Whereas a majority government can hope that the whip system will persuade enough party MPs to loyally support the government, a slim majority, or a coalition, can find this much more difficult. Under the Coalition, backbenchers rebelled more than in any Parliament since 1945. The defeat of the House of Lords Reform Bill was the largest rebellion against a second reading since 1945. Even with a slim majority, the Conservative Government has already faced several major rebellions. In March 2016, 27 Conservative backbenchers helped defeat the Government's plans to extend Sunday trading hours. When University College London examined 12 bills from 2005-2015, they found that 60% of government amendments that made substantive policy change were traceable to parliamentary pressure.

#### **Public Bill Committees have been strengthened, improving the scrutiny of legislation.**

Public Bill Committees are temporary committees formed to scrutinise a particular bill after it has successfully completed its second reading. Until 2007, they were known as 'standing committees', however, the committees were given their new title after reforms were passed to allow them to begin taking oral and written evidence from outside experts while scrutinising bills. This arguably leads to more informed scrutiny and improved legislation.

#### **However... Public Bill Committees remain far less independent than select committees.**

Whereas Select Committees are now elected, the membership of Public Bill Committees is still decided by the Committee of Selection, which is dominated by party whips. Backbench MPs have no control over the membership of Public Bill Committees and this can often mean that less rebellious MPs are selected. The Higher Education Bill (2004) provoked rebellions from 72 Labour MPs (17% of the party), yet only one of these MPs was included on the Higher Education Bill Committee. From 2000-2010, only 88 non-government amendments were successfully made in Public Bill Committees, despite opposition MPs proposing 17,468 amendments (just 0.5%).

#### **The House of Lords has become more defiant, arguably improving the quality of laws passed.**

It is widely agreed that in recent years the House of Lords has become more assertive. Since the 1999 reforms removed most of the hereditary peers, and ensured a fairer balance between the parties, the chamber has appeared more confident in challenging the government. In the 2013-14 Parliamentary Session, the Lords considered 62 bills, and made 1,686 amendments, several of which were particularly significant. The Lords amended the Children and Families Act 2014, adding in a clause making it an offence to smoke in a car when children were present, due to concerns that the concentrated fumes could damage their health. The House of Commons accepted the amendment. The Lords' 2015 decision to delay the Government's tax credit reforms also resulted in the postponement of the cuts.

#### **However... the House of Lords is restricted by the Parliament Acts and amendments can often be overturned.**

The Lords made several amendments to the Legal Aid, Sentencing and Punishment of Offenders Act (2012) but these were easily overturned because the Parliament Act (1911) gives the Commons 'financial privilege', and the Lords cannot block 'money bills' that authorise expenditure or taxation. The Lords also made three key amendments to the Transparency of Lobbying Act (2014), a bill that limited the amount of money outside groups can spend influencing elections. The amendments made the law less burdensome for charities, but the Commons overturned all three. Following the Lords' decision to delay the proposed tax credit cuts, the Government launched the Strathclyde Review to investigate amending the Lords' power to scrutinise secondary legislation. Depending on the course of action taken, this could hugely impact the Lords' role and power.

## **Scrutiny:**

### **Select Committee reforms have significantly improved the quality of scrutiny in Parliament.**

Select Committees can choose the subject of their investigations and who to interview and question. Since 2002, the Prime Minister has appeared twice yearly before the Liaison Committee to answer questions on the Government's current policies. As recommended by the Wright Committee, the Chairs of Select Committees are now elected by MPs across the Commons, and are paid an additional salary. Other committee members are also now elected by MPs from their party. These elections have helped to make Select Committees more independent minded, as many outspoken MPs have been elected to chair them. In June 2014, the Conservative MP Sarah Wollaston, a doctor who had previously been critical of the Government's health policies, was elected as the new Chair of the Health Committee. University College London traced policy recommendations from seven select committees from 1997-2010 and found that the government acted upon 44% of their recommendations.

### **However... there are still several important factors limiting the effectiveness of Select Committees.**

Select Committee Chairs are still paid significantly less than even the most junior minister (a Parliamentary-Under-Secretary), so, for salary and career minded MPs, it still might be much more tempting to follow the party whip and work to get a ministerial position. Therefore, it is possible that Select Committees are currently not attracting and keeping the most talented MPs. The legal powers of Select Committees could also be strengthened. Individuals summoned from outside of Parliament can still refuse to attend, and there are also limited options for punishing individuals who lie or mislead Select Committees. Finally, while Select Committee reports do appear to be having an impact, they are ultimately just recommendations, and 66% of the time they are not followed by the government.

### **Parliament has limited power to challenge the use of the prerogative powers by the prime minister.**

The Royal Prerogatives are the powers that are legally possessed by the monarch, but by convention are used by the prime minister and other ministers. These powers include entering into armed conflict, granting Royal Charters, conducting diplomacy and making treaties, and appointing government ministers. These powers are exercised without the need for Parliamentary approval, making scrutiny and opposition extremely difficult. David Cameron's decision to authorise drone strikes in Syria in September 2015 demonstrated that, despite the developing convention that Parliament should approve acts of war, the PM can choose to act against the express wishes of Parliament.

### **However... the Prime Minister has proven reluctant to declare military action without Parliament.**

Some prerogative powers have been challenged as Parliament has become more assertive. Cameron's use of drones was an exception to the recently developing rule that Parliament should be given a vote prior to military action. In 2013, Cameron wanted to order military action in Syria, after it was claimed that the Syrian government had used chemical weapons against its own citizens. However, instead of just giving the order, Parliament was given a vote, and the motion was defeated 285-272. In September 2014, Cameron also recalled Parliament from its summer recess to debate a motion on using air strikes against the Islamic State in Iraq.

### **Prime Minister's Questions is political theatre rather than proper scrutiny.**

In 1997, Prime Minister Tony Blair replaced the two 15-minute sessions of PMQ with a single 30-minute session on Wednesdays, giving fewer opportunities to question the PM. However, some would question whether this is really a loss. In 2015, the Labour MP Sir Gerald Kaufman, the longest serving MP in the Commons, described PMQ as "an exchange of pointless and useless declamations". While proceedings are televised, most people are only likely to see highlights on the evening news, encouraging participants to focus on short, witty sound bites. Some questions are planted by the government in order to set the PM up for pre-prepared statements, rather than put on the spot and face real scrutiny. Other questions, which ask the PM if they would agree with a positive statement about their party, are barely questions. In 2014, Ed Miliband said he wanted "a more serious tone" for PMQ, but arguably little has changed. The Speaker still has to intervene at times to address the rowdy behaviour of MPs during PMQs.

### **However... the opportunity to regularly question the Prime Minister is still significant, and quite unique.**

Most other democracies around the world lack an equivalent to Prime Minister's Questions. The former American President George H.W. Bush once said "I count my blessings that I don't have to go into that pit that John Major stands in, nose to nose with the opposition." In 2010, a petition was started in America to have President Obama face regular questions from Congress, much like PMQ. Therefore, it is arguable that, while it is not always entirely civilised, we should still value PMQs as an important opportunity for the legislative branch to directly challenge the executive. PMQ also appears to be quite popular with the public. The BBC's Daily Politics show often has its best ratings on a Wednesday, when it broadcasts PMQ live. Jeremy Corbyn has also attempted a new approach to PMQ, by crowdsourcing questions from the public on the Labour Party's website.

## **Representation:**

### **The House of Commons has become more descriptively representative.**

In 2015, a record number of 191 female MPs were elected (48 more than in 2010), as well as 41 ethnic minority MPs. The average age of MPs remained consistent at 50 years old. There was also a slight decrease in the number of MPs who attended fee-paying schools. As such, the current Parliament is the most diverse in British history.

### **However... there are still substantial differences between the Commons and the rest of the population.**

Ultimately, women make up only 29% of Parliament, compared to 51% of the general population; likewise ethnic minority groups make up only 6% of Parliament, versus 13% of the UK population. Similarly, 1/3 of MPs attended fee-paying schools (compared with 7% of the population) and 90% attended university, much higher than the national average. Furthermore, 26% of Parliament attended Oxford or Cambridge, versus just 1% of the general population, and 20 MPs attended Eton. In 2016, there are only 10 women in the 30-person cabinet. In Canada, the cabinet is completely gender balanced at 50/50, as is the Scottish cabinet. This raises questions about how well positioned the House of Commons is to understand the needs and concerns of the public it represents.

### **As UK elections are party, rather than candidate, centred, MPs can get caught between whips & constituents**

Many UK voters are unlikely to know the names of individual candidates, instead casting their votes for the individual who just so happens to be the candidate of their preferred party. In contrast, members of the US Congress tend to feature heavily in the promotional material for their election campaigns, stressing their own personal views and ideas. As a result, many members of Congress feel that they have a personal mandate, and are more comfortable defying the party whips in order to take actions approved by their constituents. It is harder for UK MPs to feel that they have a personal mandate, and they may well feel compelled to follow the party whip even when constituents disagree, because they owe their position in the House of Commons to their party.

### **However... social media pressures MPs to be more responsive, & free votes lift the pressure from the whips.**

Social media platforms, and the ease of communication on the internet, are creating more direct relationships between MPs and their constituents. Constituents can contact and question their MP on Twitter, pressuring them to explain their votes. There are now numerous websites that make it easy to check not only how your MP voted on each issue, but the content of every comment they make in Parliament. Consequently, this places pressure on MPs to act more as delegates, voicing the views of their constituents, rather than trustees, exercising their own judgment, or loyal party drones who do as the whips tell them. Conservative MPs often explain their rebellions on issues like the EU by pointing to the strong views of their constituents, which they argue are more important than party loyalty. Free votes on controversial issues also give MPs more freedom to respond to their constituents. 136 Conservative MPs voted against the Marriage (Same Sex Couples) Bill (2013), and 40 more MPs abstained, despite the support given to it by the Prime Minister. The free vote even allowed ministers, normally bound by collective responsibility, to oppose.

### **Private-Member Bills and e-petitions can raise issues that may be overlooked.**

Significant laws, like the abolition of the death penalty (Murder Act 1965) and the legalisation of abortion (Abortion Act 1967), were the result of successful Private-Member Bills. MPs can use PMBs to raise issues that are important to constituents. In 2013, the backbench Conservative MP Jonathan Lord introduced the Citizenship (Armed Forces) Act (2014), which amended a legal issue that made it hard for some members of the army to become British citizens. This small reform was highly significant to the 200-300 people affected. Similarly, the 2015 Assisted Dying Bill was the first vote on the issue of assisted dying for almost 10 years. The creation of the Backbench Business Committee in 2010, and the Petitions Committee in 2015, has provided more opportunities for MPs to raise public concerns. The Backbench Business Committee can schedule business on 35 days - including issues raised by public e-petitions, which are scrutinised and assessed by the Petitions Committee.

### **However... few Private-Member Bills are successful, and the government still dominates the timetable.**

For the best odds of a successful Private-Member Bill, MPs can put their name forward at the beginning of each parliamentary year, and twenty names are drawn at random. In reverse order these twenty MPs are given priority to timetable their bill for debate. But even these lucky MPs are unlikely to be successful. Only thirteen Fridays are allocated each year for PMBs, which amounts to a maximum of 65 hours, in which a large number of Bills aim to be considered. MPs lucky enough to have been selected in the ballot can choose their preferred day for the second reading of their Bill. The problem is that many MPs travel back to their constituencies on Fridays and, as a result, attendance can be poor and bills are easily filibustered. Even those that do make it to a vote are not guaranteed success. The Citizenship (Armed Forces) Act (2014) was one of just three ballot bills to pass that year, while the Assisted Dying Bill (2015) was defeated 330-118, despite polls showing that 82% of the public support such reforms.