



Procedure Committee

Oral evidence: [Private Members' bills](#), HC 684

Wednesday 6 January 2016

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Members present: Mr Charles Walker (Chair); Edward Argar; Bob Blackman; Jenny Chapman; Yvonne Fovargue; Patricia Gibson; Patrick Grady; Simon Hoare; Ian C. Lucas; Mr Alan Mak and Mr David Nuttall

Questions 1-28

Witnesses: **Mark D'Arcy**, Parliamentary Correspondent, BBC News, **Isabel Hardman**, Assistant Editor, The Spectator, and **Michael White**, Associate Editor, The Guardian, gave evidence.

Q1 Chair: Thank you for coming to see us. It is nice that your producers and editors have let you come to give evidence to our Select Committee inquiry into private Members' Bills. As you are aware, in the previous Parliament the Procedure Committee looked at private Members' Bills and our recommendations still languish on a shelf gathering dust, but we are not deterred by the lack of enthusiasm of the Government between 2010 and 2015; we believe that there is still room for reform of the process.

Let me start with this question to the three of you: recognising that there are so many flaws in the current process, why does this Committee not just recommend that Back-Bench Bills, or private Members' Bills, are done away with in their entirety and put that motion before the House? If the House accepts the motion, happy days, but if it decides that it wants to keep private Members' Bills then stop whining and whinging about it; you know what you signed up for—there you have it.

Shall we start with Isabel and go down the line? Then I will bring in colleagues.

Isabel Hardman: Thanks for inviting me. First, private Members' Bills are really important in principle, but at the moment their execution makes them almost—not entirely—pointless. They damage Parliament's standing because of the way the public understand what happens to them and the way they are sold to the public. The principle is so

important that it is totally worth your Committee pursuing this, because they could be a really good way of empowering Back Benchers, rather than the current system, which appears to be MPs having a competition to see how long they can speak for in the Chamber on a Friday.

Mark D'Arcy: Thank you again to the Committee for inviting me. Oddly enough, I was watching a DVD set of "The Pallisers", the dramatisation of the Anthony Trollope novels, a little while ago, which featured the Leader of the Opposition bringing in a Bill for disestablishment, to discomfit the then Government. Apart from doing a mid-air double take because things like that do not happen anymore, it did occur to me at the time that it would perhaps seem strange if legislation could absolutely only ever come from Governments.

If you go back to the '60s and, as it were, the heroic age of private Members' Bills, with the decriminalisation of homosexuality, the abolition of capital punishment—actually, I do not think that capital punishment was a private Member's Bill, although there were several attempts—and certainly abortion, those were issues that Governments of the day did not really want to have to deal with themselves and this provided another route for people to attempt to engage in those issues. More recently, you have had assisted dying debated and dealt with fairly decisively through the private Member's Bill process. I suppose if one were attempting to make an argument to individual MPs, it would be: this is a route which would enable you to do things Governments do not want to have to take a position on, and maybe that is quite a useful safety valve.

Michael White: Thank you for the invitation. I have not watched the DVD boxset, but I have read the novels—[Interruption.] It takes longer. I am in principle against the proposition that the Executive branch of Government should have a monopoly of the right to introduce legislation, whether it is here or in Brussels. That is it, really: diversity and pluralism.

Q2 Chair: The problem we have is that, in my view—this view is shared—the system is so corrupt now and such a sham that it is a sort of cruel fiction perpetrated on our constituents. We heard from Clerks a few minutes ago that the overwhelming majority of private Members' Bills that reach the statute book now are handout Bills—about 98% of them are. And even with those genuine private Members' Bills that the Government pretend to welcome and say are a great idea, they line up some of the Friday morning/afternoon specialists to destroy them. I just think that in this modern age—of course all ages are modern, so that is irrelevant—I do not think with a straight face that I can continue to give the process credibility, because it is just incredible.

Isabel Hardman: I totally agree. A lot of my friends who are not into politics complain about how complex legislation is and my response to them is always that it should be complex and it should be difficult for a Bill to pass, but I find it very difficult to defend private Members' Bills to them. I have tried very hard because I am very pro-Parliament, but I just cannot do it. That is partly because those who do filibuster—I do not think that they personally are villains. In many cases—Philip Davies has said this—they are trying to prevent bad Bills from making on to the statute books as a result of a “something must be done instinct”, but some of these filibusterers have said to me privately that they are doing so at the bidding of the Whips, so it is not even as if Back Benchers are being entirely empowered on a Friday; the Government is still involved in that process. As you say, it is currently corrupted by Government rather than being just a Back-Bench process.

Michael White: I shy away from the word “corrupted”. There is an element of fiction in it, that is true, but there is nothing wrong with fiction; we all live by fictions. Corrupt is a hard word. All such Bills have got to have a degree of co-operation from Government. The famous set of '60s reforms: abortion and homosexual law reform—what was the third one?

Mark D'Arcy: The death penalty.

Michael White: The death penalty—that was Sidney Silverman, I think. The Government—Roy Jenkins to the fore—had to provide time and a degree of collusion over it, but the Member took the flak. It is an issue of conscience, an ethical issue, which is well suited to private Members' Bills—it is not all about seatbelts. This seems to me a mechanism that certainly could be improved and is sometimes, as you say, fictitious, but that is up to Members to take control over their own business back from the Executive, always.

Mark D'Arcy: The difficulty I very frequently have, because I tend to be the person writing up private Members' Bills for the BBC's “Yesterday in Parliament”, is the amount of explanation that is required to make the sound that is available from the Chamber remotely comprehensible to the listener. Why are they talking endlessly about Peter Pan? Oh, it's to stop the next Bill that's coming along and minimise the amount of time that's available for it. The level of game-playing in the process makes it fantastically difficult to explain what's going on in a manner that is comprehensible to listeners.

Like Isabel, incidentally, I wouldn't for a moment criticise the people who filibuster out some of these Bills. They are doing what they think is right for their own reasons—sometimes at the behest of the Whips,

sometimes on their own, but fair enough. That's the game as it's played at the moment. They are simply using the rules.

Q3 Edward Argar: I have three questions. I will do one, see what you have to say about it and follow on if I may. You have touched on this, but how do you believe Fridays—for want of a better way of expressing the private business Bill process—are regarded by the vast majority of our electorates?

Mark D'Arcy: I don't think they are regarded at all, to be honest. A lot of the time, I suspect that they pass virtually unnoticed, unless there is something of particular interest. For example, the recent-ish Friday debate on assisted dying saw the viewing figures of BBC Parliament go up quite sharply. Some 60,000-odd people tuned in—this is on television, which can be easily measured—and probably more than that tuned in for at least a little bit to look at that debate, so you get a bit of a jump suddenly coming in. But they don't attract the kinds of audiences that other parts of the parliamentary cycle attract, that is certainly true.

On the other hand, there are debates such as the recent one on free or subsidised parking for carers in hospitals. Clearly an awful lot of people were paying quite a lot of attention to that Bill on Twitter, and commenting fairly adversely because, to be blunt, an awful lot of the viewers simply couldn't understand what on earth was going on.

Isabel Hardman: One thing I have noticed is that, because lobbying organisations are very involved in the private Members' Bills process, they have a reach to people who are not necessarily into politics but are into issues. One thing I have noticed on Facebook from my non-political friends is that they share updates from organisations such as Shelter about Bills. For the revenge evictions Bill, which I think Sarah Teather brought in and which was talked out, Shelter shared a photo on Facebook and said, "It's outrageous that two MPs have obstructed a Bill with cross-party support to end revenge eviction." Now, that's not entirely correct, because if it had widespread support there might have been 100 MPs there to stop the filibustering in the first place, but that then leads into the debate about whether Fridays are the right day, given that you as MPs have greater and greater demands on your time in your constituencies.

Michael White: I'm quite sympathetic to filibustering, too, in the sense that it seems to me to be an exercise of willpower and of who can get hold of 100 MPs. That shouldn't be impossible. Fridays are quieter days than they used to be, but it is a test of the breadth of your support and the willingness of your supporters to inconvenience themselves and perhaps their constituents for what they regard as a good cause. That is

part of the informal arm-wrestling that goes on. As for the Peter Pan bit, as a former sketch writer I have to tell you that sketch writers enjoy Peter Pan filibusters. If they write it up right, they can both educate and inform their readers.

Isabel Hardman: Can I add something on the 100 MPs thing? If you've got constituents and an electorate who are demanding more and more of your time in your constituency, and if you've got the prospect as an MP of coming into Parliament and there potentially not being 100 MPs at the last minute leaving you stuck for four hours listening to what are very entertaining speeches, why would you bother? The priority that voters place on an MP's constituency work means that, although you may get some negative coverage and negative reaction to moving them from a Friday, actually you would be accepting that Friday is a constituency day and that voters are obsessed with you guys being in your constituencies. Actually, you are just accepting defeat between two competing demands on your time as MPs.

Q4 Edward Argar: Thank you. I will pick up a couple of things there. I will wrap two questions into one, and you can choose which bit you want to answer or whether you want to answer both. First, you mentioned that, although the vast majority of the electorate do not engage with private Members' Bills or with a lot of what goes on in this place, there is a segment of the electorate for each issue that is particularly engaged and galvanised by that issue, whether they are encouraged by Members of the House or external organisations. The first part of the question is whether you think that we in this House, and organisations that promote private Members' Bills and particular causes, have a responsibility to be clearer in setting expectations of the process and the likely outcome. I will not pick up on the day on which the business is scheduled because I am sure other colleagues will do that.

My second question is whether you think that the setting of expectations, the realism and transparency would be better served if, instead of parliamentary procedures being used as they are now to talk out a Bill, there was a vote on it so that it would be voted down or through on Second Reading, clearly and transparently, and everyone could see what happened: there was a vote and this is how people voted.

Mark D'Arcy: On that second point, I think people would clearly understand that far better than the slightly bizarre manoeuvrings, time manipulation and game playing that can go on. Having a clear and comprehensible result at an end point in a debate would certainly mean that people were not sitting there with a slightly puzzled expression at the end of proceedings asking, "What has happened? Why has he shouted 'Order' and why are they reading out a list of other Bills? Why is

someone getting up to shout 'Object' to every one of them?" Plus all the other strange and wonderful things that happen at half-past 2 on a Friday.

Yes, I would be inclined to say that would add to the transparency of the process. What you have at the moment is a system that is thoroughly gamed by almost everybody involved except for the small group of people—and this goes to the first part of your question—who flatly do not understand what is going on. You often read press releases from people who think a ten-minute rule Bill is going to become law within about 15 minutes of the speech being made on it.

You see people who flatly do not understand the process. I have had people complain to me when I have said that this Bill now has little chance of becoming law—a frequently used pay-off line in "Today in Parliament". I get stiff letters saying, "We have been assured that this Bill is on the agenda in three weeks' time." Yes, it is but it is number 23, so it is not going to be reached, but they do not understand that.

Why should they understand that? The process is so arcane and counter-intuitive a lot of the time that it is very unlikely they are going to understand it. The reason I have some blurred understanding of it is because I have been doing it for 12 or 13 years.

Michael White: Most of parliamentary procedure was designed in the age before radio, let alone television, and therefore you have a complete mismatch between what viewers and listeners can see and what they can understand.

There is always a strong case for greater transparency and simplification and updating language. I was glad to see that in one of your reports you talked about a Back-Bench Bill rather than a private Member's Bill, because the latter sounds a bit elitist, or even a bit rude. How far do you take it? You cannot dumb-down everything, to adopt a well-known debate. You have got to have procedures that work as procedures, not simply for somebody who might give you 10 seconds of their time before moving back to daytime darts, which I noticed came on after "Daily Politics" today on BBC2. You have got to strike a balance.

Q5 Yvonne Fovargue: I want to go into the perception of the public, because that really concerns me; that people do not understand the difference. To somebody out there it is a Bill, whether a Government Bill or a private Member's Bill, and it has a chance of becoming law. It seems vaguely dishonest to me that we are not saying that unless it is Government-sponsored, there is absolutely no hope. I was unlucky enough to get 15 in the ballot for private Members' Bills, got lobbied all the time and knew there was no chance.

I get emails every week from constituents who want me to attend on a Friday; I could attend every Friday if I listened to my constituents who want me to attend. It is hard explaining to them that this has no chance of becoming law, and that, yes, it is a very noble cause such as first aid in schools or parking for carers, but it is not going to get through. How do we alter that perception? Do we do that through a system, through not having private Members' Bills, or through being honest and saying, "At the moment it is not working."?

Isabel Hardman: It is very tempting for MPs and lobbying organisations to exaggerate in press releases to constituents or supporters the amount of power that they have. Saying, "Support my Bill, which will enable this," is much better than saying, "I've got a debate that actually won't involve much debate of my proposal anyway; we will start talking about wine at the Garrick club and that kind of thing."

I am not old or experienced enough to pontificate about the media too much, but I think that we have a responsibility to make sure when we report a private Member's Bill, as Mark does, that we do not suggest that it is about to become law. Even when we say, "MPs are to vote on proposals today", it sounds like something might happen at the end of it, but often they do not end up voting, as we have been saying.

You also have to accept that people will never understand Parliament that well unless they want to become geekily obsessed with it, so a lot of people think that Back-Bench business or Opposition day debates have the same impact as a debate on a Bill. You must get so many emails from constituents saying, "Why weren't you at this debate?" You could reply, "Well, I was doing something much more productive outside the Chamber", but that is quite difficult too, because people assume that if you are in the Chamber that is when you are doing your job. To a certain extent, I think you just have to learn to live with that, which is not particularly fun for you.

Michael White: It seems a bit to be the counsel of despair. It has never been easier to marshal public opinion through social media and other new mechanisms—mixed blessing that they are—to support something. Governments are very responsive, perhaps too responsive these days, to the whip of public opinion and an editorial in whichever paper you choose to read—a local paper is always best. MPs can do what they want. It used to be said that a majority in the House of Commons can do everything except change a man into a woman, although even that is possible now, and not by statute. You can do it, but it has a remit and you have got to get 100, which is not easy. And the power of the Whips

to put the fear of God into Back Benchers is surely less than it was—I hope so.

Mark D'Arcy: I probably agree with a lot of that. I slightly disagree with something Isabel said, because requiring 100-plus Members to be there to get a closure motion on a Friday is actually a rather good rough-and-ready test of whether something deserves to become law. We are talking about making a set of rules that everyone has to obey here; it should not be an easy thing to do. It should not be something whereby people can casually wave a good intention into law on a torpid Friday afternoon with half a dozen people in the Chamber. In some ways you slightly wonder what the impact would be of putting these things forward at a different time when, perhaps, the Whips could more visibly get their fingers on the process—even more visibly than they have at the moment.

Q6 Chair: That would be a good thing. I agree with David; I do not want these whims of MPs to get on to the statute book, because a lot of them are probably utter rubbish and nonsense. They might sound good, but under the bonnet they are rubbish. But what many colleagues find objectionable is Government Ministers standing at the Dispatch Box saying, “Welcome. This is a wonderful idea”, having had the Whips deliberately tee up the Friday specialists to talk the Bill out. I do not care if we have it on prime time and the Government get the payroll vote to kill it off, because at least then they will have to dip their hands in the blood and be accountable. In the current system there is no accountability. The Government can hide behind Philip or David and get their way—“It was nothing to do with us; we would have loved to see it go forward.” That is the dishonesty of the current system that many in this Committee—not all, but many—find so objectionable.

Mark D'Arcy: Of course, previous Governments did exactly the same, but only then it was Andrew—

Chair: Absolutely. This is Government—not a Conservative Government or a coalition Government, but Governments in general.

Isabel Hardman: You want the free unicorns Bill to fail because MPs have decided that it is a rubbish piece of legislation—they have said that and debated the principle of free unicorns—rather than it just disappearing, leaving constituents weeping for the loss of their free unicorns.

Mark D'Arcy: I think that what we are working around to is that the game playing is so untransparent and so mannered—sometimes there is this air of slightly self-indulgent amusement about it all hovering there—that people who deeply care about the particular cause that might be

before the House are actually quite affronted by the way it is done. There is an argument to be had on most Bills, but it is a matter of how that argument is dispatched.

Michael White: I have seen four or five speakerships, and I would venture that this one is much more susceptible to representations from Back Benchers against Front-Bench machinations than any of the other three or four I have seen.

Q7 Jenny Chapman: I agree with that last comment, definitely, but there are many ways in which that is allowed to happen, for example through urgent questions and the grouping of amendments on Report. I do not like my constituents being misled and lied to, and they are. They have numerous approaches from lobby groups, telling them that if they can persuade me and 99 of my colleagues to attend on a Friday, something will become law. A stark example of that was the NHS Bill at the end of the last Parliament, when I was invited to stay up all night outside Parliament at a vigil, with candles and what have you, to be present on the Friday for this moment when 100 MPs would prevent or undo what the Government have done to the health service. I had to explain that even if you did get your 100 MPs, it would not change anything at all and the Government would just find another way of killing it off at a future stage.

It is corrupted and we are all complicit in this lie to the public. I include journalists, MPs, lobby groups, charities—all of us. It is serious. Whatever we get out of this, we must enable MPs from the Back Benches to propose legislation and to get it through where it is appropriate—where we can win the argument and persuade enough Members to be able to get it through. That will usually mean persuading Ministers, too. It is important that we preserve that ability.

It is also important that the whole thing is transparent and honest. Forcing the Government to show their true view on a particular issue matters. It is the only way that Parliament will emerge credibly from the process. I am starting to think that it is actually quite simple. You could have fewer private Members' Bills, which would have time allotted to them and a vote, whether it be on a Tuesday night or a Friday—it does not really matter. It could be a deferred Division if that helps. Unless we clean this up and stop people telling my constituents, "If you get your MP there at a particular time to do a certain thing, it will make a difference," they will not trust anything else that we do. This is quite a serious predicament that we must resolve.

Michael White: I do not remember your save-the-NHS Bill, but it was clearly beyond the competence of a private Member's Bill.

Q8 Jenny Chapman: It was Clive Efford's Bill.

Michael White: But a Bill to cap NHS hospital parking charges, a subject about which many constituents with sick relatives feel very strongly indeed, is within the competence of a private Member's Bill.

Jenny Chapman: But it would never happen. It would never get through the process without the Government agreeing with it.

Michael White: The former or the latter?

Jenny Chapman: Either

Michael White: I would say the latter was something that could be organised. Everybody is affected by it. Everybody understands it. The parking rip-off boys take most of the money anyway. What's the problem? Do it.

Q9 Jenny Chapman: Only if the Government agrees. That's the truth and that isn't what the public are being told.

Michael White: I understand that, but it seems to me a good example of a kind of private Member's Bill where public opinion is queuing up to be behind you, regardless of party, and where, if it's appropriate, the Government can be cajoled into taking the necessary step. I can see both sides of the argument, but it is a good target area none the less.

Q10 Patrick Grady: The system in the Scottish Parliament is so different as to be almost incomparable. Any Member can initiate a Bill. They have to do a whole load of prelegislative scrutiny before it gets anywhere near the Order Paper let alone the Floor of the Chamber, but provided they can keep demonstrating support for it, including public and cross-party support, at every stage, they can get it to a debate on the Floor of the House and a vote on the Floor of the House. If at that point a Government of whatever colour say, "We don't like this," they have to have an open and honest vote and whip it out.

In the history of the Scottish Parliament, some really significant legislation has come through the Member's Bill route. I have an awful lot of sympathy with what everything that my colleagues have said. I've only been here six months and have had to live through so much of this. I had to explain to constituents the difference between the vote on Syria, which was a life-and-death matter, and the ten-minute rule Bill on the Representation of the People Bill that came to us two weeks later, because I was getting emails from almost the same constituents demanding attendance at these vital votes that were going to make such

a difference. One of them absolutely was life and death, but the other was a procedural talking point that had no real meaning.

Anyway, I would be grateful for the panel's view on lessons that might be learnt from elsewhere. Michael mentioned Brussels at the start and I have no idea what the MEP equivalent is.

Michael White: Well, we can all learn from the Scottish Parliament and the Welsh Assembly, too. We do not follow each other's successes closely enough. Only smoking comes to mind, which I think was started by your lot, wasn't it?

Patrick Grady: Yes, smoking, and hunting with dogs.

Michael White: Lots of things. So if you have got it better, let's put it in the report. Can you give us an example? I know that I am not here to ask questions, but you did say that you had a lot of significant examples.

Patrick Grady: Just recently there was a Bill to recognise British sign language as an official language and everything that goes with that. The very first Bill was the abolition of poindings and warrant sales, way back in 2001, passed by Tommy Sheridan, which was about preventing the practice of selling goods that essentially bankrupted people at their front doors. One of the most significant would probably be the Protection of Wild Mammals (Scotland) Act 2002 that banned foxhunting in Scotland before it happened down here. Were you declaring an interest in that Patricia?

Patricia Gibson: The smoking ban—that was a private one.

Patrick Grady: Patricia has an interest.

Isabel Hardman: Your point about ensuring sufficient support is interesting, because even if you get enough MPs out on a Friday to ensure that the Bill has sufficient support to be properly debated and voted on, in my view the result is still not the view of the House of Commons. In the assisting dying debate, which I thought was excellent—one of the best debates that I have ever listened to in Parliament—I think it was 450 or 448 MPs who ended up voting on that in the end and while personally I was quite relieved that the assisted dying proposals did not go through, I did not really think that was the view of the House of Commons, because there were a lot of MPs who did not vote on that. Some of the supporters of assisted dying were saying, "Oh, if only we'd got more people out". That is partly their job, but also, on big issues like that, if you want a settled view that maybe prevents debates from coming back over and over again, it would be better to have them held on a day when MPs are in Westminster. I know people

disagree with that, but I think that is more of a resounding verdict than a proportion of MPs.

Mark D'Arcy: It is very interesting to hear from Mr Grady about the Scottish Parliament process. I do not know very much about it and could not speak to it, but it is a very stark contrast to the Westminster process, which after all starts with a kind of lucky dip to see who is going to be the lucky winner of a private Member's Bill, whether in fact they really want it or not. The most martyred people, as Yvonne Fovargue remarked a little earlier, are those who have got one of the first tranche of Bills but are quite far down the batting order and will have to do an awful lot of work to probably very little purpose.

It does not perhaps look like a very explicable process to people outside. I wonder if constitution writers with a blank sheet of parchment and a quill pane would come up with that particular process if they were starting with a blank sheet, rather than building on what we had already.

Q11 Ian C. Lucas: I was interested in what Patrick said about prelegislative scrutiny. Legislation is really difficult. I came 18 in the private Member's Bill ballot early in my parliamentary career, and what then happens is like being in a firestorm, with people arriving with boxes outside your office to present you with fabulous pieces of legislation. It is really quite terrifying, and that is even before you meet the Clerks, who then explain the true horror of what you have embarked upon. From a Member's point of view, I think we need to be clear that prelegislative scrutiny is vital to having good legislation.

I think the principle of Back Benchers having a right to produce legislation is right, but I would like to come back to what the Chairman said at the beginning: the collusion, secrecy and lack of accountability in the process at the minute is the real problem. I think you are just as responsible as we are for that. I think that the lobbying organisations are also as responsible, because they are misleading the people we represent about what is going on. You, Isabel, talk about a private conversation that you had, because that is the way this place works. You work on the basis of private conversations, but private conversations between the Whips and the Government stop legislation and conceal what they are actually doing. Isn't it right that we should be saying to the public that currently everybody is colluding and misleading them about what private Members' Bills actually are?

Mark D'Arcy: I am not sure that I completely agree with that. I remember watching the demise of both the Off-patent Drugs Bill and the Bill on hospital car parking. In both cases, Alistair Burt, the Health Minister, was standing at the Dispatch Box at the end of proceedings

saying, "I'm going to talk this Bill out. That is how it works and that is what I want to do. The Government do not want this Bill and we have arguments against it, so I am going to sit here and talk until the end of play," and he did. He got an extremely rough ride on both occasions. The second time was particularly nasty.

On the Off-patent Drugs Bill, I think he actually went so far as to say, "All right, I'm going to talk it out this time, but we're going to go back and look at this because Members obviously feel so strongly about it." To that extent, that was a pretty open process. He was saying that the Government did not like it but would think again about it, given the strength of feeling, so it wasn't all whispers and secret assassinations on at least those two Bills of recent vintage.

Michael White: It shows that it can be done. Alistair Burt is a happy warrior and has been here for 30 years. He is willing to take the flak and knows that he's going to get it. If he can do it, others can be made to do it.

One point of clarification: Members have been talking this afternoon about lobbying organisations, which we tend to think of as commercial, but many of them are what we would loosely call philanthropic and charitable, aren't they? Their efforts are just as pernicious but rarely so vociferously condemned by people like us. Nevertheless, as you have indicated, they can put out mendacious briefings as well as the highly paid City boys.

Q12 Chair: I want to interject on one thing, but please don't answer because I just want to make it as a statement for the record. A recent private Member's Bill was talked out, and one of the individuals responsible was hailed by a table of Whips in the Tea Room as a great man. I just want you to know that many colleagues in this place find that sort of behaviour simply disgusting. It turns their stomach, it really does. I want that on the record.

Michael White: Isabel would be willing to take a phone call on that subject, I feel.

Simon Hoare: It has been done.

Chair: It has been done. Do you not have a pearl of wisdom that you want to throw on the table?

Q13 Simon Hoare: Can I go back to the Chair of proceedings? We have spoken about it already: the current Speaker is a doughty champion of the rights of Back Benchers when it comes to urgent questions. A Minister gives a statement, and until every Member has asked their question, the

Minister is held to account. That is a good thing. The Executive probably find it intensely irritating, but it is a good thing. I learned something this afternoon from the Clerks: when it comes to a Friday, the Chair can, if they so wish, impose a time limit on speeches, just as they can on ordinary business—Government business or whatever. Do you detect a sort of irreconcilable conflict in that approach from the Chair? There seems to be some additional collusion between the Chair, in its non-personal sense, and the Executive's Whips in trying to massage and manage business, which is unhelpful.

Isabel Hardman: I don't know whether it is collusion. My understanding—correct me if I'm wrong—is that it is more about the fact that it is a Commons convention that time limits are not imposed. If there is collusion, you are all involved in that, rather than just the Speaker and the Whips.

Q14 Simon Hoare: On the Assisted Dying Bill, which, after those great reforming ones that Jenkins supported, was probably the most important private Member's Bill that has happened in the past 15 to 20 years, Eleanor Laing was chairing. She said very clearly, "A lot of people want to speak, so please try to constrain your remarks to no more than 10 minutes." There seems to be a bit of a vagary there that seems to suggest that sometimes the dice are loaded slightly against the proponent.

Isabel Hardman: But was it the will of the Commons to have everyone speak? Was there a push from MPs in general?

Q15 Simon Hoare: We weren't asked; it was just a directive from the Chair, which is what we expect.

Mark D'Arcy: Something that has been increasingly done by the current Speaker is to try to get everybody who wants to speak in, if humanly possible. Certainly, when they had such a crowded Chamber for a Friday for the Assisted Dying Bill, that principle was applied. When there are a handful of people in the Chamber, and two of them are Chris Chope and Philip Davies, I suppose maybe they do not feel the need to apply quite such a set of rules.

I hear it whispered that there is some thought that that is one of the ways this could go forward. It would be an interesting experiment, but it would probably have to come from the Speaker rather than one of the Deputies.

Michael White: Assisted dying is a fascinating issue, but it is not a typical one. There is always a hot issue that involves personal conscience and moral and religious scruples. At the moment, it is this one, but it

has had a long history in the House of Lords and never been resolved, for all these kinds of reasons. They do not have timetabling in the Lords, and it has gone on for at least 10 years, hasn't it?

Mark D'Arcy: Yes—the Joffe Bill and the Falconer Bill.

Michael White: It is interesting, but not typical.

Q16 Patricia Gibson: Given everything that has been said today, I think we would all agree that engagement and trust in Westminster politics has never been lower. I certainly cannot think of a time when people have been so detached and disengaged from politics in Westminster. If I look at the list in front of me, a lot of private Members' Bills are on things that we might call bread and butter issues—issues that really matter to people.

I am thinking in particular of the recent emergency first aid education Bill, which was talked out. I make no bones about it: I did not attend that debate, but I know that on the face of it, the Bill made eminent sense to a lot of people. Why would it not go through? The fact that it was talked out feeds the lack of engagement with and the lack of understanding about what goes on in this place and the antiquated procedures. Do you not think that unless we have some kind of meaningful reform of this process, it is yet another nail in the coffin—a threat to democracy when people stop caring about what happens here?

Isabel Hardman: This is one of the things where you can make a real difference to public perceptions, because it is a real problem. You have all been sent pictures by constituents of the empty Chamber, when actually it is because it was an Opposition day debate or whatever. Often, people's perceptions of Parliament are inaccurate and they unfairly look down on what MPs do, but I do not think they are unfairly prejudiced in this instance. This is one thing where MPs really could improve public perceptions of Parliament. It is not going to make people love MPs or anything like that, but if you have a problem that is a genuine one, it should be corrected.

On the first aid Bill and some of the other Bills, I suppose this goes back to not the dishonesty problem but the perception problem—things that are important to people and that people are promising to solve, but which may be too expensive to solve and sound lovely but are not possible. If you promise too much, people will always be disappointed, but they deserve to be disappointed by a vote rather than by the current muddled processes.

Mark D'Arcy: The key problem, it seems to me, is the flat incomprehension of process that people have a lot of the time. They

simply do not understand what is going on. On my Twitter feed, as I watch the better-covered private Members' Bills and the people covering it, "What on earth is that all about?" is a quite dominant sentiment out there. There may not be many people watching on a rather humdrum Friday, for some not particularly exciting set of private Members' Bills, but when you get one that people care about, I suspect the expectation is that it is dealt with in a slightly different way from the way it in fact is dealt with.

Michael White: The onus is on you as elected Members, and to some extent, as one or two of you have said, upon us as representatives of the press media, to explain better what things are going on. One of the things that I have taken from this conversation and from reading parts of your previous reports on the subject is the extent to which Ministers should be required as much as is humanly possible to be frank about their real meanings. We all know that that is difficult. Mr Cameron is engaged in a negotiation with the European Union at the moment. He may not be putting all his cards on the table, but at least he puts down some cards, and we can judge their validity. In this case, apart from Alistair Burt and perhaps Ministers at Holyrood, we do not seem to be getting enough of that. Equally, perhaps the lobbyists who are putting out spurious claims for legislation with no prospect ought to be held to account, too. Accountability works both ways.

Q17 Bob Blackman: The current process is that you put your name in the hat, the draw takes place and if you are lucky enough to be at number 20—God help you—you come out and then decide what legislation you will bring forward. That means you get deluged by lobbying organisations from all over the place.

I am thinking about the media impact and the effect on the public if the process were to be completely turned on its head. If Members wanted to put forward a private Member's Bill—call it what you will—they would all have to do so at subject at the beginning of the year. Then Members of Parliament, possibly excluding the Executive, would vote in order of preference and allocation of time would be given to a Second Reading debate for the top 10 or whatever. So we would know when a debate was going to take place and how it was going to happen. How would that play with the public in your view as media people?

Michael White: I like the phrase "excluding the Executive". I want to hear that again a bit more. That sounds fine to me and worth a try, as we say.

Bob Blackman: It is a suggestion.

Isabel Hardman: You have got the Backbench Business Committee. You could have a Private Member's Bill Committee, for instance. I do not understand why an MP would enter the ballot without an idea, though clearly lots of MPs do, because they then get this deluge of lovely ideas from lobbying organisations, which probably contributes to the number of rubbish Bills appearing in the Commons. An MP has not thought through what they want to do, someone turns to them with something nice and shiny and they say, "Fine, I'll do this Bill," without thinking it through.

If you then have MPs who have a personal mission to reform something, that at least is something that they are working on rather than something that a lobbying organisation has cooked up. It also means that you do not get the endless petitions on certain Bills when you do win the ballot.

Michael White: Hang on. You said in your own report, rightly I thought, that it is not just about rubbish Bills or terrific ones. There is kite-flying and campaigning that use a Bill, just as much as people use a ten-minute rule Bill to test the water and see what sort of response you get. They are good for lots of reasons. There are lots of reasons for doing it; it may just be the start of a campaign. How long did Silverman campaign on the death penalty? A long time.

Mark D'Arcy: Annual Bills, practically, for five or six years at least.

Q18 Chair: The truth is you could do a lot of this now through the Backbench Business Committee, to be fair.

Mark D'Arcy: If the Backbench Business Committee had the power to allocate time with a vote at the end of it, you could potentially legislate.

Q19 Chair: But if it is just kite-flying you do not necessarily need that.

Isabel Hardman: Why do it as a kite-flying exercise? Why not use a ten-minute rule Bill and take up far less of everyone's time?

Michael White: Because you need time to change public opinion. We talked a moment ago about smoking in public places. I remember Blair saying, towards the end of his political life, that a ban would not have been possible five or six years earlier but the interest between private companies, their workers wanting a smoke-free environment and the public health lobby made a change in public opinion over a number of years. Everybody got away with it with much less trouble than I expected. I thought there was going to be real trouble over that in all four corners of the kingdom.

Isabel Hardman: You could do that through the Backbench Business Committee.

Q20 Patrick Grady: We made the smoking ban work. The point that Patricia made was that that came through a private Member's Bill in the Scottish Parliament.

Michael White: Yes, it certainly did, and everybody came in behind it. That was about getting public opinion lined up behind the legislators.

Mark D'Arcy: A little while back I think the Public Administration Committee actually drafted a civil service reform Bill. Some might think that would have led subsequent Governments to avoid a lot of trouble. I think the saintly Tony Wright was behind that.

I have heard people occasionally blue-sky thinking on this process suggest that maybe Select Committees could have a chance to initiate legislation. Mr Grady may know this; I think the Scottish Parliament Committees have some ability to bring forward legislation. I have heard that suggested before as another way of getting important matters to the wicket in the Commons.

Chair: We have two more colleagues who wish to ask questions, and then we shall liberate you to go and write your columns, articles and broadcasts.

Q21 Mr Mak: Isabel, you talked about some individuals, described by the Chairman as Friday specialists, who are virtually self-appointed regulators of Back-Bench legislation because of their ability frequently to talk out Bills. What is your view, and that of the others on the panel, about the antidote to that? Is it a self-denying ordinance on MPs better to respect the processes of the House, or do you think it might be a procedural intervention?

Isabel Hardman: I think it is the fact that the current system allows those people to become self-appointed regulators. I guess that for most of this session we have been discussing how those people, whether it is because the Whips have asked them or because they personally think that a Bill is bad, are able to exercise huge power over what happens to that Bill without the House having any verdict that constituents can see—that is the problem. Often they are right about those Bills, but it shouldn't just be three Members who have the chance to make that verdict.

Mark D'Arcy: I would never criticise the individuals involved for doing what they do. They have decided that they don't like a particular piece of legislation, and they use the tools available to them to stop it,

sometimes off their own bat and sometimes at the behest of the Government. I know of people who have performed the considerable feat of dissuading Chris Chope from opposing a Bill and have talked to some of the other great filibusterers of our time to do the same thing, so I would never particularly criticise those individuals.

I am very interested in Mr Grady's point about prelegislative scrutiny. In a way, I suppose you could say that the exercise of talking to Messrs Chope, Davies and Nuttall before one of these Bills gets to the Floor of the House is a form of prelegislative scrutiny, but it seems to me that there is a serious objection out there to a lot of half-baked, vexatious, flabby, well meaning, good-intentioned legislation just getting waved through on a torpid Friday morning if you are not careful, which is where they are on a lot of these Bills. A change in procedure that just meant that there was a more rapid link between MPs' subconsciousness forming a good intention and the statute book might prove to be counterproductive.

Q22 Chair: So the antidote to flabby Fridays is that it is much better we debate them on a Tuesday evening and kill them off properly?

Mark D'Arcy: I am agnostic about the timing of the debate. I think it is the maturity of the debate that is the point here.

Q23 Chair: But if we did them on a Tuesday night, it would be primetime and more colleagues would be here. If the Government wanted to whip to kill it off, the Government would whip to kill it off and then would have to justify their position for having done so.

Michael White: Anything that makes the evenings in this building half as lively as they used to be would be welcome in this elderly quarter. Mark said that he wouldn't criticise individuals for attacking and filibustering Bills, but I would, given half the chance. Some of them are principled points of objection, and others are just self-publicising career building, without much effort, as a fearless libertarian opponent of red tape, Brussels and all the usual stuff—they wouldn't get any house room in *The Spectator*, I feel sure, but they might elsewhere.

As always, you judge each case on its merits. One thing that has occurred to me—a dangerous thing when you are on your feet—is that if the threshold for preventing a Bill from being talked out is 100 MPs, which seems fine to me, perhaps the threshold for blocking it might also be raised because it can easily be done, as we have all agreed, by one or two people. Perhaps the procedure might be able to make it a little bit harder for the other side. Then Phil Davies would have to make a case.

Chair: And there is a grenade thrown on to the floor with that suggestion. I think colleagues are raising their eyebrows. Now, David has been sharpening his horns, so maybe I could unleash him on our panel.

Q24 Mr Nuttall: You have studied this for a long time. Obviously, you are here as journalists, so perhaps I could start from that angle. One suggestion that has been made this afternoon, and indeed previously, is that the time when private Members' Bills are debated could be moved from Fridays. How do you feel your colleagues in the world of journalism would write that up? Will they write it up, for example, as an attempt by MPs to make the whole procedure more transparent? Or do you think your friends in the tabloid press might write it up as, "MPs vote for four-day week"?

Chair: And should we care?

Isabel Hardman: I don't think you should care, because the current situation isn't doing you any good. That is not to say that people think Parliament is working splendidly on the Fridays that you do have. Ultimately, just ignore the press sometimes; just get on with what you think is right. Apart from *The Spectator*, obviously—our sales are going up—fewer people are reading the press. Our influence is declining and you guys were elected to Parliament and are paid to come to Parliament to make decisions and to know better than a lot of other people, myself included. You should just make those decisions. It is the same as your pay and so many things. You are damned if you do and damned if you don't. You might as well do what you think is right and have a thick skin, or take a bath and eat some cake and not worry about it. Honestly.

Mark D'Arcy: One thing you would lose is that on a Friday private Members' Bills are the only game in town. They are the only thing happening in Parliament on that day unless, as happens very rarely, there is a statement for some great emergency once in a blue moon.

If you moved them to a Tuesday night, the press is mostly not going to notice them at all, for the excellent reason that there is an enormous amount going on. There is already a feast and famine problem with the coverage of Parliament, which is that all the main action takes place on a Tuesday and Wednesday. If you stick the private Members' Bills in the backwash of a Tuesday night after a couple of big statements by, for example, the Home Secretary, Foreign Secretary, a couple of big Select Committee hearings, a Second Reading debate, the chance of the private Members' Bills being covered at all are pretty minimal.

One of the things, whether you regard your private Member's Bill as an improvement to legislation or some great declaratory matter you are hoping to move the Government on on a great social issue of the day,

even if you don't expect to get the Bill, well, you may hope that, but you are not going to get Her Majesty's press paying a great deal of attention most of the time.

Q25 Chair: But, Mark, that might lead to an improvement. We could suggest fewer private Members' Bills—not 20 but eight or 10—and colleagues would say to their Whips, "You know what? This is my chance to make a name for myself. The Channel Tunnel Flagging Bill, you can put that through on your own time. I am going ahead with something really important." I don't know.

Michael White: I wouldn't be too prescriptive because you don't want to put everything on to statute or into regulations or the constitution. Paradoxically, although the press coverage of Parliament has declined dramatically in my working lifetime, there is so much else to report that used not to be reported. We did not have health correspondents, legal affairs correspondents, environment correspondents and all those things.

Newspapers are different—neither better nor worse; in some ways they are both. There is enormous scope on social media for getting coverage. In fact, in a way, part of your complaint is irresponsible coverage by vested interests on social media, which can generate so much trouble for you. That is trouble, incidentally, that we never see. There are aspects of your lives that we know well, but we do not know your back-office story. We do not know about people harassing you in the middle of the night about a parliamentary candlelit vigil, or crates of stuff arriving at Ian Lucas's office in the morning. That is tragic; I've never heard that before.

There is a whole lot of stuff we never get a glimpse of, nor of course do we have serious dealings, as you do, with the Whips. In a way, you are telling us things we ought to know, but very often do not. We do not know unless anybody tells us, which is really the point about the chicanery that the Chairman was talking about a moment ago. There is an awful lot of opportunity as well as challenge out there. If the other side can get their point of view across—the lobbyists, the Oxfams, the War on Wants, the Shelters who are pretty good at it—so can Members with resourceful staff, but it is an uphill struggle, because it is 24/7, relentless, a million bloggers, and I am one of them.

Q26 Mr Nuttall: Isabel, in your excellent article earlier this week you wrote, "Those who talk out Bills tend to be selective in their opposition." Are you suggesting that they ought to talk out every one? I thought it was rather helpful that we actually assess. It is right in politics that a politician looks at the content of something and decides whether they agree with it or not.

If something is sensible, we say so, and it goes on its way. If it is a load of rubbish, which a lot of Bills are quite frankly, people should not be surprised if we point that out. I have to say there are lots of occasions when people have contacted me to say, "Why have you spoken at length about this matter?" When I have explained the reasons to them, many times they have written back and said, "You know, I never thought of that. Thanks for pointing it out; I agree with you."

Chair: Just before you answer that, it would be quite interesting to do some research on how many Government handout Bills have been talked out or blocked. I do not think it is many, but I will let you ruminate on that, Isabel.

Isabel Hardman: That was partly the point I was going to make—that the European Union (Referendum) Bill, for instance, did not get talked out, because it was something that people supported; and obviously you are exercising your judgment, but you exercising your judgment as an individual MP has a huge impact on the judgment that other MPs are able to exercise. So your colleagues in Parliament—and, again, I often agree with the reasons for talking out a Bill; but I would rather see the whole of Parliament, or whoever is present on that day, reaching that judgment as a group rather than the judgment of three MPs being exercised to prevent their colleagues from doing so.

Mark D'Arcy: You make a very interesting point about how many Private Member's Bills that are handout Bills have been talked out, and that is a very difficult thing to know. One of the things that Members of Parliament do not necessarily get is that Her Majesty's press don't see, as it were, under the hood of the parliamentary engine a great deal of the time. We may see the vehicle in motion but we don't really know how a lot of the machinery underneath it works; and so while everybody in the Chamber may be aware that the Whips are doing such and such, that may not be apparent even to people present in the Gallery, let alone people watching on closed circuit television. Certainly we do not get to see what happens in the Tea Room and who cheers who there. So perhaps it is up to a few Members of Parliament to raise points of order if they think things that are out of order are going on.

Michael White: I am quite exhausted, Mr Chairman. I did notice with admiration that Isabel has provided coverage for this hearing, but as with modern journalism she provided it before it happened. That is the way it goes.

Q27 Chair: I do not want to demonstrate the clear thinking of the totally uninformed, because I am often guilty of that, but I would suspect that the number of Government handout Bills that failed to reach statute in

the past five years is zero. I think if you are a Government handout Bill you get on statute, and the Member of Parliament piloting that Bill through can say, "Look at this; I have changed the law." Come on.

Michael White: That is a shocking figure, if that is true; and the fact that you don't know it is slightly surprising.

Chair: But it is; I mean—you know, I could be wrong, but it would be no more than one or two.

Mr Nuttall: Chairman, can I just say that that is to do with the nature of the different sorts of private Members' Bills? Very often handout Bills are very technical and just attempt to deal with one small lacuna in a particular Bill; and that is why they are not objectionable.

Michael White: That is okay, too, sometimes isn't it?

Isabel Hardman: It creates the impression that you can get a Bill through, when a lot of the time you can't.

Jenny Chapman: The Clerks said, when they came in before you, all and only Government Bills will pass; and that is the truth. MPs do not even know this. The number of MPs who get their little slot and go, "I'm going to make this work. I'm going to persuade the Government"; and you just think, "Are you? Right."

Ian C. Lucas: I was just going to make the point that as an Opposition Back-Bench MP it is very difficult to stop a Bill that the Government support, albeit a private Member's Bill or a Government Bill. So the real power with private Members' Bills, ironically, is with the Government. It is not with private Members at all. As an Opposition Back-Bencher it is virtually impossible to stop a Bill that the Government want to take through.

Q28 Chair: It is just an extension in many cases of Government time—stuff they cannot get in the Queen's Speech they will stick through the private Member's Bill process; and, Michael, the reason I cannot be absolutely definitive is even the Clerks struggle to define what is a Government handout Bill, so well camouflaged are some of them in what is a genuine Back-Bench proposition. I know Gavin Barwell got the Mental Health (Discrimination) Bill through in the last Parliament—which was a genuine private Member's Bill. I can absolutely assure you of that. However, in conversation with some Whips in the last Parliament, they even tried to take credit for that one, saying "It wouldn't have got through without our support," and this, that and the other.

The final point I want to make, and then I will let you go, exhausted, weary and bloodied, from this meeting: Isabel, you wrote an article yesterday or the day before yesterday about private Members' Bills. You have had some pushback from it. Would you care to describe some of that pushback? I know you are probably prevented from giving names, but what sort of feedback have you had?

Isabel Hardman: Mostly it has actually been MPs, including those who filibuster themselves, saying that they agree, which is nice; but also some MPs did get in touch—those on the Government side and those on the other side—making the points that you have made today, actually, and echoing those, which is that Bills that aren't in a party's manifesto, Bills that are badly drafted, shouldn't be able to glide through Parliament unchallenged. But I think there are so many ways of ensuring that that doesn't happen that are very different from the current system.

Chair: Final point: first, I thank the three of you for giving up so much of your valuable time to be with us. Can I also say, off the record, that I am extremely fond of Phil Davies? I think he is a great man, and I hope that as a result of these deliberations we will ensure that the good people of Shipley get to spend more of their Fridays with Phil Davies. Thank you very much.