



Mr Blair's Poodle goes to War

The House of Commons, Congress and Iraq

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MR BLAIR'S POODLE

IN 1908, HENRY CHAPMAN MP claimed that the House of Lords was the “watchdog of the constitution”, to which Lloyd George replied, “You mean it is Mr Balfour’s poodle.”¹

It is the House of Commons which today has become the poodle of the Prime Minister. The ever more efficient exercise of executive control has left the Commons gravely weakened. The Prime Minister controls one House and appoints the other.

¹ Quoted in *Phrase and Fable*, Cassell, 1997.

CHAPTER ONE

INTRODUCTION

BRITAIN BECAME A DEMOCRACY in the twentieth century, but in the twenty-first it still retains a Parliament more appropriate for the nineteenth. While politics has changed out of all recognition, in many respects Parliament looks and feels as it did at its Bagehotian zenith: impressive, authoritative, gothic, labyrinthine.

The Executive has learnt how to live with democracy, and, increasingly, to manipulate it. Parliament, in contrast, has found the adjustment much more difficult to make. If Parliament and parliamentarians now complain that the electorate does not take them as seriously as they would like, it is in large part a measure of their failure since 1945 to reform. Nor have they adequately adjusted to the growth of the mass media: unlike the Executive, the requirements of mass media democracy seem largely to have passed Parliament by.

The war in Iraq threw the issue of the relevance of Parliament and its relationship with the Executive into stark relief. It presented a severe test for Parliament. In particular, it raised questions over Parliament's ability to scrutinise the actions of the Executive:

- could Parliament, through debates on the floor of the House before the war, extract from the Government a clear statement of its objectives in invading Iraq and overthrowing Saddam Hussein?

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- after the war, could debates on the floor successfully obtain the necessary information from the Executive in order to enable it, and the wider public, to judge whether the Executive acted prudently and proportionately in fulfilling its objectives?
- before the war, could Select Committees extract a clear statement of the Government's objectives?
- after the war, could Select Committees obtain the information to enable a judgement of whether the Executive acted prudently and proportionately?

This paper tries to provide answers to these questions. The war in Iraq has had a similar pact on US politics. This paper therefore also asks three more questions:

- how has the US Congress gone about these tasks?
- how did Parliamentary and Congressional performance compare?
- what can realistically be done to improve Parliament's performance?

CHAPTER TWO

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THE POWER OF THE EXECUTIVE grew in the twentieth century at the expense of Parliament. This has accelerated under the presidential Premiership of Tony Blair, and has coincided with a decline in public esteem for Parliament.²

Some have tried to respond to parliamentary decline by attempting to cling to nineteenth century parliamentary practice. Such an approach would be doomed to failure in the face of Executive dominance. It would also be incomprehensible to the general public. A more realistic agenda for the revival of Parliament is one based on an acknowledgement and acceptance of the democratic mandate held by governments. This would accept that parliamentary government does not, nor should it, mean government by Parliament. Once elected, governments should generally be allowed to get on with the job. Strong governments, capable of taking and implementing difficult decisions, have a lot to commend them. Parliamentary reform should not be used as an excuse to hamstring the Executive. Instead, reform should try to buttress Parliament's capacity to encourage the Executive to justify its decisions.

To what extent is such an approach applicable to war in general, and to the Iraq war in particular? Decisions about armed

² These themes are explored in more detail in *Mr Blair's Poodle: an agenda for reviving the House of Commons*, CPS, 2000. Some of the charts illustrating the Prime Minister's disregard for Parliament have been updated and are reproduced in Appendix I.

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conflict demand much of our leaders that is antithetical to the processes of democratic accountability. Such decisions often benefit from the advantages of a strong Executive: secrecy and speed of action. Public debate can disrupt quiet diplomacy and slow down decisions. The appearance of uncertainty and irresolution are also often the products of democratic government.

Democracy can make the conduct of foreign policy difficult in other ways. A popular demand for military action can become irresistible, particularly after a shock such as September 11. Just as easily, a prolonged war can become unpopular, undermining the resolution of the Executive to do what is in the national interest. Furthermore, adversaries can exploit signs of weakness in democracies by using mass media democracy against itself. A debate on the rights and wrongs of war, conducted in the political arena and the media, can leave voters torn between the images of suffering inflicted by violent regimes or ethnic unrest, and the images of death and disaster caused by attempts to stop it.

Decisions about military action are therefore a massive challenge for democracy. And the most rigorous test of all is war itself. Both before and during conflicts a tension is inescapable between the importance of upholding democratic accountability and the need for the Executive to protect the national interest.

This tension strengthens the case for Parliament to assume a role of encouraging the Executive to justify its actions – the case for government by explanation. Legislatures should not be expected to take decisions about war. But they should seek to extract from the Executive as full an explanation for any prospective action as is possible without prejudicing the objectives of military action, or lives. Afterwards they can and should ensure that a full audit of war is undertaken. By these means, democratic demands for openness and accountability can be at least partly met without sapping political and military will.

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Even this limited role is not easy. Legislatures can do this job only if they have the theoretical powers and the practical determination to use them. They need the power to obtain information about the political, diplomatic and military actions which led to the war. They need the will to draw, and publish, such conclusions as are warranted by the evidence. They also need to show restraint and maturity in exposing what they find.

After a war, legislatures should play an even more important role. They should have as their objective providing voters with the material they need in order to decide whether the action taken was justified, and whether the government which took it is worthy of re-election. Legislatures need to be capable of assessing both the quality of the intelligence and the decisions taken on the basis of it by politicians.

It was particularly important that the Iraq war be subjected to such scrutiny. This is because the case for war was largely framed by its proponents by reference to a threat which only intelligence sources could substantiate. In no previous case had a British Government justified resort to major military action by relying so heavily on intelligence.

The decisions of President Bush and Prime Minister Blair provide a unique opportunity to compare the scrutiny of their respective legislatures. Both Congress and Parliament were faced with arguments before the war for military action based largely on intelligence. After the war, both faced Executives reluctant to supply much of the material required in order to form a balanced judgement of the Executive's decisions. Furthermore, the efforts of each influenced debate in the other.³

³ For example, the US Presidential Commission of Inquiry on the Intelligence Capabilities of the United States regarding Weapons of Mass Destruction, and the Butler Review in the UK, were set up within a few days of each other. Both were responses to the evidence of David Kay to the Senate Armed Services Committee.

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The Iraq war seemed to confirm that Parliament still has some moral authority. In the months before the conflict Mr Blair's Poodle proved somewhat unpredictable, and capable of at least showing its teeth both on the floor of the House and in the Committee corridor. The votes on the war and the drama of the Foreign Affairs Committee inquiry, and its sequel,⁴ suggested a Parliament that was not quiescent in the face of a powerful Executive. Since the war ended, inquiries by the Public Accounts Committee and Defence Committee into preparedness for the war gave some evidence of the Poodle's teeth.

But has Parliament barked either at the right time, or to any purpose? The evidence suggests that the debates before the war helped to expose the lack of coherent government thinking about policy on Iraq. However, it is possible that this came at the price of weakening the perception of the country's resolve. Since the war ended, its efforts to audit the correctness of the Government's policies on Iraq, both in the months leading up to the war, and following it, have been inadequate – in some respects woefully so.

The Executive has succeeded in frustrating Parliament. Congress has fared only a little better. Ultimately, the losers are not just our legislatures, nor even our electorates. Executive obstructionism and parliamentary weakness threaten to erode trust in politics and politicians, leaving our system of government the biggest casualty.

⁴ On 17 July, two days after giving evidence to the Foreign Affairs Committee, and the day after giving evidence to the Intelligence and Security Committee, David Kelly committed suicide.

CHAPTER THREE

PARLIAMENT AND THE IRAQ WAR

The floor of the House: before the war

The Chamber's attention in the run-up to the war was certainly not lacking, despite the fact that the then Conservative leadership offered virtually unqualified support to the Executive. Three major government debates were held in the Commons on the question of Iraq before the war was initiated through air strikes on Baghdad:

- on 25 November 2002, following the passage of UN Security Council Resolution 1441;
- on 26 February 2003;⁵
- on 18 March 2003, immediately preceding the war.

Another debate on 11 March, on the war against terrorism, was initiated by the Foreign Affairs Committee and based on its Report on *Foreign Policy Aspects of the War against Terrorism*. The Government also made 15 statements to the Commons from the beginning of 2003 to the end of April, in which the Government reported on the unfolding events in Iraq and at the UN, and defended their position.⁶

⁵ In the debate on 26 February, Chris Smith MP proposed an amendment to the Government's motion stating that the 'case for military action against Iraq [was] as yet unproven'. I was one of 115 Members, from both sides of the House, who put their names to the amendment, and one of 199 who voted for it.

⁶ For the details of the statements and the debates, see Appendix II.

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The debates followed considerable pressure within and outside the House for an opportunity for the House to debate – even to veto – military action against Iraq.⁷ They showed growing opposition to Government policy. They were often passionate, sometimes illuminating, and were closely watched and reported. The Government won each of the three sets of votes, although with decreasing support on their own benches. Government whips spoke openly in the corridors of Westminster of the Herculean task of delivering the necessary support and votes. In some ways the debates showed Parliament acting effectively to articulate the concerns of the country, and the Government responding to parliamentary pressure. These debates were important milestones on the way to war. By encapsulating the case for and against the war they added to the strength of British democracy.

They also provided ample opportunity for the Government to explain its stance, and for sceptics to test it. The Government claimed in September 2002, when presenting the first of its now notorious dossiers, that, in Tony Blair's words:

⁷ For example, Early Day Motion (EDM) 675, 6 February 2003 calling for a debate and a vote on a substantive motion before 13 February, with 46 signatures; EDM 733, 12 February 2003, noting that “the House had not approved military action, believing that any such action should require prior approval by a vote in the House and not rely on prerogative power alone, not accepting that such a vote would compromise the armed forces, and demanding unequivocal confirmation that such a vote would be held”, with 126 signatures. EDM 716, 11 February 2003, said that “British forces should not be required to participate in a war against Iraq unless there is clear evidence that Iraq poses an imminent threat to peace; there is a substantive motion of the House of Commons authorising military action; there is an express resolution of the Security Council authorising the use of military force; and all other policy options have been exhausted.” This attracted 139 signatures.

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Iraq has chemical and biological weapons, that Saddam has continued to produce them, that he has existing and active military plans for the use of chemical and biological weapons, which could be activated within 45 minutes, including against his own Shia populations, and that he is trying to acquire nuclear weapons capability.⁸

In the subsequent debates, Tony Blair and Jack Straw argued that in preserving these weapons Saddam was in breach of UN Security resolutions 678 and 687, later buttressed by 1441. This was the *casus belli*.

The Prime Minister, and other Ministers in the House, clarified that Britain was not about to engage in hostilities because of alleged links between Saddam and international terrorists.⁹ Nor was the Government's primary motive humanitarian. The removal of Saddam Hussein would benefit the Iraqi people, but it was not itself the justification for war.¹⁰

This contrasts with George Bush's description of the US's motives for war. President Bush and members of his administration have asserted links between international terrorists

⁸ House of Commons Debate, 24 September 2002, col. 4.

⁹ 'Whenever I am asked about the linkage between al-Qaeda and Iraq, the truth is there is no information I have that directly links Iraq to September 11. If I can just be absolutely frank with you, there is some intelligence evidence about loose links between al-Qaeda and various people in Iraq, but I think that the justification for what we are doing in respect of Iraq has got to be made separately from any potential link with al-Qaeda.' The Liaison Committee, *Evidence presented by the Rt Hon Tony Blair MP, Prime Minister*, Tuesday 21 January 2003.

¹⁰ See House of Commons Debate, 18 March 2003, col. 772. Nonetheless, those who might be inclined to support the war for such motives were given considerable encouragement. For example a dossier (not one of the two notorious ones), published in December 2002 by the Foreign Office, documented Iraq's human rights abuses. Prime Ministerial speeches made frequent references to the humanitarian arguments.

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and Saddam Hussein on a number of occasions.¹¹ They have also sought to justify the war on the grounds of regime change, and that it could trigger a democratisation of the Middle East.¹²

Therefore, debates on the floor of the House before the war did manage to extract an explanation for its policy from the Government. It is partly the clarity of that explanation which now poses such problems for the Government, and in particular for the Prime Minister. The discovery after the war that the threat was negligible has severely damaged the Government's credibility. The clarity of explanation also eventually served to highlight the fundamental difference between the US administration's justification for war and that of the UK, allowing some to conclude, no doubt unfairly, that there may have been a hidden agenda for war.

Might the media have extracted similar clarity of motive from the Government without the aid of Parliament? To some extent it did. However, the importance of the role of Parliament lies in the dynamics of intra-party democracy. It is the parliamentary pressure, above all, from government backbenchers before the war, and the responses given, which will carry such lasting resonance in Parliament and in British politics. Just as intra-Party democracy secured the defeat of the poll-tax, and

¹¹ See Secretary of State Colin Powell's address to the UN Security Council on 5 February 2003: "what I want to bring to your attention today is the potentially much more sinister nexus between Iraq and the Al Qaeda terrorist network". See www.whitehouse.gov/news/releases/2003/02/20030205-1.html.

¹² See President Bush's speech to the American Enterprise Institute, 26 February 2003: "The current Iraqi regime has shown the power of tyranny to spread discord and violence in the Middle East. A liberated Iraq can show the power of freedom to transform that vital region, by bringing hope and progress into the lives of millions. America's interests in security, and America's belief in liberty, both lead in the same direction: to a free and peaceful Iraq." See www.whitehouse.gov/news/releases/2003/02/20030226-11.html.

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played a major part in the decision to remove Mrs Thatcher, so it may yet bring about a change of British policy in Iraq and possibly contribute to another change of leader.

It is worth noting that forcing the Executive to explain its decision, although valuable to democracy, could have come at a price. The debates may have encouraged Saddam Hussein in the misapprehension that he could engineer the collapse of the fragile coalition against him. Worse, if true, the possibility that the votes could have resulted in the resignation of the Government may have encouraged Saddam Hussein to believe in the effectiveness of his strategy of playing on the reluctance of western democracies to go to war. Such are the inescapable tensions when democracies make decisions about conflict.

Whether or not the parliamentary process, by sending ambiguous signals to those threatening us, made diplomatic and military efforts more difficult, is still uncertain. Those who argue for a War Powers Act, by which parliamentary approval would generally be required (except in an emergency) before the use of military force, need to be sure that such a requirement may not in some circumstances weaken British foreign and defence policy. A War Powers Act is only superficially attractive and would probably come at an unacceptable price.

The democratic process might also have distracted the Government from effective preparation for the war. The Defence Committee's investigation into *Lessons of Iraq* recognised that:

The need to keep open (and to be seen to be keeping open) the option of a solution other than through military action imposed certain constraints on military planning and pre-positioning for a conflict.¹³

¹³ Defence Committee, Third Report of Session 2003-04, *Lessons of Iraq*, HC 57, para. 352.

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The Committee also alluded to the difficulty of creating an impression of effective force in a democracy:

It might be argued that, if the purpose of using the military was as a coercive force during the diplomatic phase, there should have been no constraint on the military preparations and deployments undertaken, since the more convincing the coercion the more effective it might be expected to be. The Iraqi regime, however, was not the only audience: other members of the UN Security Council needed to believe that UK and US attempts to find a peaceful solution were sincere, as did the broader international community and domestic US and UK audiences.¹⁴

Parliament also had a duty to examine what might happen after the war, and to bring to public attention the extent of the Executive's post-war preparation. Here Parliament fared less well. A number of crucial issues were left inadequately examined, if at all. Although raised on the floor of the House, and sometimes answered in a line or two by Ministers, the Executive was not forced to explain in much detail what it would do after a war. Parliament's cross-examination of the Executive failed, for the most part, even to establish whether or not the Executive had done much forward planning.

Most of the shortcomings of post-war policy were readily predictable well before the war. The likely destabilisation of Iraq, and the power vacuum that would be left behind by the removal of the Saddam Hussein regime, did not require much foresight. Much else can be added to this list: the danger of inflaming the Palestine conflict, the long-term effect on moderate Muslim opinion, in the Middle East and beyond, as well as domestically, the impact on Islamic fundamentalism and the risk of weakening secular Islamic states. The greatest risks to our security were also relatively clear.

¹⁴ Ibid., para. 25.

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There were two: the weakening of the western alliance as a consequence of divisions in the Security Council; and the vivid exposure of the limits of western and American power if a post-war transition and withdrawal could not be effected smoothly. While recognising that there could be difficulties in coming to firm conclusions on such issues before the war, much more could have been done by Parliament, and particularly by Select Committees, to elicit from the Government its thinking on them.

The floor of the House: after the war

After the war, Parliament's role should have been simpler. First, the Government should have been able to reveal most of the secret information on which it had acted. Secondly, debate and criticism of Government actions could no longer be construed as criticism of British forces about to go into action, with all the demoralising potential such criticism can carry. Thirdly, there was less need to worry about the impact of British debate on Iraqi or international opinion.

Nonetheless, the Executive has been able to shut up the parliamentary shop. During the war there were regular statements by Ministers to the House. After the Prime Minister's and the Foreign Secretary's statements of 14 and 28 April 2003 respectively, these diminished. The Government has not been forced to concede much parliamentary time for debate. The only debates have been those initiated by the opposition parties. On 4 June, a motion proposed by the Liberal Democrats called for an independent inquiry into the 'handling of the intelligence received, its assessment, and the decisions made by Ministers based upon it'.¹⁵

In the middle of July 2003, when the Foreign Affairs Committee Report on the decision to go to war with Iraq confirmed the unwillingness of the Government to cooperate with

¹⁵ House of Commons Debate, 4 June 2003, col. 180.

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a proper parliamentary inquiry, the Conservative Party called on the Government to set up a full judicial inquiry. Mr Straw vigorously opposed it. He also opposed arrangements which could make it possible for the Foreign Affairs Committee to conduct a more effective inquiry. The controversy over the death of Dr Kelly then forced the Government's hand a little and resulted in the establishment of the Hutton Inquiry. For a while, this raised expectations that at least some aspects of the decision to go to war would be thoroughly investigated. When the Liberal Democrats initiated a debate on Iraq on 10 September, it concentrated not on the question of the justification for the war but on the role of the United Nations in reconstruction.

However, by October, as the lack of evidence relating to Weapons of Mass Destruction (WMD) in Iraq became increasingly embarrassing, and with the first revelations emerging from the Hutton Inquiry about the preparation of the September 2002 dossier, a Conservative Opposition day debate on 22 October 2003 again called for the setting up of a 'comprehensive independent judicial inquiry', a demand turned down, as before, by Jack Straw. The October debate was the last significant one – apart from a debate based around a National Audit Office (NAO) investigation into the operational efficiency of Britain's armed forces during the war – before the publication of the Hutton Report.

The tenor of the debates since the war has been of a sense of deep dissatisfaction with the ability of Parliament to obtain information which would provide a clear picture of the Government's decision to go to war. While detailed probing from the floor of the House may be unlikely, more could be expected from Committees. In an effective Parliament, one which could enforce government by explanation, Committees should be prominent. The Select Committees in the House of Commons are active bodies. To what extent did they provide a thorough investigation of the debacle of the Iraq war?

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Select Committees: the Liaison Committee

Some advances have been made in the last two or three years in the operation and effectiveness of the Select Committee system, and the war provided the first real test of one of them – a new system of prime ministerial accountability. This is the Liaison Committee's regular meetings with the premier.¹⁶

In April 2002, the Prime Minister offered to appear twice a year before the Committee, which is composed of the Chairmen of the Select Committees. Since then, the Committee has examined him five times, discussing what it described as 'a limited number of themes selected in advance'.¹⁷ In the period immediately before and immediately after the war, the Prime Minister met the Committee on 21 January 2003 and on 8 July. On the first occasion the session was dominated by the prospect of war and on the second by the death of Dr Kelly, the aftermath of the war, and a post-mortem of the decision to go to war.

These sessions could have been of enormous significance. Any decision to go to war lends itself to Presidential leadership and is likely to be closely associated with the Prime Minister himself. At the meeting in January 2003, while discussions were still continuing in the run-up to the war, it was reasonable for the Committee to be broadly supportive. However, by 8 July 2003 the issues were ripe for thorough examination. Mr Blair's own reasoning and justifications for the decision to go to war required particular attention and probing.

¹⁶ In *Mr Blair's Poodle*, I recommended monthly meetings with a group of senior Select Committee chairmen with the Prime Minister alerted to the subject area of questions in advance as a more penetrative and measured alternative to the bear-pit politics of Prime Minister's Question Time.

¹⁷ Liaison Committee, *First Special Report of Session 2001-02: Evidence from the Prime Minister*, HC 984, para. 7. The five meetings took place on 16 July 2002, 21 January 2003, 8 July 2003, 3 February 2004 and 6 July 2004.

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In the event, these sessions were not as penetrative as they might have been. The right questions were indeed asked. But deference was on parade. The Committee, with no access to confidential material, lacked the information which might have enabled it to push its questions harder and more effectively. In the July session, the Prime Minister was able to deflect a number of lines of inquiry with the response that these were issues to be considered by the Hutton Inquiry, set up three days previously.

The focus should have been on the detailed diplomacy and intelligence available prior to the decision to go to war. This was not examined in the sort of detail which might have cajoled the Prime Minister into revealing more than he wanted. Nor did the Committee seem adequately to have co-ordinated its lines of questioning beforehand. The close questioning which might have yielded results was missing. The Committee was the forum in which, at its latest meeting on 6 July 2004, Tony Blair finally admitted that WMD in Iraq may never be found. However, the admission was probably prompted more by the imminence of the reports of the Senate and Butler inquiries, and his assessment of their likely contents, than by Liaison Committee probing.

The Liaison Committee's Prime Ministerial cross-examinations have the potential to become one of the most important parliamentary innovations of recent decades. But the plain fact is that, in parliamentary terms, these war-time sessions showed that the system is still in its infancy. The Committee has the opportunity to scrutinise power where it really lies – in the hands of the Prime Minister – but in these early days it had not found the means to do a comprehensive job.

Select Committees: before the war

What of the rest of the Committee corridor? Select Committees are the natural device to provide the required in-depth interrogation of evidence, but were unable to provide the whole House leadership on the issue. The Foreign Affairs Select

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Committee held an inquiry into 'Foreign Policy Aspects of the War against Terrorism' during the autumn and early winter of 2002. Its report was published on 19 December 2002, although the evidence for the inquiry (including evidence from Dr Kelly) had been taken in September and October, and the Committee had visited the US during October.¹⁸

This was a thoughtful report, one in a series of studies by the Committee on terrorism and its implications. Although it addressed questions such as Iraq's supposed links with al-Qaeda and its WMD programmes, it largely echoed the verdicts reached by the Government, particularly in its September dossier, and its contribution to the specific issues of concern was slight. Some effort was made to consider post-conflict Iraq, and the Committee pointed out some of the risks involved. It did claim to be 'reassured' by the assumptions made by the Foreign Secretary about the territorial stability of Iraq and the chances of interference by neighbouring states but, to its credit, it stated that governing Iraq after a war would present formidable challenges. However, in the circumstances of late 2002, it was not the major concern of the Committee and was not pursued with the Government in any depth.¹⁹ On 12 March 2003, the International Development Committee produced a report on the likely humanitarian consequences of military action against Iraq and the adequacy of the preparations for dealing with them, based on only two sessions of evidence, taken on 12 February and 6 March.²⁰ The Committee envisaged ethnic conflict and other possible post-war problems, but again did not press them with the Government in any depth.²¹

¹⁸ Foreign Affairs Committee, Second Report of Session 2002-03, *Foreign Policy Aspects of the War against Terrorism*, HC 196.

¹⁹ See Questions 172-276 *ibid.*

²⁰ International Development Committee, Fourth Report of Session 2002-03, *Preparing for the Humanitarian Consequences of Possible Military Action against Iraq*, HC 444.

²¹ *Ibid.*, paras 26-28.

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In sum, Select Committees, including the Liaison Committee, were not conspicuously successful in forcing the Government to provide a clear explanation of its objectives in going to war. They added little to what had been obtained on the floor of the House, and by the media. All the same, it should be borne in mind that the more detailed and forensic approach to which a Committee is best suited cannot always be deployed to full effect before a war. Many of the crucial papers and evidence must necessarily remain secret prior to a conflict. This applies *a fortiori* to a war justified largely on intelligence grounds.

Select Committees: after the war

Much more might be expected from the inquiries which followed the war, which should have had the benefit of information which could not have been released beforehand. Select Committees should have been able, after the war, to obtain the information necessary to enable them to form a judgment on whether the Government had acted prudently and proportionately. How did they fare?

Committees did less well than they and many others hoped. This is true not just for the Liaison Committee, but the other relevant Committees, too. They have been thwarted by the Executive at almost every turn. Even where they showed the will, they lacked the powers, and particularly the moral authority, to obtain the information which they needed and which the public might have expected them to obtain.

Attention has been focused – partly because of the subsequent death of David Kelly – on the inquiry undertaken by the Foreign Affairs Committee, which took place in the context of the increasing doubts about the validity of US and UK government claims about Iraqi WMD. The inquiry was carried out during two intensive weeks of evidence-taking in June 2003. It concentrated on the information which the Government presented to Parliament in the period leading up to the war, in particular, the two dossiers of September 2002 and February 2003.

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Although the Committee worked hard, the result showed how feeble were the tools at the disposal of Select Committees and how easily such inquiries can be deflected from obtaining the facts relevant to the public.²²

The Committee concentrated on ‘whether the Foreign and Commonwealth Office, within the Government as a whole, presented accurate and complete information to Parliament in the period leading up to military action in Iraq, particularly in respect of weapons of mass destruction’.²³ Members of the Committee were frustrated that they had insufficient time and insufficient access to come to comprehensive and definitive conclusions on some of the issues. They complained in their report that they were:

...strongly of the opinion that we were entitled to a greater degree of cooperation from the Government on access to witnesses and to intelligence material.²⁴

The Committee took evidence from two former Ministers, Robin Cook and Clare Short, from the Foreign Secretary, who attended with Foreign Office officials, and, most memorably, from Alastair Campbell, Dr David Kelly and Andrew Gilligan. However, its other witnesses were academics or retired diplomats and officials, rather than those who had access to the crucial information about the conduct of policy in the days leading up to the war.

The Committee asked for much more. They wrote to the Foreign Secretary, asking to hear evidence from the heads of the Secret Intelligence Service and GCHQ, and ‘requiring’ access to all relevant papers and records. Its Chairman wrote:

²² Foreign Affairs Committee, Ninth Report of Session 2002-03, *The Decision to go to war in Iraq*, HC 813.

²³ *Ibid.*, para. 4.

²⁴ *Ibid.*, para. 6.

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We are particularly interested in papers and records relating to the preparation of dossiers and other information which was presented to Parliament by FCO Ministers. We cannot, of course, identify all the specific papers and records in which we are interested. I therefore ask for your cooperation in ensuring that nothing is omitted which might inform our judgment when making our Report to the House... It would be most unfortunate in my judgment if we had to report to the House that we had not received appropriate cooperation.²⁵

The Foreign Secretary wrote back to say that 'as has been the case with past inquiries of this sort by Select Committees, it will not be possible to submit original documents, not least because of the need to protect sensitive exchanges on a highly controversial subject with other sovereign governments'.²⁶ In other words, the Select Committee was given a customary Whitehall brush-off.

On the most crucial question – intelligence – the Committee was forced to declare its inability to obtain the truth.

Without access to the intelligence or to those who handled it, we cannot know if it was in any respect faulty or misinterpreted.²⁷

The Committee concluded that:

...the continued refusal by Ministers to allow this Committee access to intelligence papers and personnel, on this inquiry and more generally, is hampering it in the work which Parliament has asked it to carry out.²⁸

²⁵ Foreign Affairs Committee, Ninth Report of Session 2002-03, *The Decision to go to war in Iraq*, Written Evidence, HC 813-II, Correspondence between the Chairman of the Committee and the Secretary of State, Foreign and Commonwealth Office.

²⁶ Ibid.

²⁷ Ibid., para. 90.

²⁸ Ibid., para. 170.

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Not surprisingly, among the Committee's recommendations was that the Government should accept the principle that it be prepared to accede to requests from the Committee for access to intelligence, when the Committee can demonstrate that it is of key importance to a specific inquiry it is conducting and unless there are genuine concerns for national security.²⁹

The Report and the Committee's Minutes show the extent to which it became side-tracked by the issue of Andrew Gilligan's reporting of his contacts with Dr Kelly; and by the reaction of Alastair Campbell to those reports. Rather than a cool assessment of the evidence on which the Government decided to go to war, its report became largely a backdrop for the death of Dr Kelly and the Hutton Inquiry.

Jack Straw's answer to the request of the Chairman of the Foreign Affairs Committee for access to the Heads of the Security and Intelligence Service and GCHQ was to say that the 'intelligence aspects of this subject' should be dealt with by a different body, the Intelligence and Security Committee (ISC). This Committee was created under the Intelligence Services Act 1994. The Government claims it provides 'parliamentary oversight of the Secret Intelligence Service, GCHQ and the Security Service'.³⁰

It does not. While it is created by statute, and its members are drawn from both Houses of Parliament, it is appointed by and reports to the Prime Minister.³¹ It is therefore a hybrid. Crucially, the Prime Minister controls the publication of its reports.

²⁹ Ibid., para 171. See the Committee's comments following the publication of the Hutton Report, in its First Special Report of Session 2003-4, *Implications for the Work of the House and its Committees of the Government's Lack of Co-operation with the Foreign Affairs Committee's Inquiry into The Decision to go to War in Iraq*, HC 440, and below, footnote 62.

³⁰ www.cabinet-office.gov.uk/intelligence/.

³¹ See House of Commons Debate, 4 June 2003 col 188 for Jack Straw's defence of the view that the ISC is a parliamentary body – but also his admission that he would have preferred it to have been a Select Committee of the House of Commons.

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The ISC does enjoy considerably greater access to officials and to papers than the Foreign Affairs Committee. Its report, *Iraqi Weapons of Mass Destruction – Intelligence and Assessments*, was published on 11 September 2003. It was able to request and to receive the assessments of the Cabinet Office Joint Intelligence Committee (JIC) relating to Iraq and its Weapons of Mass Destruction. It took evidence from the Chairman of the JIC, John Scarlett; Sir David Omand, the Security and Intelligence Co-ordinator; Sir Richard Dearlove, the Chief of the Security and Intelligence Service, and Eliza Manningham-Buller, the Director General of the Security Service and a number of other officials who would be unlikely to have been allowed by Ministers to appear before a Select Committee.³² Not surprisingly, the Committee was able to scrutinise the way in which intelligence about Iraq and its intentions was assessed far more effectively than the Foreign Affairs Committee had done. Yet it stepped back from making the essential political judgement: whether, on the basis of the available intelligence evidence, the decision to invade Iraq was justifiable.

Since the war, other Commons Select Committees have been active in inquiring into Iraq.³³ Principal among them has been the Defence Committee, whose inquiry into the performance of the UK military in Iraq, *Lessons of Iraq*, was an exhaustive affair of well over 500 paragraphs, published in March 2004. The Committee held 19 sessions of evidence involving 48 witnesses, a large proportion of them serving officers and civil servants. It benefited from the publication by the Ministry of Defence, in July and December 2003, of two summaries of its assessments of military performance during the war. The Defence Committee

³² Intelligence and Security Committee, *Iraqi Weapons of Mass Destruction – Intelligence and Assessments*, September 2003, Cm. 5972.

³³ The International Development Committee took evidence on Iraq on 18 September and 18 December 2003: International Development Committee, Minutes of Evidence, Session 2002-03, HC 780 & HC 1116-i.

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had greater access to officials and information than the Foreign Affairs Committee was able to obtain – no doubt explicable by the less directly political content of its interests. Nevertheless, they complained in their report that the Ministry of Defence had:

...failed to provide us with certain documents which we have requested and has demonstrated on occasion less co-operation and openness than we have the right to expect as a Select Committee of the House of Commons.

In particular, they complained that they were refused sight of the directives issued by the Chief of Defence Staff to commanding officers, the Rules of Engagement under which British forces fought, and the ‘Lessons learned’ reports produced by senior officers involved in the war.³⁴

As with the Foreign Affairs Committee and the Intelligence and Security Committee, the Defence Committee found itself with much poorer access to information than a non-parliamentary body. As the Defence Committee complained when they were refused them, the NAO benefited from being able to read the ‘Lessons learned’ reports as it prepared its own report, published in December 2003, examining in detail the performance of British equipment and logistical support during the war.³⁵ It had also been able to ‘examine a wide range of documents relating to the planning and deployment phases of the Operation’.³⁶ Though finding the operation a ‘significant military success’, the NAO identified a number of logistical problems associated with the way in which the Ministry of Defence maintains its operational stocks of equipment.

³⁴ Defence Committee, Third Report of Session 2003-04, *Lessons of Iraq*, HC 57, paras 17, 21.

³⁵ National Audit Office, *Operation TELIC: United Kingdom Military Operations in Iraq*, Session 2003-04, HC 60.

³⁶ P. 44 *ibid.*

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Extra-parliamentary enquiries: Hutton and Butler

The contrast between the information made available to Parliament and that made available to extra-parliamentary inquiries has been most striking in respect of the investigations by Lords Hutton and Butler. The massive volume of evidence received by Lord Hutton, most of it made public by his inquiry, provided a window on the operation of government decision-making which no Select Committee inquiry has been able to accomplish. However, the inquiry, set up on 18 July, immediately after the discovery of Dr Kelly's suicide, was given a narrow remit from the Secretary of State for Constitutional Affairs, Lord Falconer, limiting it to 'the circumstances surrounding the death of Dr Kelly'.

Lord Hutton decided to stay well within the paper bag in which he had been put. He interpreted his terms of reference narrowly. For example, he concluded that the controversy over the evidence for Weapons of Mass Destruction presented in the Government's dossier of September 2002 did not fall within his terms of reference. Nor did the question of whether the evidence was 'of sufficient strength and reliability to justify the Government in deciding that Iraq under Saddam Hussein posed such a threat to the safety and interests of the United Kingdom that military action should be taken against that country'.³⁷

Lord Hutton's conclusions scarcely touched on the crucial issues of peace and war that most concern the public, largely accepting the Government's case relating to the drafting of the dossiers of September and February and the subsequent furore in the media. However, the inquiry's exemplary policy, of publishing the evidence that it reviewed, at least allowed people to glimpse how the Government had drawn its conclusions and taken its decisions. Bearing in mind his very limited brief, and his strict

³⁷ *Report of the Inquiry into the Circumstances surrounding the death of Dr David Kelly CMG*, HC (2003-04), 247, p. 2.

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interpretation of that brief, his conclusions were reasonable. Yet they were largely irrelevant to the main debate about the war – whether the Government was justified in taking the military action it took, based on the available evidence.

On 3 February 2004 the Prime Minister was forced, largely by evidence given to a Senatorial Committee by David Kay, to accede to the establishment of another Committee to review intelligence on weapons of mass destruction, under the chairmanship of Lord Butler of Brockwell, the former Cabinet Secretary.

The Review was the Government's response to the increasing disquiet about the failure of the coalition to find the Weapons of Mass Destruction in Iraq – the Government's stated *casus belli*.³⁸ It was charged to:

...investigate the intelligence coverage available on WMD programmes of countries of concern and on the global trade in WMD, taking into account what is now known about these programmes; as part of this work, to investigate the accuracy of intelligence on Iraqi WMD up to March 2003, and to examine any discrepancies between the intelligence gathered, evaluated and used by the Government before the conflict, and between that intelligence and what has been discovered by the Iraq Survey Group since the end of the conflict.³⁹

This Committee represents a further distancing of the process of scrutiny of the war away from Parliament. Though its members included two Members of the House of Commons – also members of the Intelligence and Security Committee – and two members of the House of Lords, it could scarcely be called a Parliamentary Committee. Its credentials in that respect were even worse than those of the Intelligence and Security Committee.

³⁸ HC Debate, 3 February 2004, c. 624.

³⁹ <http://www.butlerreview.org.uk/procedures>.

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Like the Hutton Inquiry and the ISC, the Butler Review was granted access to the papers and personnel of government. No Select Committee has had the same access. The Butler Review interviewed many of the important figures, both in the UK and the US, and could call for the essential documents. The flaw in the Butler Review – as with the Hutton Inquiry and the ISC's inquiry – was what it was allowed to do with the evidence it had amassed. Lord Butler's remit appeared to be specifically designed to prevent any attempt to examine the decisions of Ministers and senior officials.

Michael Howard, the Conservative leader, withdrew the Party's support from the inquiry at the beginning of March 2004, because it would be concentrating on 'structures, systems and processes', rather than reviewing the actions or omissions of individuals. It seems he was misled into believing that the word 'used' in the terms of reference enabled Lord Butler to examine the use to which intelligence had been put by individual politicians and civil servants. A letter (4 February 2004) from Michael Howard to Lord Butler, the press release put out by the Butler Review (12 February 2004) and Michael Howard's letter to the Prime Minister (1 March 2004) reveal the different interpretations of the Chairman's role.⁴⁰

Sure enough, while the Butler Review's criticism of processes and systems with government have been trenchant, it did not – and could not – provide a verdict on the wisdom or otherwise of those taking the decisions to support the US in the war.

The extra-parliamentary Hutton and Butler Inquiries and the semi-parliamentary process of the ISC, have both been much more successful than any parliamentary body at obtaining information from the Government. Both Hutton and Butler revealed a dysfunctional government in which well-established decision-making processes had given way to the informality –

⁴⁰ See Appendix III.

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some have called it chaos – of the Blair system, with its massive increase in the number of political appointees in posts formerly held by civil servants, particularly at Number 10. The mandarin's language scarcely disguises Lord Butler's criticism:

We are concerned that the informality and circumscribed character of the Government's procedures which we saw in the context of policy-making towards Iraq risks reducing the scope for informed collective political judgement. Such risks are particularly significant in a field like the subject of our Review, where hard facts are inherently difficult to come by and the quality of judgement is accordingly all the more important.⁴¹

Lord Butler's point about the machinery of government is well made: the by-passing, or dismantling, of previously well-understood structures for making such judgements may have contributed to the mistakes made in the use, or abuse, of intelligence. Whether a return to Cabinet government, implied as preferable by Lord Butler, would have added much is less clear: a War Cabinet, such as created by Mrs Thatcher during the Falklands War might have helped. Lord Butler has dug deep and his Report may have a more lasting resonance than Lord Hutton's, more akin to the Franks Inquiry than anything produced by Parliament. These extra-Parliamentary bodies found out much that Parliament never could. Even so, the Hutton and Butler inquiries were still defective in that they were unable to explore the broader question for which the public really want an answer: was the Prime Minister's judgement right in taking Britain to war?

⁴¹ *Review of Intelligence on Weapons of Mass Destruction*. Report of a Committee of Privy Councillors, Chairman the Rt Hon Lord Butler of Brockwell, 14 July 2004. HC. 898, paragraph 611.

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Only, it seems, when the inquiry is conducted by someone outside the political process will the Government allow reasonable access to the required information. Yet this is permitted only under terms and conditions which make it difficult to make the necessary political judgements. In this case, the Government's ability to control the terms of any inquiry, parliamentary or judicial, appears to have stifled government by explanation. Yet, the sense that the Government may have been less than frank, both before and after the war, is now widespread.

Trust in the political process, and particularly trust in the Prime Minister, has taken a severe knock.⁴² The Government has probably paid just as high a price by its blocking tactics, and the appearance of having the truth dragged out of it, as it might have done had it co-operated much more fully in Parliamentary Committee scrutiny. Both the Executive and Parliament have been casualties.

⁴² See, for example, the YouGov poll in *The Sunday Times*, 18 July 2004. 57 per cent of those polled said that they would not trust the Prime Minister to take the country to war again, a sharp fall since March 2003, when 50 per cent approved of the decision to go to war.

CHAPTER FOUR

THE US CONGRESS AND THE IRAQ WAR

HAS CONGRESS DONE BETTER? The US Congress is a legislature for a very different constitution. However, it has many similar functions to the UK Parliament and it was faced with exactly the same issues, before and after the war in Iraq. US public opinion was more solidly behind the war and there was much less doubt about obtaining the support for it from Congress than there was about the reaction within the UK Parliament. Both Houses of Congress passed Resolutions in support of military action in October 2002 – albeit with significant minority opposition.⁴³

In contrast to Westminster, the main discussions on Iraq within the US congressional system have taken place in Committee. Committees of Congress fulfil a better established and more directly investigative function than those at Westminster. Their authority is supported by the fact that Congress, unlike Parliament (where the Government's majority holds sway), has meaningful control over departmental budgets including those of the intelligence community. Furthermore, they possess powers, staff and budgets way in advance of those held by Commons Select Committees. The standing Committees of the Senate and the House are charged with the duty of exercising 'continuous watchfulness' over the administrative

⁴³ The House voted 296 to 133 to give President Bush the authority to use US military force to make Iraq comply with UN resolutions; the Senate voted 77 to 23. See Appendix II for details of Congressional activity on Iraq.

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agencies operating in their field. They can subpoena evidence and cross-examine witnesses under oath. Their more substantive and generally accepted role, with greater powers to fulfil it, has two consequences relevant to the Iraq war.

First, Congress and its Committees have regular access to intelligence material. In the months leading up to the war with Iraq, the intelligence agencies supplied to Congress with both the National Intelligence Estimate on Weapons of Mass Destruction and three additional reports on Iraq. They went before the Intelligence Committees of both Houses, the Appropriations Committees of both Houses, the House International Relations Committee and the Senate Armed Services Committee.

Secondly, Congressional Committees are far more active and more deeply engaged with the Executive than Westminster Committees. For example, in the period between the beginning of 2003 and 20 June, Senate and House Committees held 20 formal meetings involving either secret briefings or open testimony on the subject of Iraq.

The Chairman of the House Armed Services Committee claimed in September 2003 that, in the previous twelve months, 44 separate classified briefings had taken place, either on the House floor or in the Committee's rooms, 'where members can engage directly with either the Secretary of Defense personally or his senior civilian and uniformed advisers'.⁴⁴ In addition, several Committees had Iraq on their agenda on a number of other occasions, when they were considering draft resolutions or related matters.

In the aftermath of the war, from late May 2003, the debate in the US took a broadly parallel path to that in the UK. As in the UK, the disquiet felt about the reasoning and the intelligence which lay behind the decision to go to war earlier in the year had already resulted in a series of calls for information and for

⁴⁴ www.house.gov/hasc/pressreleases/2003/03-09-30hunter.htm.

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inquiries.⁴⁵ As in the UK, the debate became highly politically charged. It was increasingly apparent that the issue was not simply the quality of the intelligence provided by US and UK agencies, but also the use made of the intelligence by their respective Governments.

Two important congressional inquiries into the origins of the war were launched. The first was undertaken by the House Permanent Select Committee on Intelligence. Its Chairman and Ranking Democrat wrote to the Director of Central Intelligence (DCI) on 22 May 'that it is now time to re-evaluate US intelligence regarding the amount or existence of weapons of mass destruction (WMD) in Iraq and that country's linkages to terrorist groups, such as al-Qaeda,' and requested a response by 1 July 2003. It said that it intended to 'ensure that the intelligence analysis relayed to our

⁴⁵ In February, Congressman Kucinich called for the President to transmit to the House of Representatives documents in the President's possession relating to Iraq's declaration on its weapons of mass destruction that was provided to the United Nations on December 7, 2002 (House Resolution 68). In fact, the Department of State did transmit to the House a full and unedited copy of the Declaration, which was placed in the custody of the Permanent Select Committee on Intelligence because it has the facilities to handle classified documents. The Declaration, consisting of approximately 12,000 pages of documents, is classified secret and contains information relating to weapons design and weapons of mass destruction. It was available for review by Members, under a rule of the House governing access by Members to classified information. Representative Kucinich again sought information in late June, when he (with 41 co-sponsors) called on the President to transmit to the House documents or other materials in his possession relating to Iraq's weapons of mass destruction (House Resolution 260). In particular, he sought 'specific evidence' for ten claims made by senior administration officials – including the President, Vice President, Secretary of Defense and White House spokesperson – 'relating to Iraq's weapons of mass destruction.' The House International Relations Committee regarded the request as superseded by the inquiry held by the House Permanent Select Committee on Intelligence.

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policymakers from the Intelligence Community was accurate, unbiased, and timely.' Its review was to include an evaluation of the quality and quantity of sources and methods, an assessment of how and what analysis developed and whether it changed over time, and a study of any dissenting views that were developed in the intelligence community. In a press release of 12 June 2003, the Chairman and Ranking Minority Member announced their 'bi-partisan commitment' to the review, and noted that the DCI had offered the full cooperation of the Intelligence Community. The DCI was said to have provided a significant volume of information, containing highly classified information, to the Committee ahead of the requested date of 1 July. The Committee agreed to grant access to the information to any Member of the House, albeit under appropriate security conditions.

In July, the Senate Armed Services Committee requested information from the CIA on its assessments of the Iraqi weapons programmes. Although it did not ultimately carry out its own inquiry (leaving that to the Intelligence Committee), the ranking Democrat on the Committee, Senator Levin, announced his own inquiry, representing the minority in the Committee.⁴⁶

At about the same time that the House Intelligence Committee launched its inquiry, a similar investigation began in the Senate. The Senate's Select Committee on Intelligence announced in June that it would conduct a thorough review of the documented intelligence underlying the assessments that determined the existence and the threat posed by Iraq's Weapons of Mass Destruction. The press release issued by its Republican Chairman, Senator Pat Roberts, argued that calls for a formal investigation into the accuracy of the intelligence underlying pre-war assessments of Iraq's WMD capability were premature.⁴⁷

⁴⁶ *CQ Weekly*, 5 July 2003, p. 1701.

⁴⁷ <http://intelligence.senate.gov/030604.htm>.

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From the start, the Committee's inquiry was overshadowed by very different views of its aims and principal targets. Some argued that it was the intelligence gathering by the CIA itself, others that it was the use of the intelligence by the administration. Its vice chairman, the Democrat Senator John D Rockefeller, initially regarded the Committee's plans as inadequate. Senator Roberts, resisted the full investigation Senator Rockefeller demanded, which he argued would become highly politicised. Some progress was made: Democrats and Republicans agreed in their irritation with slow administration responses to their demands for information, writing a joint letter at the end of October to speed up its provision. However, tensions between Democrats and Republicans were evident over how far the Committee should take any confrontation with the administration. Relations within the Committee became truly frosty after a Democratic memorandum was leaked in November, possibly indicating the party's strategy to exploit the inquiry.⁴⁸

Under intense pressure from the Democrat minority, Senator Roberts agreed on 12 February 2004 to refine the terms of reference for the inquiry. The new terms of reference included 'whether public statements and reports and testimony regarding Iraq by US government officials, made between the Gulf War period and the commencement of Operation Iraqi Freedom, were substantiated by intelligence information'.

Remarkably, given the disagreements within the Committee, it did produce, in early July, an enormously detailed report of over 500 pages. The report showed the superiority of congressional committees over Westminster ones. The Committee's staff had, it said, read and analysed about 15,000 pages of intelligence assessments and reports provided by the Intelligence Community, had made 100 requests for further

⁴⁸ See *CQ Weekly*, 8 November 2003, pp. 2756-9 and 24 January 2004, pp. 227-8.

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information, and had received 30,000 more pages in response. It had interviewed more than 200 individuals. Even this committee, however, was thwarted in its attempts to obtain the Presidential Daily Briefs.

The Committee made a number of detailed and severe criticisms of the work of the Intelligence Community, including its tendency to 'group think', its lack of human intelligence and its failure to share intelligence. However, unsurprisingly, given the way in which much of the proceedings of the Committee had been overshadowed by party agendas, the Republican-led and dominated Committee avoided encroaching too far into questions of political judgement. Inasmuch as it made judgements, it largely exonerated the administration from impropriety in the use of intelligence and the treatment of intelligence officials.⁴⁹

For Democrats, this remained a bone of contention. As Senator Rockefeller said at the Committee's press conference for the report, 'after the analysts and the Intelligence Community produced an intelligence product, how is it then shaped or used and misused by the policy-makers?'"⁵⁰

The Senate Committee report is not the end of the story. As in the UK, with Hutton and Butler, the administration was forced into its own inquiry. The resignation of David Kay as special advisor to the Iraq Survey Group on 23 January 2004, and his evidence to the Senate Armed Services Committee, contributed to pressure for an independent review of the intelligence failures on both sides of the Atlantic. President Bush almost immediately conceded its establishment. On 6 February he issued an Executive Order for a Presidential Commission of Inquiry on the Intelligence Capabilities of the United States regarding Weapons of Mass Destruction. The Commission is due to report to the President by the end of March 2005, after the

⁴⁹ See www.intelligence.senate.gov/conclusions.pdf

⁵⁰ Reported in the *New York Times*, 9 July 2004.

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Presidential elections. The Commission has nine members. One of its co-chairmen is a Senator and a former member of the Senate Select Committee on Intelligence. Another is also a Senator and a current member of the Senate Armed Services Committee. The others are from the judiciary, military and academic communities.

The Commission has been widely seen as a creature of the President. The House minority leader, Nancy Pelosi, has described it as a ‘commission wholly owned by the executive branch, investigating the executive branch’.⁵¹ Some accuse the President of pre-empting any effort by Congress to create its own body by appointing the commission, and one with little expertise in intelligence matters that will not report until after the election. John Dean recently summarised this allegation in an interview:

They have mandated the commission to do everything but what was being demanded, namely, that it examine the role of the Bush administration in dealing with the intelligence that was collected, then exaggerated and manipulated. They have loaded the commission with work unrelated to the reasons the public (and Congress) sought the inquiry. Finally, they have created a study that will be reported only to the president (and vice president), so unless Bush decides to disclose its work, no one will ever know what was, or was not, done by this commission.⁵²

The Iraq Intelligence Commission contrasts with the National Commission on Terrorist Attacks on the United States, set up by Congress – despite White House hostility – to examine and report on the facts and causes relating to the 11 September terrorist attacks. The Commission originated in a joint inquiry of the House and Senate, completed at the end of 2002. The joint inquiry focused heavily on the work of the intelligence community.

⁵¹ *Washington Post*, 7 February 2004.

⁵² John W. Dean on CNN.Com, 20 February 2004.

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Of course, this had always been their intention, in conformity with their terms of reference. They never planned to examine the performance of the federal government as a whole. Nonetheless, the congressional inquiry is now widely seen to have failed to get at some crucial evidence – in particular the records of the National Security Council.⁵³ The joint inquiry also failed to obtain the President's Daily Brief of 6 August 2001, which appeared to foresee an attack by Bin Laden.⁵⁴

The National Commission has proved powerful and penetrative.⁵⁵ This bipartisan Commission is a creation of Congress and its members are largely appointed by senior members of the Senate and the House of Representatives, although the Chairman is appointed by the President. The Commission has been a thorn in the side of the administration, for example through the taking of evidence from Richard Clarke, the former White House counter-terrorism adviser. It also insisted on taking evidence from Condoleeza Rice, despite the convention that presidential staff are protected by executive privilege from being forced to appear before Congress.

These politically charged inquiries into the grounds and origins of the war have not been the only post-mortems. As in the UK, the legislature in the US has sought information on which to base a review of the performance of the military in the war. In September 2003, House Resolution 364, presented by Congressman Wexler, of Florida, called on the President to transmit to the House of Representatives a report prepared for the Joint Chiefs of Staff entitled, *Operation Iraqi Freedom Strategic Lessons Learned* and documents in his possession on the reconstruction and security of post-war Iraq. The *Lessons Learned* report is, as in the

⁵³ See evidence of Nancy Pelosi and Jon McCain to the 9-11 Commission, 22 May 2003.

⁵⁴ The Brief's title was 'Bin Laden: determined to strike in the US'.

⁵⁵ It was established under the Intelligence Authorisation Act for Fiscal Year 2003, which authorises appropriations to fund US intelligence activities.

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UK, a document compiled as a matter of course after major conflicts. The Armed Services Committee accepted the response of the Department of Defense that the report was still under preparation and would be released to the Committee when complete.

CHAPTER FIVE

PARLIAMENT AND CONGRESS COMPARED

ALTHOUGH CONGRESS has fared better than Parliament, neither institution appears to have performed its function of oversight of the Executive as fully or as effectively as the voter might hope.

The outward similarities between the efforts by Parliament and Congress to find out about the basis and the conduct of the Iraq war are striking. They illustrate the closeness of policy-making and politics in the UK and the US on Iraq. In both cases, Committees of the legislature launched their own inquiries into the intelligence failures which played so significant a part in the decisions to go to war. In both cases, those Committees were unable to make their inquiries effective, and were replaced by bodies nominated by the Executive. In both cases, the Opposition, though keen to have some form of external inquiry, resisted the format proposed by the Government. The reasons which led Michael Howard to withdraw support from the Butler Review match closely the reasons for the dissatisfaction of Democrats with the work of the Senate Intelligence Committee and of the Commission on the Intelligence Capabilities of the United States. In both cases there were inquiries by the Committees with functions of scrutiny over the military into 'Lessons learned' from the conflict. These, in turn were based on similar internal inquiries by the military bureaucracy of each country.

Despite complaints from Congressional Committees about the amount and quality of information they have received from executive agencies, they have succeeded in obtaining far more

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than Westminster Select Committees. Select Committee inquiries into the war were hampered by a lack of access to hard information. Only non-parliamentary bodies – the Intelligence and Security Committee, the Hutton Inquiry, the Butler Review – have been permitted access to the reports of the Joint Intelligence Committee, or to documents relating to the intelligence and diplomatic activities which were the vital background to the decision to go to war. Essential information, required to subject arguments to strong and searching scrutiny, was withheld from MPs and their Committees by the Executive.

The problem with the Congressional Committees has been party political. Rigorous scrutiny has been compromised by the promotion of party advantage – or attempts to limit party damage – on both sides. The notion that Congress's greater access to information, and its power of sub-poena, enable it to perform a far more effective scrutiny role than Parliament, therefore needs heavy qualification. Highly partisan disputes in Committees have led Congress to fall short. A Democratic-dominated Congress might have delved much deeper, and to greater effect, although a charge of partisanship might have stuck.⁵⁶

As for Parliament, the Iraq war has illustrated the difficulty in ensuring that government by explanation can be made fully effective. Parliament extracted an explanation for war with Iraq prior to the conflict. Parliament and the public were told that the intelligence services had identified a major and imminent threat and that Saddam Hussein's possession of that threat put Iraq in breach of international law. Much of that explanation now appears threadbare in the light of evidence garnered in Iraq since

⁵⁶ Parliamentary Committees are, of course, equally political, sometimes more so and there have been political divisions within them, including within the Foreign Affairs Committee. For example, there were 15 divisions on the Committee's Report on the *Decision to go to War in Iraq*: see the Formal minutes of the Committee's meeting on 3 July 2003, published with the report.

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the war. Yet Parliament has still not succeeded in obtaining and publishing all the information necessary to form a clear view on the crucial question of whether Tony Blair was right to commit the UK to war.

Between all of the inquiries and reports, in Britain and in America, within the legislatures and outside them, there has been no comprehensive attempt, on either side of the Atlantic, to audit the war and the decision-making process that led up to it. It has taken over 15 months to get near the answers to these essential questions:

1. Was the UK, or the US, under direct and imminent threat from Iraq, in particular through Saddam's possession, deployment and use of Weapons of Mass Destruction?
2. If Iraq did not possess Weapons of Mass Destruction, what had caused the assessment of US and UK intelligence agencies to be so wrong?
3. Was the UK, or the US, under a general or longer-term threat from Iraq? Is there evidence that Saddam Hussein was planning to cause harm to either country?
4. Were there links between Iraq and the international terrorist organisations, particularly al-Qaeda, behind September 11?
5. Were there links between Iraq and other terrorist organisations, such as Hezbollah? To what extent did these prejudice our interests or threaten us?

The following questions have been answered either inadequately or scarcely at all:

6. What pre-war assessment was made of Iraq's requirements for reconstruction after the defeat of Saddam Hussein? Was a prolonged military occupation envisaged?

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7. What did the British Government, and US administration, consider to be the prospects for the establishment of a democracy?
8. What pre-war assessment was made of the likely effects on British and American interests in the Middle East of a prolonged occupation?
9. What pre-war assessment was made of a prolonged occupation on Muslim opinion outside the Middle East, including domestic Muslim opinion?
10. What pre-war assessment was made of the effects of the Iraq invasion and occupation of Iraq on efforts to achieve a settlement of the Palestinian question?
11. What assessment was made of the effects on British and American interests of the divisions in the Western alliance caused by the invasion?
12. What assessment has the British Government, and the US administration, made of the likely effects of the invasion of Iraq on relations with other so-called rogue states?

Of course, some may never be definitely answered. Nonetheless, the case for Parliament trying to establish the answers to such questions is strong. If Parliament did not do as well as might be hoped, how can it do better in future?

CHAPTER SIX

IMPROVING PARLIAMENT'S PERFORMANCE

THE MAIN OBSTACLE to effective scrutiny is common to both Congressional and Parliamentary systems. It is partisanship. Party politics is rarely far away. Any attempts to improve Select Committees' access to papers and officials, or to put the detailed and penetrative inquiry germane to Select Committees nearer the centre of Westminster's political life, needs to reflect the limits posed by partisanship. This is why Select Committees will never have the authority, or the will, to do everything that a constitutional purist might hope for them. As already discussed, partisanship is also the main reason why the Congressional model offers less guidance for Westminster than many suppose.

It was precisely because of the tendency for Select Committees to become immured in partisan politics that Westminster long ago abandoned Select Committees as a routine response to major failures or controversies in matters of public policy. The Select Committee investigation into the Marconi share-dealing scandal of 1913, which split on party lines and was regarded as having illustrated the impossibility of guaranteeing an impartial result, discredited the system. The 1921 Tribunals of Inquiry (Evidence) Act was meant to introduce a new one which would be thorough and impartial. Although use of the 1921 Act system has not been invariable, extra-parliamentary inquiries have been, and continue to be, the most common means to establish facts and propose remedies in cases where public policy is seen to

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have failed. The Harold Shipman murders, the 2001 outbreak of Foot and Mouth disease and the Hillsborough disaster were handled in this way.

At first glance, it might appear that such extra-parliamentary *ad hoc* enquiries would do a better job than semi-partisan Select Committees. Not necessarily so. These inquiries, independent and non-partisan as they are, are easily open to manipulation. Both the Hutton and Butler Inquiries are examples. In cases where revelations may cause damage to the Government of the day, the Government may seek to limit the inquiry's terms of reference to those matters which will cause the least pain. For all their personal independence, both the Hutton Inquiry and the Butler Review were given restrictive terms of reference which limited their ability to probe into political, rather than administrative, failures.

Despite partisanship, something can still be done to improve Select Committees, in particular:

- greater independence from the whips by reforming the methods by which members, and particularly Chairmen, are nominated;
- greater powers of access to information and witnesses;
- greater prominence of Select Committees in the work of the House.

Appointing Select Committee Chairmen

The single most important decision for the effectiveness and independence of Select Committees is the choice of Committee Chairmen. Despite appearances, Select Committees at present vote for the whips' nomination at their first meeting. This system has survived despite a number of high-profile rows on the issue. The exceptions largely prove the rule: most notably the Whips' failure to nominate again the previous Chairmen Gwyneth

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Dunwoody and Donald Anderson to their respective Committees at the beginning of the 2001 Parliament.⁵⁷

Election of Select Committee chairmen by the whole House, by secret ballot, would end *de facto* appointment of Chairmen by the party whips. The political hue of each Committee Chairmanship should be decided, as now, in horse-trading in the 'usual channels', but the choice of individual should be left to MPs. Election of Chairmen by the whole House could enable Chairmen to act more as Chairmen of Congressional Committees act – as spokesmen for the House as a whole on the subject they cover. In addition, the identity of the Chairmen of the Select Committees is particularly important as they sit on the Liaison Committee which examines the Prime Minister.

Selection of Select Committee Membership

Select Committee membership nomination procedures are also important. In July 2001, the House itself underlined the discontent felt about the abuse of nomination procedures by the whips by rejecting the Committee appointments made by the Committee of Selection. A series of reports carried forward similar proposals for ensuring that the process of appointment to Select Committees would be independent of the whips. The Modernisation Committee in the 2001-2 Session recommended the creation of a Committee of Nomination to oversee the process, made up of very senior backbenchers drawn from the Chairmen's Panel, although it still envisaged that the nominations themselves would come from the parties – and presumably still be subject to pressure from the party hierarchy. The Committee of

⁵⁷ There have been other cases where the whips' efforts to impose a Chairman on Select Committees have failed – for example the election of Robert Adley as Chairman of the Transport Committee in 1992. Sir Nicholas Winterton, however, has generally been seen as having been deliberately removed from the Health Committee in 1992 in order to prevent him from chairing the Committee.

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Nomination, the Leader of the House said, 'will not be a court of first instance and it will not have the initiative to decide who should be on the lists, but it will be a court of appeal and be there to ensure that fair play is observed in each of the parties'. Regrettably, however, even this modest reform was rejected – narrowly – by the House itself in May 2002.⁵⁸ This defeat was widely held, albeit on anecdotal evidence, to have been the product of some intense activity by whips, and former whips, of both major parties.⁵⁹

Access to papers and people

What can be done to secure greater access to information and papers by Select Committees? On this Select Committees do far less well than their Congressional counterparts. Whereas Westminster Committees have been refused direct access to the UK intelligence services, the Senate Committee on Foreign Relations and the House Committee on Armed Services are able to obtain regular evidence from the US secret service agencies, the CIA and DIA.

Congressional Committees normally seek information or documents from branches of the Executive by request. By and large, it is given after some discussion, and often subject to some conditions. Where a Congressional Committee's request is denied, it is open to them to force testimony and the release of documents through the use of subpoenas. Normally they can obtain what they want without them. Nonetheless, where subpoenas are issued, the federal courts normally treat them with respect. Each House and Senate Committee has the power to issue subpoenas to require the production of documents and the attendance of witnesses on matters within the Committee's jurisdiction. Once issued by the

⁵⁸ The vote was lost by 14 votes.

⁵⁹ House of Commons Debates, 14 May 2002, cols. 716-20.

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Committee, they have the same authority as if they were issued by the House itself.⁶⁰

By contrast, access to information for Select Committees remains a source of frustration. Parliamentary Committees are given, in the Standing Order which sets them up, powers to 'send for persons, papers and records'. In theory this is an extensive power. A witness who is formally summoned by a Committee but fails to attend commits a contempt of the House, and may be summoned by the House to attend at the bar. However, Members of either House, including Ministers, may not be formally summoned to attend as a witness before a departmental Select Committee. Civil servants, though not shielded formally, are protected from inquisition by the fact that the House – in practice, the Government majority – is unlikely to accept a complaint from a Committee. The House is equally unlikely to order a witness to appear if the witness is a servant of the government of the day, with a majority in the House. The ability of departmental Select Committees to obtain evidence from Ministers and from civil servants has long been a source of difficulty in the relationship between Select Committees and the Government.

Access to written material is equally problematic. An interesting paper recently prepared for the Liaison Committee contrasted the amount and quality of information provided to the Hutton Inquiry with that normally given to Select Committees. It said that:

a Select Committee would not be given the *form* of documentary evidence supplied to Hutton: most strikingly perhaps the correspondence or loose minutes between senior officials and the mass of emails, which constitute the richest

⁶⁰ Louis Fisher, *Congressional Investigations: Subpoenas and Contempt Power*, Congressional Research Service, the Library of Congress, April 2003, pp. 8-9.

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source for an audit trail... a Select Committee would not be given the *nature* of documentary evidence supplied to Hutton, much of which would fall into the categories of advice to Ministers, or paper whose release would adversely affect the candour of internal discussion, where release would be blocked under the terms of the 1997 Code of Practice... a Select Committee would not be given (and might not ask for) *documentary evidence* as opposed to information'.⁶¹

The inability of Select Committees to obtain any such detailed information, even on a confidential basis, from the Government now looks peculiar and old-fashioned. The Hutton Inquiry had far greater access to documents. Most of those published were only very lightly redacted.

The point was heavily underscored by the Foreign Affairs Committee when it produced a special report after the publication of Lord Hutton's conclusions. They listed, impressively, the witnesses and evidence which Hutton and the Intelligence and Security Committee had been able to secure, and those which the Foreign Affairs Committee had not. They pointed out that:

The Government chose to cooperate with Lord Hutton's Inquiry in ways in which it did not cooperate with a Select Committee of the House.⁶²

⁶¹ 'Scrutiny of government: select committees after Hutton: note by the Clerks', Liaison Committee, 8 January 2004: www.publications.parliament.uk/pa/cm200304/cmselect/cmliaisn/memo/memo.pdf.

⁶² Foreign Affairs Committee, First Special Report of Session 2003-4, *Implications for the Work of the House and its Committees of the Government's Lack of Cooperation with the Foreign Affairs Committee's Inquiry into The Decision to go to War in Iraq*, HC 440m paras. 12, 13. The witnesses who gave evidence to the Intelligence and Security Committee but not to the Foreign Affairs Committee were: the Prime Minister; the Security and Intelligence Co-ordinator; the Chairman of the JIC; the Chief of Defence Intelligence; the Head of the SIS; the Director of GCHQ. The witnesses who gave evidence to the Hutton Inquiry but not to the

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It also repeated the charge that the continued refusal by ministers to allow the Committee access to intelligence papers and personnel, on this inquiry and more generally, was hampering it in the work which Parliament had asked it to carry out.

The Freedom of Information Act, due to come into force in 2005, gives only a very limited promise of greater openness to come. Given the exemptions provided in the Act, as well as experience elsewhere, there is not much reason to expect that it will enable Select Committees to gain greater access to information, without fighting hard. Nonetheless, things just might change. When the Liaison Committee discussed this point with the Prime Minister at their meeting on 3 February 2004, he agreed to undertake a review within government of its guidance to officials on the availability of witnesses and evidence.⁶³

If Committees do obtain concessions they will need to show that they can use the information responsibly, particularly if they try to develop in the direction of Congressional Committees, which enjoy privileged access to a great deal of confidential information. Select Committees' access to information must not come at the price of inhibiting civil servants from providing frank written and oral advice. Policy formulation has to be conducted privately if it is to be of high quality. Only by reassuring the Executive on such points are parliamentary Committees likely to extract concessions, or to deserve them.

Committee were the Prime Minister; the Security and Intelligence Co-ordinator; the Chairman of the JIC; the Head of the SIS. The evidence which the Committee requested but did not receive, but which was provided to Hutton and the ISC, consisted of: drafts of the September 2002 dossier; JIC assessments; other records relevant to the dossier and the assessment of WMD threats.

⁶³ See Liaison Committee, *First Report of Session 2003-04*, HC 446, paras 87-100; the undertaking was repeated by the Leader of the House a couple of days later. However, the Prime Minister at the Liaison Committee meeting in July 2004 indicated that they would need to wait until September for a response.

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There is much that could be done by Select Committees themselves to assuage some of the fears of governments about the misuse of classified information. This can be done, among other things, by developing effective protocols, in collaboration with government departments and agencies, for the handling of such information. Such formal protocols exist within congressional rules in respect of the Committee tasked with handling particularly sensitive matters, the House Committee on Intelligence. The rules specify, for example, the levels of approval required for the disclosure of classified material.⁶⁴ Some Committees come to specific agreements with government agencies over the provision of individual items of information.⁶⁵ There seems no reason why similar arrangements cannot be put in place under Standing Orders, or some form of concordat between Government and Parliament. The specific conditions would no doubt have to vary according to the circumstances concerned, but a general arrangement could be set up to govern access to confidential papers, and to ensure that there are sanctions in place for those members who breach certain set conditions on access to confidential information.

Select Committees' standing in the House

Committees also need to assume greater importance within the work of the House. Congressional Committees achieved more than their Westminster counterparts during the war, and the period leading up to it, because they are an integral part of the

⁶⁴ See *Rules of the House of Representatives 108th Congress*, Rule 10 (11)(c)-(h).

⁶⁵ See, for example, the agreement reached between the Chairman of the House Science Committee and the Columbia Accident Investigation Board (CAIB) allowing access to 200 confidential interviews conducted by the Board, which restricts access to specific Committee members and designated staffers: House Science Committee, press release, 13 June 2003.

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work of Congress as a whole, not just an afterthought, achieved after decades of wrangling.

It is true that Select Committees are slowly evolving for the better. Over the last few years, they have come to meet much more frequently and are achieving more than they used to 10 or 15 years ago. The Liaison Committee has learnt from its early experiences of questioning the Prime Minister, and has worked at co-ordinating its questions and focusing more closely on the themes that it covers. In its February 2004 session, the Committee selected three themes. The Committee split into groups, each dealing with one of the themes, and each meeting beforehand to discuss the approach to be taken. In its July 2004 session, it adopted a similar approach.

The Committee could and should become a powerful agent of accountability. A measure of the ease with which Parliament has been by-passed by a media-sensitive Number 10 was the instigation of monthly Prime Ministerial press conferences. MPs, not the press lobby, should provide the monthly cross-examination. A measure of the extent to which the Liaison Committee succeeds will be whether it can, at least to some extent, supplant these press conferences.

Overall, Select Committees are becoming one of the most important activities for many Members. But this is scarcely recognised in the role assigned to them within the House of Commons as a whole. Moreover, the frequency with which the Chamber itself meets makes it difficult for Select Committees to meet as often or as effectively as Congressional Committees. Too much emphasis is still placed on the often stylised gothic exchanges of an almost empty Chamber. They provide the form of executive scrutiny, at the expense of the substance.

The opportunities for debates on Select Committee reports remain limited: three days for consideration of the Estimates; six Thursdays in Westminster Hall. The Government has on occasion provided extra Thursdays in Westminster Hall for the debate of Select Committee reports. On some other days a Select Committee

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report may be 'tagged' to the Order paper to indicate its relevance to a debate – but this does not mean that the debate is held on the basis of the report.

There is a strong case for the work of the House of Commons to revolve more around its Committees and less around the floor of the House. That is the way that most democratic legislatures operate, where Committees prepare and assess business for the consideration of the House as a whole. This may be too radical an alteration in the working methods of the House of Commons to achieve quickly but movements towards it are desirable if effective scrutiny, proper government by explanation, is to be achieved.

CHAPTER SEVEN

CONCLUSION

THE IRAQ WAR was the most divisive event in British foreign policy since the Suez war.⁶⁶ Many people felt that the country had become involved in an invasion without clarity about the objectives. On top of that, doubts about the effectiveness of accountability within our political system were raised. In moments of national crisis, Parliament needs to articulate the electorate's concerns, and ask the electorate's questions. It must do what it can to establish, on behalf of the people as a whole, whether government policy is in the national interest.

It may sometimes be difficult, while a crisis is at its height, for Parliament to probe the nuances of government policy or for government to provide all the information which has led it to a particular decision. Much cannot be revealed without jeopardising intelligence sources, prejudicing the will of allies to take action or assisting a political, and possibly military, adversary. But after a war, much more should be possible. It is crucial to the resilience of a democracy that the electorate can have confidence in the action that has been taken, and the reasons for it. This can usually best be

⁶⁶ In mid March 2003, 54 per cent of those polled by MORI disapproved of the way Tony Blair was handling the Iraq crisis. The demonstration against the war in London, with a rally in Hyde Park on Saturday 15 February 2003, attracted what the police estimated was a crowd of 750,000. The organisers estimated a crowd of around 2 million. Police have said that it was Britain's biggest ever demonstration.

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achieved with a high level of transparency. The prospect of post-war transparency should also improve pre-war decision-making.

In the case of the Iraq war, the Governments of the United Kingdom and the United States have failed that challenge. Their efforts to thwart a full examination of the issues surrounding the war has damaged their credibility more than anything that was likely to have been revealed by it. Their determination to limit the access to information of any parliamentary or congressional inquiry and their care in ensuring that the remit of any independent inquiry excluded the most important judgements has prevented a thorough and comprehensive review of decisions. The lack of clarity and certainty about the reasons for the war, with one ally emphasising the WMD threat and the other regime change, the suspicion that (in the case of part of the US administration) there may have been a hidden agenda, and the apparent complacency about post-war reconstruction, have all eroded public confidence. The damage has been colossal.

First, the lack of candour has contributed to a loss of public confidence in our leaders, and in the decisions they took. The controversy over Iraq has extended the electorate's cynicism about domestic politics to the foreign arena. Second, it has further eroded respect for the political institutions, and particularly Parliament, whose role should be to ensure candour. Third, and most important of all, the erosion of public confidence in the decisions about Iraq has weakened our security. Both the Prime Minister and the President asked us to take the Iraq expedition on trust. In the event of a threat to our security in the future, which also asks us to rely on the judgement of our leadership, that trust will now be much less easily bestowed. Just as concerning, putative opponents will be able to see the weakness and exploit it. This is why the shortcomings of parliamentary scrutiny have not just weakened our democracy but also our security.

Both Parliament and the Executive now have an interest in repairing some of the damage. The erosion of trust, to which

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Parliament's relative failure to get at the truth has contributed, has weakened the Executive, at home and abroad, as well as Parliament.

The Executive can and should try to use Parliament more. It should be increasingly clear to them that their thinly disguised obstructionism has cost them more in loss of trust than it has gained them in embarrassment spared. The Executive would have done better, in this case, to have relied more on Parliament, and parliamentary Committees, and less on inquiries with tight terms of reference. The Government may have thought that with one bound Hutton had set them free. In fact, it reinforced public cynicism. David Kay's evidence to a Washington Committee soon forced the Government into another inquiry whose equally restrictive terms of reference they hoped would give them the same protection as they gave Hutton. It has not. Much better to have shown more candour from the start.

However, it is not all the Executive's fault. Parliamentarians need to show the Executive that they can be trusted. It needs to show that effective accountability does not mean that Parliament should take over the running of government. Parliament should have the maturity to recognise that governments need to be able to get on with their job. Government ought to have the maturity to trust a Parliament with the ability to review its work properly.

Iraq served to illustrate the importance of scrutinising power where it really lies. There is an inexorable logic trend in twenty-first century democracies towards presidential politics. Parliament must adapt, not rail against it or seek to prevent it. This is why the Liaison Committee's experiment with Prime Ministerial cross-examination before a Committee of MPs must be developed.

On both sides of the Atlantic, Parliaments are the fulcrum of intra-party politics. Intra-party democracy has its mechanisms for removing those leaders who have squandered trust in so spectacular a fashion. The leader's vital need to maintain the confidence of his or her party in Parliament has been the one

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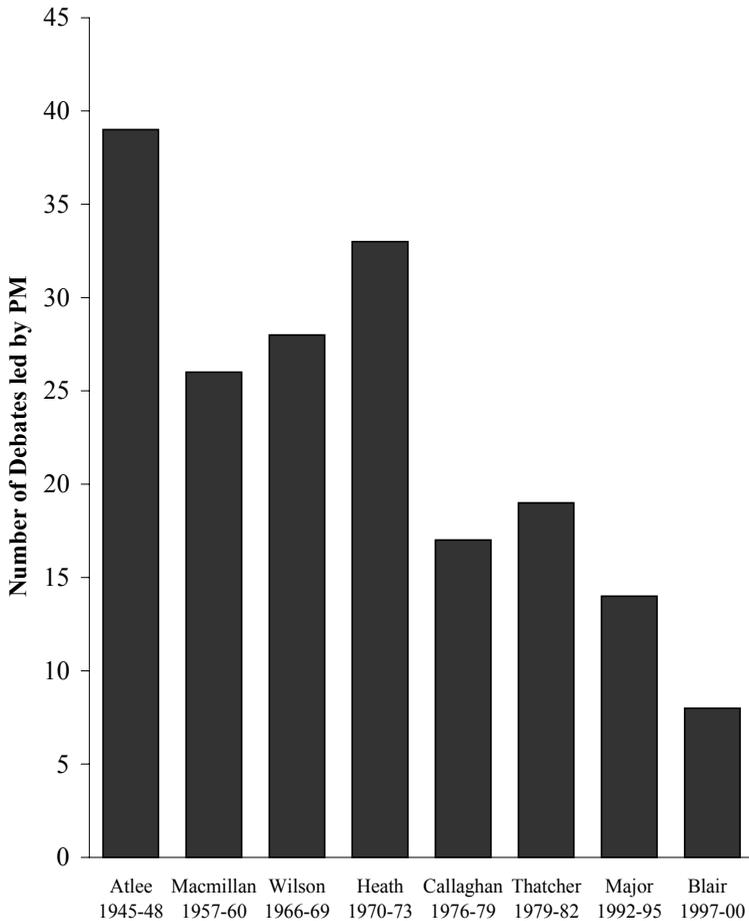
crucial factor that has tempered the power awarded to governments within the British system. It is no less vital within the American system, though in different ways. If those systems fail, the determined exercise of democratic power by the electorate will inevitably push aside the complex meanings and manoeuvrings of parliamentary action. It may make the arguments at Westminster once again seem as decoratively irrelevant as the Gothic façade of the Palace. And this underlines the essential point: Parliament's relevance to the electorate depends on making government by explanation a reality.

APPENDIX I

THE PRIME MINISTER'S PARTICIPATION IN PARLIAMENT

Figure 1

Number of debates led by Prime Ministers in their first three full Parliamentary sessions since 1945

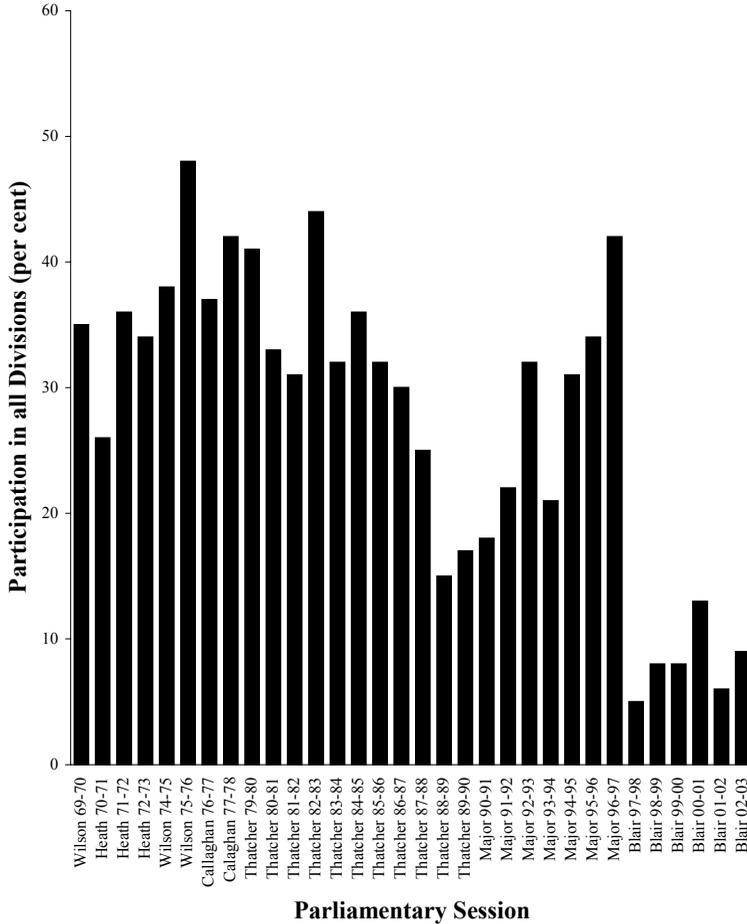


Source: House of Commons Library

THE PRIME MINISTER'S PARTICIPATION IN PARLIAMENT

Figure 2

**Prime Minister's Voting Records
for each Parliamentary Session since 1969**



Source: House of Commons Library

APPENDIX II

PARLIAMENT AND IRAQ: THE CHRONOLOGY

- 24 September 2002 Publication of the first Dossier; statement by the Prime Minister on Iraq and WMD and Debate on a motion for the adjournment.
- 7 November Statement by Foreign Secretary on negotiations in UN Security Council.
- 25 November Debate on a motion to support UNSCR 1441; Liberal Democrat amendment ‘and believes that any decision that Iraq is in material breach of Resolution 1441 is for the UN Security Council as a whole to determine and that no military action to enforce Resolution 1441 should be taken against Iraq without a mandate from the UN Security Council; and further believes that no British forces should be committed to any such military action against Iraq without a debate in this House and a substantive motion in favour negatived by 85 to 452; main question agreed to.
- 16 December Statement by the Prime Minister on European Council Copenhagen.
- 18 December Statement by Defence Secretary on preparations for military action against Iraq.
- 19 December Foreign Affairs Committee report on Foreign policy aspects of the war against terrorism published.

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- 7 January 2003 Statement by Defence Secretary on Iraq.
- 15 January Statement by Defence Secretary on missile defence.
- 20 January Statement by Defence Secretary on Iraq.
- 21 January Prime Minister gives evidence to the Liaison Committee; Statement by Foreign Secretary on global terrorism.
- 22 January Debate on motion for the adjournment on defence in the world; motion to adjourn negatived on division by 0 to 53.
- 30 January Opposition day debate (Conservative) on humanitarian contingency plan for Iraq.
- 3 February Statement by Prime Minister on Iraq and meeting with President Bush.
- 6 February Statement by Defence Secretary on Iraq.
- 13 February Statement by Foreign Secretary on Iraq.
- 25 February Statement by Prime Minister on Iraq.
- 26 February Second debate, motion to take note of Cm 5769 on Iraq; amendment proposed by Chris Smith MP, to add 'but finds the case for military action against Iraq as yet unproven' negatived 393 to 199; main question agreed to on division 434 to 124.
- 11 March Estimates Day Debate in the House on the War on Terrorism (initiated by the Foreign Affairs Committee, and relating to its Report on Foreign Policy Aspects of the War against Terrorism).

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- 12 March Publication of International Development Committee report on Preparing for the Humanitarian Consequences of possible military action against Iraq.
- 17 March Robin Cook resigns as Leader of the House; personal statement in the House.
- 18 March Third debate, motion to support decision of HMG to use all means necessary to ensure disarmament of Iraq's WMD; amendment proposed by Mr Peter Kilfoyle 'believes that the case for war against Iraq has not yet been established, especially, given the absence of specific United Nations authorisation; but, in the event that hostilities do commence, pledges its total support for the British forces engaged in the Middle East, expresses its admiration for their courage, skill and devotion to duty, and hopes that their tasks will be swiftly concluded with minimal casualties on all sides' negated on division, 396 to 217; main question agreed to on division 412 to 149.
- 20 March Air strikes on Iraq begin; Defence Secretary makes a statement on Iraq conflict.
- 21 March Defence Secretary makes a statement on Iraq conflict.
- 24 March Prime Minister makes statement on European Council in Brussels; International Development Secretary makes a statement on humanitarian situation.
- 26 March Defence Secretary makes a statement on Iraq conflict.
- 3 April Defence Secretary makes a statement on Iraq conflict.
- 7 April Defence Secretary makes a statement on Iraq conflict.
- 10 April Statements by Foreign Secretary and International Development Secretary.

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- 14 April Statement by Prime Minister.
- 28 April Statement by Foreign Secretary.
- 12 May Clare Short resigns as International Development Secretary and makes a personal statement in the House; statement by Foreign Secretary.
- 4 June Opposition day debate (Liberal Democrats), motion calling for an independent inquiry into the handling of intelligence received on WMD negated on division 301 to 203.
- 24 June Statement by Defence Secretary on incidents involving British forces.
- 3 July Statement by International Development Secretary; debate on motion for the adjournment on Intelligence and Security Committee.
- 7 July Publication of Foreign Affairs Committee Report on The Decision to go to war in Iraq, HC 813.
- 8 July Prime Minister gives evidence to the Liaison Committee.
- 15 July Dr Kelly's evidence to the Foreign Affairs Committee.
- 16 July Opposition day debate (Conservative) on motion welcoming Ninth Report from the Foreign Affairs Committee on the decision to go to war in Iraq, noting the Committee's reservations on access to information, calls on the government to set up a judicial inquiry; negated on division 200 to 299.
- 18 July Discovery of Dr Kelly's body, and announcement of the inquiry into the circumstances of his death.

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- 21 July Publication of Foreign Affairs Committee's First Special Report, *Evidence from Mr Andrew Gilligan to the Committee's inquiry into the decision to go to war in Iraq* (the Report was, however, published on the Web on 17 July).
- 31 July Publication of Foreign Affairs Committee report on Foreign policy aspects of the war against terrorism.
- 1 August Hutton Inquiry begins.
- 8 September Foreign Secretary makes statement on Iraq etc.
- 10 Sept Opposition day debate (Liberal Democrats) on motion on the role of the United Nations in Iraq negated on division 53 to 285.
- 11 September Publication of Intelligence and Security Committee report on Iraqi weapons of mass destruction.
- 22 October Opposition day debate (Conservative) on motion calling for the setting up of a comprehensive independent judicial inquiry into the Government's handling of the run-up to war, the war itself, and its aftermath and the legal advice which it received, negated on division 190-303; Government amendment agreed to on division 293 to 141.
- 23 October Debate on motion for the adjournment on defence procurement.
- 12 November International Development Secretary makes statement on Iraq.
- 9 December Publication of NAO report on Operation TELIC.
- 11 December Defence Secretary makes statement on Defence White Paper and report on Operations in Iraq.

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- 15 December Statement by Prime Minister on capture of Saddam Hussein.
- 13 January 2004 Opposition day debate (Conservative) on motion relating to NAO Report on Operation TELIC.
- 28 January Publication of the Hutton Report; Statement in the House of Commons by the Prime Minister.
- 2 February Publication of Foreign Affairs Committee report on Foreign Policy aspects of the war against terrorism.
- 3 February Statement by the Foreign Secretary on the establishment of the Review Committee on Intelligence on Weapons of Mass Destruction.
- 4 February Debates in the House of Commons and Lords on the Hutton Report.
- 24 February The Public Administration Select Committee announces an inquiry into Government by inquiry to include an evidence session from Lord Hutton.
- 15 March Publication of Defence Committee report, *Lessons of Iraq*.
- 18 March Publication of Foreign Affairs Committee report, *Implications for the Work of the House and its Committees of the Government's Lack of Co-operation with the Foreign Affairs Committee's Inquiry into The Decision to go to War in Iraq*.
- 19 April Prime Minister's statement on his visit to the US on 15-16 April and his discussions with the UN Secretary-General and President Bush on Iraq.
- 25 March Debate on a motion for the adjournment on defence policy, led by Geoff Hoon.

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- 13 May Evidence by Lord Hutton to the Public Administration Select Committee.
- 6 July Prime Minister's evidence to the House of Commons Liaison Committee.
- 14 July Publication of Butler Report into Intelligence on Weapons of Mass Destruction. Lord Butler's statement on publication followed by a statement from the Prime Minister to the House of Commons.

APPENDIX II: CHRONOLOGY

CONGRESS AND IRAQ: THE CHRONOLOGY

10 October 2002	House	Votes 296-133 to give President the authority to use military force to make Iraq comply with UN resolutions. Resolution requires the President to notify Congress before or within 48 hours after actually committing military forces against Iraq, and to report to Congress at least once every 60 days on the use of the powers.
10 October	Senate	Votes 77-23 on the same Resolution.
15 January 2003	Senate Committee on Armed Services	Briefing in closed session on Iraq weapons inspection process from CIA and DIA.
30 January	Senate Committee on Foreign Relations	Conclusion of hearings on UNMOVIC/IAEA Reports to Security Council on Iraq inspections, including evidence from US Permanent Rep to UNSC.

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11 February	Senate Committee on Foreign Relations	Conclusion of hearings on post-conflict situation in Iraq, including evidence from Dept of State and Defense.
26 February	Senate Committee on Armed Services	Briefing in closed session on planning for post-conflict Iraq.
5 March	Senate Committee on Foreign Relations	Briefing in closed session on developments in Northern Iraq and Turkish aid negotiations.
11 March	Senate Committee on Foreign Relations	Conclusion of hearings on post-conflict reconstruction in Iraq.
13 March	Senate Committee on Foreign Relations	Briefing in closed session on Iraq's political future.
27 March	House Committee on Appropriations: Foreign Operations Subcommittee	Hearing on supplemental request for Iraq, including Dept. of State testimony.
4 April	House Committee on Armed Services	Hearing on Iraq's violations of the Law of Armed Conflict, including Dept of the Army testimony.
10 April	Senate Committee on Governmental Affairs	Conclusion of hearings on Dept of Defense policies re Prisoners of War and Iraqi violations of Geneva Convention.
14 May	House Committee on Financial Services: Subcommittee on oversight	Hearing on 'Divesting Saddam'.

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14 May	House Committee on International Relations	Classified briefing on UNSCR on Iraq reconstruction.
15 May	House Committee on International Relations	Hearing on US Policy towards Iraq, with evidence from Dept of State.
22 May	Senate Committee on Foreign Relations	Hearing on Iraq stabilisation and reconstruction, with evidence from Dept of Defense (incl. Wolfowitz).
23 May	Senate Committee on Armed Services	Hearing on US policy and operations in Afghanistan and Iraq, with evidence from Dept of Defense (incl. Wolfowitz).
4 June	Senate Committee on Foreign Relations	Hearings on Iraq stabilisation and reconstruction.
4 June	House Committee on International Relations	Hearing on US Non-proliferation policy after Iraq, with evidence from Dept of State.
6 June	Senate Committee on Armed Services	Conclusion of closed hearings on Iraq Survey Group on Iraqi WMD, including evidence from the CIA and Dept of Defense.
12 June	Senate Committee on Foreign Relations	Conclusion of hearings on Iraq reconstruction.
12 June	House Committee on Armed Services	Briefing on Reconstruction and stabilisation operations in Iraq with Bremer, Administrator, Coalition Provisional Authority.

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11 June	Joint Economic Committee	Conclusion of hearings on reform of Iraq economy.
12 June	Senate Committee on Foreign Relations	Conclusion of hearings on Iraq reconstruction.
12 June	House Committee on Armed Services	Briefing on reconstruction and stabilisation operations in Iraq by Bremer, Administrator, Coalition Provisional Authority.
18 June	House Permanent Select Committee on Intelligence	Hearings on Iraq WMD.
19 June	House Permanent Select Committee on Intelligence	Hearings on Iraq WMD.
20 June	Senate Select Committee on Intelligence	Announces 'a review of intelligence regarding the threat posed by Iraq's weapons of mass destruction (WMD) program and Iraq's connections with terrorist groups'.
20 June	Senate Committee on Armed Services	Closed briefing on Iraqi reconstruction by Lt Gen Garner.
9 July	Senate Committee on Armed Services	Open and closed hearings on Afghanistan and Iraq.
10 July	House Committee on Armed Services	Hearing on Iraqi Freedom.

APPENDIX II: CHRONOLOGY

23 July	Senate Committee on Foreign Relations	Hearings on Iraqi Reconstruction.
24 July	House Permanent Select Committee on Intelligence	Hearing on Sufficiency of Intelligence on Iraq.
29 July	Senate Committee on Foreign Relations	Conclusion of hearings on Iraq Reconstruction.
31 July	Senate Committee on Armed Services	Closed briefing on Iraq Survey Group.
11 September	Senate Committee on Armed Services	Closed briefing on Lessons learned re. Operation Iraqi Freedom.
23 September	Senate Committee on Foreign Relations	Conclusion of hearing on Iraq Reconstruction.
24 September	Senate Committee on Foreign Relations	Conclusion of hearing on five year plan for current situation in Iraq; Hearing on democratic institutions in Iraq.
25 September	House Committee on International Relations	Hearing on US Policy toward Iraq.
25 September	House Committee on Armed Services	Hearing on US policy and operations in Iraq.
2 October	House Permanent Select Committee on Intelligence	Hearing on Iraq Weapons of Mass Destruction Update.

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2 October	House Committee on Armed Services	Hearing on Operation Iraqi Freedom.
3 October	Senate Committee on Armed Services	Closed briefing on interim report on Iraq's WMD.
8 October	House Committee on Armed Services	Hearing on Iraq: Reconstruction and rehabilitation.
17 October	House & Senate	Both Houses approve President's \$87 billion request for military and reconstruction efforts in Iraq and Afghanistan, though with reductions, and the conversion of part of the fund into a loan.
21 October	House Committee on Armed Services	Hearing on Operation Iraqi Freedom.
29 October	House Committee on Armed Services	Hearing on Iraq Reconstruction and Stability Operations.
20 November	House Committee on Armed Services	Closed briefing on current situation in Iraq from CIA.
21 November	House Permanent Select Committee on Intelligence	Briefing on Intelligence update in Iraq.
22 January 2004	Senate Committee on Armed Services	Closed briefing on military activities in Iraq and Afghanistan from DoD and Coalition Provisional Authority.

APPENDIX II: CHRONOLOGY

28 January	House Committee on Armed Services	Hearing on Operation Iraqi Freedom Force Rotation Plan.
11 February	House Permanent Select Committee on Intelligence	Hearing on Iraq Survey Group.
9 March	Senate Committee on Foreign Relations	Closed briefing on Iraq: transition to sovereignty.
30 March	Senate Committee on Armed Services	Closed hearing on the second interim report of the Iraq Survey Group.
20 April	Senate Committee on Armed Services	Hearing on US policy and military operations in Iraq and Afghanistan.
20-22 April	Senate Committee on Foreign Relations	Hearings on the Iraq transition.
21 April	House Committee on Armed Services	Hearings on Iraq's Transition to Sovereignty.
6 May	House of Representatives	Votes 218-201 to adopt a resolution (H Res 627) condemning the abuses at Abu Ghraib prison.
7 May	House Committee on Armed Services	Hearing on the ongoing investigation into the abuse of prisoners within the Central Command area of responsibility.
7, 11, 19 May	Senate Committee on Armed Services	Hearing on allegations of mistreatment of Iraqi prisoners.

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10 May	Senate	Votes 92-0 in favour of a resolution (S Res 356) denouncing the abuses at Abu Ghraib prison and calling for thorough investigations by both the Senate and the executive branch.
12 May	Senate and House of Representatives	Members of both Houses shown photographs of abuse of prisoners at Abu Ghraib prison.
13 May	House Committee on International Relations	Hearing on the Imminent Transfer of Sovereignty in Iraq.
18-19 May	Senate Committee on Foreign Relations	Hearings on Iraq's transition: the way ahead.
21 May	House Committee on Armed Services	Hearing on the Conduct and Support of Operation Iraqi Freedom.
16 June	House Committee on Armed Services	Hearing on the Status of Forces in Iraq After June 30.
17 June	House Committee on Armed Services	Hearing on the Training of Iraqi Security Forces.
22 June	House Committee on Armed Services	Hearing on Iraq Transition to Sovereignty.
23 June	Senate Committee on Foreign Relations	Closed briefing on Iraq: approaching June 30 th .

APPENDIX II: CHRONOLOGY

24 June	Senate Committee on Armed Services	Nomination of General George W. Casey, Jr., USA, for reappointment to the grade of general and to be Commander, Multi-National Force-Iraq.
25 June	Senate Committee on Armed Services	Hearing on transition to sovereignty in Iraq: US policy, ongoing military operations, and status of US Armed Forces.
7 July	House Committee on Armed Services	Hearing on the Iraq/Afghanistan Troop Rotation Plan.
9 July	Senate Select Committee on Intelligence	Report on the US intelligence community's pre-war intelligence assessments on Iraq (S. Rept. No. 108-301).
15 July	Senate Committee on Foreign Relations	Closed briefing on Iraq by the National Security Advisor.

APPENDIX III

MICHAEL HOWARD'S LETTER TO LORD BUTLER

THE RT HON MICHAEL HOWARD QC MP



HOUSE OF COMMONS
LONDON SW1A 0AA

LEADER OF THE OPPOSITION

Lord Butler of Brockwell, KG
University College
Oxford

4th February, 2004.

Dear Robin

I thought it would be helpful for you to know that the terms of reference for the inquiry, which was announced yesterday by the Prime Minister and which is being chaired by you, were changed following representations by me to the Prime Minister.

The changes reflected a specific assurance given to me by the Prime Minister that your committee would be able to consider the use made by the Government of the intelligence it received.

Following that assurance, the Prime Minister sent me proposed terms of reference for the inquiry. I attach what the Prime Minister sent me. I then proposed some amendments which the Prime Minister accepted and incorporated. You will, of course, be able to see what these are by comparing the attachment with the final terms of reference of the inquiry.

I am copying this letter to the Prime Minister.

A handwritten signature in black ink, appearing to read 'Michael Howard'.

MICHAEL HOWARD

MR BLAIR'S POODLE GOES TO WAR

Attachment to Michael Howard's Letter to Lord Butler

- To investigate the intelligence coverage available on WMD programmes of countries of concern and on the global trade in WMD, taking into account what is now known about these programmes.
- As part of this work, to investigate the accuracy of intelligence on Iraqi WMD up to March 2003, and to examine any discrepancies between the intelligence as gathered, evaluated and used by the Government before the conflict, and what has been discovered by the Iraq Survey Group since the end of the conflict.
- To make recommendations to the Prime Minister for the future on the gathering, evaluation and use of intelligence on WMD, in the light of the difficulties of operating in countries of concern.

APPENDIX III

MICHAEL HOWARD'S LETTER TO THE PRIME MINISTER

THE RT HON MICHAEL HOWARD QC MP



HOUSE OF COMMONS
LONDON SW1A 0AA

LEADER OF THE OPPOSITION

The Prime Minister,
10 Downing Street,
London SW1A 2AA

14 March, 2004

Dear Prime Minister

I am writing to let you know that I have decided to withdraw the support of the Conservative Party from the Butler Review of Intelligence on Weapons of Mass Destruction.

You will recall that we agreed the terms of reference for the Inquiry and I was satisfied that they provided a basis for a full and proper investigation into all aspects of the gathering, evaluation and use by the Government of intelligence on Iraqi weapons of mass destruction up to March, 2003.

It has since become clear, however, that Lord Butler has chosen to interpret his terms of reference in what I regard as an unacceptably restrictive fashion.

My concern arose when, on 12th February, the Butler Review announced that it "would focus principally on structures, systems and processes rather than on the actions of individuals". When I met Lord Butler five days later, I expressed my concern at this interpretation. I said that there was no justification in the terms of reference for concentrating more on structures, systems and processes than on the actions of individuals. In my opinion they should be given equal weight. My understanding during the course of our discussion at that meeting was that the Committee accepted this view.

However, the document which they issued on 26th February, which set out the procedures to be adopted by the Review, essentially repeats the statement of 12th February to which I took exception. It repeats, as one of its aims, its reference to structures, systems and processes. It does not

MR BLAIR'S POODLE GOES TO WAR



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include amongst its aims an examination of the acts or omissions of individuals. It makes clear that it will consider such acts or omissions only in the context of its examination of structures, systems and processes. There is no basis in the terms of reference for that view and I consider it a quite unjustifiable restriction on the Committee's approach.

After careful reflection of these matters, I have, therefore, decided with regret to withdraw my co-operation from the Butler Review.

If Michael Mates were to decide to continue to sit on the Review, he would be doing so in his personal capacity and not as a representative of the Conservative Party.

I am copying this letter to Lord Butler and releasing a copy of it to the press.

A handwritten signature in black ink, appearing to read 'Michael Howard'.

MICHAEL HOWARD

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Excerpt from Press release issued by the Butler Review on 12 February 2004.

Those appearing in person before the Committee will be questioned by the Committee, not by legal Counsel. The Committee will focus principally on structures, systems and processes rather than on the actions of individuals. The Committee will be willing to consider requests for the protection of the identity of individual witnesses.

APPENDIX III