

Part Two: The Response



Chapter 5— Rebalancing Power

It is one of the troubling ironies of recent British political history that just as the country's citizens expect to exercise more influence over the political decisions made in their name, the people who take those decisions have become more remote and less accountable. This is an unhappy paradox that cannot continue without serious consequences. Widespread and intense disenchantment with formal democracy may be just a foretaste.

A major trend of the British constitutional arrangements of the last two decades has been the way unelected and indirectly elected authority has gained powers at the expense of directly elected authority. There are four elements to this.

- The Executive has become more powerful at the expense of MPs in the House of Commons. In particular, the Prime Minister's Office and whoever the PM decides to gather around him or her, has become the most powerful political institution in British politics. Of course, this power is subject to the balance of political forces in the Cabinet and in Parliament and to the standing of the Prime Minister amongst the wider public. However, when those political forces are running in the Prime Minister's favour, the influence of No.10 may well be greater than it has ever been.

- **Central government departments have also become more powerful at the expense of local government over the last two to three decades.** A number of the powers to determine local services which once resided in the hands of councillors are now either directly administered or determined by central government departments or are directed by central government through tight control of finance and the enforcement of nationally set targets and guidelines.
- **Appointed authorities – quangos – have gained extra powers, particularly at the expense of local councillors.** Wide areas of public services which were once under the remit of a local council are now governed by committees appointed by ministers or other committees. In addition, business is widely cited by the public as having greater influence over government than citizens. This is an impression that has been enhanced by the increasing use being made of commercial organisations to deliver public services.
- **Supranational bodies and processes of international negotiation such as the European Union have gained extra powers and influence at the expense of nationally and locally elected representatives.** The direction and sometimes the detail of wide areas of policy are now heavily influenced by, or determined by, decisions taken by appointed officials working in supranational organisations or by politicians and civil servants in negotiations with their overseas counterparts.

The result of these shifts has been to make political decision-making more opaque, hidden and complex. It means that the people who take key decisions are more likely to be geographically, socially and politically distant from the people who are affected by their decisions. It also means that decision-makers are less directly account-

able to those who are affected by their decisions and rarely engaged in dialogue with them. The *Power* Commissioners saw at first-hand how a lack of real influence over decision-makers has become a primary cause of alienation from formal democracy, and recognise that those processes which have produced greater distance between governed and governors are a source of deep concern.

One key step in reducing this distance is to expand the capacity of elected power to scrutinise unelected and indirectly elected authority and to initiate change where those authorities refuse to act. In doing this, a basis may be provided for citizens to enter into a new dialogue with the holders of power and hold them to account. The introduction of greater scrutiny of the political firmament will also help citizens to see that power in Britain operates in accordance with the citizens' wishes.

However, for unelected power to be controlled in this way, we cannot stress strongly enough how important it is that such steps are accompanied by the reforms outlined in chapters 9 and 10. It is one of the abiding fallacies of the debate about declining participation in formal democracy that giving more powers to Parliament or local councils will of itself re-ignite engagement. This is massively to underestimate the degree to which citizens are alienated from their elected representatives, their democratic institutions and, in particular, the main political parties. It is also to ignore the fact that many citizens today want a far more focussed and direct say over specific policies than they currently enjoy.

If elected representatives are allowed more influence and authority but the dominance of the main parties remains unchallenged, the electoral system remains rigid and unresponsive, and the emphasis of our democracy remains upon representation rather than participation, then nothing will have been done to combat alienation. Power will simply have been redistributed from one distrusted set of politicians and institutions to another.

As such, we believe the changes proposed in this chapter are a necessary but far from sufficient set of reforms to re-engage citizens with formal democracy.

It is for this reason that we believe it is time to move on from the restrictions of the constitutional reform agenda developed in the 1980s and pursued primarily by the campaign group Charter 88 in the 1990s. Some of the proposals made below bear a resemblance to Charter 88's demands. However, we have only adopted that agenda in part: adapting and extensively developing it to ensure that its primary focus is about the re-engagement of citizens with formal democracy. This was never the primary focus of Charter 88's agenda. It may have been an aspiration or a hoped-for side effect but it was not the main goal. The constitutional reform agenda was chiefly about imbalances and injustices in the relationship between different elements of the polity but there is also a vital need to address, more directly and radically, the relationship between that polity and the citizen.

Returning Authority to Parliament

The expert evidence received by the Commission is clear. The Executive in Britain is now more powerful in relation to Parliament than it has been probably since the time of Walpole. The box provides comments from Parliamentarians to this effect from across the political spectrum.

Indicative quotes from parliamentarians about the rise of Executive power

You have what I can only describe as the contemptuous attitude of the Executive towards Parliament which was marked in Mrs Thatcher's day, then receded in John Major's day, then resumed, I think it's fair to say, under Mr Blair. ... It was the growth of the

concept of presidential Prime Ministers which, I think, is deeply unsympathetic to the process of parliamentary government. In other words, a President doesn't fit into parliamentary government and in order to make it fit into parliamentary government it requires the reduction of the Cabinet to essentially something of a sounding board and of Parliament to not much more than a rubber stamp. All that has happened since 1980/81.

Baroness Shirley Williams

Parliament has run away from its responsibilities in the sense that it should not allow its programme to be decided by the Executive. It should have a great deal more control over things like the membership of select committees and the way in which it scrutinises the Executive in general. It's run away from those things because the business managers, that is to say the whips, are very powerful. ... There are a large numbers of Members of Parliament who have taken eight years to discover that they had an individual right to behave in a particular way.

Gwyneth Dunwoody MP

My impression is that for at least two decades and possibly quite a lot longer, government control of parliament has been increasing. So I generally take the view that the power of the Executive over parliament has increased, is increasing and ought to be diminished. I am careful not simply to blame Labour. I think that we (Conservatives) in Government truncated parliamentary scrutiny, we guillotined bills, we briefed the media before Parliament was told about important policy developments, and we used the lobby system which is an enormous source of power and control for the Prime Minister of the day. There are very few new precedents in politics. That said I do think that it has got worse over the last eight years. The Labour Party seeing the attractiveness of circumventing Parliament, of using the vast resources of the civil service including

government department press officers, to get messages across, has naturally used those weapons. If you make those weapons available to a government and a government knows that using them will help it, and hinder its opponents, ministers are bound to do it. They are the political equivalent of rational economic actors who do what's in their financial interest. Ministers do what they judge to be in their administrative and political interest.

John Bercow MP

I think [executive dominance] has changed, in that Parliament has made changes to its rules; but those have until recently been done with the consent of the opposition. In other words, you didn't used to change how Parliament controls the Executive, without the opposition parties agreeing. And we did make changes; we had the Joplin reforms, but those were done in agreement with the Labour Party. What changed in 1997 was that, unilaterally, the party in control made changes to how Parliament processed legislation and now every bill is guillotined. There are more bills but less time to do them. So I think that there has been institutional change driven by the Executive which others probably wouldn't have agreed to, if it had been done in consultation with the opposition parties.

Sir George Young MP

I, as a parliamentarian, have a strong impression that, if anything, executive power has increased and parliamentary rights and checks and balances have declined. So, it is not my impression that we've been through a period of democratisation. ... I believe in representative government. I think there should be proper debate and not just the occasional rebellion. I certainly see as many changes towards uncontrolled executive power than in the other direction.

Lord Dahrendorf

Parliament is basically run by the Executive; what the Executive

wants they get through. It's less than two years since I was elected and I feel remarkably cynical about press rumour about rebellion. There may be a great deal of rumour that all these Labour MPs are suddenly going to rebel and vote the way their consciences say they should but, in practice, the rebellion always falls just short of what the Government fears. ... I feel less positive about being able to engineer cross-party support to oppose things that are clearly wrong. And that's a frustration to me less than two years into my job.

Sarah Teather MP

The many public submissions received by the Inquiry also reveal a common fear that all power now resides with the PM and his circle rather than with Parliament.

Submissions in response to public consultation expressing concern about the growth of executive power.

The Executive is becoming more powerful as this present administration progressively undermines the blocks against government power in the constitution. We need a new British constitution; one that replaces the link between basic law and government power and returns democracy to the people. So that we do not once again find ourselves in a position of having our basic rights removed by an authoritarian administration.

Currently Parliament seems to have no real responsibility for scrutiny of the legislative proposals made by the Executive or for calling the Executive to account for its actions. It would help if there were a clearer separation of powers – the legislature separate from

the Executive and from the judiciary. Government at Westminster is too powerful. Parliament, on the other hand, is far too weak. The House of Lords is dismissed as 'unelected' by the Commons. The Commons has allowed itself to be ignored and is far too whip-led.

There is also research evidence carried out independently of *Power* which suggests this imbalance is a cause of popular concern and alienation.

- The statement, “Britain needs a written constitution, providing clear legal rules within which government ministers and civil servants are forced to operate” has consistently won the backing of 70 per cent in opinion surveys carried out between 1995 and 2004, and achieved its highest backing of 80 per cent in 2004.
- In 2004, 83 per cent agreed with the statement “the Prime Minister should be bound by law to seek approval from Parliament before committing Britain to war or other military action”.
- 50-60 per cent agrees that Parliament should have greater control of the Executive in five opinion surveys between 1977 and 2000 with another 19-25 per cent remaining neutral on the issue.¹¹³

There was a broad consensus amongst the parliamentarians and others to whom we spoke that the capacity of the Executive to hold great sway in Parliament is not entirely new. Indeed, it seems widely accepted that the very structure of the parliamentary system makes this more likely. Most notably, the fact that there is no separation of

Executive and Legislature in Britain has meant that at least since the era of mass, organised parties, the government has had an in-built majority in the House of Commons. In addition, the way democracy has developed in Britain has been in large part on the basis of the transfer of monarchical powers to a Prime Minister and Cabinet who are accountable to Parliament, rather than in the transfer of those powers to Parliament itself.

However, there was a strong majority view from across the political spectrum of parliamentarians that the Executive has become notably more dominant over Parliament in the last twenty-five years. There were a number of possible reasons given for this.

- **The number of MPs who are members of the Government has grown.** This ‘payroll vote’ now delivers to the Executive an increasing and guaranteed slice of parliamentary support. Currently almost one-third (140) of the Parliamentary Labour Party are members of the Government. The big expansion has been in Parliamentary Private Secretaries – the most junior members of the Government – who have grown from 29 in 1979, to 40 in 1989, to 50 today. This, in effect, provides the Prime Minister with a growing patronage power over the very body which is supposed to scrutinise and challenge government policy and decisions.
- **The whips have enforced party discipline more forcefully and fully than they did in the past.** Many of the longer-serving parliamentarians to whom the Inquiry spoke, mentioned the way the whips now operate with a greater intensity and expectation of loyalty than they had experienced previously.
- The personality and ‘vision’ of the party leaders has become more central to general election campaigns giving the impression that **Prime Ministers possess a personal mandate**

of a Presidential kind and that MPs in the majority party owe their positions to their leader's individual success in the national campaign.

- The legislative timetable in Parliament has become ever busier and is now drawn up less on the back of negotiated consensus in Parliament and more to ensure the success of the Government's programme and to dampen opportunities for opposition. In addition, far more debates are now effectively guillotined – even though this is no longer the term used – than was the case in the past.
- Prime Ministers have increasingly drawn a coterie of appointed advisers around themselves who not only owe their positions to their boss, but are also only answerable to him or her. There is a strongly held view amongst the public, shared by significant numbers of MPs, that all power lies in 10 Downing Street with few external influences. This means that parliamentarians feel increasingly closed out of policy debate. There is also a strong belief that the Prime Minister makes decisions and brings them to the Cabinet simply for endorsement. Indeed, there is much evidence in the public domain to support this view. The political conventions of British government – that the Prime Minister is the first amongst equals and that policy is the product of discussion and negotiation within Cabinet – are now seriously eroded. Alongside this, the power of the unaccountable political advisor, who can refuse to be directly questioned or scrutinised in Parliament, has inexorably risen. These developments all feed into the frustration that there is a highly centralised Executive over which the citizen has no influence.
- The convention of individual ministerial responsibility has

also been weakened in recent years. It is now very unusual for a minister to take full responsibility for mistakes made by his or her department. Thus, an important way by which the actions of government could be held to account by Parliament is less effective.

The crucial aim of the *Power* Commission's recommendations was therefore, to change Parliament in a way that would show citizens that MPs and Members of the Upper House could really scrutinise and open up the workings of government. To show that Parliament was not a meaningless rubber stamp of the Executive and that representative democracy is vibrant. Of course, this alone is not enough. For re-engagement to occur, citizens would have to be convinced not just that MPs can speak up for themselves but also that those MPs are speaking up on behalf of citizens, and that citizens have a clear way of telling MPs what it is they want. If those in positions of leadership are forced to re-engage democratically, if there is a re-balancing of power in the ways that we recommend, Cabinet government will also inevitably reassert itself and resist the slide towards a Presidential system.

Recommendation 1: A Concordat should be drawn up between Executive and Parliament indicating where key powers lie and providing significant powers of scrutiny and initiation for Parliament.

We believe that the process whereby governments accrue ever greater powers at the expense of Parliament is antithetical to citizen engagement and respect for formal democratic processes. We also believe that the power of Parliament to hold the Executive to account should not fluctuate according to the vagaries of factional or unrepresentative forces within Cabinet and Parliament, rather than on the basis of a genuine dialogue between government, parliament and citizens. This silencing of real debate, is deeply alienating to many people. The more that Parliament seems governed by an executive or by

factional and elite groups within a party, well beyond the influence of 'ordinary citizens', the less likely it is that those citizens will engage with Parliament even if the opportunity is presented.

We, therefore, recommend that action is now taken to draft an agreement between the Executive and Parliament to make it clear where key powers lie and to ensure that Parliament can carry out its role of ensuring accountability, no matter what its political make up.

When the fiasco arose over the sacking of Lord Irvine and the abolition of the role of Lord Chancellor, the senior judiciary was deeply concerned about the constitutional protection of the independence of the judiciary. Although the Lord Chancellor sits in the Cabinet he is also an office holder under the constitution, as Keeper of the Great Seal. This means he must provide another check on Executive power by protecting the judiciary. Replacing the Lord Chancellorship with yet another Secretary of State, who may have no eye to the long term, who may not be a lawyer and who functions purely politically, could have meant a travesty of our constitutional needs. After a struggle, a reformed Lord Chancellorship remains but to secure the independence of the judiciary the senior judges insisted on a Concordat being created, setting down the separation of powers and preventing the encroachment of the Executive. It seemed that in the twenty-first century, aspects of our constitutional arrangements could not rely on gentlemen's agreements. The relationship needed to be formally set out. The event took place without fanfare but it provided the Commission with the template for the reforms we advocate in other parts of the political firmament.

It is our view that while the principle of parliamentary convention is an important and often useful aspect of the British political system, the lack of clarity in the relationship between Executive and Parliament resulting from an unwritten convention has allowed accountability and scrutiny to weaken. It is therefore vital now, for the cause of citizen engagement, that the relationship is put through a process of challenge, agreement and clarification.

A Concordat would have advantages over a written constitution since it is by nature flexible and can be revisited by mutual agreement when necessary. It is thus less likely to become rigid and unresponsive. It would not require all aspects of British political life to be negotiated, agreed and drafted as it would concentrate solely on the relationship between Parliament and Executive. It would also not require quite such a significant break with the British tradition of an 'unwritten' constitution which many value. Of course, there are those who argue that the very benefit of a written constitution is its rigidity, breadth and discontinuity with traditional British political culture. We believe, however, that while these may be strengths in principle, they would in practice fatally weaken the chances of reform being implemented and strengthen the hand of those who oppose greater constitutional clarity and the deeper accountability and parliamentary power that a level of formality could bring. Thus, we feel that a Concordat of the type we propose is far more likely to be agreed and initiated than a written constitution.

The Concordat should be drafted by a body that has the support and respect of both the existing Executive and of Parliament but which is seen by the public as sufficiently independent of government to ensure that its recommendations are rigorous enough for a new balance of power to exist between the two institutions. We suggest a body that includes previous Leaders of the House of Lords and of the Commons, previous Speakers and Deputy Speakers of the Commons, senior backbenchers from across the parties chosen by Parliament, and senior members of the existing government including the Leaders of the Commons and Lords. It is also vital that a fair proportion of this body is made up of political and constitutional specialists with no strong party attachment to ensure that the process does not descend into party conflict and machinations. The report of this body would be debated and voted on by Parliament.

There are many areas of convention, procedure and law that this body may wish to debate and comment upon, and its remit should be

drawn as widely as possible. However, based on its own evidence from both public and expert testimony, it is clear to the *Power* Commission that the area of most urgent attention is that of the prerogative powers of the Executive and how the final say on most or all of the prerogative powers could be placed in the hands of Parliament.

The full list of prerogative powers – only fully and officially revealed in 2003 – indicates quite how significant is the power available to the Prime Minister and Executive without reference to Parliament.

Domestic Affairs:

The summoning, prorogation and dissolution of Parliament

Royal assent to bills

The appointment and regulation of the civil service

The commissioning of officers in the armed forces

Directing the disposition of the armed forces in the UK

Issue and withdrawal of passports

Prerogative of mercy (used to remedy errors in sentence calculation)

Granting honours

Creation of corporations by Charter

The appointment and dismissal of ministers

Foreign Affairs:

The making of treaties

Declaration of war

Deployment of armed forces overseas

Recognition of foreign states

Accreditation and reception of diplomats

It will be up to the body that drafts the Concordat to consider this list and decide how best to allow Parliamentary scrutiny, veto or initiation power over these responsibilities.

We note that there has been a growing debate in recent months

on the issue of prerogative powers particularly in relation to the power relating to the declaration of war. For the first time, Parliament was given the opportunity to vote on the decision to go to war before the Iraq conflict began. It is now widely felt that such a vote should always precede any exercise of the power to declare war. However, many MPs believe that the outcome of the vote may have been different had Parliament known of the caveats expressed by the Attorney General in his written legal opinion to the Prime Minister. This opinion was released two years after the vote only when there had been partial leaks of its contents. The Attorney General had provided arguments justifying the war without a second UN resolution but he also expressed reservations and issued warnings about the risks of doing so. This corresponded with the views he apparently expressed to the Foreign Office lawyers.

The question arises as to the function of the Attorney General. If he is the legal advisor to the Government then what is clear is that there are occasions when Parliament should have its own independent legal advice when important matters of law arise if it is to genuinely exercise its role as an independent scrutiniser of the Executive. This should be a matter considered closely by those drawing up the Concordat.

There are two further recommendations from the *Power* Commission which it was felt are particularly necessary to revive public confidence in Parliament and which have a direct bearing on parts of the above list of prerogative powers.

Recommendation 2: Select Committees should be given independence and enhanced powers including the power to scrutinise and veto key government appointments and to subpoena witnesses to appear and testify before them. This should include proper resourcing so that Committees can fulfil their remit effectively. The specialist committees in the Upper House should have the power to co-opt people from outside

the legislature who have singular expertise, such as specialist scientists, when considering complex areas of legislation or policy.

One of the most important innovations in Parliament in recent years has been the establishment of many more Select Committees so that almost every area of government is now specifically covered by a parliamentary committee. This has greatly enhanced the capacity of MPs to scrutinise the decisions taken by individual departments. However, a number of long-standing demands to enhance the powers and independence of Select Committees, and hence to enhance the power of Parliament to scrutinise the Executive, have been consistently ignored or rejected by governments.

One way to achieve this enhancement is relatively straightforward but would greatly strengthen the Committees. This is to give Select Committees the power to subpoena attendance and require witnesses to testify at its sessions as in US Senate Committees. The notion that individuals who are very close to senior members of government and closely involved in the development of policy cannot be questioned by Parliament is a clear weakness in accountability, especially in a period when the Prime Minister's office has become ever more powerful. It is a measure of how dominant the Executive has become that even these relatively minor reforms are strenuously resisted or ignored.

A further change is more complex and requires further elaboration. This is the proposal that Select Committees should also have the power to scrutinise and veto the most senior appointments made by the Prime Minister as do Senate Committees in the USA.

The United States Senate has extensive powers to scrutinise and veto Presidential appointments. Officials whose appointments require the Senate's approval include: members of the Cabinet, heads of federal executive agencies, Justices of the Supreme Court, other federal judges, US attorneys, US marshals and top officials in the military service, the Foreign Service (including ambassadors), uniformed

civilian services, and other independent agencies.

This provides the Senate with considerable power to hold the US Federal Government to account in a way that does not exist in any comparable sense in Britain. Informal 'confirmation hearings' have been held by Select Committees on occasion, but these have no statutory power.

However, it is also clear that the responsibilities of the Senate go too far. Approximately 4,000 civilian and 65,000 military nominations are submitted to the Senate during each two-year session of Congress. Most are routine appointments and do not receive a formal senate hearing, but this volume causes backlog and appointments take on average 99.5 days to be confirmed.¹¹⁴

The aspect of the process that would give most significant weight to Parliament without causing such problems would be for Select Committees to have the power to initiate their own formal scrutiny and approval process for the most senior appointments made by the Prime Minister or government ministers and which appear on a list approved annually by Parliament and drawn up by the House of Commons Liaison Committee. A similar proposal was contained in a Private Members Bill debated by the Scottish Parliament in 2001 and included a list of 75 quangos to be scrutinised by the Parliament.¹¹⁵

The area of responsibility held by the appointment would be scrutinised by the Select Committee that covers the same area of responsibility and, in line with the Scottish Private Members Bill mentioned above, appointment would be required to be approved or vetoed within 28 days, or else the appointment would be deemed to have been approved. In this way Select Committees would only scrutinise appointments about which it had concerns. It is likely that the great majority of appointments to bodies on the list would go ahead without any scrutiny process.

However, we feel that Parliament should have the power to scrutinise a wider range of appointments rather than just the heads of quangos. The powers should also include the right to confirm or veto

the most senior officials in the military, the diplomatic corps and uniformed civilian services since considerable policy and decision-making power and influence are invested in these posts which may have a deep impact on the everyday lives of British citizens.

Unlike the US Senate, however, it is felt that powers to scrutinise judicial appointments would compromise the independence of the judiciary and inject a risk of politicisation into their appointment. A judicial appointments commission with lay representation is in the process of being created which will provide public input into the appointment system. As for powers to scrutinise Cabinet appointments these are less necessary than in the US, given that Cabinet members in the UK are Members of Parliament or Lords and have usually been subject to ongoing scrutiny in junior government positions before they receive a Cabinet position. Reforming of the Lords will deal with the spectacle of unelected peers, appointed through Prime Ministerial patronage, being accelerated into key ministerial positions.

This power of scrutiny would not undermine the Commissioners for Public Appointments operating in the UK, whose role it is to ensure that the procedures for a large number of public appointments meet a code of practice. Indeed, the Commissioners may, on occasion, be asked to appear before a Select Committee as expert witnesses when conducting hearings on particular appointments.

These new powers for Parliament would greatly expand its capacity to scrutinise the Executive and hold it to account. A major source of the Prime Minister's power is patronage and the possibility that a Select Committee may investigate an appointment should, in itself, act as a major brake on the ill-conceived use of that power.

However, even with the limited powers they now have, members of Select Committees say they cannot do the job well because they are not properly resourced and do not have the time. This reform will therefore require addressing the issue of funding and the appropriate allocation of MPs' time.

We also feel it would be of great benefit to the legislative process

for specialist committees in a reformed House of Lords to have the power to co-opt experts when they are considering complex or highly technical aspects of legislation. This would compensate for the loss of some specialist expertise in the Lords that would result from instituting a largely elected chamber.

Our next two recommendations are dealt with jointly.

Recommendation 3: Limits should be placed on the power of the whips.

Recommendation 4: Parliament should have greater powers to initiate legislation, to launch public inquiries and to act on public petitions.

Parliament is not an institution designed purely to scrutinise the will of the Executive even if this is what it has become. The Inquiry's evidence is clear that many citizens believe that the primary role of an MP is to act as the voice of their constituents in Parliament.

Many public submissions were scathing about the role that the whips play in ensuring that MPs toe party lines rather than speak for their constituents. The public are aware that promotions, places on committees, foreign 'fact-finding' trips, decent rooms and other benefits are controlled by party whips and the party leaderships to whom they are answerable. Indeed, we received reports of whips blocking not only promotion but any form of preferment, even indicating that there will be no support from the centre at election time – no ministerial visits and photo opportunities in the constituency. We were also told that carrots and sticks of flagship schools and hospitals in the area are also held over the heads of MPs.

Indicative submissions to public consultation regarding the power of party leaderships and whips in Parliament

Politicians seem to have more allegiance and loyalty towards their party than to their constituents. Their party leaders, not the constituents, after all, determine the promotional prospects of politicians.

The problem is that, in reality, our constitution requires Parliamentary representation of The People, not political parties! Members of the public have been subjected to the unedifying sight of several decades of evidence of MPs, of all political hues, demonstrating self or Party interest rather than that of their constituents. Until that is resolved, and until MPs realise that they are supposed to represent all the people in their constituencies before party loyalty, then the so-called 'silent majority' of the public will have no reason to get involved in Party membership. We can see no benefit to us from such membership but feel that we are merely propping up a morally bankrupt system.

...many feel that neither main party is interested in anything except its own pursuit of power.

The two main parties function solely with the intention of forming government. They operate in a negative way and power is sometimes achieved by confounding the electorate into voting in the negative sense to select the lesser of two evils. Once in power minority views and consensus are dropped in favour of party dictatorship.

Maybe party membership etc would be more attractive if peoples' ideas were taken more seriously (listened to). It would be a long

process initially but if people were represented rather than 'governed' then they might take more interest. By actually implementing what people actually want instead of parties ignoring what people say. All parties bulldoze through what they want despite the fact that this may be the exact opposite of what people want. [...] It is ridiculous to expect ignored people not to ignore the parties that ignore them. Mutual ignorance I think it's called.

Being a politician should be simple; listen to people, be honest, don't try to alter the democracy and make things less democratic.

These views were replicated in our Citizens' Panel. There was strong consensus that parties do not represent the views of the wider public adequately. This is, in large part, attributed to the perception that parties in Parliament pursue their own political agendas and governmental ambitions divorced from the views and interests of constituents.

The evidence from experts and practitioners shows **no great desire to turn MPs into delegates of their constituents**, but the Burkean notion that MPs must trust more to their own opinions than to those of their constituents now needs some revising for an era of educated, self-confident and less deferential citizens. In truth, of course, Edmund Burke was unaware that an era would arise when MPs sacrificed their own opinion not to that of their constituents but to that of their party leaderships.

This also makes Parliament appear to be an increasingly pointless place with which to engage. Its lack of power to set the agenda or force the government's hand means that **only those citizens without a full understanding of the British political system would choose a meeting with a backbench MP over one with a special adviser or senior civil servant.**

More will be said later about how MPs can forge greater dialogue with their constituents and about how this may help restrain the power of the whips. Such a cultural shift is the main way to challenge the whips' domination in the Commons. However, we also believe that the power of whips can be curtailed to some extent by requiring all Select Committee Chairs to be elected on the floor of the House rather than be appointed by the Government subject to approval by the House. At the moment the whips acting at the behest of the Prime Minister have too much power to reward backbenchers for good behaviour or punish those of independent mind by choosing who gets to head a committee.

More fundamentally, however, we also propose that Parliament be given greater freedoms to initiate legislation, public inquiries and to act on public petitions. It is clear from our evidence that many citizens are deeply disappointed that Parliament no longer appears to be able to voice with any impact the views of large sections of society at crucial moments, or over crucial issues, that the Executive refuses adequately to address. This power of initiation would not only create an area of legislative function subject to much less control by the whips but would also allow Parliament to carry out its role as a voice for British citizens.

Initiating Legislation

The initiating, drafting and timetabling legislation in Parliament is now a matter almost entirely for the Executive. Parliament's role is largely to amend and to accept or reject legislation – although full rejection of a piece of government legislation is rare indeed. This approach is only a problem when there is a public desire for legislation on an issue which, for one reason or another, the government of the day refuses to initiate. The only alternative routes by which legislation can be initiated independently of government, in Parliament, is through a Private Members Bill. Such Bills tend to succeed only if they have been given government backing, have been allowed time in the

parliamentary timetable, and do not face hostile action by the whips. Other ways by which issues can be raised such as the Ten Minute Rule, Early Day Motions and the Westminster Hall Debates lend even less strength to the actual ability of an MP and hence of citizens to influence governments between elections.

The *Power* Commission feels this is a block on a major route by which citizens should be able to exercise influence over their government through their elected representatives. As has been pointed out elsewhere, it is only the prospect of such influence which will make Parliament a meaningful place with which citizens will engage.

We recommend that the Select Committee on House of Commons Modernisation undertake an inquiry to understand what aspects of parliamentary procedure limit legislative initiative on the part of MPs and how these might be overcome. Such a committee might, for example, explore how those repositories of specialist expertise, the Select Committees themselves, might better be able to bring forward legislation to Parliament that the government refuses to consider.

We strongly agree with the Select Committee on House of Commons Modernisation that governments must be free to pursue their legislative programme as efficiently as possible and would expect parliamentary initiative of legislation to act purely as a 'safety valve' to allow MPs to force action in areas of significant public concern, but on which the Executive refuses to act. We believe that such a 'safety valve' will show citizens that Parliament can indeed act as their voice at the most crucial times and thus renew popular respect, trust and engagement with Parliament.

Initiating Public Inquiries

In recent years, the establishment of public inquiries has become a source of political dispute and of public disenchantment with the political process. The Hutton Inquiry into the death of David Kelly was, for example, widely perceived as a whitewash, and the Butler Inquiry into the use of security service intelligence in the lead up to the

war in Iraq is regarded as having made little difference to the conduct of government despite the criticisms that it made. The ongoing battle over whether a wider public inquiry should be called into all the issues surrounding the lead up to the war leaves Parliament looking particularly ineffective in that it can do no more than request that the government establishes an investigation into its own behaviour on an issue that is clearly of very great concern to a large section of the British public. Whether this concern is right or wrong is neither here nor there. Deciding on that issue must be the prime reason for establishing a major inquiry in the first place.

We feel that if Parliament were free to initiate its own independent inquiries into matters of concern, the two houses would start to fulfil citizens' hopes that they could act as the voice of citizens on issues of crucial importance that the Executive would rather ignore.

Acting on Public Petitions

Linked to both these parliamentary powers – to initiate legislation and inquiries – would be the power to act on public petitions and the requirement to consider them. At present, petitions to Parliament are read on the floor of the House of Commons by an MP and are then forwarded to the relevant government department which may or may not issue a reply. Copies of the petition are also sent to the relevant Select Committee. There is no more rigorous procedure for dealing with petitions than this, which may explain why Parliament only receives approximately eighty petitions a year.

We note that the Scottish Parliament takes a somewhat more respectful approach to petitions. A Public Petitions Committee made up of MSPs considers all petitions presented to the Parliament and may invite petitioners to speak to the Committee. It then considers whether the petition should be taken any further by the Parliament or Executive and if so how best to take it forward. Options include having the Petitions Committee itself investigate the issue raised in the petition, requesting that another committee investigate, or rec-

ommending that the petition be debated by the whole Parliament. It is notable that the Scottish Parliament website includes a facility to allow citizens to establish their own on-line petition to attract signatories.

As a result, petitions undoubtedly play a role in the life of the Scottish Parliament and have led to new legislation and decisions by the Executive which may otherwise have gone ignored. Celebrated examples include legislation against the spreading of untreated waste, the fast tracking of compensation claims in the courts for asbestosis sufferers and the extension of planning controls to mobile phone masts.

However, it was clear from the evidence taken by the Commission at our witness session in Glasgow that the petitions process is not as well-known in Scotland as it should be, nor is the Petitions Committee as powerful as it could be.

We therefore recommend that the House of Commons establish procedures similar to those in operation in the Scottish Parliament. However, it is also recommended that considerable resources are made available to publicise and ensure the accessibility of any new petitions procedure and to provide support to those who may wish to gather their own petition. The recommendation on creating a local public resource in the form of 'Democracy Hubs' (see Chapter 7) would play an important role in this last respect. It is also recommended that a House of Commons Petitions Committee has the power to *require* that petitions be considered by government departments, Parliament or other parliamentary committees. The Petitions Committee and Select Committees would be free to use their new powers to initiate legislation and public inquiries if it is felt that the government has failed to take appropriate action in response to a petition of particular significance.

We feel that if the process of the submission, consideration and response to public petitions becomes a serious and well-known part of the culture of Parliament, this will not only help reassert the power

of MPs in the face of an over-mighty Executive but will do so in a way that gives citizens a reason to engage directly with one of the most important democratic institutions in Britain.

Recommendation 5: 70 per cent of the members of the House of Lords should be elected by a ‘responsive electoral system’ – and not on a closed party list system – for three parliamentary terms. To ensure that this part of the legislature is not comprised of career politicians with no experience outside politics, candidates should be at least 40 years of age.

The House of Lords plays a vital role in the legislative and scrutiny procedures of Parliament. In an era when citizens expect and require influence over decisions that affect their lives and expect their Parliament to speak on their behalf, it is obviously foolish to maintain this institution beyond the reach of the most basic democratic process of popular election. The public have a mixed response to the House of Lords, on the one hand admiring its efforts to ensure that the Government is fully scrutinised when the Commons is in supine mood, for example in relation to the rushed Terrorism legislation before the last election, on the other hand seeing it as a repository of the worst kind of political patronage and reward for party donations – the ‘Tony’s Cronies’ allegation. While scandals about the purchase of peerages have existed for aeons, it is joked that they now go for half the price expected in the mid- nineteenth century. Every Labour donor who has given more than a million pounds has received a peerage or a knighthood. According to the statistician Suzanne Evans of Birkbeck College who examined the evidence of honours links to party donations: “Statistics cannot prove cause and effect but the results should arouse concern.” (The Sunday Times, 15th January 2006)

In our deliberations on the Lords, we concluded that the best way a reformed chamber could rebuild engagement with the public was to ensure it was independent of the party tribalism and patronage that is such a feature of the Commons, and which alienates so many

citizens from their MPs. The key to this, it was felt, was to employ an electoral system that would allow as wide and diverse a set of candidates as possible and give members of the Lords a reasonable security of tenure to ensure independence from the predations of the whips.

These conclusions coincided very closely with the reform package drawn up by a cross-party group of senior MPs in February 2005 under the auspices of the Constitution Unit at University College, London¹¹⁶ and explained to the Commission by two of those MPs – Robin Cook and Paul (now Lord) Tyler. We endorse this report and urge the Government to implement its recommendations.

At the heart of the report’s proposals is the suggestion that 70 per cent of the members of the Lords be elected for three parliamentary terms (i.e. 12–15 years) by an electoral system which maximises voter choice and is truly responsive to voters’ emerging demands and interests (more details of a responsive electoral system are provided in the next chapter). A third of the House would be elected at each general election and someone elected to the Lords would not then be able to stand again once their term is complete. The remaining members would be appointed by a Commission which would itself be appointed by Parliament on the recommendations of a Committee of both Houses. This unappointed element would allow for the inclusion of people such as Nobel Prize winners, former Prime Ministers or party leaders and others whose expertise would be an asset but who are unlikely to stand for election.

Our recommendation that those standing for the Upper House should be over 40 is to bring forward people who have had real experience of other walks of life. It would also mean that more women would be likely to come forward because most have had their children by the time they are 40. One of the criticisms of the Commons is that those now entering politics do so early, the common trajectory being student of politics, political researcher, policy advisor, Member of Parliament. The admired aspect of the House of Lords is that it often brings people with a wealth of experience in different fields into the

legislature. Creating an age threshold for one of the Houses will help maintain this breadth. People who have built up their own businesses may feel more secure about entering politics at this stage of their lives. People who have worked as nurses, doctors, teachers, bankers, hairdressers may feel ready to have a career change. We are conscious that this recommendation goes against the current tide which celebrates youth although in our view 40 is hardly old. Our Commissioner from the Trade Union movement was concerned that the recommendation would offend new regulations to remove age barriers. However our overall view is that an exception could be argued given the purposes for which the threshold is being sought.

The nature and timing of the elections to the Lords is also a vital element in these recommendations. Our endorsement of the view that Lords should be elected for 12-15 year terms would ensure that the chamber had a political make up that was distinct from the Commons and could, therefore, ensure genuine dialogue between one House in which the government has an in-built majority and one in which it does not. Longer terms also sustain greater independence of mind on the part of elected representatives as it reduces their reliance on party machines to secure their re-election. It should allow Lords to act from positions of principle rather than purely electoral calculation – something which many members of the public seem to desire of their representatives and which has arisen many times in our evidence.

The Constitution Unit report also recommends that Peers be elected in large, regional constituencies to ensure that the regions of the UK are represented and, again, to ensure a different make up to the House of Commons.

The *Power* Commission believes that the unfinished reform of the Lords is a unique opportunity for the British polity to begin the vital process of re-engagement between its democratic institutions and the people of Britain. Failure to take this opportunity, by, for example, turning the Lords into yet another source of patronage power and political manipulation for the government will send entirely the wrong

message to Britain's citizens. We note that Lords reform is due to be brought before Parliament in summer 2006. The time frame within which our elected representatives can get this right is short indeed.

We see no need to make any significant change in the powers of the Lords. The present powers of delay are sufficient to make the government think again without interfering with the ultimate supremacy of the wholly elected house.

Returning Authority to Local Government

One of the strongest aspects of the evidence received by the Inquiry is the extent to which the dilution of the powers of local government has had a major impact on engagement with formal democracy (see box). The local represents the most obvious, easiest and, often, the most immediate focus for many people's engagement with political issues and democratic decision-making. The loss of power of local government, most notably to central government, but also to other bodies not directly accountable to local citizens, has inevitably damaged popular engagement. This is most clearly noticeable in the severe decline in grassroots membership and activity within political parties although other factors have also contributed to this problem.

Evidence received by the Inquiry on the impact of weak local government on public engagement with politics

Indicative Submissions in response to public consultation regarding the impact of weak local government

Local councils need to raise the bulk of their own spending rather than relying on a block grant and must have the freedom to spend it without interference from central government. Then the 'little person' can be heard locally even though they would be

ignored nationally.

Civic virtue is best cultivated in a local forum. If power were more devolved it would encourage people to become involved because they would see that they can effect change in the community they are part of. The power of larger organisations is thus easier to check because political involvement would stem from a sense of what is good for one's local community.

I believe decisions should be devolved to the lowest possible authority so that people feel involved in the decision-making process. The worst offenders are appointed authorities who are not accountable and yet are entirely run by tax payers' money.

Central government is too powerful. In my own community the local council is frequently overruled, and all the most important decisions affecting our lives are taken by unelected, unaccountable officials from the Office of the Deputy Prime Minister. Who would bother to vote in local elections when our local politicians have no power?

The UK is notorious for having an over-centralised, secretive government with excessive patronage. To the greatest extent possible, power should reside at the lowest tier possible, sometimes even below the level of local government e.g. in the running of schools and hospitals. I think that it is self-evident that the closer people are to being able to influence their lives, the greater the chance of their participating to some extent in the political process. If this leads to satisfaction at a local level, perhaps it would be translated into greater involvement in national politics.

Indicative quotes from experts and practitioners on the impact of weak local government

People engage rationally. In other words if the organisation or level of government that's asking them to participate doesn't itself have enough power to deliver anything, there's no real point getting involved in a dialogue. So one key reason for the dropping away of support for what local government does is that local government does less and less ... and is seen as having less and less power. If decisions can't really be made at a local government level, there's only so much point entering into a dialogue with them, so that strikes me as the most important single factor. If local government is powerless, there's not much point talking to it.
Sue Goss, Director of Public Services Development,
Office of Public Management

Local councillors have less influence and therefore you get less turnout. If you gave local government more power and it could actually have a real impact on the quality of local people's lives, we think you'd get higher turnouts. It's quite straightforward I think. You've also had quite a serious decline in the number of people who wish to stand for election to local authorities because councils are not seen as being able to make a difference.
Ines Newman, Head of Policy, Local Government Information Unit

I think the short answer is that this disengagement is an entirely rational reaction to loss and the loss is power within local government. Powers get sucked up to the centre but the centre is so distant from the everyday needs of voters that no-one really cares about it and the attraction or outcomes, both of which add up to a loss of power for voters. So this is a rational response by voters to a lack of power. ... Also there is a loss of powers to quangos and a

feeling that local government itself has lacked the ability to achieve change and therefore is not worthy of a voter's engagement.

Jesse Norman, Policy adviser to George Osborne MP

We've done research over a number of years about general perceptions of the council, attitudes to local democracy and so on and it's certainly the case for the big authorities that there is a feeling of remoteness, and lack of responsiveness. That's one of the drivers behind our devolution policy, getting closer to neighbourhoods, involving people more, trying to break down that feeling of a kind of bureaucratic institution that's nothing to do with people's lives. So that problem is certainly there. I'm not sure that's the full story though in terms of low turnout for elections at the local level because you do have to look at the other factors like the hugely centralised system of government we've got in this country. There are two aspects to it, one is obviously the old complaint that the control of finances in local government is so centralised that why should people bother to vote because the local authority doesn't have the capacity to actually shift priorities.

The other one is really the pervasive influence of national party politics, so if you track local election results particularly in a big city like Birmingham, you do find this incredible match with the fortunes of the parties nationally. Particularly, the trend for the party in government to get less and less a share of the vote as they go on in their period in office at the local level.

Tony Smith, Head of Policy, Birmingham City Council

My main thesis as to why this has happened is because our local government is neither local nor government and it's on (too big) a scale, when you compare it to virtually all of the other Western democracies, and certainly elsewhere in Europe, the average size of our authorities covers a population of over 100,000, it's at least half that on average in most European countries. Our system has been

reorganised in a way which I think has taken it away from people. Secondly, and I think this probably explains the decrease in turnout more recently; it's no longer government. It's largely administration, putting together programmes that central government wants put together. There have been lots of reasons for why people don't vote in local elections but the main explanation, interestingly enough from the survey work that was done in the '70s and in the survey work that was done at the start of this new century, was that basically people thought local government was irrelevant so why would they vote? Because it's not actually addressing things that they think are important.

Professor Gerry Stoker, Professor of Political Science,
University of Manchester

Everyone knows that we're absurdly centralised in this country. I do have a sense that we need to repair our local democratic system quite urgently and that on any comparative test, this is a huge deficit in our system, and that's going to require some political courage and the will to do that, and some real culture change. I do think that would be an area where you would get some real gains if people felt there actually was someone accountable, locally, for a range of things, and that in turn would have good pay-offs for civic engagement.
Dr Tony Wright MP, Chair, Public Administration Select Committee

These findings are upheld by independent research:

- A survey conducted in 2002 by the Local Government Information Unit and MORI found that "councils having more scope to make decisions about what happens locally" would make 66 per cent of people more likely to vote in local elections

and “Councils having more scope to set taxes and charges locally and decide how the money is spent” would do the same for 60 per cent.¹¹⁷

- A study carried out by the Prime Minister’s Strategy Unit in 2002 concluded that the main reason Britain had the largest gap in turnout between local and general elections turnouts was because voters simply did not think the outcome of local elections mattered.¹¹⁸

However, a key feature of much of this evidence is the clear sense that while greater powers for local authorities is an important aspect of re-engagement, there is a deep distrust of local government. It is widely perceived as inefficient, wasteful and unresponsive to citizens’ wishes. Therefore, we are clear that any process of returning powers to local councils from central government will only have credibility if it is accompanied firstly by a continuation of drives to improve the ‘best value’ of local authorities and by efforts to make councils more responsive and open through the implementation of the recommendations made in the next two chapters.

We believe that many of the tensions which are often claimed to exist between efficiency promotion and increased powers for local government can in large part be resolved by placing the power to assess and modify the performance of local authorities in the hands of local people themselves rather than in the hands of government departments or centrally appointed inspectors. Proposals for such a change in approach are made in Chapter 10, which recommends a much more vigorous and professional culture of public engagement in local government

It is not within the remit of the *Power* Inquiry to discuss the ‘best value’ of local public services themselves. However, we do reject the simplistic argument that better engagement will automatically follow from better public services. The Inquiry’s evidence does not up-

hold the view that dissatisfaction with public services is a cause of political disengagement. In addition, we feel it is wrong to suggest that greater choice for users of public services equates to, or can replace, democratic engagement. We have different views individually on the rights or wrongs of greater user choice but we agree that individual decisions made on behalf of oneself and one’s family cannot substitute for mass deliberation in the public realm – which is an absolutely crucial process in a democratic and open society. Indeed, such deliberation often arises from the need to develop a policy response to the aggregated consequences of individual choices. It cannot be assumed that a do what works’ policy for local government and public services will necessarily guarantee democracy and engagement.

As such we make the following recommendation.

Recommendation 6: There should be an unambiguous process of decentralisation of powers from central to local government.

We reject the notion that greater powers and independence for local authorities must be earned or must be very gradually devolved over a long period of time. Leaving aside the fact that the freedom to determine democratically the nature of one’s own locality is deemed by some a civil right, the need for decentralisation to be enacted in order to address the urgent problem of disengagement cannot be doubted by any who have considered *Power*’s evidence. If this process is undertaken gradually and at the behest of central government, it will not be implemented adequately enough to halt disengagement from formal democracy.

Recommendation 7: A Concordat between central and local government setting out their respective powers.

We recommend that alongside the Concordat drawn up between the Executive and Parliament, a similar Concordat is established between central and local government to confirm where key powers lie

and to enshrine the process of decentralisation outlined above. This Concordat could follow similar lines to the European Charter of Local Self-Government, which the UK Government ratified in 1998 but which seems to be growing mould on a shelf in Whitehall and to have had limited impact on policy.

The Charter requires all signatories to provide local government with the necessary legal protection and financial resources to “regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population”. It also asserts that “public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen”.

The Charter is an admirably brief and direct statement of principles already ratified by the Government and as such would form a suitable framework for the negotiations to draw up a Concordat between central and local government. The negotiations could be led by individuals appointed by the national government including relevant ministers, and individuals elected by local councillors alongside senior members of the Local Government Association.

It is expected that the agreement of such a Concordat would be followed by a series of Parliamentary Acts to ensure that its principles are turned into practical effects ‘on the ground’ by ensuring that democratically elected local authorities maintain or regain significant powers over areas such as education and planning.

Recommendation 8: Local Government to have enhanced powers to raise taxes and administer its own finances

We would also stress that the success of any process of decentralisation enshrined in a Concordat is reliant on central and local government agreeing a far more satisfactory financial arrangement than currently exists. It is vital for the independence of local councils that they raise the great majority of their income locally without reference to central government departments. The surreptitious erosion of further local authority powers through the ‘ring fencing’ and ‘pass-

porting’ of funding is deeply undemocratic in its implementation and in its goals, and further removes powers from elected representatives to central government civil servants. While such erosion continues all current government efforts to increase local autonomy and responsibility, through ‘neighbourhood governance’ for example, will have limited impact.

We note that the Government has undertaken a review of local taxation but that this has yet to report. We feel that as with the wider process of decentralisation, this issue must be addressed as a matter of urgency.

We believe that the risk of regional inequalities in funding resulting from decentralisation and locally raised finance can easily be addressed by the requirement that a percentage contribution is made by local authorities to a central pot which is then redistributed according to need. Indeed, the Charter of Local Self-Government includes provision for such a process.

Accountability and Transparency for Quangos and Business

Local government has lost power not just to central government but also to quangos and committees of unelected officials over the last three decades. In addition, business, for good or ill, is playing an ever greater role in the delivery of public services, often as a result of policy implemented by those same quangos. A brief look at some key facts makes clear how influential these bodies have become in recent years.

- British government is populated by a vast number of quangos. The House of Commons Public Administration Select Committee reported, in 2000, the existence of 297 executive quangos and 536 advisory quangos in central and devolved government; 5,338 local quangos of all kinds; and 2,295 local partnerships which bring together local authorities, the police and other public agencies, voluntary bodies and private enterprises in a new level of local governance.¹¹⁹

- In 2003/04, executive quangos alone spent £32 billion of public money – one fifth of all money spent by public bodies.¹²⁰
- The Government has made attempts in recent years to reduce the numbers of quangos and to improve their accountability, but many observers remain deeply concerned about their role, particularly given that the Government’s rationalisation of quangos has led to the vesting of very great power in single bodies which once may have been divided across a number of organisations. The Public Administration Select Committee raised concern in 2003 about the way some quangos remain outside of official scrutiny by not being officially listed as “Non-Departmental Public Bodies” (the government term for quangos). It made particular mention of the way two quangos with close links to business – Partnerships UK and British Trade International – seemed beyond scrutiny. Bodies as diverse as the Public Administration Select Committee, the Cabinet Office and Democratic Audit have all commented on the fact that many quangos are closed bodies, sometimes with limited ministerial oversight, let alone public scrutiny, and which are often dominated by vested interests.

Another major unelected influence on government which was raised many times in the submissions and evidence seen by *Power* was that of business. Some indicative quotes are reproduced in the box.

Indicative quotes from submissions to the public consultation with regards to the power of business over government

The influence of big companies is endemic whether you look at local or national government as they operate on both levels; they have the time and the money to do so whereas most individuals do not, and even if they do they are individuals and when trying to stand up to a corporation they are usually one voice against many and so the corporations (with their studies, reports and gangs of lobbyists) win – this is democracy – the will of the ‘majority’! Devolving power won’t change a thing in this regard, and neither will greater powers for elected representatives – they have the power already, what they need is independence from malign influence.

The fact that most governments across the world acquiesce in the so called ‘globalisation’ process ignores the fact that people are better informed today and fully understand that this process is nothing more or less than a mechanism for spreading ‘red in tooth and claw’ capitalism. Governments seem to be on the side of big business and in fact come across as willing partners in this process. There must be efforts made to control this process which has an enormous affect on the daily lives of the people.

It is not just perception that corporate lobbying influences government policy – it is actuality. Until the actuality changes, the perception will not.

Local authorities do need to have more power and government policy should not be based on Big Business or Rupert Murdoch; if more decentralisation occurs, small business is empowered and this would have a positive effect.

Many people are concerned with issues, and put their concerns into action within non-governmental bodies such as NGOs and pressure groups. As big business is so powerful now, it is arguable whether traditional government can control and contain it, and pressure

groups sometimes have greater effect by influencing consumer behaviour.

One issue that needs to be addressed is the extraordinary power afforded to corporations and their lobbying groups, often disguised as public-interest NGOs. People genuinely do feel that companies (represented legally as individuals under corporate law) have far more say, particularly over environmental concerns, than the public. People do need to be more involved locally, but in a way that does not clog up the system creating thousands of layers. We have enough admin in our lives!

The public submissions to the Inquiry are upheld by independent research. 79 per cent of respondents to the State of the Nation poll in 2004 stated that they felt large corporations had influence over government policies, while only 34 per cent felt they ought to enjoy such influence.¹²¹

One consequence of this is that lines of accountability and responsibility between these unelected sources of power and influence, and elected bodies, whether they are local authorities or central government, are far from clear. We note, for example, that the involvement of business in service delivery means that many elements of the negotiations leading to key decisions taken by both elected and unelected authorities are often kept hidden on the grounds that they are commercially sensitive information. In recent debates about the cost of ID cards, ministers avoided questions on the basis that bids were still being received and disclosure of such information was impossible. Leaving aside the issue of principle on whether ID cards are a good thing, Parliament is surely entitled to weigh any benefit against potential cost. One of the concerns over many of the big centralised database projects is that they are driven by companies with huge

vested interests in securing the tender.

The growth of unelected bodies is a serious issue in contemporary democracies. We feel that the following recommendation would be a necessary first step in opening-up the world of unelected power and influence, particularly of quangos, to scrutiny and accountability.

Recommendation 9: Government should commission an independent mapping of quangos and other public bodies to clarify and renew lines of accountability between elected and unelected authority.

In his research on quangos, Matthew Flinders described the bureaucratic chaos around such bodies and pointed out that **Parliament was unable to hold delegated organisations to account because of a basic lack of information on what bodies actually exist.** Official reports, parliamentary inquiries and academic studies have largely failed to construct a definitive list.¹²²

According to the journalist David Walker, no one ever asks why a particular function is being carried out by a quango rather than a government department. He cites the Environmental Agency:

*If the EA is carrying out agreed public policies then why does it need to be at arm's length from the Department of the Environment, Food and Rural Affairs? If it is meant to be independent, why is it so close, financially and managerially to Whitehall? And what is the point of worrying who gets appointed to the board of a public body when there is no follow-up procedure in place to see whether that board performs well.*¹²³

Those concerns could be raised in relation to many quangos.

We recommend that the Government commission a major mapping exercise to understand exactly where power and responsibility lies in the provision of public services both at national and local level.

This exercise should place an emphasis on identifying failures in lines of accountability between various organisations and recommending how those organisations can be made genuinely accountable to elected representatives. This project should be undertaken by a body that is regarded as genuinely independent of government by the wider public.

We note that many quangos have wide responsibility for policy and spending in public services on which the most marginalised and poorest often have the heaviest reliance. As pointed out in Part One, these groups are the most alienated from democratic engagement and the least likely to participate in any form of political activity. It should be a source of immediate concern that the bodies which most deeply affect the lives of the poorest and most vulnerable are among the least understood and accessible. Citizens, naturally, want the greatest influence over the areas that most immediately concern them. If the areas that most immediately concern you are enormously pressing and yet are controlled by bodies impervious to scrutiny let alone influence, then it is hardly surprising that alienation, despair and disengagement result.

Therefore, we also recommend that citizens and users of particular services are given greater direct power over the unelected officials delivering them through the use of new engagement techniques and the establishment of initiative powers for citizens. This is dealt with in detail in Chapter 8.

It is felt that such participatory power is preferable to the introduction of direct election for the Chief Executives or Boards of public bodies. The evidence received by the Inquiry is that citizens want the power to exercise political control over most public bodies when they feel it is necessary, and to do so in a focussed way on key policies that concern them. No evidence has been presented to us that there is a desire for citizens to take part in an increasing number of elections.

Recommendation 10: Ministerial meetings with representatives of business including lobbyists to be logged and listed on a monthly basis.

As detailed above, *Power's* own research and evidence displays that many people feel business has too great an influence over government at the expense of the 'ordinary' citizen. It is clear from the above considerations that developments in recent years will have done nothing to allay these fears. The notion that financial and economic muscle can win influence is a further block to engagement with formal democracy, leaving, as it does, the ordinary citizen feeling too insignificant to make a difference.

We therefore recommend that much greater formality and transparency is introduced into meetings held between ministers and business. We recommend that ministers' meetings be formally logged and listed on a monthly basis in an easily accessible format and without the requirement of a formal request under the Freedom of Information Act. MPs or members of the public should then be given a speedy response when requesting documents relating to any particular meeting or meetings under the Act. The exemptions to ensure that commercially sensitive information remains secret are sufficient to maintain confidentiality where necessary under this new regime.

We note with concern that recent requests to the Lord Chancellor to have Ministers' diaries released under the Freedom of Information Act have not produced any documentation, despite those requests being made many months ago. This is a delay which will only confirm suspicions, rightly or wrongly, that certain citizens, perhaps for reasons purely of wealth and status, have far greater access to power than others.

There is also something deeply unsavoury about former ministers of health, education, prisons, or policing becoming involved soon after office with companies seeking to secure government contracts concerning those very departments. The public perception that self interest moves and shakes those in politics is fed by the accept-

ance of such appointments and does a disservice to the vast majority whose integrity is unimpeachable. We therefore feel there has to be a strengthening of the rules about jobs after office.

Within two years of leaving office all Cabinet ministers must ask the Advisory Committee on Business Appointments whether they should take a particular position in the private sector. Other ministers have no such strictures applied. However, the Committee can only advise politicians as to whether they should wait or decline the offer. The committee is toothless and has no power to bar ministers for taking jobs with inappropriate links to their previous employment. Serious thought should be given to greatly strengthening the Advisory Committee.

With the expansion of privatisation, friends at court are invaluable. To have ex-Ministers from the Commons or the Lords on your board or acting as a consultant is a great boon to companies not only as the provider of know-how and connections but even as a presence in meeting with ministers over privatisations, so that ex-ministers are ostensibly lobbying former colleagues on behalf of new friends. Even simply holding a peerage opens opportunities for the unlikeliest of people being invited into commercial enterprises on the basis that they provide access.

Of course, companies pursue these politicians precisely because they want access to government while politicians delude themselves that they are being sought for their expertise. This happened not only in this Government but in the last. We do not want to prevent ministers from obtaining gainful employment with a company where there is no inappropriate link to their previous responsibilities but we would want clear guidance given to such ministers that they are barred from advocacy or other interventions to government on behalf of their new employers for a period of two to four years.

We feel that this greater transparency – in addition to the other powers of scrutiny and initiation recommended for elected representatives and the public (see below) – will begin to allow much greater

light into the half-world of Executive and quango decision-making. We fear that without such transparency, matters of significant public interest are simply disappearing into a realm of governance dominated by a new technocracy and a new political elite whose fundamental assumptions are that contestability, marketisation and consumer choice are the ultimate goals for any public service. Whether these assumptions are right or not, they cannot ever be removed from the realm of open and transparent public debate since they affect so many lives and are still a matter of contention for many citizens. In particular, they may well be of primary concern to those on low incomes who may be most affected by radical reform of public services and who are currently much less likely to participate in politics than those on higher incomes.

In addition, such assumptions raise very fundamental questions about democracy. We do not believe that the consumer and the citizen are one and the same, as the new market-driven technocracy seems to assume. Consumers act as individuals, making decisions largely on how an issue will affect themselves and their families. Citizenship implies membership of a collective where decisions are taken not just in the interest of the individual but for the collective as a whole or for a significant part of the collective. It is often because the acts of many individual consumers have a wider, sometimes unexpected, impact on many other individuals, that bodies and processes are required to take and enforce decisions as a collective.

This issue has become particularly important in recent years with increasing popular concern about the impact that powerful businesses, in close-to-monopolistic situations, can have on the environmental, economic and social life of communities. Yet it often seems to people in those communities that this power is beyond challenge. This is not to say that the impact of such businesses is automatically to be condemned, but their actions should surely be the subject of open debate, scrutiny and, if necessary, control – a process which the market alone does not provide.

We are concerned, therefore, that if transparency is not introduced into the world of quangos and business a paternalistic marketisation will become institutionalised. This will become just as stifling and undemocratic, and just as destined to reach a crisis of public confidence, as the paternalist welfarism that dominated post-war Britain.

Recommendations dealt with later in this report should also act as important ‘partners’ to those detailed here when it comes to creating a richer debate about how to hold the market to account. Most notably, the changes to the electoral system proposed in Chapter 7 are designed to introduce a more diverse set of opinions and perspectives into Parliament and to allow new parties and candidates to emerge. This should act as a counterweight to the current consensus that exists on liberal market policies amongst the three main parties, which denies a voice to a large section of the population who have serious qualms about aspects of this policy approach.

In addition, offering the freedom to the public to initiate their own legislation, public inquiries and hearings on public bodies (see Chapter 8) will offer a further chance for those who disagree with the new consensus to place their views before Parliament and, if necessary, the wider public at both a local and a national level.

National and Supranational Powers

The final sphere towards which power has flowed at the expense of elected representatives in recent years is the supranational. It is now widely accepted that the global has become a significant new realm of governmental activity. Few national problems remain which are not addressed, at some stage, by a supranational body or by a series of multilateral negotiations or treaties. In addition, the increasing speed, intensity and number of global interactions – in economic, social and cultural spheres – means that no government can sensibly avoid immersing itself in the world of multilateral politics if it is to meet the demands of its citizens. As a result, a considerable political infrastructure has arisen and expanded to serve this new world.

In 1909 there were 37 multilateral bodies which established more or less permanent co-operation between governments, and 176 international non-governmental organisations. In 1996, there were nearly 260 multilateral bodies and nearly 5,500 international non-governmental organisations. This growth in international working has been matched by an equally impressive expansion in the number of international treaties governing all manner of human interaction. Some of these bodies and treaties have become absolutely central features of everyday political life in Britain – the European Union, the United Nations, the G8, the International Monetary Fund, and the World Trade Organisation, to name just five. This has meant, for example, that while there used to be two or three inter-governmental conferences each year, there are now over 4,000.¹²⁴ As *Global Transformations*, the leading text book on globalisation states:

*National government is increasingly locked into an array of global, regional and multi-layered systems of governance – and can barely monitor it all, let alone stay in command.*¹²⁵

We offer no view on the fundamental forces behind these developments or whether they are being handled effectively by the UK Government. However, on the issue of democratic engagement, evidence submitted to the Power Commission suggests that the relationship between national government and supranational bodies often gives citizens a sense that they have little influence or ownership of government decisions or policy which is perceived, rightly or wrongly, to be set by the World Trade Organisation, the European Union and a variety of other bodies (see box).

Evidence received by the Inquiry regarding the power of supranational bodies

Indicative submissions in response to public consultation

I think that many people do think that real political power is in the hands of Transnational Corporations (TNCs), the American Government or the EU. Although the government has power, it is only able to exercise it within the parameters that these powerful international bodies allow. If the elected officials within the country had more autonomy then perhaps people would feel that voting influenced governance more.

International organisations, such as the UN or NATO, are very remote from ordinary people and it is difficult to see how they could be more accountable, except to national parliaments.

People will not vote if they feel their vote won't count. For many years turnout in local elections has been poor, because voters realise councillors have little power to affect local decisions. Now the same thing applies to national Parliament. MPs have given so much power to the corrupt Brussels octopus that they no longer can set the laws of the land. 60-70 per cent of laws now come from the Brussels oligarchy. Subconsciously, voters realise MPs have lost control, although Ministers NEVER admit this.

Expert and practitioner comments:

What's changed in the period of the last thirty years, particularly through entry to the European Union, is the diffusion of accountability and responsibility. And that can be a real problem, because many politicians now play the game whereby they say well we are defending your interests in public but then they go to Brussels

and because the process isn't transparent they bargain and compromise and have a different set of outcomes.

So I think the loss of accountability which we've had does create difficulties in holding politicians to account.

If we think back to the 1950s and how democracy was thought to work in Britain, you basically had a party which put forward a manifesto, politicians stood on that in elections, they argued collectively for the policies and, if in power, because the winning party had the majority in parliament, there was little which could stop them implementing these policies and being held to account if they failed. There weren't international institutions that would bind their hands in the same way. Parliamentary sovereignty really was both nominal and real. Nowadays that's just not the situation. Professor Pippa Norris, McGuire Lecturer in Comparative Politics, Harvard University

Even for someone who is well-disposed towards the European Union, there is no question that there are huge democratic issues associated with it and, whatever we might say, we know that the idea of democratic Europe is not really one that we can sustain. There is no organic connection between people who get elected to sit in the European Parliament and their electorates. They do their best, but no one can really pretend that people chosen on a regional party list system sitting in some institution which no-one understands, is doing much for our democratic process.

*Dr Tony Wright MP, Chair,
Public Administration Select Committee*

I think Westminster has been singularly ineffective in its handling of European issues, European legislation. That's not particularly Europe's fault. It is for Westminster to develop the right procedure and even to show sufficient interest in the content of European legislation.

But there's an added problem of course, particularly in Europe and other areas as well, in that ministers go along to the Council of Ministers and decide things in secret and then come back and nobody can quite see what the British minister's role has been. Parliament has in some cases developed techniques to deal with this by, for example, having a debate about the British standpoint before the meeting of the Fisheries Council. There's a lot more that could be done.

When you are negotiating with other countries it's rather a nuisance to have to satisfy Parliament at the same time but it needs to happen. Other countries do it differently. The Danes for example always have members of parliament at the United Nations, and they have members of parliament alongside negotiating ministers in Europe as well. A number of other countries make pretty sure their parliament is involved in this process and ministers don't become detached from it when they go to negotiate.

Alan Beith MP

Parliament should have the right to amend the views of the Government on European issues. It's a very simple solution but it would give real power back to the Chamber. You should be able to put down an amendment to the existing government resolutions on European institutions or European legislation and directives, and it should be open to a vote in the main Chamber. That would totally, totally revolutionise what the House of Commons does about European legislation.

Gwyneth Dunwoody MP, Chair, Transport Select Committee

We haven't quite found a way yet to devise institutions which provide the checks and balances which we want to have for decisions beyond the nation state.

... I think the House of Lords European Committees which are the envy of the other member States of the European Union are as good

an institution as you're likely to get. These committees do have the time to scrutinise European legislation. So, it can be done if one thinks of an appropriate system. Denmark is another example of a Parliament which has quite a good system of checks and balances of European decisions. In the Danish Parliament Ministers are virtually given a mandate before they go into a Council meeting and that means they cannot move in the Council.

... But it doesn't solve all problems because it's not just Europe that is the problem. It's wider international decisions, financial markets and their regulation or, indeed, something like the WTO which is quite rightly in the news at the moment. Where are the checks and balances? What are these institutions? What do these decisions mean? How come Mr. Blair can go around and say Africa needs more money? Who decided that?

Lord Dahrendorf, Professor,
Social Science Research Centre, Berlin

The political parties at national level have conspired to prevent the European elections being about European choices. And that has meant people have seen less and less connection between the act of voting at the European level and a strategic outcome in terms of policy choice and even less in terms of executive appointment. The answer to your question of how do you make the European polity a reality will be whether the political forces will allow their parties at European level the space to develop their own alternatives. Governments are very clever at playing different bits of the democratic control system against each other, the better to avoid effective scrutiny. There is absolutely laughable scrutiny of decision-making in this country, and in others as well. And they don't allow the European Parliament to have full and effective scrutiny.

John Palmer, Political Director, European Policy Centre

We accept that a global debate about the democratisation of supranational bodies is ongoing and involves many complex legal, practical and political considerations. These matters are well beyond the remit of the Commission and certainly not in the gift of the British Government or British people alone. However, we do feel that the introduction of greater transparency into the relationship between the British Government's dealings with supranational bodies and the expansion of the powers of Parliament to consider directives from supranational bodies would give a greater measure of influence over these bodies and reassure citizens that their views were part of the complex and often opaque multilateral negotiations in which the Government is engaged.

Recommendation 11: A new overarching Select Committee should be established to scrutinise the Executive's activities in supranational bodies and multilateral negotiations, particularly in relation to the European Union, and to ensure these activities are held to account and conducted in the best interests of the British People.

It is recommended therefore that an overarching House of Commons Select Committee be established to scrutinise the decisions taken by supranational bodies, to monitor the British Government's role in these decisions and, most importantly, to recommend whether a decision or policy should be debated by the House. The Committee would draw its members from those select committees already touching on these areas in a more fragmented fashion – the European Scrutiny Committee, the Foreign Affairs Committee, the International Development Committee and the Trade and Industry Committee. The combined expertise of such a committee with its precise focus would greatly enhance the capacity of the Commons to scrutinise the Executive's dealings with global bodies.

We note that the Austrian, Danish, Finnish and Swedish Parliaments all provide the power to their members to scrutinise and even

mandate executive objectives and positions *before* their respective governments enter into multilateral negotiations specifically in relation to the European Union. The Danish Parliament's powers are particularly strong in this regard. We feel that similar measures would greatly enhance the accountability of this sphere of governmental activity and bolster citizen confidence in the area. We recommend, therefore, that any new Select Committee established to scrutinise multilateral activities, and the European Scrutiny Committee itself, explores this approach and understands the different ways it is applied in each country and then brings detailed recommendations to Parliament.

We also note that one particular proposal of the European Constitution would be worth revisiting, despite that constitution's demise, to provide the British and other Parliaments with greater scrutiny power over the decisions taken by their executives. This proposal would require the European Commission to revise any of its draft proposals if one-third of the Union's national parliaments objected to a measure on grounds that it went against the principle of subsidiarity. The same would apply to proposals which were judged to act against freedom, security or justice, but in this case the threshold is only one-quarter of national parliaments. The great benefit of this idea is that it would offer a scrutiny power to the British Parliament over EU proposals which the Executive has never been inclined to offer. This, in itself, could introduce considerably greater transparency to the relationship between the Executive and the EU than currently exists.

By way of conclusion, it should be mentioned that there has been considerable discussion in recent months and years about the need for Parliament to make itself a more accessible place for visitors, to communicate its work more effectively to the public and to undertake significant education programmes to explain the role of Parliament and how it operates. Such an approach would undoubtedly go some way towards responding to the *Power Inquiry's* finding that many people would welcome greater knowledge and information

about the political system and that the lack of this is indeed a cause of disengagement.

However, as Chapter 3 displayed, *Power* has found a number of other causes of disengagement from formal democracy which are almost certainly far more significant than the issue of education and information. A Parliament which puts efforts into improving its communication and education strategies but does nothing to address the fact that citizens feel they have no effective influence over its deliberations and decisions is clearly only addressing a small part of a much wider and deeper problem.

We are aware from our evidence that the majority of MPs hold Parliament in deep regard, but it is a sad fact that *Power's* own and other research shows they are practically unique in this respect. It is striking, for example, that the recommendations made in this chapter will almost certainly be regarded as radical, if not bordering on the absurd, by many MPs and ministers. But, as *Power's* research has discovered, these recommendations are regarded by most 'ordinary citizens' as almost unquestionably necessary reforms. This is a dangerous dichotomy which cannot be ignored for much longer.

The recommendations made here are designed to create a more open Parliament which can show British citizens that it is a place of real influence over government and a place that can act as the 'voice of citizens' when governments cease to take full account of their views. In doing this, Parliament, may once again become a meaningful place with which to engage.

However, as was stressed at the start of this chapter, these changes alone will not be enough. A Parliament with real power to scrutinise and challenge the Executive, and a local government with real freedom to act on its local citizens' wishes will still be a Parliament and local government dominated by parties that are widely disliked. They will also remain dominated by a culture which does not value serious engagement with citizens between elections. It is these areas to which this report now turns.