

HOUSE OF LORDS
HOUSE OF COMMONS
JOINT COMMITTEE ON DRAFT CONSTITUTIONAL RENEWAL BILL

Memorandum by Gabriel John Spence, retired Civil Servant (Ev 08)

Summary

1. Qualification in 1948 by open written examination under the Trevelyan-Northcote system has empowered me to take a long-term view. The inevitable high costs of the solutions proposed may have untoward effects without solving the underlying problems - an expensive steam-hammer to crack a peanut on the Westminster village floor?

Personal Qualifications

2. I am one of the last senior civil servants who qualified in 1948 for the Administrative Class under the original Trevelyan-Northcote principles of anonymous competitive written examination designed to circumvent the appointment of unqualified candidates. I retired a quarter of a century ago as Deputy Secretary of the University Grants Committee after having served in four separate Departments of State. I am persuaded that a long-term view may assist the Committee to come to a balanced view on this Part of the Bill.

Evidence

3. The section of the of the draft Bill relating to the Civil Service takes us a long way down the road from the maxim of Sir Edward Coke (CJ) that 'an Act of Parliament can do Any Thing' towards the currently-popular doctrine that 'an Act of Parliament should do everything', including perhaps answering the hopes of hard-pressed Ministers that they satisfactorily 'addressed' their problems by laying another weight upon both the Statute Book and the pockets of taxpayers.

4. The provisions are elaborate and expensive, involving the laying before Parliament (with the inevitable complications involved) of codes of conduct both for civil servants and special advisers, and including a whistle-blower's charter (S.32 (6) (b)), probably not unnoticed by lawyers whose commercially-inspired briefs might be diminishing. Any Government hard-pressed to balance budgets will no doubt be well-advised to consider whether the ensuing expenses and demands on Parliamentary time will be justified in relation to the avoidance of problems, abuses, or malfunctions. The risk is that a minor Westminster-village spat could provoke a massive and expensive response which a vulnerable economy would find hard to afford.

5. The main practical effects, apart from cost, are likely to be twofold: the bringing into the public domain of the numbers and costs of paid special advisers, and the projection into the limelight of the hitherto private (though decreasingly so, as the 10p. Tax affair showed) relationships between ministers and their professional advisers. The former might well be achieved with less cost, if less elegantly, by the probings of the tabloid press, and the latter might well affect the quality and character of potential senior advisers who might increasingly look elsewhere for shelter from exposure to political controversy. Advice to Ministers from officials would become less frank and much more hedged by risk of quasi-political or legal exposure.

6. The provisions of the Bill will not affect informal 'special advice' of the kitchen cabinet, 'in and out club' or St. Stephen's Dive character, except perhaps to make it even more conspiratorial. Nor will they ensure that junior Civil Servants receive better in-career training for their political interface, such as is attempted in France through the Ecole Nationale D'Administration.

7. What they will almost certainly achieve is a series of elaborate and expensive controversies conducted in public over the machinery and the way the Government is run. Matters formerly dealt with, if not to the satisfaction of everyone, in an afternoon's heavy meeting behind closed doors, might well be dragged out in the manner of Public Enquiries with Senior Counsel leading the proceedings, and the public footing the bills.

8. The criticisms above do not relate to all of the provisions, and it might well be helpful to regularise and strengthen the position of the Civil Service Commission in the hope that stronger membership might enable it to tackle (or require Departments to tackle) the problem of in-career training for the senior civil service to help to recover and retain the understanding and confidence which must exist between Ministers and their staff. But the work of such a revived body would be better conducted outside the glare of the political debate.

20 May 2008