

Is Parliament Fit For Purpose? ¹

Introduction

I should like to thank the Chancellor and officers of Hertfordshire University for their kindness in inviting me to address you this evening. It is a great honour and a great pleasure.

In one form or another Parliament has provided the focus of my professional life over the last thirty-five years, and during that time I have had opportunities to see the institution from a range of different perspectives. In relation to Parliament and parliamentarians I have been at different times an observer, a customer, a colleague, a commentator, an adviser and now an office-holder. I have had opportunities to be impressed and disillusioned, inspired and disappointed, empowered and deflated. And the closer I come to retirement the more often I find myself asking the question that forms my title this evening.

Is Parliament fit for purpose? Is this really how it is meant to be? Are all the things that are clearly wrong with Parliament mere ripples on a river that rolls serenely from generation to generation bearing the constitutional craft in safety? Are all the apparent disasters mere distractions from a deeper plan that delivers precisely what it is meant to deliver? Or are all the things that are constantly celebrated as working so well themselves the ephemeral distractions from underlying systemic failure?

¹ The Chancellor's Lecture, Hertfordshire University, 2 November 2023 – Daniel Greenberg CB, Parliamentary Commissioner for Standards.

What is Parliament for?

Clearly, we are not going to be able to begin to answer these questions without first asking ourselves an underlying question: What is the purpose of Parliament? What is Parliament actually for?

And of course, different people both inside and outside Parliament have different views about that.

Parliament as legislature

Many Members of Parliament will tell you that they regard their primary function as legislators. Certainly, much of the time of Parliament both in each Chamber and in Committees is taken up with the consideration and passage of legislation.

But do we actually need Parliament for the purpose of promoting and passing legislation?

For one thing, although we say that primary legislation is passed by Parliament, the reality is that – with some exceptions that are less exceptional than they appear and to which I will return – it is not the will of Parliament but the will of the government of the day that is enshrined in the legislation that emerges.

Whenever it looks as though Parliament might be capable of exerting a will that is independent of and contrary to the wishes of the government, we all go into a state of panicked prognostication of the death of democracy: and it was the illustrious forbear of your illustrious Chancellor who was most recently responsible, a mere hundred or so years ago, for the Salisbury-Addison Convention in accordance with which the government of the day has a right to secure its legislative business in the unelected Chamber.

The reality of the government's grip on legislation has become compounded in recent decades by the increasing use of subordinate legislation. Almost no Act of Parliament passed nowadays contains the details of the law which it is designed to make: instead, it confers a raft of powers for Ministers to make regulations by which the real substance of the law is enacted. In constitutional terms this is a relatively recent phenomenon. It started to become apparent as a significant problem in the first decade or two of the 20th century, and was expressed as a constitutional problem by the then-Lord Chief Justice, Lord Hewart, in his 1929 book *The New Despotism*, following which Parliament appointed the Committee on Ministers' Powers, chaired by the Earl of Donoughmore, to consider the use of delegated powers in more detail, culminating in the Report of the Committee on Ministers' Powers in April 1932², a work which remains profoundly influential to this day.

A similar phenomenon emerged around the beginning of the 21st century in the form of the increasing use of quasi-legislation – guidance, Codes and so on – which the same kind of power and flexibility to the government while for the most part evading the checks and balances established for subordinate legislation following the Donoughmore Report.

² Cmd 4060.

So almost without exception legislation today is enacted either by the government without involving Parliament at all, or by the government notionally through Parliament but in reality reflecting and relying on the government's working majority.

And what of the apparent exceptions to the government's control of legislation in Parliament: the much-vaunted private Members' Bills? It is not uncommon to hear a former Member of Parliament recount how the pinnacle of their career on the backbenches was legislating on this topic or the other. But the reality is slightly less Olympian than it is sometimes made to sound. Vanishingly few private Members' Bills originating in the House of Lords ever see the light of day as an Act. In the House of Commons, the Members who come in the top seven of the Ballot for Private Members' Bills each Session in theory have a reasonably good chance of having their Bills become law, because there are seven Fridays in each Session dedicated to private Members' Second Readings, and the first Bill set down for each of those days has a reasonable chance of obtaining a closure motion and thereby proceeding to the next stages of the Bill despite a certain amount of opposition. But the reality is that for Bills emanating from either House, including the top seven Commons Ballot Bills, the government has sufficient methods of blocking or delaying them for it to be reasonable to say that almost never does a private Member's Bill reach the statute book without at least benevolent neutrality from the government. And when a private Member's Bill appears to have sufficient public traction to make it unattractive for the government to oppose it, the standard response is for the government in essence to adopt it and amend it until it is in a form which in technical and policy terms is acceptable to the government.

More than that, of the small handful of private Members' Bills that do reach the statute book each year, most of them are not really private Members' Bills in any real sense at all, but are "handout" Bills, small measures that the government would quite like to have made into law, but which are not a sufficiently high priority to be given a slot in the government's legislative programme. So they are handed out to a Member who is successful in the ballot – or very occasionally to a peer – on the basis that the backbencher gets the credit and the government gets a few extra clauses on the statute book.

So one way or another the role of Parliament as distinct from government in initiating and enacting legislation is perfunctory or nugatory.

Indeed, the primary function that Parliament is generally described as performing in relation to legislation is less about facilitating its enactment and more about providing a scrutiny filter to improve the legislation that the government enacts. But is even this scrutiny role something for which Parliament can really be said to be necessary or even appropriate? The term often used by parliamentarians in relation to Committee stages of Bills – "line by line scrutiny" – was never really accurate, and it has increasingly failed to reflect the reality. I have talked and written about this elsewhere³ and I will not discuss it in detail here: for present purposes suffice it to say that most Members of Parliament do not read more than a tiny fraction of the legislation that they are notionally involved in passing, and are neither equipped to comprehend it thoroughly nor possessed of the skills and competence to make a meaningful contribution to the encapsulation of policy in effective legislation. If we wanted to provide effective technical and policy scrutiny of government legislation, we should probably be engaging a range of general and special stakeholders outside the parliamentary community.

³ See, in particular, *Statute Law Review*, 2018, Vol. 39, No. 3, v–vii, doi:10.1093/slr/hmy021, EDITORIAL, *The Myth of Line by Line Scrutiny*.

So what does Parliament really do in relation to legislation that nobody else could do and that it is properly equipped to do?

The answer is very simple: Parliament represents minority voices and interests during the preparation, enactment and implementation of primary and subordinate legislation in a way that no other person or institution can do.

Back-benchers have in effect no power in relation to legislation for the reasons I have described: no power, but some influence – very considerable influence if it is deployed skilfully as it so often is. In a wide range of ways, parliamentarians have opportunities to raise minority concerns or aspirations in relation to particular legislation in a way that commands a significant and useful degree of attention from the government, in whom all the power is concentrated. When a back-bench amendment is debated, the Minister has to set out the government's position in relation to it. And before that the civil service has to brief the Minister on the specific justifications for the government's attitude to the amendment. It is rare for the government to adopt an amendment and even more rare for the government to accept it in the form drafted: but the hidden influence capable of being exercised by the careful deployment of backbench amendments is profound, and necessarily unique to parliamentarians who have the power and duty to hold a Minister publicly accountable on a particular point of policy. And even without an amendment being separately debated or even tabled, the passage of primary legislation, and the scrutiny of subordinate legislation, offers a range of opportunities for influence by Members of Parliament and peers on the enactment and implementation of legislation that can make an enormous difference to the impact of that legislation on individuals whose interests might otherwise not feature large on the political agenda.

I have written and talked elsewhere about the dilution in recent decades of the backbencher's influence on legislation in a number of ways and I am not going to dilate upon the theme here. Suffice it to say that in my opinion there remains a unique and precious function for Parliament as distinct from government in relation to legislation; that Parliament needs to think carefully whether the influence of which that function consists has been diminished unhelpfully; and that in its present form we can confidently state that in relation to legislation Parliament undoubtedly retains a function, albeit that it is not perhaps the same kind of function that external observers, or even parliamentarians themselves, commonly perceive.

Debating chamber

The second most obvious function of Parliament, after acting as a legislature, is as a debating forum. But, again, is that really a purpose that Parliament is uniquely or pre-eminently placed to fulfil?

Put another way, what is it about Parliament as a constitutional institution that is required in order to provide a space where people of different views can exchange them? Does Parliament do anything in that respect that, for example, Speakers' Corner in Hyde Park cannot or does not?

Looking at Parliament as it is today, and not necessarily reflecting Parliament in its origin or at all stages during its development as a constitutional entity, I think the answer is that as a debating chamber Parliament does serve a purpose that Speakers' Corner does not and could not. You don't need a parliament for people to talk: but you need a parliament for people to listen. There is nothing about a protected but unregulated space like Speakers' Corner that ensures that a minority voice will be listened to, and not simply shouted over. Despite the fact that what most members of the public most readily associate with parliamentary debating – the unedifying spectacle of Prime Minister's Questions – the reality is that the vast majority of the public debates and private discussions in both Houses, in the Chamber and in Committee, take place in an atmosphere of calm and respect, with the rules of debate cementing into the institution not just tolerance for the expression of minority views but a requirement for the majority, as represented by the government, to listen, consider and respond in much the same way as I have adumbrated for legislation.

Here too you need the majority to rule: and you need a Parliament to encode the influence of the minority as a constant check against the power of the majority. Some of us are not entirely sure whether the Supreme Court in *Miller v The Prime Minister*⁴ really was enunciating a pre-existing constitutional principle when they asserted Parliament's right to continual existence for the purposes of holding the Executive to account. But that has certainly been one of its functions over the centuries; and it achieves it through the procedural guarantees for the rights of minorities to be heard in an influential way, again including apparent trivialities like Backbench Business debates, Westminster Hall debates, urgent Questions, and all those ancient and not-so-ancient features of Commons procedure that together provide the effective checks and balances that preserve the constructive tension that is the rule of law.

⁴ *R. (Miller) v The Prime Minister* [2019] UKSC 41.

The distinguishing feature of a Parliamentary democracy is that it is built around allowing minority voices to express themselves in a Parliamentary context in a way that has a significant impact on the governance of the country, for the protection of minorities, and for the advancement of their interests. The simple right to call the Minister to the Despatch Box, and ask them questions on which they have to be briefed, and as to which they need to make public responses, is capable of having a significant impact on the development and implementation of government policy.

Last port of call

The first two parliamentary functions that we have identified concern activity in the Chamber and in Committee, or behind the scenes but in relation to Chamber or Committee activity. The third and final function that I wish to discuss concerns what some Members of Parliament have come to describe as their social-work function. It is a phrase that I have heard used by Members of Parliament both in a positive way as expressing their perceived utility to their constituents and by some in a negative way as expressing unreasonable expectations on the part of modern constituents.

Once again, here, the question is what is it about Members of Parliament that makes them likely to be effective social workers? There is neither requirement nor expectation that an MP will have training or qualifications in social work, or citizens' advice work generally. Nor is there necessarily anything in the natural character of an aspiring Member of Parliament that makes them likely to be adept at social work or highly motivated to do it?

It could be argued that politicians should concentrate on public policy and leave social work to trained social workers.

Interestingly, however, although one hears some Members of Parliament suggesting that becoming some kind of a helpline for constituents is a development of the last few decades – and one which some of them deprecate as an unrealistic expectation on the part of the public that MPs are neither equipped nor inclined to fulfil – examination of political literature suggests that it has ever been thus, but that each generation of politicians has felt that they were more greatly burdened by their constituents’ expectations than in the past.

Certainly, a genuinely selfless interest in the welfare of constituents appears to have been recognised as a prerequisite for an MP for a very long time.

The Hansard Society’s 1948 publication *Our Parliament*⁵ in 1948 says as follows:

“Who are the best men for Westminster? ... Obviously, what is required for Parliament is variety, both of men and women, with more ability and less self-interest than the rest of us; but the most essential requisite is still the *“honête homme”*. ... The real heroes of Parliament are those Members who, with or without exceptional ability, through its long history have fought for freedom and the general good with courage, energy and common sense, and who have been, above all, *men without any personal axe to grind.*”

⁵ Written for the Society by Strathearn Gordon.

Going a little further back in history, how strikingly resonant remains Edmund Burke's, Speech to the Electors of Bristol on 3 November 1774:⁶

“Certainly, gentlemen, it ought to be the happiness and glory of a representative to live in the strictest union, the closest correspondence, and the most unreserved communication with his constituents. Their wishes ought to have great weight with him; their opinion, high respect; their business, unremitting attention. It is his duty to sacrifice his repose, his pleasures, his satisfactions, to theirs; and above all, ever, and in all cases, to prefer their interest to his own.”

Once again, what emerges is that in their capacity of public servant, just as in their capacities as legislator and political debater, an MP is uniquely placed by virtue of their membership of the House to assist people who have exhausted all other avenues of possible assistance. And once again, it is the MP's ability to command the attention of, and demand explanations from, Ministers and all other public authorities through Ministers, that gives them a unique influence and power in relation, in particular, to those who have been unfairly or unhelpfully served by public authorities.

⁶ Works 1:446–48.

In terms of serving the interests of minorities, one can get no more helpless or deserving minority than the single citizen who is faced with injustice and who has exhausted every avenue apparently available to confront and remedy it. In my Annual Report to Parliament this year⁷ I published as an Appendix a selection of case studies of anonymised instances where MPs have gone to impressive and effective lengths to pursue the interests of individual constituents. These case studies amply demonstrate how uniquely placed Members are to provide the kind of last-resort intervention and assistance that their constituents seek.

The three unique functions

We have now identified three functions, each of which concerns the protection of minorities and individuals and each of which Parliament is uniquely placed to perform. Influencing the form and implementation of legislation; raising issues in a public forum with Ministerial accountability; and intervening to pursue justice.

We could easily find a more efficient way of legislating than through Parliament; we could easily establish a cheaper public debating forum than Parliament; and we could easily provide a public social service resource better qualified than Members of Parliament. But Parliament is uniquely placed to perform these functions in a way that may not be efficient but protects the interests of all sectors in the manner that is the key differentiator between a Parliamentary democracy and a Parliamentary dictatorship.

⁷ 12 July 2023 – HC 1519.

These roles may have arisen over time without being planned by anyone as part of a constitutional design: but they have developed pragmatically with an inefficient flexibility which is the essence of a living and developing Parliament, in which lies its beauty, its justification and the sheer brilliance of an institution that could make one believe in evolution even if one did not believe in a beneficent Darwin.

We have now identified the unique purposes of Parliament. So we can move on to ask ourselves is the present Parliament fit for fulfilling those purposes?

Trust

The common theme between the three functions that we have identified is that of ensuring that the interests of every individual and group in the United Kingdom are listened to, given appropriate respect, allowed deserved influence and provided proper protection.

Fitness for purpose is therefore going to depend on being trusted by individuals and minority groups to reflect and represent their interests as well as those of the electoral majority that chose the government of the day.

And that trust in turn depends on the extent to which Parliament can be shown to be operating in accordance with principles that make individual Members worthy of being trusted.

And let us be clear: in terms of a trusted body Parliament is not in a position about which anyone can afford to be complacent.

Indeed, I confidently make two and a half predictions about how anyone in this distinguished audience would react if I were to ask them to assess the state of Parliament today in terms of public trust. Their first reaction would be along the lines of “you can’t trust any of them; they’re all as bad as each other”. In about half of cases their second reaction would more likely than not be along the lines of “mind you, X MP is different from the others – my aunt had a problem nobody else could help with and X MP was wonderful”. And in all cases if I challenged them to list all the MPs who are untrustworthy and not fit for office, five or ten names would trip glibly off the tongue, followed perhaps by a few others depending on the extent of the person’s interest in or exposure to politics, but we would almost never get beyond twenty or so. There are about 650 Members of Parliament, and the bizarre reality is that about 620 of them are not like all the others.

As part of my engagement and outreach work that I began when I took up office as Parliamentary Commissioner for Standards at the beginning of this calendar year I have been running a series of *Principles in Practice* Seminars for staff of Members. I have sat with a number of groups of Members’ staff, both in Westminster and elsewhere, on a cross-party basis, and listened as they have expounded to me what the seven Nolan Principles of Standards in Public Life – honesty, integrity, openness, accountability, selflessness, objectivity, and leadership – mean in practice in the everyday life of a Member’s office. And I have found it a deeply inspiring, encouraging and reassuring process: the seriousness with which the vast majority of Members take their constitutional position that makes them uniquely placed in relation to legislation, challenging government and helping the helpless; the integrity with which they approach each of those tasks; and the objectivity that they show in their pursuit of issues that they espouse.

The sheer selflessness and leadership that so many Members and their staff show is on a par with the kind of dedication and commitment that members of the public perhaps more normally would associate with the profession of a paediatric accident and emergency nurse.

Nolan principles

All of which brings me finally to the Parliamentary standards system in general and the House of Commons' Code of Conduct and Guide to the Rules for the Conduct of members in particular.

It will I hope to be clear from what I have said so far that what I believe, is the essence of Parliamentary democracy in general, and our own in particular, and the benchmark, against which its continuing fitness for purpose can be tested, is whether underneath the adversarial party-political processes, and the tensions and combative encounters of the Parliamentary process, is a realisation that there is a single enterprise taking place in Parliament in which everyone is an equal player, and in which it is crucial that everybody realises they are parts of a combined process with that rests on fundamental principles and rules designed to respect everyone in the country and protect their interests.

The rules about the control of the Order Paper are, as I have explained, quintessentially about preserving the balance of power in a way that allows the elected government to govern without ignoring and while protecting minority voices and rights.

But more fundamental still are the shared and agreed values on which this rests. Although it was only in about 20 years ago, that the Committee on Standards in Public Life, under the chairmanship of Lord Nolan, produced its seven principles of standards in public life, there was no suggestion at that time that they were in any sense being created anew or as anything other than an articulation for the present of principles that have been understood over time.

It is, perhaps, a sad reflection of our times that it was thought necessary to reduce custom and practice and conventional wisdom to a form in which it could be asserted, and if necessary enforced, rather than simply being assumed as the common heritage of all. But it is undoubtedly a good sign of the times that at a time when those principles were thought to be at some significant degree of risk, there was general acceptance of the need to preserve them by setting them out in a form in which they could be appreciated by all, and shared on a common basis.

Those principles were chosen and expressed so well that in the 20 years or so since their original articulation they have stood the test of time and been widely adopted and implemented over the entire spectrum of public affairs in the United Kingdom.

I propose to take this opportunity to give a brief explanation of how each of the Nolan principles relates specifically to the aspects of Parliamentary fitness for purpose that I have identified.

Openness

Openness, or transparency, is one of the key distinguishing features between democratic and authoritarian regimes.

What I do not know I cannot challenge.

In the worst part of the expenses scandal, the most important and positive thing about it was that it was a scandal. Despite attempts in early 2009 to exempt MPs and peers from freedom of information principles, their expenses were made fully public and the principle was established permanently that transparency is more important than the protection of individual political reputations.

The behaviour of MPs that was exposed by the expenses scandal did enormous damage to the reputation of Parliament. One of the lowest, and therefore most dangerous, moments for trust, was of course the Members' of Parliament expenses scandal a little over ten years ago. I remind us of the final passage of the judgment of the then Lord Chief Justice sitting in the case of *R. v Chaytor (David)* in the Court of Appeal:⁸

“28. It is difficult to exaggerate the levels of public concern at the revelation of significant abuse of the expenses system by some Members of Parliament. Some of those elected representatives, vested with the responsibility for making the laws which govern us all, betrayed public trust. There was incredulous consequent public shock. The result was serious damage to the reputation of Parliament, with correspondingly reduced confidence in our priceless democratic system and the process

⁸ [2011] EWCA Crim 929.

by which it is implemented and we are governed. This element of damage caused by the appellant (and others) cannot be valued in monetary terms, but it is nonetheless real, and the impact of what has been done will not dissipate rapidly.”

To some extent, we are still struggling to dissipate that impact. But at no point did we have to ask ourselves whether Parliament was in fact far more rotten than we were able to see. The rot was sufficiently transparent to be capable of being exposed, condemned, and ultimately treated. And the remedy was the establishment of the Independent Parliamentary Standards Authority as the independent body that regulates and administers the business costs and decides the pay and pensions of the 650 elected MPs and their staff in the UK; thereby enhancing and cementing transparency into the process for the future.

The cash for questions scandal in 1994 was in one sense even more dangerous, because there was at that time no mechanism for transparency that could have been regarded as being failed by members behaviour. But again, the parliamentary phoenix that rose from those particular ashes was the establishment of the office which I presently hold, which cements transparency into the system in relation to Members’ interests and gives me extensive powers for the investigation of interests and conflicts that a Member might seek to hide.

Of course, that particular system of transparency cannot be perfect and it would not be unreasonable for a member of the public to speculate that there may be some registrable interests that go unregistered or some relevant interests that go undeclared. But I am confident that the system works as it is meant to in the overwhelming majority of cases.

And again, where it looks as though it may not have worked, there is an open and transparent system that members of the public can use to have me investigate: I receive many suggestions that one or other MP may have failed to declare or register an interest, and where there is sufficient evidence to make a suggestion plausible I investigate: and the House has given me very extensive powers to make those investigations effective. The important point is that transparency works and provides the necessary Parliamentary disinfectant to ensure that the public in general can be satisfied that what is being done in their name is being done in accordance with the principle of transparency.

In particular in relation to the protection of minority interests, to which I have referred, that openness ensures that minorities can have full access to Parliamentary influence without people needing to suspect that they are doing anything untoward or hidden. They are encouraged to lobby MPs who are encouraged to lobby Ministers in favour of interests that they support, without anybody needing to suspect or worried that there are private interests being served rather than public.

Parliamentary fitness for purpose does not depend on minority interests not lobbying: on the contrary, it depends on them lobbying effectively and being respected and heard – but openly and transparently.

Accountability

The second of the Nolan principles, closely related to but distinct from transparency, is accountability.

Here there is a specific problem in relation to Members of Parliament that does not apply to most other public officials or public servants.

In most regulatory contexts it is crucial that the entity being regulated is accountable to someone other than itself. In the case of Parliament, that is literally impossible. The democratic legitimacy of the House of Commons in particular rests on each of its elected Members being able to conduct themselves without fear or favour, and with a complete and untrammelled independence that is answerable to the House alone. So despite the reputational dangers involved in Members of Parliament appearing to mark their own homework, there is simply no one else who can do it.

Over a number of decades Parliament has wrestled with this problem and arrived at a mechanism that provides the maximum in accountability with the preservation of constitutional independence; and does so, in a way that once more emphasises Parliament's accountability to the public, including majority and minority voices within the public, in a way that goes beyond the purely representative democracy function of the ballot box.

This construct, which has taken considerable time to build is composed of the following delicate balance of layers. The House appoints a Select Committee on Standards, which adjudicates on the compliance by Members of Parliament with the Code and Rules set down by the House for its own Members. So far so independent, but not yet so far so accountable. Then we add to the Standards Committee a number of lay members, who now have voting parity on the Committee, which provides a massive leap in accountability; but independence is still preserved by the Committee's recommendations requiring to go to the House for decision.

The House of Commons nearly rejected this balance in the case of Owen Paterson: in fact it did reject it once, on a Whipped vote, but it came to its senses, stepped back from the brink, and preserved the principle of accountability to the system. Finally, in order to guarantee natural justice and procedural propriety, the House has provided an appeal from the Standards Committee to an Independent Expert Panel which includes judicial expertise. So Parliamentary independence is preserved by the authority of the Committee, the credibility of accountability is ensured by giving me operational independence and respecting my findings and recommendations, and the overall integrity of the system is safeguarded by an appeal to a quasi-judicial body.

Honesty and integrity

Taking the next two Nolan principles together, honesty and integrity are again fundamental prerequisites of the kind of trust between the public and Parliament necessary for the performance of the three fundamental purposes that we have identified.

And again, the idea of integrity is essential to the nature of the Member of Parliament as set out since earliest times. Indeed, Blackstone in his Commentaries sets it out in words that remain practicable and powerful today:⁹

“And every member, though chosen by one particular district, when elected and returned serves for the whole realm. For the end of his coming thither is not particular, but general; not barely to

⁹ Book 1, Chapter II, para.159.

advantage his constituents, but the common wealth; to advise his majesty (as appears from the writ of summons) ‘de communi consilio super negotiis quibusdam arduis et urgentibus, regem, statum, et defensionem regni Angliae et ecclesiae Anglicanae concernentibus’ (*of common counsel upon certain difficult and urgent affairs, concerning the king, the state, and the defense of the kingdom of England and the English church*).

To put it in constitutional terms, the rule of law principles that underpin our Parliamentary democracy are the terms of the social contract on the basis of which the public consent to be controlled by a government subject to the oversight of Parliament. It is that consent that legitimises legislative and executive control and trust is a pre-requisite of that consent. I consent to actions taken by Parliament and government based on what politicians tell me about the facts and circumstances underpinning those actions. Without a basic presumption of honesty, trust is eroded, and the consent to the rule of law is vitiated.

Hearing a number of politely suppressed hollow laughs from the audience, let me be very clear exactly what I mean in this respect. Very clear, and very honest. We are used to politicians exaggerating and putting their own party-political or other personal spin on events. The body politic is capable of adapting to and absorbing and making allowances for hyperbole, and for each political grouping having its own preferred prisms through which to observe, record and report, circumstances and events.

This is similar to the way in which the law of contract makes a difference between what used to be referred to in advertising as “a mere puff” and a specific misrepresentation, which has the potential to void a contract. If I sell you a drink by describing it as the most refreshing drink in the world, you take that description to be a mere encomium, and you effectively discount it as anything else. If I sell you a drink as providing 20 per cent of the recommended adult dosage of vitamin C, that is taken to be, in effect, a specific term of the contract, and if it turns out to be false, it may, depending on other legal factors, vitiate the contract.

The same is true in politics. When a member of Party A stands up and says my party is the best party in the world, don't vote for Party B because they would bring about the imminent destruction of the country, we take them to be expressing a political opinion and we discount for the same.

But when a politician says that a particular event did or did not take place on a particular day, we take them to be making an assertion backed by the honesty and integrity principles that underpin that trust which is fundamental to the rule of law.

This is why the findings of the Committee of Privileges in the case of former Prime Minister Johnson, and indeed the entire process of the Privileges Committee, are so important. Were Johnson's statements about parties in Downing Street during Covid the most significant political issue of his tenure? Probably not. Why were his statements to Parliament about those events thought to be sufficiently significant to require referral on a cross-party basis to a Committee for investigation? Why was this thought to be an issue, worthy of being, in effect, the determining factor in the reliability of an administration?

And the answer is because it was not mere persiflage or verbiage: the issue was whether he had told specific falsehoods: whether he had lied to the House of Commons. Prime Minister Johnson was habituated to statements of a very general kind: but while they were all clearly within the realms of mere political puffery, they did no damage to the fundamental trust between the public and Parliament. Although the Privileges Committee was looking at whether former Prime Minister Johnson had misled Parliament, it was really looking into whether he has lied to the nation when speaking publicly in Parliament.

As we have seen, the discourse that takes place in Parliament is unique because it takes place in public in a spirit of openness and transparency, and it must be capable of being trusted. If anything were required to show that as a channel of communication predicated on a requirement for honesty and integrity, Parliament is fit for purpose, it would be the fact that a former Prime Minister belonging to the party with a significant majority in the elected House is referred to, examined by, and ultimately convicted by a tribunal of his peers, for nothing more or less than telling a lie in relation to a matter that, however, trivial in relation to its own substance, was a betrayal of that trust and confidence between politicians and public.

It is no exaggeration to say that Parliaments around the world looked on with astonishment, admiration, and even envy, to see the principles of honesty and integrity thrown into sharp and sudden relief, and enforced as the backbone of the Parliamentary constitution.

In the course of political rhetoric we allow our politicians as much freedom as we do to sellers of washing powder and vacuum cleaners. And unlike the sellers of washing powder and vacuum cleaners, when they exceed the mere puff and come to tell specific lies, we cannot sue them in a court of law, nor should we be able to because of the importance of the separation of powers and the exclusivity of Parliamentary privilege. But Parliament, understanding how its legitimacy depends on a reputation for ultimate honesty, can, and did, preserve its own reputation by rising up to say there is a difference between dialectic and dishonesty.

Selflessness and objectivity

In relation to the next two Nolan principles, selflessness and objectivity, much that I have already said about transparency and accountability applies in this context too.

And once again, it is the minorities who consent to being governed by a party for which they did not vote whose interests are primarily concerned. If I am to submit happily, and with good grace to be governed by rules which do not represent my preferred public policy, it is absolutely essential that I can be sure that the trust placed in the government of the day by virtue of the rule of law is justified by honesty and integrity in the way in which it is exercised, and in the way in which the powers granted are deployed.

Minority voices must be able to exercise influence, and that may include the minority of one represented in the personal interests of a particular citizen, whose affairs differ from those of everybody else in some particular respect. It is not uncommon to have a debate in Parliament to which a Minister is expected to reply dealing with the affairs of a single individual, requiring Ministers or other public authorities through Ministers to justify their treatment of that individual. That is part of the unique purpose of Parliament that, as we have discussed, no other body could fulfil. But in advancing the interests of particular minority groups, however large or small, I need to know that politicians are being actuated by their general policy appraisal of the public interest in the treatment of those minority interests. Put simply, for a Member of Parliament to stand up and defend a member of the public against perceived injustice of any kind is both proper and praiseworthy: but I need to know that it is genuinely the wider public interest as applied in relation to those specific individuals that is actuating politicians: not their own personal financial gain.

To this end, the mechanisms of transparency and accountability as operated in the House of Commons address themselves specifically to ensuring and demonstrating objectivity and selflessness. The rigour with which I am required to operate and enforce the Register of Members' Financial Interests, and the rules about the declaration of interests in the course of Parliamentary proceedings, show again how seriously Parliament takes the challenge of showing that it is public policy and not private gain. that is the driving force.

And once again, I believe that for the most part, we operate the system extremely effectively. Lapses are investigated and can where necessary result in a degree of sanction that again shows how seriously the House of Commons, on a totally non-party political basis, takes its reputation for objectivity and selflessness.

And again this principle is operated without fear or favour within the House. I have investigated a range of Members from all sides of the House, including the Prime Minister of the day. Neither the Prime Minister nor anyone on his behalf suggested that it was improper or unhelpful for me to investigate or that it was in any sense an imposition or an impertinence. He, as almost all other Members, complied with the House's complaints process in accordance with their responsibilities. The process and outcomes of my investigations are published openly and transparently with full protection of Parliamentary privilege.

So yes, there are occasional failures where politicians allow their own interest to prevail over the public interest, or where they fail to comply with the rules that the House has set for itself in other ways. But does it happen often? No. And is the system to detect it and deter it working effectively? I believe that my investigations and their published results show that it is operating successfully.

Leadership

Finally, the Nolan principle of leadership. And here I confess to a slight feeling of disappointment. I am not convinced that politicians as a class do themselves the justice in this respect that a sufficient trust underpinning a successful rule of law requires. I have written about this in my Annual Report to the House and I will not elaborate on that now. For present purposes, suffice it to say that I believe the House of Commons would do itself more credit if Members in choosing language in all contexts, including when engaging in political discourse on social media, would ask themselves whether their choice of expression demonstrates leadership in the sense of setting an example of constructive dialogue that one would wish others to follow.

Conclusion

All of which brings me a clear and simple answer to the question in the title of my words this evening. Parliament has a number of unique and precious purposes that matter to us all, and particularly to the minority and individual interests forming part of the rich diversity of the United Kingdom. Happily, and not necessarily obviously when one looks at the surface, Parliament is eminently fit for the purposes for which it is maintained.
