



Public Administration and Constitutional Affairs Committee

Oral evidence: Membership of the House of Lords, HC 199

Tuesday 26 March 2024

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Members present: Mr William Wragg (Chair); Ronnie Cowan; Jo Gideon; Mr David Jones; John McDonnell; Damien Moore; Tom Randall; Lloyd Russell-Moyle.

Questions 45-86

Witnesses

I: Lord Bew, former Chair of the House of Lords Appointments Commission, and Baroness Deech DBE KC, Chair of the House of Lords Appointments Commission.

Examination of witnesses

Witnesses: Lord Bew and Baroness Deech.

Q45 **Chair:** Good morning and welcome to the Public Administration and Constitutional Affairs Committee. The Committee is holding the second oral evidence session in its inquiry on membership of the House of Lords. The inquiry will examine the arrangements for appointments to the House of Lords, its size and composition, and the effectiveness of its role in relation to the House of Commons. We have one panel this morning with the former and present Chairs of the House of Lords Appointments Commission. Good morning to you both. I wonder whether you might introduce yourselves for the record, beginning with Baroness Deech.

Baroness Deech: Good morning, Chair. I am Ruth Deech. I took over from Lord Bew in mid-November. I am a Cross-Bench peer, and in my past life I have been an academic, and chair of the Human Fertilisation and Embryology Authority, the Bar Standards Board and a few other such bodies.

Lord Bew: I am Paul Bew. I am also a Cross-Bench peer, and for the preceding years before Ruth's recent appointment I was the Chair of HOLAC. Before that, I was the Chair of the Committee on Standards in Public Life.

Q46 **Chair:** Thank you both. I will ask an open question first, if I may. How



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would you evaluate the current appointment process to the House of Lords?

Lord Bew: That is the most difficult one. There is a rather strange thing about being the Chair of HOLAC. When I think about the appointment process, my mind immediately goes to the seven people whom we appointed to the Cross Benches. We looked at them for both suitability and propriety. I think of the labour of interviewing and selecting them, and trying to be fair and do the best thing for what the House needed. It is actually very difficult to get it right. All you can do is try honestly to approach the job in a serious and fair way, with respect to the nature of the United Kingdom and society as a whole.

In fact, for most people, those seven people who came through to the Cross Benches on my watch are a minor thing. For most people, it is the over 100 appointments made under Prime Ministers. They are not all made by Conservatives, of course—some are recommended by the Labour party—but there are over 100 political appointments. Then there are 30 in the special category of distinguished individuals. That has led to a considerable swelling of the House of Lords in recent years. To put it simply, it is a function of the broad political crisis that we have been through in the last few years, with considerably less stable politics in this building than in the previous generation. That is the thing that most people are focused on.

The other problem is that we have no say in the suitability of those people, unlike the seven whom we appoint, and it is a matter of propriety. What we tried to do on my watch, which is continuing under Baroness Deech, is somehow strengthen the limited role that we have by laying considerable emphasis on the Committee on Standards in Public Life. That in itself is not lacking in ambiguity. For example, if you are talking about a political appointment, one of the key principles of the Committee on Standards in Public Life is selflessness. I am not convinced that normal political life and selflessness are always at one, so you have to do it with some common sense. Openness is another one. It is not always possible to be entirely open in politics, for good reasons. But they are good principles, provided you apply them with common sense and not absurd rigidity. I think we were right. I tried to publicise that point. On 22 October 2022, I wrote to the party leaders. We tried to inject consideration of those factors into the appointments that they make.

Q47 **Chair:** Thank you. May I ask the same question of you, Baroness Deech, and could you reflect on what Lord Bew has said? In some of the evidence we have had in our inquiry, distrust and discontent has been expressed. I wonder to what extent you think the appointments process might be to blame for that.

Baroness Deech: "To blame" is, I think, a bit unfair because we have to operate within the parameters that we have. In everything I do—it is the reason I took the job, and I think I speak for all the Commission members—the prime concern is the reputation of the House, the way it is perceived, the quality of its Members and, as a by-product, the reputation



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of the party leaders who nominate people to the House and indeed the reputation of those people. We are driven by reputation, quality and the perception of the House.

I am not saying anything out of order if I say the media certainly give the House of Lords a rather lower reputation than is deserved, but there is no question but that it is a rather difficult period. So that is what drives us.

Now we have two parts to the job. When selecting Cross-Bench peers who have applied themselves, we apply the most stringent criteria: the success rate is something around 1%—only just over 1% of all the people who apply have ended up with a seat in the House of Lords. They are sifted rigorously; they are interviewed; they provide references. But in the other half of the job, we are limited. We can check only on the propriety—a phrase susceptible to all sorts of meanings—of the political nominations put forward by the other parties.

I am not saying that those people are not up to scratch in any way, but it is much harder to satisfy the public and ourselves that these are people of the same excellent outstanding qualities that we are looking for in the Cross-Benchers, because all we can check is propriety. So there are two rather conflicting parts to the job.

Q48 Chair: You are absolutely right to make that distinction, and my apologies if that was lost in my question. As you alluded to, the current appointments system relies on convention and non-statutory guidance, and the interpretation of certain words in it. Is that sufficient to protect the appointments process from abuse or are statutory measures needed?

Baroness Deech: The entire structure rests on nothing but a White Paper, I think of the year 2000, which is a rather flimsy basis to have. At the other extreme, you might say—the Commission has not formed a view on this—that we should be put on a statutory basis. That could be good, but if it went too far, it could be problematic. Speaking for myself, I do not really believe that any Prime Minister would accept his or her final word in the process being taken away, but I can see some merit in having a statutory basis that sets out criteria and various other things.

At the moment, it is really rather flimsy. As is well known, a Prime Minister recently rejected our advice about a particular candidate. We have no assurance, for example, as to how many Cross-Benchers we can appoint. It is two a year at the moment; it used to be six. I know there is pressure on numbers, but we would dearly like to see more Cross-Benchers, given the huge press of numbers.

Again, on the reporting system, I gather for example that we are acquiring another member of the Commission. I did not know about this, but the Government are deciding that we should have another member. We lack a firm structure. That, of course, is not unlike the rest of the British Constitution, being unwritten, so it is nothing unusual, but you do feel it, as the Chair of the Commission.

Q49 Chair: So in terms of statutory measures, you are not saying the whole



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thing should be put on a statutory footing, but you have mentioned aspects in terms of your structure and composition. Is there anything else that you think might be more favourable to statutory footing?

Baroness Deech: No, I do not think so, because there are other issues which are very political that are beyond our remit. Those are things like numbers, balance and so on, which we cannot really do much about, especially given what a small body we are.

Q50 **Chair:** Lord Bew, on that same theme of question: is reliance upon convention and non-statutory guidance sufficient in your experience?

Lord Bew: There is one way in which I think the context has changed in recent years—this point I am about to make has to be taken into account when we discuss the debate between statutory and non-statutory—which is the event that I talked to you about at this Committee last time I was here, and that Ruth has just referred to, where we did say no to a candidate and the Prime Minister then said yes. You then probed me about that, and I said I thought if it were to happen again, it was quite conceivable that the Commission itself would resign. Baroness Deech has just said that no Prime Minister will give up the long-standing right to appoint under anything like our current, recognisable system. I am not, as such, campaigning against it, but I am saying that a certain limitation has effectively entered into the exercise of that right—not the abolition of it or the removal of it, nothing like that, but the exercise of it as a consequence of the fallout from the events we discussed when I last spoke to you.

Sometimes I hear people have a good statutory solution, as if it were designed to solve a problem which may already be, to a significant degree, solved. That is my point. An example is the Burns report, which seems to fit with the statutory point. We have, as a Commission, nodded favourably towards that from time to time.

Q51 **Chair:** You mentioned there the example we spoke of at your last appearance, in terms of the candidate you recommended against and the Prime Minister of the day none the less appointed. You cite the risk to the Commission itself if that were to happen again—not in terms of the Prime Minister giving up their right of appointment, but in terms of HOLAC finding against that. Might that be a route for considering a statutory solution?

Lord Bew: I am simply saying that I think—

Q52 **Chair:** Because that is very rare, isn't it?

Lord Bew: I am no longer Chair, so I am not going to legislate for Ruth. I am simply saying that my strong sense is that the Prime Ministers since that point are aware that the atmospherics around this—putting it loosely—have actually changed. I just think we are in new terrain because of the reaction.

Let me say, there was a very open and public exchange, and the Prime Minister of the day gave his reasons frankly and publicly about what he was doing. That is also to be noted. None the less, my sense is that in a



significant respect, the relative weight of HOLAC in this process, regardless of whether it becomes a statutory body or whatever, has actually gone up rather than down—as an entirely, by the way, unintentional consequence. At the time, when you are looking at these matters, you are looking at them purely in terms of what you consider to be the rubric—essentially, the rules and obligations—that HOLAC is supposed to uphold. I was not thinking of what the medium or long-term consequence would be, and nor was the Commission. We were just thinking, “We have no alternative but to take this action.”

I think there has been a medium or long-term consequence and that HOLAC is somewhat stronger in this great maelstrom. It must be confessed that there have been a huge number of political appointments, which is related to the political crisis that the country has gone through. I mean, I dealt with three Prime Ministers’ resignation honours lists. I never expected for one moment to have to do that. Again, it places weight on a smallish secretariat, which was not designed to deal with that weight of pressure.

Q53 Chair: Thank you. I wonder if each of you might summarise one priority for reform in the appointments process.

Baroness Deech: I speak for myself on the matter of reform, as the Commission has not really discussed this. There are two linked issues. We would like to get more information from the political leaders about the people they are putting forward as potential peers. We do our vetting and we do a lot of research, but it seems to me that it would be for the benefit of all—the parties and the House of Lords—if we got much more information from the party leaders when they put forward a name. What we get at the moment is rather sketchy. We would like to know why they have chosen this person, rather than many others who might be similar; whether the nominee they have put forward is aware of, and has lived up to, the Nolan principles; whether there is anything in their past that might be embarrassing if it comes out; and most importantly, whether they are aware of the demands of being a peer—that they will actually turn up, not just take the title and go away, but be prepared to sit through the long hours, to make a contribution, to speak, to handle amendments, to debate. All these things are important.

Given the resources of the political parties, and the number of people they can draw on, you would have thought that that would be a straightforward thing for them to do. As it happens, we have updated the forms which we call on parties to fill in to reflect more of this—not all of it, but we are inching forward. Those forms will become public later this week. We have written to the party political leaders to explain that we would like them to demonstrate a bit more due diligence before they put forward names. We do this simply because, as I said, we want to be sure that the public can see that quality is going forward in the House of Lords—that we are striving to maintain its reputation, not just opening the door for anyone nominated by any party, but really scrutinising the quality of new nominees, with a view to upholding the work and the capabilities of the House of Lords.



Lord Bew: First, I want to say that I very strongly agree with everything that Ruth has just said. We tried to move in that direction in my time; she is moving it more strongly. To move slightly more into the middle distance, I do not want to anticipate the discussion about size, but just to say that personally—I no longer speak for the Commission—I am tempted by one of the Burns ideas of 15-year terms.

If I could just say one contextual word about the size of the House of Lords, I would say that before the crisis or whatever we want to call it—a revolution—in British politics and constitutional structures arising out of Brexit, we were making reasonable progress, although I wasn't then in the job, in slimming down through natural means. What has happened is, for reasons that are, I think, a function of the inherent crisis that the system went through rather than any one person's particular agenda—though obviously there were people with particular agendas—the House of Lords is swelling again. We are now back to regular jokes about the Chinese congress and 900 people and so on. It is necessary to remember that, we were moving away from that five or six years ago, but now, because of the circumstances we have talked about, the numbers are swelling. I think it is necessary to acknowledge—I am speaking personally—that the gentler ideas that we had in place six or seven years ago are no longer relevant. The world has changed.

Chair: Thank you very much indeed. Lloyd, do you want to come in on that?

Q54 **Lloyd Russell-Moyle:** By your analysis that the place is swelling, is that a natural consequence of political change? It swelled after the coalition Government, with huge numbers of people putting in. It then went down, and then it swelled when we had Brexit, because it was political change. There is a danger it will swell again if we have another big political change. So, is it 15 years or are we actually saying that we want to restrict the numbers that can go in as quickly as that?

Lord Bew: Preparing for this, I was looking at Burns recommendations—as opposed to some ideas I myself put forward in the past, before I had the job—and I have to admit that the 15 years recommendation made the most sense. But it is not the only possible means of doing it.

You are right to remind me that it is not just the post-Brexit period. The coalition Government and the dynamics of that also did lead to a swelling of the Lords, in certain ways. We are looking at the possibility of a change in Government this year, which inevitably will lead to the difficulties of, possibly, another resignation honours list of a Prime Minister. I say possibly, but I don't want to get drawn into science fiction because I do not know about the future any more than anybody else. The real problem is that we are looking at circumstances that, I do not think it is too controversial to say, may lead to no diminution in the swelling—let me put it like that—or the further swelling of the numbers. That is why I have been looking more closely at Burns recommendations.

Lloyd Russell-Moyle: That goes along with then getting rid of the



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hereditaries, if you are going to have 15-year terms.

Chair: We are at risk of drifting. Thank you, Lloyd, for your supplementary.

Q55 **Damien Moore:** In 2022, Lord Bew told us that the Government had never discussed with HOLAC our predecessor Committee's recommendations, which included requiring written statements of nomination and giving HOLAC a role in monitoring and reporting on the diversity of nominees. Have the Government now discussed either of these issues with HOLAC?

Baroness Deech: Not to my knowledge, no.

Lord Bew: I want to say one thing in defence. Liz Truss did seek a meeting with me when she was Prime Minister, but it did not happen because it clashed, very unfortunately, with a meeting of the British-Irish Parliamentary Assembly, which I am on. There would have been an opportunity to discuss some of those points but there was no discussion, as such, in my time. I cannot reasonably say—because of that example and indeed some other signals from No. 10 at various times—that there was necessarily an obdurate position, but it did not happen. There was one offer that did not go ahead and it was actually my fault, and within two weeks Liz Truss was no longer the Prime Minister, in that particular case.

Baroness Deech: Diversity is tied up with numbers. It is very, very difficult to keep diversity in the forefront when you are appointing only two Cross Benchers every year or so. One would love to see a big spread of talents and gender but it is very hard if you only have two. I am with Paul on trying to find a way to keep the numbers down. I think the House of Lords has to do it for itself: that is my view. I think each party ought to find a way of reducing its own numbers by, say, 20% with whatever criterion they choose—whether it is age, length of service or attendance—but I do think they have to do it.

It has been said that it does not matter because you never get more than 400 or 500 people turning up. But even that is a lot and sometimes there are debates where lots of people sign up and you end up getting one minute each because there is no time. People are fighting to get on committees, fighting to get desk space and so on. The numbers really have to come down, in my view. That would give us more of a breathing space to promote diversity.

Q56 **Mr Jones:** Lord Bew, you have touched on this earlier in the session but I would like to explore it a bit more, if I may. You previously suggested that a Chair of HOLAC might resign if he or she disagreed with the Prime Minister's decision to proceed with an appointment. Do you think that is actually necessary?

Lord Bew: You cannot anticipate the exact nature of the case; I acknowledge that. I did say to this Committee, in the aftermath of the previous case that we discussed here, that in an action replay case, where



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the issues were the same—in the sense that the Committee had a clear view of what was at stake for the Committee, in terms of what it considered to be its obligations to behave properly—the Committee would most likely have resigned. To be honest, I can only speak for on my watch. The circumstances of all these cases differ, and that is the caveat I have to put in.

I certainly do not think that anybody who takes this job—it is now Ruth's responsibility—should be looking for a casus belli or occasions to be able to show to the Prime Minister of the day that they will not be pushed around and so on. They should not be unduly pushing the boundaries of HOLAC—I do not think that is the case. HOLAC has a certain role, and that role is not for suitability for political appointments but for propriety. There are certain characteristics of the way we judge propriety, and there are certain definitions in play in respect of that. Something like 17 did not go through on my watch. If we were being pushed to the point that we were not able to do what we were expected to do by statute under the original legislation, I do not think the Committee would want to carry on.

Q57 Mr Jones: Doesn't that actually amount to the Committee asserting that it has a right of veto? If the Prime Minister does not observe what the Committee says, it can flounce off, if you like?

Lord Bew: Look, I understand exactly why you say that. I was trying to avoid that, because I think the system depends on the Prime Minister having this right. I acknowledge that, and I understand that while it is not as fashionable as it once was, there is a serious constitutional argument that that has been a good feature of the British constitution over a long period of time, and a number of serious constitutional experts would continue to hold to that view. I am not saying anything other than that we operate in the common-sense context of certain assumptions of how our unwritten constitution works. There are always things that a Prime Minister might do that they do not choose to do because they think that it would flout certain assumptions that exist out there about how a Prime Minister should behave. I think we have moved into the territory where the Prime Minister would have to bear in mind the view that ordinary opinion would take if HOLAC had a serious issue on a propriety, not suitability.

For all that we have said about how we would like to know more about suitability, there is no way in which HOLAC can really say, "You want such and such a person to be in the Lords, but I think they are the most dreary party hack I have ever encountered and will contribute nothing." There is absolutely no way we should be doing anything like that. It is about propriety and where we may think there is a serious issue. Don't forget that this includes basic things; the public has a right to expect that the people who come to this Parliament pay their taxes. That is what I am saying. We have a right to insist on that. We are expected to be a guardian of certain reasonable public assumptions about Parliament, and I think a Prime Minister would take that into account. I totally agree, and Baroness Deech said it—the Prime Minister has absolute authority.



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Q58 **Mr Jones:** Yes, and that is the point. If the Prime Minister gets it wrong or makes an egregious mistake, it is on his head, not HOLAC's.

Lord Bew: That is my view.

Baroness Deech: Well, I have had something of this discussion, and the answer from No. 10 was that the Prime Minister would be "accountable". That is too late, though, because once someone is in here—and let's imagine they are not suitable—they are here for the rest of their lives. Just being accountable is really too late.

On the question of resignation, the risk is this: if the Chair or the entire Commission resigns and there is no statutory underpinning, there is a danger that the Prime Minister would just say, "Okay, I can function without you. We really don't need you. I will just make all the appointments I want to. We will even run the Cross-Bench appointments." I think publicity is perhaps a stronger weapon. If it were publicised to the Committee and the world that the Commission did not approve Mr X, that is a stain on the reputation of the Prime Minister who flouts our advice. It is a stain on the reputation of Mr X or Mrs X for the rest of their life. They will always have that badge hanging around their necks that they were regarded as unsuitable. I think that is quite powerful.

Q59 **Mr Jones:** But it is not a stain on HOLAC, though, is it? In those circumstances, HOLAC would have been vindicated.

Baroness Deech: No, because we would have done our duty. If the Prime Minister flouts us and we are right in regarding this person as improper as an appointment, the blame lies elsewhere.

Q60 **Mr Jones:** You mentioned earlier the issue of Cross-Bench peers. There have been no such nominations under the tenure of the last two Prime Ministers. Do you believe that there will be more Cross-Bench peers in the years to come? Do you think that you will retain—or recover—the role of recommending or appointing them?

Baroness Deech: Well, I bear in mind the pressure on numbers. Given the fierce competition—the hundreds of suitable and more than suitable people, the hundreds of excellent people who apply—it would be nice to see more than two a year. And in all the plans for reform of the House of Lords that I have seen, everyone seems to agree that 20% ought to be Cross Benchers. I am hoping that HOLAC—not the Prime Minister, but HOLAC—would be allowed to select more than two a year in the forthcoming years.

Lord Bew: Absolutely. There has been something like 6,800 applications since the process began of inviting Cross-Bench applications, and we are appointing at a rate where 98.5% of these candidates—or something like that—are unfortunately unsuccessful. Many of them are really excellent people, and it is a great pity to reject them.

I would say one thing: in all the controversy about the House of Lords—and you know how much it is now subject to controversy, and how much criticism there is in the press—the one thing you do not see criticised is



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the independent Cross-Bench Members. In a sense, that is relatively recent, as until 2007 there was press criticism, and that was because—I think it would be acknowledged by those involved at the time—there was not a clear enough message, which really began about 2006 or 2007, that this is not an honour to come through by this road: it is a job more than an honour. That has over the last 15 years, I think, more or less stuck as a way in which people have behaved. You could make a case for saying that some people have come through and were over-energetic in one area and maybe did not achieve anything or whatever—but that is not the point. They did try. I think you can see that. There isn't criticism of the role of independent Cross Benchers to the same extent as so many other aspects of the life of the House of Lords are subject to criticism.

So, I agree, and would very much like to see this. To be honest—because of our concerns around size, and only seven came through during my watch—I am not expecting anything to radically improve, but I would happily see it.

Liz Truss was the Prime Minister during my last weeks, so that is why at that point she was willing to and asked to see me. Like so many things to do with HOLAC or the House of Lords, wider tides swallowed all that up. But I just wanted to make that point. I'm trying to make the point that there has been a dialogue, then at No. 10 for example and subsequently, so the idea that there has been no dialogue and no willingness to have a discussion would not be fair to No. 10.

Mr Jones: Chair, before I go any further—forgive me, but I should have declared an interest. I chair the Council for Arab-British Understanding, which has made a submission to this inquiry.

Chair: Thank you for that clarification, Mr Jones.

- Q61 **Tom Randall:** Baroness Deech, in your pre-appointment hearing, you told us that you would like to see HOLAC advise on the suitability of candidates and the production of a nominator and nominee making public statements as to the suitability and qualification to become a member of the House of Lords. Now that you have been in the role a little while, I wonder if you have reflected on that, and whether you still hold that view, or if it has changed at all?

Baroness Deech: I haven't resiled from that view. As I said a few minutes ago, we would like to get much more information from the political parties about the people they are nominating. At some stage, I think there ought to be a fairly full description of what they have done that means that they merit a place here. I am sure all of us have CVs; one would expect a fairly full description. I have noticed, when sitting in the House of Lords and a new peer is introduced, that we get a piece of paper saying who they are, but it is very sketchy indeed. And when you think of how we trawl through applicants for Cross-Bench appointments—they put in CVs, letters of reference, lists of their publications, all sorts of things—I think we need to know, when someone enters the House of Lords, this distinguished Chamber in this ancient Parliament, what they are made of:



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what they can contribute, what they have done in the past. We need to be sure that they have something exceptional to contribute. So I think there should be more statements about what they have done from the party. Maybe they themselves were probably going to compose their own CVs anyway. So no, I haven't changed my mind on that.

It is not for us, I should add, to judge on political suitability. It depends what you mean by suitability. We cannot opine on someone's political views and why they appeal to one party or another; but on a lesser interpretation of suitability—in a general sense—not just why are they suitable, but why are they really rather special and worthy of this place. But absolutely, we cannot give an opinion on their political suitability; that is something for the parties to determine themselves.

Q62 Tom Randall: We have had quite a full discussion about propriety, and resignation and so on of Chairs. I just wondered whether HOLAC's decisions on propriety should be enforced in any way, and what a mechanism for enforceability might look like.

Baroness Deech: I wouldn't call it "enforceability." But if there are doubts, or indeed a failure in propriety checking, we bring it to the attention of the nominator. Sometimes the problem is something temporary, which will be resolved and sorted out. Or if there is a serious issue over propriety, we offer the nominator the chance to put forward somebody else. But certainly we make our views known, and in nearly all of the cases, that is effective and the party will wait for the issue to be resolved, or put forward somebody else, or withdraw the nomination. So in that sense it is effective, yes.

Q63 John McDonnell: On the appointment process, I have been taking notes on what you have been saying and I want to sum up where I think you have got to. At the moment, you said, you don't think that any PM will allow their power to be taken away in terms of issues around appointments, propriety and suitability. Neither of you are seeking enforceability of your views with regard to propriety. Neither of you are seeking a veto of candidates on suitability. But what you are saying—Lord Bew, you said this—is that your recent experience of certain appointments has enabled the risk of the resignation of the Commission to change the ballgame to a certain extent, in that you are reliant on resignation to get the message across to Prime Ministers that, to use your expression, the Commission "won't be pushed around". Do you think—both of you, in your experience—that message has landed with those who advise the Prime Minister and Prime Ministers?

Baroness Deech: I think it has. As my colleague, the distinguished historian Peter Hennessy, has said, our unwritten constitution relies on being operated by good chaps and chapesses. I think we are in an era of good chaps and I think this is understood. I think the risk is much more with numbers than quality. I think the message that we put forward about quality has hit home. We have had discussions with No. 10. My current fear, given that this is an election year, lies in numbers, and what they call the leap-frog problem.



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I don't think it is possible for any one party to achieve any stable majority in the House of Lords, because it is not just Labour and Tory; it is the bishops, the Lib Dems, the Cross Benchers and the unaffiliated. Even if another party puts in another 100 people, there is no way that anyone can guarantee a majority. I think that is quite healthy. Although there is a Whip, most people in the House of Lords will think long and hard about their votes—and we Cross Benchers, of course, need not fear that; we can vote with our consciences. That is a good thing.

Q64 John McDonnell: I understand where you are coming from in terms of majorities, but it is about the use of the appointments system to reward individuals for what some would think are corrupt practices—for donations and so on. It is not just about majorities; it is about the operation of the system itself. Lord Bew, you are saying that we rely on resignation; although Hennessy says we rely on good chaps and good chapesses, we used to have a member of this Committee who, quite rightly, would regularly say to us, "What happens when you have a wrong'un in position?"

Lord Bew: If I could say one thing that has to be taken into account here, it is that on my watch 17 were turned down, which were not challenged by No. 10. That would imply that finally a new common sense is coming into place. That is the crucial thing.

Q65 Chair: Can I interject? Did you say 17? Was that number ever published?

Lord Bew: I am just checking my notes and think I am correct in saying that, although it may be 16.

Chair: I do not recall; I might be—

Lord Bew: I am not sure that we have—is it on our website? I am not sure.

Baroness Deech: It could be in one of our reports. I don't know; I would have to check that. But we are not ashamed of saying it to you.

Chair: No, and in the context of what we are discussing it is very useful and reassuring, perhaps. Lord Bew, sorry to have interrupted you.

Lord Bew: Not at all; I am grateful for clarifying that I have got the number broadly right. I am simply indicating that I certainly remember a number of cases where we sent them back to No. 10—and of course, as everyone around this table is aware, we do not just reply to one party—and things did not go ahead. That is just a sign. And by the way, on those cases I can recall very little arm wrestling; in fact, I cannot recall any, but my memory may be going. Certainly there was no substantive arm wrestling on those points. There is a subtle change in the underlying constitutional assumption on this matter.

Our problem, as Baroness Deech has indicated, is that on issues such as size and so on, while we may be moving into a better place in that respect



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for the House of Lords with the role of HOLAC, there are a number of other really massive problems that we are not quite sure yet how to handle.

Baroness Deech: Remember there is a backstop, too: since 2014 or 2015, the House of Lords is able to expel Members for misconduct and for not turning up. That does help to some extent.

Q66 **John McDonnell:** Has that happened?

Baroness Deech: Has it happened? Oh, yes.

John McDonnell: How many times, do you know?

Baroness Deech: I do not have the numbers but, for example, there was one Labour Peer who has gone to prison and has been expelled. Others have taken leave of absence. I can think of another one who made headlines with front-page photographs for drugs and so on. I am sure we all know the cases where it has happened.

Q67 **John McDonnell:** Just to go back to my question, do you think the message has landed with all the political parties now?

Baroness Deech: I am doing my best to make sure that it does, and this Committee will assist in that endeavour.

Q68 **John McDonnell:** I have one other point. We have raised the issue of diversity before—I think we had a discussion at your pre-appointment hearing when you last came, Lord Bew. What role do you think HOLAC should have in ensuring diversity among the Lords?

Baroness Deech: It is all mixed up with the numbers issue and the Prime Minister's or political leader's appointments. We can only achieve diversity in the political appointments if the party leaders put forward diverse people.

On the Cross-Bench appointments, we are very mindful of the different types of expertise we need, of regional disparities, gender disparities, ethnicity and so on. We are very mindful of that. But if you are only picking two people from a list of several hundred, that is very difficult to achieve. We bear it in mind all the time, but you need much more flexibility if you are going to achieve diversity.

Actually, it is not so bad. If you look at the paintings on the walls as you walk around the corridors of this place, the paintings of the Lords as it used to be—even that famous painting by Andrew Festing—and you look at the Lords now, it is much more diverse. The Lords is now something like 26% women. Ethnic minority is hard to count and depends on the criterion, but if we look at the adult population—not the younger population of Britain, where the ethnicity spread is much greater—the Lords is not too bad. But we do bear it in mind, I assure you, all the time, given the constraints within which we work.

It is very difficult for anyone from the north or anyone in a very ordinary job to afford to come here. No one is going to suggest that we have



salaries or any extra, but if people have an ordinary job, live in the north-west, and need accommodation in London and a salary, sitting here would be well nigh impossible unless they had the backing of some organisation.

Lord Bew: That was the point that I wanted to make, and it applies to the midlands as well. The midlands, the north and the north-west, on our own numbers, which I think are available, show a significant under-representation as against the broad London and south-east area. I was aware of it all the time as a Cross-Bench peer and, to be absolutely honest, for all that I was aware of it in the four years that I was there, we merely scratched the surface of the problem, because there was such a small number of appointments. To be aware of a problem is one thing, but to have a solution in that context is another, and I did not actually have one.

Q69 **Jo Gideon:** Going back to looking at HOLAC on a statutory footing, what would be the value of putting it on a statutory footing?

Baroness Deech: The Commission as a whole has not discussed that, so this is my personal view. The value of putting HOLAC on a statutory footing is that the public would see that Parliament has put itself firmly on the side of certain criteria for eligibility, perhaps both for Cross-Bench and political appointments; that the constitution of the Commission would be on a firm basis and it would be much harder—maybe impossible—for there to be political interference; and that it might make the Commission answerable to Parliament, rather than to No. 10. That would not include, in my view, HOLAC being able to veto the Prime Minister in the last resort, but it would set out the rest of our working structure and our criteria more firmly and more clearly, and it would show that Parliament had thrown its weight behind this particular method of choosing people. To my mind, that would be the advantage.

Lord Bew: I am moving in that direction. When I was Chair, I would attend pretty regular debates in the House of Lords. Lord Norton spoke, and he is an academic expert on the subject of House of Lords reform and a great defender of our system, which he calls asymmetric or weak bicameralism. I regularly attended debates, with Lord Cormack, Lord Burns and others speaking. During that time, I did not take a position at all, because I am not sure that the Commission would have been united, and anyway there was quite enough work to do in front of my eyes on a daily basis at HOLAC. But I think it is shifting in that direction.

The scale of the problems facing the House of Lords in terms of size, to which Members have alluded, implies—or we are all probably anticipating—certain kinds of obvious reforms before too long. If you are going to have to do some kind of reform process, I would be surprised—I should not be speculating now that it is not my job—if absolutely nothing happened in these areas over the next period of time. One might then give serious consideration to giving a statutory role, for the reasons articulated by Ruth.



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I come to my slightly dreary point that, in fact, some of the things that people want to clean up as a result of that have, I hope, already been cleaned up. That is the one thing I wanted to say. None the less there are other, wider questions at stake here.

Q70 Jo Gideon: If HOLAC were put on a statutory footing, what powers should it be given? Is there a realistic prospect that the Prime Minister would cede those powers to HOLAC?

Baroness Deech: I don't think that, in the last resort, as I have said, any Prime Minister of any party would give up the ultimate right to insist that someone be appointed. But other than that I would expect the criteria of selection to be put on a statutory basis. I imagine that maybe a decade along from now there will be more reform of the House of Lords and that HOLAC and its powers will be part of that. It is not unreasonable or fanciful to imagine a time when the number of hereditary peers, maybe even bishops, is removed or cut down, and I expect that HOLAC would have a part in that.

But I also remember the last time, about 12 or 14 years ago, that there was a big attempt to reform the House of Lords, which in the end the House of Commons did not back. I have mentioned this before, but I think it is because very often long-serving MPs, many of whom are greatly admired by the public, rather fancy, if they are still fairly young, a berth in the House of Lords after they retire. I am talking about MPs who have served 30 or 40 years to great acclaim. I am also not sure that the House of Commons would ever want a House of Lords that was so democratic that it was a challenge to or maybe even superior to the House of Commons. In reality, there are certain limits as to how much reform there will be, but I can certainly see some to appointment structure and content coming.

Chair: And it is not just long-serving ones.

John McDonnell: Now there's a name to veto.

Jo Gideon: Lord Bew, do you have anything to add?

Lord Bew: Again, I largely agree with Baroness Deech's comments. I do not want to make it unnecessarily tangled and difficult. One of the ideas put out there in Burns and other places, which would be very hard under any disposition, is to give HOLAC a role with respect to the balance of parties. I just do not quite see how that would work; maybe it is a failure of imagination on my part.

There are certain very obvious things at this stage that are at the lower end of the scale. There are people who come to the House of Lords who do not come before us for any propriety checks at all—the hereditaries and those who come through the Church of England. It might seem to be considered unnecessary, but there are also those who come through from the Supreme Court, for example, which still happens, although not in the way that it once did. It seems to me to be a basic democratic consideration that everybody should at least have. I am sure it is most



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likely in the case of all these people that they are very admirable, but those are clearly things that can be done, and done quite quickly.

The question of the wider reform of the House of Lords is a major one. That is why in my time, given the fact that we were dealing with that degree of turmoil—there were three Prime Ministers' resignation honours lists, and many people did not believe it was right to have any of those resignation honours lists in the first place—I concentrated on that kind of narrow detail and did not lift up my eyes to look to the future.

To return to my original answer, I think that the argument is shifting towards some kind of statutory role. I do not think that it can necessarily be quite as strong as some envisage, and my warning would be that nor will it be quite as dramatic in its good effects as some envisage, even in a perfect world.

- Q71 **Jo Gideon:** You have both touched on the idea that having more Cross-Bench peers would be a good thing. How can HOLAC's role in nominating new Cross-Bench peers and improving diversity in the House of Lords be balanced with efforts to limit the size of the Chamber?

Baroness Deech: That is precisely the problem, isn't it? We would like the political leaders to nominate fewer so that we can put forward more Cross-Bench peers. We can see that there are gaps in the expertise available in the House of Lords, which we would like to fill, and there are, as I have said, gaps in the distribution of professions and qualifications. But we cannot do that unless the political leaders will stand back for a bit and give us some breathing room so that we can appoint more Cross Benchers. For example, we are looking for people with AI expertise, pandemic expertise and expertise in day-by-day teaching, although as I said, it is very hard to recruit a teacher because they have a job and I do not know how you would reconcile that—they would have to retire or something. We are aware of the gaps and we would like to do it, but we need the political leaders to give us that space.

Lord Bew: That is precisely true. I mentioned earlier that I was conscious of all these things and did not succeed because it is impossible when you make only two appointments a year. I made seven and, as I say, I think in the end there were more than 130 coming through on my watch. That gives a sense of how small my role was, or the scope for dealing with diversity and areas of expertise was. It is important to consider that when these issues suddenly appear—the pandemic, AI and so on—HOLAC is the one place where the Commission is sitting there thinking, "Ah, we have a new problem here, and Parliament does not have expertise in this area. Let's deal with it." That is one of the very important and good things about HOLAC. But our power to do much about it is limited—not non-existent, but limited.

- Q72 **Damien Moore:** As a way to increase the number of Cross-Bench peers, should HOLAC have the power to nominate Cross-Bench peers on a two in, one out basis?



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Baroness Deech: We do not have any control over numbers. That was a Burns recommendation that I personally support, but it is not within our power. We cannot control who goes out and what the numbers are at all.

Q73 **Ronnie Cowan:** If we look at the numbers, it is very simple maths to say that we have 92 exempted hereditary peers and 26 Lords spiritual, so there's 118. Is that a good place to start? Is there a place for hereditary peers right now in the House of Lords?

Baroness Deech: That is left over from the Tony Blair reforms, is it not? I am sure that a Government in the future will want to get rid of the hereditary peers. Having said that, some of them are absolutely outstanding and work very hard to merit their place. I have said in the past that—

Q74 **Ronnie Cowan:** Sorry, but that is part of the problem, isn't it? You have an individual who may be very good at doing their job, which gives them carte blanche to say, "Well, hereditary peers have a role to play." That is not the point. The point is that we have 92 on rotation who are going to fill up positions.

Baroness Deech: I do not think anyone would complain if the hereditary peers were removed although, as I said, there is some respect and affection for them. I do not think anyone would complain. Speaking for myself—this is very controversial—it may be that 26 bishops is a bit too much.

Lord Bew: The one thing I am absolutely sure of is that none of those people in those categories—and, indeed, some others, including senior people, no doubt—have had any propriety check. I know that some of the officials who work on that—their workload has risen dramatically because of the sort of political crises I have been talking about—will groan when I say this. Also, there are difficulties in the operation of propriety checks, and there are certainly quite large numbers. None the less, I am absolutely sure that there has to be a propriety check. It is now Baroness Deech's responsibility, and I do not dissent in general from what she said about it, but it is absolutely astounding that we have left a loophole of that size in our Parliament. That should be corrected very quickly. I say that, but I no longer have the responsibility or the hard work that will then follow from correcting it, so I am going to be careful now and unsay what I just said.

Q75 **Ronnie Cowan:** There are two things there, Baroness. You said that a future Government would look at the issue of hereditary peers, but we have been saying this for a long time. I am not aware of it being in anybody's manifesto for a forthcoming general election, so what faith do you have that they are actually going to do something about it?

Baroness Deech: Reform of the House of Lords was said to be a first-term issue if there were to be a Labour Government, and then it seemed to recede into second term. I think the impetus will have to come from this Committee, and from the House of Commons, to achieve reform. On



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the propriety issue, as Paul said, it is hard to imagine any Bishop failing propriety.

Lord Bew: Yes, of course.

Baroness Deech: On the other hand, of course they would not be afraid of facing up to it, would they? Certainly, I think the hereditaries, while they are still here, ought to be subject to the same checks as other nominees.

Q76 **Ronnie Cowan:** Just two things: if we are so sure that none of the bishops will fail a propriety test, it is only right and proper that they go through the propriety test. They would have nothing to fear. Groups such as Humanists UK have proposed that faith leaders should be appointed on merit by HOLAC. Is that a role you would want to take on?

Baroness Deech: I have not considered that. Whether you should have faith leaders at all, and bishops and so on, is a huge issue. No, we have not considered that. I do not have a formal view on that at all, no.

Q77 **Ronnie Cowan:** Given the makeup of society throughout the United Kingdom, do you think it is better there are just none there at all, or should there be an attempt to cover all the different faith bases in the United Kingdom?

Baroness Deech: I think I would leave that to this Committee and its report.

Ronnie Cowan: Thank you.

Chair: We very much enjoy those kinds of responses from witnesses. Last but by no means least, Lloyd Russell-Moyle.

Q78 **Lloyd Russell-Moyle:** Just on faith, I represent—and very proudly so—one of the most irreligious constituencies in the country. The vast majority in my constituency have no religious affiliations at all. Do you look at religion for the HOLAC appointments, in terms of diversity? Is that something you have taken into account?

Baroness Deech: I have only been in post since November, but I do not think we ask questions on that.

Lord Bew: We don't.

Baroness Deech: No, I don't think we do. We are conscious of the spread of religions.

Q79 **Lloyd Russell-Moyle:** Seeing as religion and belief is a protected characteristic, is it something that should be taken into consideration, or is a blind, kind of French, secularist approach better?

Baroness Deech: Again, I would rather leave that to this Committee, because the definitions of belief and what is a protected characteristic are very complex. I would not like to question a candidate on what their



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beliefs were and what category they fell in; so again, I think I would leave that to you. I do not think I would want to go there right now.

Q80 Lloyd Russell-Moyle: That is perfectly fine. What level of attendance do you think is reasonable to expect for peers in the House?

Baroness Deech: Again, it is not something the Commission has considered. Speaking for myself, I think one would worry if somebody got down to say 20% or less attendance, but that is just my personal view.

Q81 Lloyd Russell-Moyle: There is a discussion about full-time and part-time peers. Should there be a distinction between what a full-time peer or a part-time peer would be expected to attend?

Baroness Deech: I think it all depends on the niche that they find themselves in once they are here. It could be that a political nominee does not devote themselves to any particular Bill or interest, but is always here. It could be—this happens quite often with the Cross Benchers—that they have another job but there are certain issues they feel very strongly about and, once those issues come up, they are here all the time. That seems to me perfectly acceptable; indeed, it is a good thing if their expertise is on the table. Baroness Kidron was a moving force in the Online Safety Bill; Baroness Butler-Sloss was very much in the forefront on modern slavery and so on. They are probably here the rest of the time, too, but if there is something that is really their issue, they do turn up, even if you might only call it part-time.

Q82 Lloyd Russell-Moyle: I do not want to get into the specifics of individuals who have not been recommended by HOLAC, but some people have said their application has not gone forward because they indicated that they only want to work part-time, or only want to work some specific times. As always, these things are probably more complicated, but do you think the principle of having some part-time Members and some full-time Members works quite well at the moment?

Baroness Deech: You need flexibility. I think—I am just theorising—that if somebody said that they could turn up only on a Friday morning, or if they had a very fixed timetable, that would be no good. I think you need flexibility. But if someone said, “No, only in months with an r in them,” or something, that wouldn’t do. Someone may be a busy person—for example, we have clinicians and lawyers amongst our number, and they have busy jobs—but they might be flexible, and able to turn up when they are needed and when they want to. But if someone was absolutely rigid, then, no, that would not be a good idea.

Lord Bew: That I do accept. Even on HOLAC there has been an issue about whether people will turn up. I refer to the fact that, since 2007 at any rate, there has been a very explicit message from HOLAC and from the chair when someone is appointed—long before my time: “You will turn up, won’t you?” I do not think that it is unreasonable for us to be acting and looking at people we interview for Cross-Bench peerages on the basis that they will be there, albeit not necessarily every week.



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At my first discussion, I was asked: “You will turn up, won’t you? It’s a job. I don’t expect you to be in London every week, but most weeks.” That was a common-sense conversation that I had when appointed in 2007, and I think it is completely reasonable. There is a view, which I understand—I am now talking about appointments for Cross-Bench peers, which I would no longer have any say in—that one should just be concerned about a brilliant piece of expertise that the House will not otherwise get. I am inclined to say that, yes, we have to be that—we are the only people who are—but I think that the message should be the same as it has been for the last 16 years. The message should be that this is a job, not an honour. We obviously expect that, if, say, a great AI expert is appointed, they turn up and do it. We would like them to turn up to a reasonable degree. I think that is reasonable.

- Q83 Lloyd Russell-Moyle:** Willingness to attend could change from application to reality. Is HOLAC the best body to address this, or are the mechanisms that are being developed now the better places to address some of these things?

Baroness Deech: I am hoping that the parties will develop, or have developed, mechanisms to check up on people’s attendance once they are here.

- Q84 Lloyd Russell-Moyle:** You said there was a mechanism now to eject people if they do not attend at all.

Baroness Deech: Yes, for non-attendance for a whole year. The other issue is age. If you want someone here four days a week most of the weeks of the year, they are going to be retired, have a very flexible job or possibly have a spouse who supports them. But if you want younger Members who need to work to earn a living, it is quite difficult, because there is no support here, apart from expenses.

- Q85 Lloyd Russell-Moyle:** It is not unusual for other second chambers around the world to meet for much more condensed, short periods. They set a timetable that works for people who have other jobs. But that would require a whole change in the way the House of Lords works.

The House of Lords Conduct Committee looks at non-attendance—if you have not attended for a whole period of time. You mentioned that the parties should play a role in filtering some of that out. Is there not a danger that that becomes partisan, rather than factual? If there is a change of leader of a party, they may try to get rid of people in their party they do not like, rather than getting rid of the people who are not doing the work.

Baroness Deech: I do not feel qualified to comment on that. That is, as you say, a political issue and not something that HOLAC can deal with. Bearing in mind the numbers issue, one would hope that the parties would keep their Members under check and make sure that they are turning up, or develop some method of encouraging them to turn up. But I cannot go beyond that.



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Lord Bew: Can I just very briefly comment? It is a very insightful question you put, but actually—I am thinking in my mind's eye about what has happened over the past years—when you get a change of leader in the party, it is not so much that certain people who do not really turn up are disciplined. Rather, some people say: "I was completely with the previous leader, who has now fallen, and I'm not going to be around so much". That is actually what I noticed over time—

John McDonnell: Sounds like this place.

Lord Bew: That is what I noticed happening, as a matter of fact, in the House of Lords.

Q86 **Lloyd Russell-Moyle:** We did have a former Prime Minister kick out a good number of his party from the Commons just before the last election. There is a danger that that then carries over into the Lords.

If I may just ask one additional question, in some of the previous evidence we had, it was put to us that rather than party leaders directly appointing, they could instead give a list to HOLAC, which could then choose from that list for diversity. Do you think that takes away too much power from the Prime Minister and the parties, or is that something worth exploring?

Baroness Deech: Again, I wonder whether a Prime Minister would ever agree to that—

Lloyd Russell-Moyle: They might agree to it for the Opposition leaders, but not for themselves.

Baroness Deech: I think it is a rather good idea, and I would welcome it, but I have a feeling it would be too much of a relinquishment of power for a leader to contemplate. Although in an ideal world that sounds like a rather good idea, I cannot see it happening. I wish it would, but I don't think it will.

Lloyd Russell-Moyle: A perfect response.

Chair: Thank you very much indeed; that concludes the questions from the Committee. Baroness Deech, Lord Bew, thank you both very much indeed for sharing your experiences and ongoing experiences with HOLAC this morning. We are all very grateful.

Lord Bew: Thank you very much.

Baroness Deech: Thank you. We welcome the opportunity and we look forward to your report.

Chair: Thank you.