



Political and Constitutional Reform Committee

Oral evidence: [Revisiting the Cabinet Manual](#), HC 233

Thursday 26 June 2014

Ordered by the House of Commons to be published on 26 June 2014.

Written evidence from witness:

– [Professor Robert Hazell](#)

[Watch the meeting](#)

Members present: Mr Graham Allen (Chair); Mr Jeremy Browne; Chris Ruane; Mr Andrew Turner

Questions 37 – 61

Witness: **Professor Robert Hazell**, Professor of British Politics and Government and Director of the Constitution Unit, University College London, gave evidence.

Q37 Chair: It is good to see you, Robert. We are having a look today at revisiting the Cabinet Manual. We are delighted that it is now in the public domain and we can see it and comment on it, which was not the case before 2010-11. Robert, do you want to kick off with a statement or do you want to jump straight into questions?

Professor Hazell: May I say something very briefly at the start, just about the genesis of the Cabinet Manual. This is partly because a couple of myths have arisen.

In terms of my own involvement, it started with a research project on hung Parliaments that we did in the year before the 2010 general election. We produced quite a detailed report subtitled “Hung Parliaments and the Challenges for Westminster and Whitehall”. We said in that report that Whitehall was quite seriously unprepared in the event of a hung Parliament at what was then the next election and, given the short time available—our report was published only four months before the election—they urgently needed to issue guidance and the best available guidance was that already published in the New Zealand Cabinet Manual because they had had experience of at least five hung Parliaments since they changed the voting system in 1996. We appended to our report extracts from the New Zealand Cabinet Manual and as my Christmas present to various people in Whitehall, like the Cabinet Secretary and others working with him on preparing for the next election, I sent them copies of the New Zealand Cabinet Manual, kindly supplied by the New Zealand Cabinet Secretary.

I heard nothing for a month or so and I began to get worried. I approached Alan Beith, then Chair of the Justice Committee in the last Parliament, as in this, because the Ministry of Justice is formally responsible for elections, and asked him if he might consider holding a one-day evidence session on preparedness for the next election and its aftermath. He kindly agreed and we submitted

evidence for that session, pointing out not just the urgent need for better public guidance on what would happen in the event of a hung Parliament but also how fragmented the existing guidance was for central government, and in particular the guidance produced by the Cabinet Office for the operation of government. We produced a table, appended to our evidence, showing all the gaps in the central guidance issued by the UK in comparison with similar countries, in particular Australia, Canada and New Zealand, and we also included Scotland.

That evidence session took place and Gus O'Donnell, the then Cabinet Secretary, gave evidence on the same day and announced that the UK Government would be publishing, in advance of the election, an advance chapter of a future Cabinet Manual and it was the crucial chapter about elections and government formation. As you know, that was published in February, three months before the election, and the rest of the Cabinet Manual was then produced in slower time in the new Parliament and under the new Government. It was done in a narrowly consultative way, consulting a few experts but with a lot of input, as you will remember, by parliamentary committees, including very important input from this Committee.

So the Cabinet Manual—and this session is testament to that—is still in a sense a work in progress, and it always will be a work in progress because it always will be in need of continuous updating.

Chair: Excellent. Thank you, Robert. We were trying to remind ourselves of the genesis of the publication and that is a superb summation.

Q38 Mr Browne: Good morning. Can you remind me when the Cabinet Manual was published? When did it come into being?

Professor Hazell: These dates are a matter of public record and forgive me if I get them wrong, but my recollection is that a first draft of the whole Cabinet Manual was published in the autumn of 2010.

Mr Browne: Shortly after the general election.

Professor Hazell: About six months after the election. There was quite a big team working on it in the Cabinet Office and the Ministry of Justice. I know that because I lent one of my own researchers to support that team for six months. But the first edition of the Cabinet Manual I think was formally published—I probably have its date—in October or November 2011.

Q39 Mr Browne: The autumn of 2010. The reason I was asking is because I am interested to know whom you think the Cabinet Manual is principally for. As I understand it, it is meant to be for the Cabinet and for other Ministers and for the civil service but also for the public so that they can understand how these things work. Does it manage to serve all of those audiences simultaneously in your view?

Professor Hazell: Let's be honest about this: it is principally for Government, for Ministers and other people closely involved with Government, including outsiders closely involved with Government. I would not expect the general public to be terribly interested any more than the general public are interested in anything political. You will know that, for example, the public do not read parties' election manifestos. But let's also distinguish between the different chapters in the Cabinet Manual, and for me the most important chapter and the chapter that does matter for the public is chapter 2, on elections and government formation. That is the one that I have just been talking about and that crucially, for the first time set out the key conventions that operate to guide the Sovereign in choosing whom to appoint as a new Prime Minister and to guide everyone

involved in a new Parliament, especially if the election outcome has been uncertain in terms of producing no overall winner.

I felt—and I was not alone—that it was terribly important that the media, who are the main communicators of this information to the public, as well as the public, should clearly understand what the rules of the game would be after the election. Before the election I, together with Peter Riddell of the Institute for Government, did lots of briefings for different sections of the media and also, because of the nervousness of the markets, to different audiences in the City to explain to them what would happen if there were a hung Parliament. So I think chapter 2 is directed, importantly, to the public and the media as well as the insiders. Most of the other chapters reflect existing guidance and point to existing guidance and just summarise it, but chapter 2 is in a league of its own.

Q40 Mr Browne: I am a Liberal Democrat MP and I thought the mood in some areas of the media, or maybe as you just said the City, about the possibility of a hung Parliament was unduly hysterical before the last general election. I feel vindicated that the world didn't come to an end when neither the Labour party nor the Conservative party failed to win an overall majority in the House of Commons and life has carried on much as it was before. Do you think it is valuable for people who are of a more nervous disposition than me to be reassured by this codification in the event of, let's say, another hung Parliament happening after the next election?

Professor Hazell: I agree with you that the mood of the media was unduly hysterical, and of course sometimes it suits the media to talk up a state of anxiety because that is better news copy. It is a better story that if there is a hung Parliament, the Queen will have to make up her mind and herself choose who the Prime Minister will be, rather than to explain the conventions. But the difficulty facing constitutional experts like myself—and I worked very closely with Peter Riddell, whom I have mentioned, and also Peter Hennessy in doing lots of briefings for the media—was to try to demystify the whole process. It helped us enormously that we were able to point to the draft chapter 2 and say, “Look, it's not just a bunch of professors busking it. This is what the Government has said will happen” and that that chapter had been a consultative draft and in effect all the main political parties were signed up to, “Yes, this is the process that will ensue after the next election if there is a hung Parliament”.

Q41 Mr Browne: I was a Foreign Office Minister for the first half of the Parliament and what struck me about international reaction—this is anecdotal—to the formation of the coalition Government here was it reaffirmed their positive prejudices about Britain and our ability to reach gentlemanly agreements in a civilised and reasonably speedy way, but I think what also impressed them was how readily the Opposition accepted the arrangements. Do you think the processes that we are talking about today helped to reinforce the sense that we, unlike many other countries in the world, are able to navigate our way through difficult constitutional circumstances in a way that is broadly seen to be fair and acceptable to people? I suppose you could take the view that, as we have shown some natural ability to do that over the centuries—does it need to be unduly codified?

Professor Hazell: We can certainly take pride that the aftermath of the 2010 election was managed very smoothly and that none of the disasters that the media or the markets might have feared took place. The real test of whether we can always manage it smoothly might be next year, and it is very important not to think that 2015 will necessarily be a replay of 2010. Let me put down three markers of important ways in which it might be different if there is another hung Parliament after the 2015 election; none of these are original.

The first is—and the media might talk this up—that hung Parliaments automatically result in coalition Governments, and they don't. It could equally result in a minority Government and if there is a hung Parliament there will be negotiations between the political parties but those negotiations next time could be around negotiating supply and confidence agreements for a party, probably the largest single party, that might want to form a minority Government. The second thing that might be different next time is how long those negotiations last, and you will know from your experience of continental Europe that to conclude the negotiations within five days was remarkably short. I remember German professors berating me on the phone. They regarded it as almost indecently short; "Herr Professor, how could they allow this to happen?" I hope that in future five days might be regarded as the minimum and not the norm.

That plays into my third point about how I think it is going to be different next time round, namely the degree of consultation that will be required by the parties' negotiating teams with the other people in their party. There was a big difference in 2010 between how the three parties played it. You will know that your own party, the Liberal Democrats, partly because of the requirements in your party's constitution, engaged in a very consultative process, including three meetings with the parliamentary party followed by a party conference. My understanding is that at the third meeting of the parliamentary party, Lib Dem parliamentarians were shown a draft of the coalition agreement. The Conservative party, through the 22 committee—

Mr Browne: I voted.

Professor Hazell: Yes. That is really important in terms of coalition formation because it is well known that coalition government can lead to all sorts of tensions further down the line and so it is important for the parties formally to have signed up at the start. We know that some Conservative Back Benchers do feel more restive about the coalition.

Chair: Name them.

Professor Hazell: Some people have attributed that to the lesser consultation that went on with the Conservative Back-Bench machinery.

Q42 Mr Browne: I will shorten the other bit I want to ask you about to expand this bit. There may not be another hung Parliament for decades to come, but it is possible—I would be interested in your thoughts—that people come to think that the pretty smooth formation of a Government after the last general election means that these things will always be done smoothly. It is perfectly possible to have a more complicated arrangement; for example, if Labour and the Conservatives were to have exactly the same number of MPs and the Liberal Democrats were able to choose which to put into Government; or, even more controversially, if the Liberal Democrats were to choose to put into Government the party that had fewer MPs by maybe only two or three; or the party that had fewer MPs had more votes by a substantial margin than the party that had most MPs; or the United Kingdom Independence party finished third in the popular vote and failed to win any MPs while the Liberal Democrats had fewer MPs but remained in Government. All of these scenarios are entirely possible. There might be a lack of public faith in an outcome of a general election where Labour get the most seats with 32% of the vote and finish second in the popular vote and are reliant on the Liberal Democrats to form a coalition even though the Liberal Democrats lost a substantial number of seats and UKIP who finished third did not get any seats at all. That would really stress test your codification and whether the public were reassured by all of the professorial thought that has been given to it, or whether there was just an innate sense on the public's part that the voting system and the arrangements we have here do not necessarily accurately reflect the popular will that was expressed through the ballot box.

Professor Hazell: Indeed, and I think there are two key points to make in response. The first is a message that we tried to bang home again and again to the media before the 2010 election, and my top-line message to them was, “When you get the election results, don’t call the party that has the most seats the winner unless it has an overall majority because this is a parliamentary election”. We don’t directly elect the Government in this country, nor do they in any other parliamentary democracy. They elect a Parliament and it is then up to the newly elected Members of that Parliament to determine who shall form the Government; formally the words are “who can command confidence in the new Parliament”. Crucially, I played out to them the possible scenario that the party that had the second highest number of votes might be able to negotiate with other minor parties and put together a combination that could credibly form a Government. That is why it is so important not immediately to say that the largest single party has “won” and that is a message that before—

Q43 Mr Browne: I understand that. Do you think the public would understand that?

Professor Hazell: I think all of us involved in Parliament and our parliamentary democracy need to say again and again and again that in a parliamentary election we are electing a Parliament and it is then up to the Parliament to determine who forms the Government.

Your second question, if I heard it right, was as much about the vagaries of the electoral system. We know that first past the post operates pretty proportionately and fairly in a very dominant two-party system, as it did, for example, in this country in the 1950s and still does in countries like the United States. It begins to operate more chaotically and disproportionately when a two-party system becomes a two and a half or three or multi-party system, which in effect is the party system that we now have. I think the referendum in 2011 probably put the issue of electoral reform to bed for 20 years or so, unless we have an election that throws up what you might call a wrong winner: that is, where one of the two major parties gets a smaller proportion of votes than the other major party but a larger number of seats. That will bring home to the public, in a way that I think they don’t normally otherwise understand, how the electoral system operates and if there is a wrong winner then there might be cries of “foul” and calls again for electoral reform.

Q44 Mr Browne: New Zealand has a Cabinet Manual and has had one, as I understand it, for 35 years. Would you amplify for the Committee what we learn from New Zealand’s model; how it differs from ours; whether there is any improvements we could make based on their experiences?

Professor Hazell: You are right that their Cabinet Manual has been in existence for 35 years and it has been through five editions in that period. That tells us something about the possible frequency with which our Cabinet Manual might be updated: namely, that it does not necessarily have to be updated in each Parliament. New Zealand has short Parliaments of only three years, so they have updated their manual about every two or three Parliaments. Their manual is longer and more detailed than ours, partly because it has been in existence for longer and inevitably every process of updating and amending tends to add to it rather than take things away. Over the decades that their manual has been in existence it has gradually acquired great authority in a way that our manual does not yet have. I am not worried about that because these things do take time and I hope our Cabinet Manual, which is still quite young, will acquire the same authority over the years to come.

Q45 Mr Browne: Including legal status? Does it have a legal status in New Zealand?

Professor Hazell: I notice that in other evidence submitted to the Committee, people have mentioned a very few references to the New Zealand Cabinet Manual in the New Zealand courts. I

can't get excited about that. Lawyers tend to give undue importance to what happens in the courts. Let's just remember the primary purpose of the Cabinet Manual: it is a guide to government and the business of government. If the Cabinet Manual succeeds in that, it does not matter if it is never referred to in the courts.

Q46 Mr Turner: Could I follow up Jeremy's questions for a moment? We were talking about a Liberal-Labour coalition with Labour having fewer Members than the Conservatives and the Liberals having fewer votes than UKIP. Your reaction to that was to say there will be pressure, perhaps, for changing the voting system. The trouble is the people in charge will be those who don't want to change the voting system because they would be guaranteed, so long as they did not do something completely daft, being in Government for another five years and by then the Labour party, and probably the Liberals too, would hope to be further ahead. Meanwhile the Conservatives and UKIP would be absolutely furious and they would be doing what happened in 1974, which is that some Conservatives called for a new way of voting but of course it did not happen because the Labour party had, first of all, a coalition of sorts and then was on its own for I think it was four years. So I am afraid you have not, in a way, answered the problem. You are right that we would be demanding it, or some of us would be demanding it, but what would we do about it?

Professor Hazell: The Chairman may need to call us both to order, but if he is happy for us to go on about the electoral system I will certainly answer your question.

You will know there is no perfect electoral system. You will know that electoral reform is an underlying issue in almost all advanced democracies because everyone recognises the imperfections in their own system. All political parties have some members or supporters who support electoral reform, including the Conservative party; a small minority but they have always been there. The interest in and demand for electoral reform waxes and wanes. You have pointed to a scenario where it might wax very strongly, and whether the incumbent Government responded to that in some way by setting up yet another commission or promising another referendum or whatever would depend on the amount of public indignation, the mood of the country, and whether they felt obliged to respond or whether they thought they might be able to kick it into the long grass. We have seen many examples of kicking it into the long grass, not least under the Government led by Tony Blair. Have I sufficiently answered your question?

Mr Turner: I think you have answered my question and obviously there is no correct answer.

Professor Hazell: No.

Q47 Mr Turner: I understand that. Are you concerned that the process and timetable for updating the UK Cabinet Manual is entirely the Government's decision?

Professor Hazell: Yes. If that leads on to a possible question about who owns the Cabinet Manual and is responsible for it, then we said in our written submission that the Cabinet Manual derives its authority from the Cabinet. It will need to be formally approved by each new Administration and so I would expect soon after the next election the Cabinet Secretary, as one of the many pieces of initial business, will say to whoever the new Prime Minister is, "Prime Minister, the last Government introduced the Cabinet Manual. Would you like your Administration also to be guided by a Cabinet Manual and are you content with the Cabinet Manual as it is or would you like to see any revisions?" Let's imagine the conversation. The Prime Minister might say, "Are any revisions necessary?" and the Cabinet Secretary might have prepared for that question and have a little list.

They might then discuss whether those things are sufficiently important that it is worth going through the process of producing a new edition and, if so, how that would be done.

Q48 Mr Turner: Here, of course, we have something—what is the book we have in Parliament?

Chair: Erskine May.

Mr Turner: Erskine May, where I think there are automatic revisions. What is the difference?

Professor Hazell: Erskine May does appear still as a very big and rather expensive book, so it does appear formally in editions. The New Zealand Cabinet Manual—here it is—also appears in hard copy but recently they have started doing minor updates online, so the electronic version is updated in that way. For us, that also could be a halfway house: that the Cabinet Office could do minor revisions in that and publish and keep a list so people know what little changes have been made before from time to time going through a more formal updating and revising process. I would expect the more formal process to be a consultative one in which they would announce, “We are now doing a more major revision of the Cabinet Manual. This is the timescale. We invite submissions from everybody, particularly you the experts, and we invite scrutiny from any parliamentary committee that might be interested”.

Q49 Mr Turner: I see. That is why there is this recognition that part of it is an online version and part of it would be a new version. It seems to me that there is a general view that any changes in the manual should be limited. If there are too many proposals for change it lacks authority, but what is it we are looking for that may not be complete? You said in your written evidence that there is a lack of authority because it changes too much so we will try not changing it as much. Do I have that right? That seems to be the consequence.

Professor Hazell: There are little bits of updating that might be required, for example following important court cases. We know that our Constitution consists of statute law but also case law and if the Supreme Court handed down a decision that rendered a passage in the Cabinet Manual incorrect, then that would be an example of the minor kind of updating that I am talking about that could be done online.

Q50 Mr Turner: I am just reading, “A document which is subject to too many changes will lack authority as an enduring record of the rules”. Are you saying that we will not bother about those things that are too minor, or are you saying there is still a requirement that things be put in writing online or in print? It is easy to think of things we add. What I am trying to work out is, what things do we not add?

Professor Hazell: Yes, and there is a distinction between a Cabinet Manual being purely descriptive and being as accurate a record as can be compiled of existing practice and existing precedents and a wish on the part of some—and I am one of those—who would like to see improvements where we are pushing the boat out a little bit. For me, and in my submission, the most important area where I would like to see the Cabinet Manual strengthened—and I am trying to strengthen a convention—is what I call the caretaker convention. The Cabinet Office and the Cabinet Manual do not call it that and, for reasons explained in the submission, I think that is a better and more understandable term and I think if we are likely to have more hung Parliaments in the future it is important for the caretaker convention to be better recognised and better understood. I would like to see an expanded passage in the Cabinet Manual about that. I recognise there is a

tension between wanting the Cabinet Manual to be purely descriptive and authoritative because it is only summarising existing precedents, and a wish to improve on some of these matters.

Q51 Mr Turner: Could you give me an example of something you would omit?

Professor Hazell: There are quite a lot of chapters that you could say are redundant because that information is contained in other guidance. Most of the chapter about collective Cabinet decision making is already in the Ministerial Code. It is very important for Ministers to understand how Cabinet and collective responsibility operates. Most of the chapter on official information is in previously existing guidance issued by the Cabinet Office about how the Freedom of Information Act operates. Almost all the chapter on relations with the devolved Administrations is in the memorandum of understanding entered into by the UK Government with the devolved Administrations early in the history of devolution and periodically updated since. There is much more detailed devolution guidance in devolution guidance notes. I can't tell you how many there are but they go into at least double figures. Arguably a lot of the chapters do not add very much in substance to existing guidance. They summarise it neatly in one place and they point people interested to that further, more detailed guidance, but here again I distinguish chapter 2 as the most important chapter by a long way and that was not in any previously existing guidance.

Q52 Mr Turner: Thank you. Could we think about the referendum in 1975 in which there was a suspension of collective—

Professor Hazell: Ministerial responsibility.

Mr Turner: Yes. Do you think that will be the case in 2017?

Professor Hazell: It depends on the party in Government that is holding the referendum and how serious are the divisions within the leading members of that party on the issue in the referendum, and therefore whether the Cabinet decides to suspend collective responsibility on that issue for the duration of the referendum. It happened in 1975 and the heavens did not fall.

Q53 Mr Turner: Is that an amendment to the Constitution, in that it was accepted that it was necessary in 1975, therefore the Government inherits the responsibility to give people a choice; or is it not a constitutional change because it was just done for six months or so? In other words, what makes it part of the Constitution?

Professor Hazell: It was not an amendment to the Constitution. It was a one-off.

Mr Turner: But why?

Professor Hazell: Collective ministerial responsibility is a principle of good government. It is not a necessary part of the Constitution. It is a necessary part of Government working effectively and the Cabinet working effectively together. But collective ministerial responsibility is far more elastic than people suppose. Let me give you a real example from New Zealand where they have pushed the envelope on collective responsibility a lot further than we have seen here.

There is a minor party in New Zealand—and I may get the details wrong—that I think is called New Zealand First. Its leader is a very maverick New Zealand politician and in some recent Parliaments in New Zealand, although this minor party only had tiny numbers in Parliament, its support was necessary for a coalition. In one of those Parliaments when Helen Clark was Prime Minister she appointed the leader of this maverick party Foreign Minister, the equivalent of our Foreign Secretary, but he was not a member of the Cabinet. In New Zealand the Foreign Minister is

a senior member of the Government, as here. The arrangement that he was not a member of the Cabinet was so that collective ministerial responsibility should not apply to him and he could continue, therefore, to vote according to his conscience on all issues except for foreign policy. That is how far you can stretch the elastic on collective ministerial responsibility and you can still have pretty effective cabinet government. I have remembered his name: Winston Peters is the New Zealand MP who was Foreign Minister.

Q54 Chris Ruane: You suggested three revisions to the next edition of the Cabinet Manual: the duty on incumbent Prime Ministers to remain in office, the caretaker convention, and the pre-election contact with Opposition parties. Could you run us through why you consider that each of these is worth including?

Professor Hazell: Yes. May we start with the duty on the incumbent Prime Minister and let's imagine in our minds a scenario after the 2015 election similar to that in 2010 when there is a hung Parliament; Labour is the largest single party but does not have an overall majority; the Conservatives are second largest; and there are third and minor parties who might help support a minority Government or form a coalition. Let's suppose that, as I have suggested, the negotiations between the parties might be more protracted than last time and David Cameron as the incumbent Prime Minister remains in No. 10. Here my scenario may become a bit more fanciful, because I hope it does not happen, but suppose that sections of the press mount a vicious campaign against Cameron because they sense that he is not going to be the Prime Minister in the new Parliament and have headlines like "Squatter in No. 10". That is why I think it is important for people to understand that we must always have a Government, especially at times immediately after an election when it is not yet clear who can command confidence in the new Parliament. We still have a Government; it is the previously existing Government; and we must always have a Government in office because there might be a natural disaster or another meltdown in the eurozone or some foreign policy or military emergency in the Balkans or the Middle East where we need a Government that can act. That is why I think it is important that people understand that the incumbent Prime Minister must remain in office until it is clear who can command confidence in the new Parliament and the Queen can then confidently invite that person to form the next Government.

This is an example where I am trying to strengthen an existing convention, and I put in our written submission the current words in the Cabinet Manual that say, "While there is no established duty on an incumbent Prime Minister after a hung parliament to remain in office until a new government can be formed, precedents have created an expectation that the Prime Minister will remain until a successor can be identified". I am trying to build that up and establish that there is a duty. We know from subsequent accounts that Gordon Brown felt the pressure very keenly and there were moments when he wanted to resign earlier, before the weekend immediately after the election, and that the Cabinet Secretary and Jeremy Heywood, the Private Secretary in No. 10, had to plead with him not to, so this is not entirely fanciful.

I would hope we could move to a clearly understood convention that there is a duty on the incumbent Prime Minister to remain in office, a duty such that if the Prime Minister wanted to tender his resignation before it was clear who could command confidence in the new Parliament, the Sovereign could say, "Prime Minister, I am sorry but I don't accept your resignation because it is not clear to me and you are not able to tell me who can command confidence in the new Parliament and therefore whom I should invite to form my Government in your place".

Q55 Chris Ruane: Professor Cram suggested that the Cabinet Manual should define what is understood as the meaning of the rule of law. Do you think such a definition should be included?

Professor Hazell: I am afraid I can't get quite as exercised about this as Professor Cram. Again, forgive me for teasing the academic lawyers. For them the rule of law genuinely does have great importance, but is it going to make a difference to the working of government if the Cabinet Manual has two or three sentences about the rule of law? I don't think so because I think it is perfectly clear what the rule of law requires. I looked this morning to see whether the New Zealand Cabinet Manual has any reference to or summary of the rule of law and it doesn't. There is a passing mention in an introductory essay about an introduction to the New Zealand Constitution but that is as far as it goes and I don't think the New Zealand manual is any the worse for not trying to define the rule of law.

Q56 Chris Ruane: In your written evidence you have suggested including the Ministerial Code as an appendix in the Cabinet Manual. Why do you think this should be included?

Professor Hazell: I don't want to overstate this. It is for convenience in terms of bringing the guidance into one place. If you look on the Cabinet Office website, sadly the guidance is even more fragmented in terms of finding different bits of it than it was when we first criticised it in 2010, but I don't want to push the point.

May I go back to the caretaker convention because, forgive me, I gave you a long answer about the duty on the incumbent Prime Minister, and the caretaker convention is as important. It is as important for this reason. Let's go back to the scenario when I was talking about the need always to have a Government. Suppose that in future hung Parliaments, it takes longer than five days to form a new Government. We know that in continental Europe it can take typically weeks or even months and in the devolved parliaments it can take typically 10 days to a couple of weeks, and we know that in politics a lot can happen in that kind of space of time. It is very important to have clearly understood conventions about the limitations on the kind of decisions that Governments can make when the Government has the lawful authority to govern but it does not have the political authority because it is not established whether the Government can command confidence in a Parliament.

The section in the Cabinet Manual we have criticised on two grounds. It does not refer in terms to a caretaker convention because it runs it together with the guidance about what happens during an election period, and that guidance is known in Whitehall as purdah. But elections can happen mid-term when a Government does command confidence. We had them during the European elections and the normal guidance was issued that the Government during that election period should not issue publicity favourable to the party in power and so on. I would like to see much clearer separation between the caretaker convention on the one hand and the normal guidance about purdah during election periods on the other.

Q57 Chris Ruane: The draft version of the Cabinet Manual was criticised for failing to acknowledge sufficiently that some conventions were the subject of disagreement or were ambiguous, and for its sometimes vague use of language. Are there any remaining problems of this sort in the revised Cabinet Manual?

Professor Hazell: I am not aware of any that matter, no. I think in the consultation and subsequent revisions the drafters of the Cabinet Manual did their very best, when there was some disagreement or uncertainty, to make that clear.

Q58 Chris Ruane: Finally, in our report on the draft Cabinet Manual we recommended that the Government publish a redacted version of its Precedent Book. Do you agree that it would be helpful to publish the Precedent Book?

Professor Hazell: I can't get excited about this I am afraid.

Chris Ruane: It is not a very exciting question.

Professor Hazell: I don't know what is in the Precedent Book but I am not desperately curious to know. I think the Cabinet Manual does contain everything that we need to know. The Precedent Book will be interesting to historians and to my good friend Peter Hennessy but I don't think it is going to tell us anything that might make for more effective government.

Q59 Mr Turner: What you have just said I think makes it quite clear that Gus O'Donnell interfered too much by requesting Gordon Brown to remain even beyond the point where he would have chosen to resign. You say this is the right thing to do because he has to hang around until somebody else is willing to do the job. I would say if there is a vacancy, then the thing to do is offer the job to the next person in the line, who in this case would be David Cameron, to see whether he can form a Government. That would have led to a minority Government—none the less a Government—and if he wanted to make it stronger he would then invite the Liberals to join him.

Mr Browne: But while this is happening Gordon Brown should stay put.

Mr Turner: Yes, but it is one thing to say wait for an indefinite period. If he had died, for example, then somebody has to get the job. The question is who would have got the job had that man died?

Professor Hazell: I am very glad you have asked this question because I do think that Gus O'Donnell was unfairly criticised and I am pleased on the record to defend his conduct, which I think was that of a very conscientious public servant. I think the civil service has a really important role at the time of any transition after an election, especially if there is a change of Government from one party to another. It is one possible psychological reason for politicians slightly resenting the role of the civil service because it is one moment when the civil service play a vital constitutional role and their vital role is to ensure continuity in Government, that we always have an effective Government and that there is a very smooth transition. In 2010 I think Gus O'Donnell achieved all those things.

Let's just remind ourselves that on the Saturday, two days after the election, there was a crucial meeting in Brussels of ECOFIN Ministers. It was the first eurozone bail-out; it was vital that the UK was represented at that meeting and we know that Alistair Darling, the then Chancellor of the Exchequer, went to that meeting. It is not a time to be playing musical chairs with Prime Ministers resigning because they feel like it, other Prime Ministers being invited, possibly on a transitional "suck it and see" basis and so on. It is much better for stable government and for a smooth and orderly transition if the incumbent Prime Minister remains in office subject to the caretaker convention—and that is why the convention is so important—which limits his freedom of manoeuvre just to what is necessary, and where necessary to consult with the other political parties before taking any decision, until it is clear who can command confidence in the new Parliament.

Q60 Mr Turner: But in 1974 Edward Heath was criticised strongly for having remained in the post until Monday.

Professor Hazell: Again, if I may say so, most unfairly, and this is why it is so important to have a stronger understanding that the incumbent Prime Minister has a duty to remain in office.

Mr Turner: I think this is another point where I could come back but I am not sure I will come back on this occasion because of time. I am also still concerned about your previous answer, and I have now forgotten what it was. I am sorry, I have forgotten what my question was but I don't see that you were explaining why the changes—I am sorry, I have completely lost the question. Never mind, I may come back.

Q61 Chair: Andrew, don't worry, it will come back and we will perhaps drop a line to Robert. If colleagues are happy and there are no further questions—Robert, thank you so much. It was illuminating as always. Thank you so much for your time this morning and, colleagues, thank you for attending the Committee.

Professor Hazell: Just before we finish, Chairman—

Chair: Robert, I should have given you the opportunity to say something.

Professor Hazell: Don't worry. There is one question I thought might have come up that has not: namely is the Cabinet Manual a substitute for a written constitution or a step on the road to one? Please don't worry, we are not going to open that up because that is a big further subject, but I have brought you a present. It is rare for witnesses to bring presents to the chairs of parliamentary committees, but I know you are particularly interested in a written constitution. I have sometimes asked myself whether you have read any written constitutions, so my present—it is your summer holiday reading—is the constitutions of Denmark, Norway and Sweden. I have chosen those three because they are three of the most advanced democracies in the world. On almost any league tables of democracy or well-being and so on they come out near the top. I thought you would be interested to see their written constitutions and you may find that in some respects they are surprising.

Chris Ruane: Chair, could I suggest that you perhaps summarise them over the summer for the rest of the Committee?

Chair: My worry was that the professor would set me an examination in September to see if I had read them carefully.

Mr Browne: I thought you were going to say you have read them already.

Chair: Robert, that is very kind of you and I appreciate it. Hopefully it does not go over the prescribed amount and qualify as bribery and corruption. I am very grateful. Thank you. That is very kind.

Professor Hazell: You will find that two of them are extremely short.

Chair: Good. I believe the shorter, the better. Thank you all very much indeed.