



## Select Committee on the Constitution

### Uncorrected oral evidence: Constitutional implications of Covid-19

Wednesday 29 July 2020

10.25 am

Watch the meeting

Members present: Baroness Taylor of Bolton (The Chair); Lord Beith; Baroness Corston; Baroness Drake; Lord Faulks; Baroness Fookes; Lord Hennessy of Nympsfield; Lord Howarth of Newport; Lord Howell of Guildford; Lord Pannick; Lord Sherbourne of Didsbury; Lord Wallace of Tankerness.

Evidence Session No. 12

Virtual Proceeding

Questions 152 - 168

### Witnesses

I: Rt Hon Baroness Evans of Bowes Park, Leader of the House of Lords; Rt Hon Lord Ashton of Hyde, Chief Whip, House of Lords.

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## Examination of witnesses

Baroness Evans of Bowes Park and Lord Ashton of Hyde.

Q152 **The Chair:** Good morning. This is the House of Lords Constitution Committee. We are conducting an inquiry into the constitutional implications of Covid and its impact on Parliament. Our witnesses today are Baroness Evans, the Leader of the House of Lords, and Lord Ashton, the Government Chief Whip in the House of Lords. Good morning to you both and thank you for coming.

We have seen a lot of changes, and we have all experienced them in recent times. There are been various challenges and difficulties, and we have all had to adapt. Would you agree that there are some benefits to the kind of working systems that we have adopted but there are also some significant drawbacks; that the different types of responsibility that we have, such as holding the Government to account, passing legislation and working on committees have been impacted in different ways; and that some aspects of our work have proved quite difficult?

**Baroness Evans of Bowes Park:** That is absolutely right. It is worth reflecting first on what we have achieved as well and that fundamentally, while it has not been perfect—I am sure we all agree on that and I am sure we will go into the details about some of the frustrations that we have all had—we as a House have been able to function and to do our work in unprecedented circumstances. As we get more used to this way of working, which has been going on for a while, we should not take for granted the huge amount of effort that has gone into getting us where we are.

Having said that, you are absolutely right: this is a relatively successful temporary solution to an entirely unprecedented circumstance, but it is by no means ideal or as good as normal, so I think we are all keen to return. Still, fundamentally we have been able to do our jobs, and that has been what we have all been trying to focus on as we have developed through the challenges that we have faced over the last few months.

**Lord Ashton of Hyde:** I think that is right. I agree with the Leader. The initial view was to start with holding the Government to account, and then we moved later to things like legislation. You distinguished between things that work well and those that work less well. Some of the process in dealing with legislation has been a bit more difficult, and we may have to fine-tune that.

**The Chair:** I think we will want to come on to those separate aspects. Certainly, holding the Government to account in this very unusual set of circumstances is a particular responsibility of Parliament.

Q153 **Baroness Fookes:** Do you feel that virtual proceedings have changed which Members participate? Have they changed the form and style of the debates? In that connection, I am particularly interested in the difficulties that arise when people have only one minute each in which to participate. That is not a new problem, I know.

**Baroness Evans of Bowes Park:** One of the things that we were most conscious of when we were developing the model was that, knowing our age demographic and the particular circumstances of some of the Members of the House, we wanted to try to ensure that Peers were able to participate. With the technology that we have had—with the excellent support that we have had from the digital services team, a lot of us have undergone a great a lot of technological changes over the last few months—one of the successes has been the ability of Peers to contribute in areas of interest to them. Participation in Questions, in Statements and, as you say, in debates has been significant, so that has been one of the successful elements.

You are absolutely right that one of the downsides is that, because of the way this system has worked, we have had to be somewhat more structured and scheduled in everything that we do. We have had to have people signing up in ways that we have not done before and, as you say, that has put a lot of pressure on things like debates. Before Easter this year there had not been a one-minute limit on debate speaking times since 2016, but as you rightly say that has become a common occurrence.

That is something that we were cognisant of, so we put forward the idea that, rather than limiting speaking times, we would look to perhaps limit the number of speakers in a debate so that everyone could have, say, a four-minute limit, but the Procedure Committee preferred to stick with what we had. There is no question that compromises and trade-offs have had to be made during this time, some of which people support but some that have caused difficulties like this. However, these are not decisions that were taken lightly, and they have been done in the round while looking at the different pressures that we faced.

**Lord Ashton of Hyde:** The two things that have constrained everything have been, first, the social distancing in and around Parliament when we came back as a hybrid House and, secondly, the broadcasting time limits, so the constraints that we have on time.

Everything flows from that. If you have a limited amount of time in which you can operate during the day, there is much less flexibility, so as the Leader said you have to timetable things much more. We could limit the number of speakers in a debate, in which case there would be more time, or we could limit the amount of time.

So there are things that we could do, but the feeling in the Procedure Committee was that we should leave things as they are and, if necessary, we will have to fine-tune them later. We are of course aware that it is a big change not to allow as many people to speak for as long as they want, which is a feature of the House of Lords in its normal operation, but many more people are speaking and we have a constraint of time that is imposed by the broadcasters.

**Baroness Fookes:** My understanding is that the broadcasters' constraints on time spring from whatever contract the House authorities

have with them, and that if one was prepared to pay more than they would give more time.

**Lord Ashton of Hyde:** That is true to a certain extent, but we do not have the flexibility that we had, because in order to do that we have to give a week's notice. We could do that in certain circumstances, and indeed you will have noticed that in the Agriculture Bill we have been able to go until midnight. Actually in the old days we probably would have gone beyond that and at very short notice if we needed to, so this situation is still more structured.

You are absolutely right that the House authorities that organised that are able to spend more money. There are certain limitations to that, such as the number of people available to do the job, but within reason you are right. However, you still have to give notice of that.

**Baroness Evans of Bowes Park:** To be fair, when the initial contracts were drawn up, we did not quite know what situation we were going to be in and how long this was going to go on for. As we move to September, when we are looking to run the Grand Committee Chamber in parallel with the Chamber, which will give us more capacity, we will look again at the contracts for broadcast and obviously it will be taken into account in the next step that we will be looking for more flexibility. That is something that we have been talking to the House authorities about, because it has been as frustrating for us to have to pull stumps in debates, Committee stages and all that sort of thing as it has been for those wanting to participate.

**The Chair:** Surely, as part of the business continuity plan and the contingency arrangements that you referred to earlier, we will have to have provision in any business continuity plan for hybrid working and virtual working should anything else happen, such as this situation being prolonged or there being significant lockdowns.

**Baroness Evans of Bowes Park:** Absolutely. As I say, we will look again at the contracts, because as we come back in September we will need more capacity because we will be running two hybrid Chambers.

**Lord Ashton of Hyde:** You will also have seen that the Clerk of the Parliaments has used as a working assumption that these arrangements will go on until the end of the financial year.

**The Chair:** Let us come to some of the specifics.

Q154 **Lord Howell of Guildford:** Good morning and thank you for being with us.

I want to ask about how our witnesses think Oral Questions have gone. Getting 10 speakers into 10 minutes has worked most of the time but at a bit of a cost. In other words, we do not want Ministers to give long answers but they can get away with no comeback at all or very brusque or dismissive answers, which are not very good for scrutiny.

Could there be a case for giving the Lord Speaker a bit more flexibility to go for 11 or 12 minutes when he has not covered the full 10? Could there be a happier way of organising this? It is causing quite a lot of frustration.

**Lord Ashton of Hyde:** We have looked at the statistics behind questions. In summary, we have had more questions from more Peers for longer. To that extent, I would say that it is a success.

Compared with the situation before, we now have more questions coming in. The day before yesterday, for example, 39 out of the 40 Members on the list asked a question. There is always a tension between a Minister giving a full answer to a specific question—that takes time; some issues are complicated—and the pressure that we are under to get through as many as we can. We are constantly telling Ministers to be quick. The perfect Minister gives the perfect answer that is succinct yet covers all the ground. Some do better than others, I admit.

Right from the word go, we were conscious that holding government to account was important, so we increased the time for Questions. There has been a dramatic increase in the number of PNQs, to the extent that they are not being used in the way they were before. We have them virtually every day now and some are arguably not as urgent as others. We have a 50% increase in the time for PNQs, we have given more time for Covid Statements, there have been many UQs, and we have increased the number of people able to ask questions there.

If we compare, for example, the last three weeks with the first three weeks of this year, which were in the normal way we operated, we see around a 40% increase in the number of questions that have been asked.

**Baroness Evans of Bowes Park:** From our perspective, with the additional time allowed for Questions and the pretty much daily occurrence of PNQs, plus all the onboarding times which you will all be familiar with, the time given to Questions is significantly longer, which obviously eats into time for legislation and other business. There are also the broader constraints of broadcasting that we have already outlined.

We feel that the amount of time spent is right, but we would not want to go any further, because it eats into a lot of other time and takes a lot longer than it did in normal circumstances.

**Lord Ashton of Hyde:** To give a specific example, in our traditional way of working, if we had Prayers, four Oral Questions and a PNQ, it took 45 minutes. It now takes an hour and a half. Every day, there is an extra 30 minutes just on that, and then we have to break to allow the broadcasters to onboard the next business. That excludes UQs and Statements, of which there have been a lot, as you know.

**Lord Howell of Guildford:** That is all to the good, and it has been managed superbly, but is there a technical limit on going beyond 10 minutes? If the Lord Speaker is left with two speakers on his list of 10 whom he cannot get to, is it physically impossible for him to say, "I will

finish the list”?

**Baroness Evans of Bowes Park:** We have agreed that that is not what the procedure should be. We feel that we should work within the time constraints that we have, and that is what has been agreed with the Procedure Committee, including the Lord Speaker.

**Lord Ashton of Hyde:** Technically, it is not impossible.

Q155 **Lord Howarth of Newport:** Good morning. From the point of view of the Minister at the Dispatch Box answering questions and taking Bills through the House, what particular challenges and problems have arisen with hybrid and virtual proceedings?

**Lord Ashton of Hyde:** I think that most Ministers would prefer the way we worked to be physical. In some ways, it is ironic. I think that both the Opposition and the Government both want the House to come back to physical as soon as possible, possibly for different reasons. A skilful Minister, as you all know, can use the mood of the House and play to it if he can.

**Baroness Evans of Bowes Park:** Or she.

**Lord Ashton of Hyde:** Or she. The problem is that the House cannot self-regulate in the way it should. If a Back-Bench Member is going on too long or being irrelevant, or if on a group of amendments Members are repeating themselves one after the other, in virtual proceedings you do not get the House groaning as another person makes a repetitive speech and there are no calls for a Minister to answer. We definitely do not get the benefit of that self-regulation. Self-regulation does not really work if you do not have a House to regulate itself.

**Lord Howarth of Newport:** Indeed. We have lost that atmosphere of the House and the possibility that if a Minister should give a less than satisfactory answer, they would immediately sense the disappointment and disapprobation of the House. However, one Minister has actually said that hybrid and virtual proceedings make it easier for Ministers. I wonder whether even the perfect Minister who you have hypothesised may not be rather more comfortable that this kind of accountability is weakened through virtual and hybrid proceedings.

**Lord Ashton of Hyde:** There is a lot of talk about spontaneity and interventions. The Procedure Committee made a rather crude attempt at providing some kind of feedback by allowing a Member to intervene after the Minister had spoken. If we take Questions, I do not necessarily agree that it is impossible to hold the Minister to account. If a Minister did not answer a question, normally a later Member would get up and say, “Why didn’t you answer the noble Baroness’s question?” That is still perfectly possible to do.

However, we see more and more, particularly in a virtual world, Members sticking to their question. Sometimes you can hear the rustle of the paper turning over as they read their pre-prepared question. They are not

prepared to abandon it and say, which they are technically perfectly capable of doing, “Why didn’t you answer Lord Pannick’s question?”

**Baroness Evans of Bowes Park:** I think Ministers miss the normal world, not just the Chamber but all the interactions and conversations you have outside it, sharing your concerns and being able to talk them through and those sorts of things. That is obviously much more difficult now. Some of that dialogue which would allow a Minister to go away and reflect and perhaps fine-tune what they were saying becomes a lot more difficult. I do not think that Ministers are thoroughly enjoying this time; I think they are very much looking forward to coming back and getting into the cut and thrust of things.

**Lord Ashton of Hyde:** I do not think that anyone particularly enjoys talking to a screen. You do not get any feedback. It is not like in this Zoom call where I can see the reactions to a certain extent, but you cannot when you are a Minister.

Getting the business through is also much more difficult, so it takes a lot longer, whether it is primary legislation or, especially, statutory instruments. We used to be able to get through six to eight statutory instruments in a session. Now we can do about three. From a business manager point of view—the Minister is also responsible for getting the business through—it is just not as efficient.

**Baroness Evans of Bowes Park:** We find it slightly ironic that people say that this makes it easier for government to do its business. I can tell you that neither the Chief Whip nor I feel that way in terms of what we are looking at from our side. I think there is frustration on all sides.

**Lord Ashton of Hyde:** I think that view is shared by the usual channels, although, as I said earlier, maybe for slightly different reasons—we may will come on to the usual channels later. I do not think there is a profound disagreement on that between the usual channels; we all want to get back.

**Lord Howarth of Newport:** Perhaps we should have synthetic crowd noise to encourage you.

**The Chair:** I think we can manage without synthetic crowd noise.

**Baroness Evans of Bowes Park:** Only if it is a cheer.

**The Chair:** I get the impression that some Ministers are pleased not to have any feedback and to act in their own little bubble. Lord Wallace wants to follow up on accountability.

Q156 **Lord Wallace of Tankerness:** Thank you for giving evidence. You have mentioned quite properly the importance that was attached to accountability and the need to use broadcasting for accountability. However, as we are looking in this inquiry at the impact of Covid on Parliament, I think many of us feel that there has been a real move away from Parliament to policy announcements being made at the podium of

10 Downing Street, with questions from a number of journalists rather than from MPs in the House of Commons primarily or from Peers in the House of Lords.

Do you think that parliamentary accountability has been diminished, and is there any intention to redress that balance when we return in September?

**Baroness Evans of Bowes Park:** To be honest, we are in unprecedented times, and I think there has been accountability to Parliament. However, at this time it has also been extremely important to speak to the public directly, so government has to a degree been attempting to use different channels in order to be able to address different audiences.

Certainly since we came back in Easter we have had Statements nearly every day. We got up and running with Oral Questions a lot more quickly than the Commons did, so we were able to hit the ground running as soon as we came back, and obviously the Commons has started to get back into the routine of UQs and so on.

So I would gently push back a bit on the suggestion that government has not been held accountable by Parliament. I think we have been and that we have been able to do our job, albeit, as we have already explored in these conversations, perhaps not in the way we would have hoped and are used to.

**The Chair:** I now bring in Baroness Corston on a point that perhaps picks up on some of what has been said already.

Q157 **Baroness Corston:** Given that we are going through a period of significant procedural change, what have the challenges been for the usual channels and what action have you taken to resolve them?

**Lord Ashton of Hyde:** The good news is that the usual channels are still talking to each other, and we are getting on quite well. I pay tribute to the Official Opposition and the Lib Dems, and to Lord Judge, the Convener of the Cross Benches. I think everyone has tried to put the needs of the House first, and they have had that uppermost in their minds.

We have talked informally a lot. I talk frequently—many times a week—to my opposite numbers. One of the problems, though, is that the communication between parties has been more difficult. Before, if the Chief Whip, the leader of the party and the head of their office were in three different places, there would be a lot of traffic up and down the corridor and the principal floor and we talked to each other the whole time. Now, it is much more difficult, and the same applies within our own party.

We do not have a majority on any of the committees, so a lot has been done by consensus. It has been remarkably effective, and there have been examples of our having to agree to things even if we did not want to. One example is increasing the time for PNQs by 50%. We were not



particularly keen on that, but that was what was decided and we went along with it.

So yes, it has been okay, but it is certainly not as easy as it has been in normal times.

**Baroness Evans of Bowes Park:** Like the Chief Whip, I pay tribute. We, the other leaders and Chief Whips have been quite involved and have had a lot of conversations and meetings between us to discuss progress.

I guess the other dynamic is that there is what the usual channels are hoping to achieve and work on and what can be delivered. The House authorities have done a fantastic job in getting us to where we are, and we have worked very constructively with them. But I think it is also fair to say that what the usual channels and Members may want has occasionally come into tension with the House authorities and what they think they can deliver. It has been an extremely collaborative effort but has not been without its difficulties.

The other elements, particularly in relation to all the procedural issues, are the commission, the Procedure Committee, and various other committees that get involved, too. In a very complicated and fast-moving circumstance, there have been a lot of moving parts and people to square up, which has sometimes held things up a bit or meant that further compromises have been made because of all the differing conversations that have to be had and agreements that have to be reached. It is not just the usual channels; obviously, other committees are involved, too.

**Lord Ashton of Hyde:** It is also very important that the business managers and the leaders in the two Houses communicate so that the expectations are similar. If the House of Commons decides that it will fast-track a piece of legislation in a day, it ought to be aware of the implications for this House, which may take a different view of it.

Q158 **Lord Pannick:** The Chair has disappeared. I am the next questioner, so I will plough on with my question.

First, I thank the two of you for all your hard work in ensuring that the House of Lords can continue to perform its vital constitutional function of holding the Government to account.

I specifically want to ask you about fast-track legislation. We all accept that in a pandemic it will be necessary to enact legislation on a fast-track basis. This Committee has repeatedly advised that, because fast-track legislation prevents proper detailed scrutiny of legislation, it is essential that such legislation contains sunset clauses. Many of us are very concerned that the fast-track legislation that we have been enacting has not contained such clauses.

Why is legislation being enacted with limited scrutiny on a fast-track but permanent basis?

**Baroness Evans of Bowes Park:** That is a fair criticism of the corporate insolvency Bill, which I assume is the particular one you are referring to.

**Lord Pannick:** Yes.

**Baroness Evans of Bowes Park:** I hope you have seen that lessons have been learned from that and that you have seen the proof in the pudding with the following Bills. Pretty much every measure in the Business and Planning Bill, which was the further Bill, was indeed sunsetted.

But you make a fair challenge, and it is one that we have recognised and will continue to take into account.

**Lord Ashton of Hyde:** The lesson to be learned is that it is much better not to mix emergency and non-emergency provisions. People rise to the occasion when the emergency is genuine and it can be seen as such. You should not put your normal legislation in with it.

**Baroness Evans of Bowes Park:** To be fair, I think Commons colleagues realised the same thing. I know that we tend to scrutinise in more detail, but I think that has been a common learning across both Houses.

**Lord Pannick:** I am very pleased to hear what the two of you say, because I am sure you would agree that the House of Lords has many important functions, not least of which are committees such as this, but it is also vital that we scrutinise legislation, and we do that more intensively in this House than they have time to do in the House of Commons.

I am very pleased by what you say. May I take it that you are assuring this Committee that lessons have been learned and that, other than in the most exceptional circumstances—you never say never—you will not in the future bring forward legislation on a fast-track permanent basis, as has regrettably occurred with the corporate governance Bill, which you mentioned?

**Baroness Evans of Bowes Park:** I will pick on your “never say never” because I do not want to make promises that we cannot keep, but we can both certainly assure you that lessons have been learned. The leadership in both Houses is very cognisant of those issues. That has been reflected back in our conversations with colleagues and will continue to be if new legislation—let us hope we do not need it—starts to come through.

**Lord Ashton of Hyde:** It would also be good if the House recognised that some legislation was for emergency purposes and did not do what it sometimes does and use it as a Christmas tree, hanging other provisions on the Bill because they are within scope. We should come to that agreement between us.

**Baroness Evans of Bowes Park:** Although you are absolutely right that legislation was fast-tracked, the Business and Planning Act was taken in less than four hours in the Commons, while we spent more than 20 hours on it over three days.

The other thing that we have tried to do when discussing Bill timetables with our Commons colleagues is to make sure—I accept that it is not our usual pace—that there is additional time to scrutinise legislation in the Lords. As we showed on the Business and Planning Act, for instance, some important technical issues were picked up in the Lords that improved the Bill—I think we even got some praise from the Commons for the work that we did—so we want to make sure that that continues.

Q159 **Lord Beith:** I turn to statutory instruments, which are the means by which people's daily lives are being regulated now. The pattern for those has been that announcements are made, very often at the Downing Street press conference, about changes to the restrictions that people are subject to. Then they are done by means of the affirmative procedure, which means that it is some time before either House actually debates them.

During that period, confusion has tended to arise as to what the regulations will say, or sometimes even what they say once they have been produced, with the result that you have police officers trying to enforce things that are not yet law and people trying to enforce restrictions that are merely interpretations of the law, such as the idea at the beginning that you could only do one hour's exercise a day when in fact there was no time limit in the regulations on the amount that you could exercise.

There is a disconnect between what the law is and what people think the law is, which the lack of parliamentary process has tended to increase. Do you share that concern?

**Lord Ashton of Hyde:** I understand the issue that you raise. The problem is that we are dealing with an emergency situation and sometimes it is necessary to act very quickly. Affirmative procedures are therefore necessary in certain circumstances. It is worth remembering that the affirmative procedure is there only if the parent Act allows it, so Parliament has decided that in certain circumstances affirmative-procedure SIs are appropriate.

Of course, you either announce something and put it into effect immediately or you give a warning that you will do that and make the SI later. You can be criticised for both actions. So far, every SI that has been required has been debated within the required time. That is what Parliament has decreed is the requisite time, and that has been stuck to. But in an emergency situation there is always a problem.

The other point is that we are lucky to have the benefit of committees such as the JCSI and the SLSC. They have done very good work and turned the SIs around very quickly, but of course they need a bit of time to do that. It is part of the conventions and Standing Orders of this House that Parliament should debate SIs when it is able to take account of those committees' views, and that is what has happened. Those committees work very well and we are very grateful to them. As I say, every SI has been done within the correct time.

**Lord Beith:** We might want to remind you of what you have said about the parent Act when we, alongside the Delegated Powers Committee, are insisting that a particular procedure is required and that it has to be made affirmative or even full affirmative in particular cases. The parent Act is obviously crucial.

I want to press you to recognise that when matters have not been debated in Parliament, and have not been exposed to the kind of comments, criticism or even qualification that happen in debate, the public tend to be less aware of the difference between what the law says and what the law is being interpreted as saying by the wide variety of people involved. Do you recognise that this problem has arisen as we have tried to deal with what I recognise is an emergency where you have to move quickly?

**Lord Ashton of Hyde:** Of course I recognise that that could be a problem.

**Baroness Drake:** I am conscious that we have not restored the link with the Chair, so just for the ease of facilitating the discussion I have volunteered to call people in on particular questions. We have missed the questions that we wanted to ask on the voting system, but I will come back to them, if that is okay. Lord Hennessy, would you like to ask your question?

Q160 **Lord Hennessy of Nympsfield:** Thank you. There has been a great flurry of interest in our House of Lords recently on the part of the public because of the "Great North Road" question about whether or not we are going to pop up to York and quite a lot of interest in the forthcoming list of new appointments.

Going deeper than that, would you agree that we, as a Chamber and as a body, have to justify our existence, utility and value to the country as a whole afresh because of the nature of the crisis that we are living through? We are not alone in this: there is great institution stress-testing going on across the entire country.

Do you agree that one way of doing that, and we have had witnesses who have discussed this already with us in this inquiry, might perhaps be to build on our formidable set of Select Committees even more and turn ourselves into a kind of grand think tank for the nation and to disseminate our work more effectively than we have in the past? Do you see this as an opportunity to show that the Lords are still alive and well, with a rather indispensable function for the nation?

**Baroness Evans of Bowes Park:** We have been able to do that to a degree in the work that we have been doing. As I said in an earlier answer, in building first the virtual system and then the hybrid system we have been very cognisant of the needs of the Lords, which has a different demographic from the Commons. We have tried to build systems that ensure that participation can be undertaken by the widest range of people so that we can bring in the expertise of the many people across the House that we have. That has been part of our thinking when it

comes to some of the decisions that we have made and some of the differences in how our proceedings have worked over this pandemic as opposed to the Commons, which has taken a different approach in a number of ways.

I do not know whether you share this view, but from talking to people on Select Committees and to other Select Committee Chairs I have found that people have felt that the virtual way of interaction has worked well for our committees. It has allowed a broader spread of witnesses and cut down on travel time. It sounds as if people have been able to have better engagement than they might have done if they had to go somewhere and had a set number of hours in which they could see people.

So in some ways, from what I have heard—if I have got this wrong, please disabuse me of this—this way of working has helped to further bolster the excellent work of the committees, and it is something that people will want to build on.

**Q161 Lord Howell of Guildford:** May I pursue this question a little further? It is central. Practically every witness that we have had in this Committee in the last few weeks has emphasised the importance of the Select Committees and that they perform pretty well in their hybrid form. Even in non-hybrid times they make better viewing for the outside world than the Chamber. While Ministers, particularly good ones, can evade most questions in the Chamber if they know how, here in the committees they get drilled and challenged in a much more effective way. With a much more powerful Executive now intruding into all our lives, that is the kind of scrutiny under pressure that we really need.

The question is: what are we going to do to increase the power of our Select Committees? Everyone talks about their value and importance, but the truth is that they do not even really have the power to insist on Ministers turning up, let alone to influence legislation or to get anywhere near the sort of power that American congressional committees have under the presidential system. As we nearly have a presidential system now, should we not be thinking, in both the short and the long term, about much more power for our Select Committees?

**Lord Ashton of Hyde:** I am afraid that I do not agree with you. I do not think that the House of Lords should become a glorified think tank. That does not take away from the work of the Select Committees, which I respect.

We have to be very careful when we talk about expertise. There is tremendous amount of expertise in the Lords, but there is also a tremendous amount of former expertise. We must find a way of refreshing the House of Lords so that it does not become too much of a gerontocracy.

The House of Lords is part of a bicameral legislative Chamber that holds the Government to account, certainly, but it also part of legislating and enacting the views of the Government, who were elected by the people to

do things. That is why I do not think that we should become a glorified think tank.

**Baroness Evans of Bowes Park:** The scrutiny and revision work that we do in the Chamber is vital and a core function for us. Of course, the work of the Select Committees is extremely important and complements that. I think the Liaison Committee is conducting a review, so I am sure that further changes will be suggested and brought forward for discussion with the House.

**Lord Hennessy of Nympsfield:** As a gerontocrat, can I put a mini supplementary to the Leader? You are our representative as a Chamber at the Cabinet table. What is it about the House of Lords that gets up the noses of the Cabinet?

**Baroness Evans of Bowes Park:** I do not think we get up their noses. I do not think that they understand us particularly well, and part of my job is trying to help them to understand what we are doing and why we are doing it. Once that is laid out, they might not like it, but they will generally accept it and work constructively with us. You are right that that is my role, and I believe that I represent this House's views quite strongly. I think my Cabinet colleagues would probably agree with me.

Q162 **Baroness Fookes:** It is obviously good news that the Grand Committee is being re-established from September, because it has an invaluable role in dealing with statutory instruments, but why on earth is it being reconstituted on a hybrid basis, which is much more complicated, rather than purely virtually, bearing in mind that it does not even take decisions?

**Baroness Evans of Bowes Park:** We first of all proposed using the Moses Room and having it as a purely physical Chamber, but the usual channels and the Procedure Committee wanted a hybrid Chamber, so that is what is being set up. It is being built in Committee Rooms 2A and 3A. As we hope that more people will come physically back to the House in September, it was felt that the hybrid model as it has worked for the Chamber was appropriate to ensure that as many Peers as possible, whether they wanted to be physical or to contribute virtually, could participate. That is why that decision was made: to ensure that people, dependent on their circumstances and what they wanted to do, could participate.

We anticipate that if things remain as they are in terms of the pandemic, we will have significantly more Peers returning to the Palace in September and starting to work back here.

**Baroness Fookes:** I am not sure that I am convinced, but you have given an explanation.

**Lord Ashton of Hyde:** It is part of a phased return to normal. That is why we want people to have the ability to come physically. More people can do that. The new Grand Committee will have a physical capacity that is much the same as that of old Moses Room, which was not socially

distant. This one, with social distancing, will be able to cope with as many physical Members as the traditional Moses Room.

We want to come back. That is the message that we are sending to people. It is the reverse of what we had before, which was “Stay at home unless you have to come”. Now it is the other way around. We want people to come unless they have to stay at home.

But we have to have the capability to operate virtually for the reasons that were mentioned previously: in case we have a spike or something like that.

**Q163 Lord Wallace of Tankerness:** Given what Lord Ashton has just said, I have a slightly different question. He mentioned that he would like to see a rejuvenation, a refreshing, of the House so that we do not become a gerontocracy. Given all the reports that the Government are about to appoint 30 new life Peers, how does that square with the efforts being made following on from the Lord Speaker’s committee on reducing the size of the House? If all those new Peers are coming in, with most of them taking the Conservative Whip, there is not much incentive for older Peers from the opposition Benches to seek retirement, as the spirit of the Lord Speaker’s committee’s proposals is being lost.

**Lord Ashton of Hyde:** I do not know who is on the list and which parties they belong to. My point was not about that. I agree with the Burns committee that the House is too big. There are many ways of reducing the numbers, and that requires debate.

Any organisation needs refreshing and rejuvenation to keep it vital and up to date. If our average age keeps increasing, that will not be fulfilled. There are many ways of doing that.

**Baroness Evans of Bowes Park:** The current Prime Minister has not appointed any new Peers aside from a small number of Ministers. It is perfectly reasonable for a Prime Minister, as the Chief Whip said—and, obviously, other parties—to want to bring in fresh blood and new faces.

**Lord Wallace of Tankerness:** But can you perhaps confirm that the present Prime Minister supports the Burns committee proposals in the same way as the previous Prime Minister did?

**Baroness Evans of Bowes Park:** I do not think he has made a commitment on that.

**Q164 Lord Faulks:** Following on from what has already been said about refreshing the House, we are going to consider whether remote voting should remain. What is your view on the implications of retaining remote voting for perhaps persuading people or affecting their decision whether to remain in the House or to retire? Do you think that is important?

**Baroness Evans of Bowes Park:** Certainly, in the current situation, remote voting has been extremely important and very welcome, because it has meant that we have been able to get government legislation

moving and to do the stages at which this House traditionally votes. I think we both feel that it has served a valuable purpose.

I will let the Chief Whip come in afterwards, but my view, and I think his, is that ultimately parliamentarians should be in Parliament, and voting is a key part of that. I think that both of us would look to revert to physical voting when we can return to normal. We might be able to do it in slightly more technologically forward-thinking ways—the Commons now has pass readers and Members go through the Lobbies like that rather than having Tellers; I am sure that there are ways in which we can harness technology—but I think we both feel that a core and key part of being a parliamentarian is voting and that it should be done here, not least because, as we touched on earlier, people can be here to listen to debates, talk to Ministers and make their views known. Ultimately, I think that we would look to return to the in-person voting system, albeit perhaps a bit more technologically advanced.

**Lord Ashton of Hyde:** I completely agree. Parliamentarians should show commitment to Parliament and should turn up and engage. The virtual House makes it very easy with remote voting to dip in and dip out and vote, which I do not think is the active engagement with the House that a parliamentarian should have.

**Lord Howell of Guildford:** There are two sorts of voting, are there not? There is what we have now and, as the Chief Whip has just said, voting by turning up, but practically every legislature that I have ever visited right across the world has fixed seats and buttons to press to vote: that is, electronic voting, different from our system of going through the Lobbies. There is a great deal of feeling about being shoulder to shoulder in the Lobbies with Ministers and all that, and I share that to some extent, but on the other hand ours is a fairly archaic system. Should we be thinking about moving on to a press-button world of voting in the Chamber?

**Lord Ashton of Hyde:** I think that is what the Leader was referring to. We could have it in the Chamber, in the Lobbies or in the Prince's Gallery. If you could use your pass and put it on a contact reader, that would be fast and quick and you could have it anywhere. That is what we mean about considering electronic methods of voting while retaining the fact that you have to be here, to engage and to show commitment to Parliament.

Q165 **Lord Pannick:** I have a brief question for the Chief Whip. It has been suggested that remote voting makes the Whips' job much more difficult because they cannot impose pressure on Peers, and that is a good thing. I am sure you will not agree with that, but would you like to comment on it?

**Lord Ashton of Hyde:** I certainly do not agree with that. Remote voting in a virtual House makes the job of the Whips more difficult and not just in a negative way, as you would look at it. It is about getting the business through, and this applies to the opposition Whips as well: the



Chief Whip cannot sit next to a Back-Bencher and have a quiet word, nor can he glare at a Back-Bencher who is going on for too long. There are serious issues there.

Anyway, the whole business of the Whips in the House of Lords is a bit of a misnomer. We all know that whatever the Whips and the Chief Whip say does not necessarily make that much difference to certain Members.

**Baroness Evans of Bowes Park:** Much as he might wish it did.

**Lord Ashton of Hyde:** I am not only referring to Cross-Benchers either. In fact, when I became Chief Whip, a year ago almost to the day, I was sent a letter from a former Chief Whip in the Commons who said, "Being a Chief Whip is a marvellous job, except in the House of Lords where it's the worst job".

**The Chair:** My apologies for leaving you earlier.

I was not the Chief Whip who sent that letter. I am sure that being Chief Whip in any House is a great privilege and a great job to be doing.

I have missed much of what my colleagues have said, but I know that some may have other points that they want to come back to, so they will have to indicate that and let me know.

The overall point that we have been making throughout is that we are concerned that we as parliamentarians have a responsibility to hold the Government to account, but that is not always possible, which is one of the reasons why we suggested that we should have virtual sittings with one Statement a week during the August Recess. I know that has not been taken up, but it would have been better that all the calls that we might get for a recall of Parliament.

**Baroness Evans of Bowes Park:** To be totally honest, I think a lot of people need a break, not least the staff of this House, who have been working non-stop with no break since the pandemic hit us. I think we will all come back refreshed in September. We all very much hope that we continue to deal with the pandemic over the summer and that there are no further worries, but it is important that people have a break because some people have been working incredibly hard and deserve it.

Q166 **Baroness Drake:** I want to come back to the point about the Government wanting to use different channels for different audiences and for the public, and what impact that has on the authority of Parliament to scrutinise the Government and hold them to account. There is an increasing sense that the Government can make quite substantive policy decisions through a press statement or a press meeting and then Parliament finds out primarily through that means, which runs the risk of undermining the authority of Parliament to hold the Government to account, particularly if that statement through the press is followed up by a pretty rapid presentation of the issue to Parliament and, depending on the procedures used, little opportunity to scrutinise what is being proposed.

How do you answer or address this concern about wanting to communicate as widely as possible with the public on the one hand, but on the other hand not in a way that undermines the traditional authority of Parliament? I do not think you quite answered that. You said that the Prime Minister needs to talk to everyone during a pandemic, but you did not talk about the specific issue of how to do that in a way that does not undermine the role of Parliament and allow Governments not to be accountable.

**Baroness Evans of Bowes Park:** During the time when we were not sitting because we were in lockdown and could not meet as such, the daily press conferences took on that role. Obviously they have stopped now and Parliament is up and running, and we have been doing a lot of work. As we have outlined, the amount of scrutiny that has been done, both on the Bills that we have fast-tracked but also through all the Statements and UQs, has meant that Parliament has played its role.

You will have seen, as Parliament has come back, a move towards doing more things through Parliament, as you would expect, but the circumstances, particularly around the main lockdown, meant that that was not practical and so those press conferences took on a slightly different role that is not being played by them now.

**Baroness Drake:** I would like to push on that point. Unless I have misread this, is the Speaker in the Commons not still concerned about this issue?

**Baroness Evans of Bowes Park:** I do not know, is the honest answer.

Q167 **Lord Howarth of Newport:** May we come back to the question of the size of the House? What is your view of what a move back towards a significantly larger House, perhaps exceeding 800 Members, would do for the public perception of the quality of the House of Lords, its good functioning, its seriousness and so on? I do not know whether the Prime Minister seeks your advice about who he appoints to the House of Lords. If he does, what criteria would you suggest to him should be applied in selecting who is appointed?

**Baroness Evans of Bowes Park:** I am not going to get into details on that. The points that we have already made are that the Prime Minister, but also the leaders of other parties, might quite rightly want to bring other people in with expertise in order to refresh, which is perfectly reasonable. Then, on our side, we have our responsibilities. There has been a significant culture change in the number of retirements that we have seen, and people are starting to do that.

What is fundamental about how the public perceive the House of Lords is the quality of work that we do, the impact that we have and the debates and discussions that we have in the Chamber, as well as our going out to talk to people to explain our role. As long as we continue to do that effectively and well, that is what we should ultimately be judged on.

**Lord Wallace of Tankerness:** I watched part of the debate yesterday

on the resolution relating to our proceedings when we come back in September, including the proceedings in Grand Committee. Perhaps for obvious reasons, I had great empathy with the points made by Lord McConnell of Glenscorrodale and Earl Caithness about those who have to travel some distance if we are going to have a 1 pm start on Monday.

Indeed, Lord McConnell said that it was probably a constitutional point that Members should be able to turn up and physically be able to be there. Lord Ashton said in reply that there were a number of issues to be balanced, but that he would review this. I would like to press upon him the importance, if he wants Members to turn up, of us being able to get there without having to leave home on Sunday afternoon.

**Lord Ashton of Hyde:** But I also made the point that, thanks to the hybrid proceedings, they can participate whether they turn up or not.

**Lord Wallace of Tankerness:** That seems to be somewhat inconsistent with your view that people should try to attend. I just want to make the simple point that starting later on a Monday might allow Members to actually get there, unless this is some sort of Machiavellian plan to get us all to support the idea of moving to York, which would be far more convenient.

**Baroness Evans of Bowes Park:** These things will be kept under review, but at the moment we have hardly anyone coming here. Those timings have worked, and they have been developed in light of some of the other constraints on broadcasting and so on. Obviously if that becomes an issue for Members coming down to London, that will be looked at again. At the moment we do not know how many Peers are going to come back in September or what changes we might need to make, so these are issues that we and the Procedure Committee will keep under review.

The Grand Committee will also be starting later, I think at 2.30 pm. This is not set in stone, but rather than making changes on the basis of information that we do not have, we will keep it under review and we can change it relatively quickly if it proves to be a barrier to people's involvement.

**Lord Ashton of Hyde:** The issue about overnight allowances that Earl Caithness and Lord McConnell were talking about stemmed from the Wakeham review six or so years ago, so it was actually nothing to do with the changes that we have made.

Q168 **Lord Howell of Guildford:** We keep coming back to the central theme of the perception of Parliament generally and of the role of the House of Lords. We should face the reality that the general image of the Lords is still not good. It was bad before the Covid crisis and anyway we are in revolutionary times, with the general public now much more informed, demanding transparency, wanting to see what is going on and expecting Parliament to be more and more effective in scrutinising the vast and growing powers of the Executive, which have been amplified further

under Covid but were enormous anyway.

This may be an impossible question, but can we be assured that there is a conscious effort to create a strategy of meeting these new revolutionary times as we emerge from Covid? The Lord Speaker has done a lot of work on trying to improve the image and view of the House of Lords and to overcome all the prejudices of the media regarding it. Can we be assured that a lot of work on how to place the proper role of a second Chamber—such as the Lords, which is quietly doing a great deal of valuable work—is really being pursued?

**Baroness Evans of Bowes Park:** That is something that the commission, of which I am a member and which the Lord Speaker chairs, takes very seriously; it has been discussed on many occasions. I know that there is a lot of work going on through that body to do exactly the sorts of things that you are talking about.

**The Chair:** Thank you both very much indeed. I was sorry to get a blackout on my connection there, which was unusual. For the most part, committees work very well on MS Teams and Zoom. That is one area where things have gone as well as possible. However, there are problems in other areas and no doubt we will come back to them. We will see what happens in September. Thank you both for your time this morning.

**Baroness Evans of Bowes Park:** Thank you and have a fantastic summer.