



Constitution Committee

Corrected oral evidence:

The legislative process: the passage of legislation through Parliament

Wednesday 13 June 2018

11.25 am

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Members present: Baroness Taylor of Bolton (Chairman); Lord Beith; Baroness Corston; Baroness Drake; Lord Dunlop; Lord Hunt of Wirral; Lord Judge; Lord Morgan; Lord Norton of Louth; Lord Pannick; Lord Wallace of Tankerness.

Evidence Session No. 4

Heard in Public

Questions 176 - 182

Witness

[I](#): Daniel Greenberg, former Parliamentary Counsel.

Examination of witness

Daniel Greenberg.

Q176 **The Chairman:** Daniel, welcome. Thank you for coming. I am sorry we are slightly late starting.

You are very familiar with this area. I think we first met when you were parliamentary counsel, which was rather a long time ago, from my point of view anyway, not yours. You have seen lots of changes and attempts to improve Parliament's role in scrutinising legislation. Can you give us an assessment of where you think we are now? How effective do you think Parliament is, and what is your feel for its current strengths and weaknesses?

Daniel Greenberg: I will pick on one thing that I think illustrates the approach. On the parliamentary website, you will see lots and lots of references to line-by-line scrutiny of legislation in Committee in both Houses. Parliamentarians referring to legislative scrutiny always talk about line-by-line scrutiny. It ain't anything of the kind. It is quite a false claim.

The main reason it worries me is that I do not think it is a deliberately false claim, but often we do not remember how patchy the scrutiny is in both Houses. I expect to be told, "Oh, yes, that's the Commons, but we're much better here", but you are not. The Smart Meters Bill, which went to Grand Committee, so there was no pressure of time at all, was quite a technical Bill of 12 pages, with 14 or 15 clauses of significant importance to consumers and to insolvency law. It was a serious Bill. You took it in Grand Committee from half-past three until quarter-past six. Clauses 4 to 14 were taken on the nod with no debate. A massive Henry VIII provision on insolvency law was included and was not given line-by-line scrutiny.

I would not call that rigorous scrutiny. Was it line-by-line scrutiny? It was not. I ask myself why. I am not saying it was bad scrutiny; it was good. The scrutiny you gave it was clearly effective, but it was not line by line and I see no reason why it should not have been line by line. What worries me is not even the fact that I do not think scrutiny in either House is very good at a technical level, although I do not think it is. What worries me more is that you perhaps think it is better than it is.

The Chairman: Do you think that might be because the clauses that were not scrutinised in depth were areas where there was general agreement that it was the right thing to do?

Daniel Greenberg: There is often general agreement, as in the Minister standing up to say, "Amendments Nos. 500 to 7,000 are technical amendments dealing with transitional provisions. I beg to move". There are general snores all round and we pass it. I am sure there is general agreement, but there will be lots of people outside who are affected by tiny, technical transitional provisions. There is no such thing as a comma in legislation that does not have the potential to cause misery to

somebody, and the fact that the usual channels have agreed to take Clauses 1 to 7,000 in the next half-hour is exactly what worries me.

The Chairman: Surely, that is dependent on how much work has gone in beforehand to try to get those clauses into shape. If the clauses have been got into shape by some process, not necessarily formally on the Floor of either House of Parliament, it may be that some of them can be passed by agreement because previous work has been done.

Daniel Greenberg: I do not disagree with that, but you do not test it. When the Whips decide how much time to give, they do not look at the technical efficacy. They do not ask themselves how many people outside the Houses have serious issues that have not been dealt with; they look at it politically. I am not for a moment criticising that; that is what the usual channels are there for, but I do not think you are seriously suggesting that when the usual channels sit together and decide how long to give Clause 20 they ask each other, "Is it well drafted? Are there people who have significant issues with it?"

One of the reasons is that the two Houses are not really equipped to judge the technical efficacy of most of what they are looking at. Taking the two Chambers together, of the approximately 1,600 people who have a right to speak and vote on legislation, probably 10 or 20, most of them on this Committee, know what they are looking at in the sense that they are able to understand the technical effect of all the clauses. It is a tiny number.

The Chairman: That is assuming we are not getting advice from outside, which we will come to in a moment.

Lord Pannick: I am not restricted by timetabling. I can table any amendments I like, as I and others often do, and rely on people outside raising concerns. As to the clauses you mentioned, presumably no outside group representing consumers or industry lobbied; they did not put forward concerns. Would you agree that, if they did, it is highly likely that someone in the House would have tabled amendments?

Daniel Greenberg: I am not absolutely sure that stuff is always picked up. Having seen it from outside, it is quite difficult to get your stuff taken up by Peers or Members. It is not quite as simple as that. You are all very busy. You say you table amendments. You are in a very small minority of Members of either House who have a clear and technical understanding of Acts. If somebody comes to you and says there is a problem, you will pick up the point. Many MPs may want to understand but may not be able to because they are not equipped with the same kind of legal and professional training and expertise that you have.

There is also an issue about perception. I do not know how many people do not bother to table amendments to the law. I am not suggesting that I can give you figures, but you should not feel that this or the Commons is a welcoming place and you can say to people, "Come and tell us your problems with this legislation". I do not think you are. The feeling is very

much one of grace and favour: "You can now send written evidence to the Public Bill Committee in the House of Commons. It's very kind of us to open it up". Most written evidence goes into the bin; it is looked at almost not at all. There is no structure for looking at it, so why would people bother? You know about this better than I do, so, if you think I am wrong, I am wrong, but you should not just say to yourselves, "If nobody has asked me to table a technical amendment to a clause, it shows that everybody is happy with it".

Lord Pannick: I am not saying that. I am saying that an explanation for the fact that the clauses in the particular Bill you mentioned were not debated may be that they did not excite great controversy on any side of the debate. I am suggesting that, if they had, it is probable, although not inevitable, that the relevant interest groups—because there always are such groups—would have lobbied and put forward amendments, and the likelihood is that somebody would have tabled them, if only as probing amendments.

Daniel Greenberg: Can I respond very quickly?

The Chairman: You can, but I think Lord Pannick is right; we do not all specialise. We try to cover everything, but people have special interests and the breadth is followed up one way or another.

Daniel Greenberg: You say there are always interest groups. There are not always interest groups. For some of the things that matter most there are no effective lobbying groups. The way of testing it these days is by social media, because that is where debate goes on. There was some discussion and anxiety about smart meters, but there are loads of Bills where huge debate goes on in the Twittersphere and another debate is going on in Parliament, and there is no entirely effective bridge between the two.

Lord Beith: Is not one of the reasons why provisions are included in Bills at a lesser level than we would think desirable, particularly by way of a statutory instrument, that interest groups and politicians who want something done have been told, "We can't include it in the Bill, but we will have regulations, or there will be guidance"? The individual or group says, "At least we are going to get something now, so we'll settle for that". As a result, there is a downgrading of the legislative status of provisions because half a loaf is better than no bread as far as the interest group and the Member of Parliament are concerned.

Daniel Greenberg: I certainly do not disagree with that. Half a loaf may be a lot better than a whole loaf if it means that you get the stuff done in subordinate legislation where the detail lies. I would regard a promise of achieving something through subordinate legislation as a win, provided it is not something that as a matter of principle ought to be on the face of the Bill. However, I would expect any interest group, entirely reasonably, having got an assurance of that kind, to want to see it on the face of the Bill in some form, or at the very least to see the tabling of a probing amendment and be told, "We've discussed it and I promise you we can

deal with this in the subordinate legislation". I would expect a public audit trail; otherwise, how can you be sure it is going to be carried through?

Q177 **Lord Beith:** If I can turn to timetabling, the implication of what you said earlier was that in the Lords we perhaps make the mistake of assuming that because we do not have timetabling we are doing better scrutiny and, therefore, there is not that much difference in the quality of scrutiny between the two Houses. I speak with some feeling because yesterday an amendment of mine, which was carried on a vote in the Lords, was defeated in the Commons, having not been mentioned by Ministers at any stage in the preceding debate, which was several hours long, because that was occupied entirely with the meaningful vote issue. Clearly, timetabling in the way it is now carried out in the Commons makes a difference to whether there is scrutiny at all, and the absence of it in the Lords, other than by way of very informal mutual agreement, must surely give us some advantages for which there are visible benefits.

Daniel Greenberg: I would have chosen timetabling as my answer to the opening question if it had not been for the fact that for years I have been going on about line-by-line scrutiny not being line-by-line scrutiny. I completely agree. I know it is not your business, but the programming of Bills in the Commons, which we had something to do with, was a massive change in the balance of power between the Opposition and the Government in the scrutiny of legislation. I do not think it represented a win by the Government in the face of pressure. It showed what you said earlier, Chairman: people are not so bothered. There was no great opposition to the introduction of programming, because people are not too worried about the idea that there might be technical aspects of a Bill where the knife will come down and we do not get to them.

I do not want to use the word "complacent" because I do not think it is true. I genuinely do not believe that you all think everything is fine, but one area where you have taken your eye off the ball is the ability for the Opposition to press wherever they need to, and their feeling that that is what they ought to be doing. Programming represented a key change in that, which is, "We will spend two hours on these clauses and, irrespective of how many technical issues there are, we will move on".

You always say you do not have programming in this House, but ask yourselves how true that is. At the beginning of a sitting you will say that you have agreed to get to clause such and such probably today. I know it can break down. If Lord Pannick says he is not going on without tabling some extra amendments, time will be found, but it illustrates a sort of presumption of how the debate is going to flow, what points will come up and how tricky something is going to be. In real line-by-line scrutiny, you would not have that presumption, because you would not know how difficult it was going to be until you started getting into the guts of it.

Lord Beith: That is the case in the Lords. We do not always know, and debate sometimes takes off in a way we had not anticipated. More people may want to take part in it.

Daniel Greenberg: I agree.

Lord Beith: Can I look at timetabling from another angle? I would argue that there was significant opposition to programming and the way in which it was done, but both the Government and the Opposition had an interest in a system that allowed Members to organise their lives. Frankly, if they got to a knife edge and had made the political point that there were lots of things in the Bill that had not been discussed yet, from the Opposition's point of view that was not a bad position to be in, because it was an issue that could be taken to the country as part of their critique of the Bill.

To turn to a different question about timetabling, how does it affect parliamentary draftsmen and the processes in which they are involved? Does it make life easier or too easy for those who are involved in the technical task of writing legislation?

Daniel Greenberg: In one sense it is irrelevant because you do not know at the time you are writing the Bill which clauses will hit the knife and which will not. You can guess which clauses will be caught by the knife because they are not of particular importance, but in general terms if anything makes the drafter feel that fewer people will be looking over her or his shoulder at what they are doing, and if fewer people care about the technical quality, it is bound to lead to a reduction in quality. It is just human nature. If I know that all of you will go through every line I have written, I will approach it in a different way from a situation where I say, "At the end of day who is going to see it?" That is just human.

I do not think I am confessing a particular human frailty on my own part; I am confessing on behalf of parliamentary drafters in general. That is the point of scrutiny. The point of scrutiny is that you should never know what is going to come up or whether you could be hauled over the coals. You should be preparing every line as though it will get line-by-line scrutiny by both Houses.

Lord Beith: In the process of dealing with amendments that have to be written for the Government because of concessions they have made and all that sort of thing, do we need more intervals between the stages of Bills, or is the present system adequate?

Daniel Greenberg: There should definitely be more intervals. Lord Pannick said earlier that anybody can engage with us. That is one of the difficulties. I am grateful to you for reminding me. One of the difficulties is time. "We have a week between this stage and the next stage. Would somebody get hold of Lord Judge or Lord Pannick and find time to explain to them why this matter is a great deal?" Sometimes people just say, "We haven't got time for that".

You may be planning to ask me about the number of government amendments and so on. If so, I will respond in relation to the timing of that as well. Of course timing is important. It gives a signal to people out there that a measure is going through in two weeks, whether there are

special interest groups or not. Sometimes, people who do not have pre-formed special interest groups have to spend weeks marshalling their arguments and deciding what they do and do not agree on before they come to see you, so telling them it is going through in two weeks' time is basically telling them not to bother.

The Chairman: I will resist talking about programming and timetabling.

Q178 **Lord Norton of Louth:** You touched on government amendments. The *Guide to Making Legislation* says that government amendments after a Bill has been introduced should be kept to a minimum, but quite often at Report stage we get lots of government amendments. Some of those may be in response to points identified by Members earlier, so that makes the legislation better, but some are simply the Government themselves making legislation on the hoof as a Bill is going through, sometimes more or less rewriting it at Report stage.

Sometimes, there are quite disparate amendments. I think part of your point about portmanteau Bills in your paper on legislation was that they give so much scope for tabling a large number of disparate amendments. That creates a problem, to go back to your point about timing, in ensuring that they are given adequate time for scrutiny. How do we deal with that? Is it purely a timetabling point, or is it more substantially in the nature of the Bills themselves before they are introduced that there should be some limits on what can be included?

Daniel Greenberg: I would draw a distinction between new material and the amending of existing material, particularly in relation to portmanteau Bills, although the truth is that any Bill is a portmanteau; it is just that some are small portmanteaus so there is less you can slip in the side if you want to. I do not need to tell you that perception is incredibly important, and that respect for the rule of law depends on respect for the law-making process. If we say to the country that Bills go through a process of policy debate, line-by-line scrutiny, and so on, what do we say when we criminalise trespass at a late stage in the second House? There was no Second Reading debate on the criminalisation of trespass.

If we were serious about this, we would have a rule. We have scope rules and order rules; there are some rules. We could have a rule that if you want to put in new material, whether or not you call it a portmanteau Bill, you have to recommit and possibly have a re-Second Reading. Okay, that is ridiculous; it means that you would never do it. Great. You would never do it. If you need another Bill to deal with something else, have another Bill. Maybe I am fantasising and it is nonsense politically, but, if you do not do that, just accept that the theory that all significant policy has been debated at Second Reading is not true. That was about new material.

On the second class—amendment of existing material—clearly, we want government to see the tabling of amendments to respond to debate as not an admission of failure. Ministers vary enormously on this. I am not talking only about this House. In both Houses, some Ministers get the point that standing up to say, "You're quite right; that's a really good

point we hadn't thought of. We're going to take it away and bring it back", is not an admission of failure. That is how things ought to work, and it is the sign of a very impressive, successful Minister. Some get it; some do not.

It varies a bit from government to government, but I would not say that any one government is massively characterised by openness or the lack of it. It is a ministerial thing. Clearly, we do not want Ministers coming under even more pressure not to table amendments. Sometimes you make things a bit difficult for yourselves because you tease Ministers about the number of amendments they have tabled at a particular stage. That is not relevant. If it is an enormous technical Bill, and you have made lots of technical points, you would expect lots of technical amendments. I agree that you need to distinguish amendments that are tabled genuinely to reflect points that have been made in debate and amendments that show the Bill was not properly prepared for introduction in the first place.

In another legislative assembly in the United Kingdom I have encouraged committees to insist on adjourning when a Bill does not look quite right and there are too many amendments. Adjourn and say to the Government, "It's not yet ready". You only have to do that once or twice to make the point. It would certainly have an effect on the drafter who was told that the Bill had been put back and five weeks of the timetable had been lost because we had to table too many amendments. It will not be the drafter's fault; it will be the fault of the policymakers, or somebody else, but the Government will have to take it back and will want to deal with it, because they will not want that to happen to them another time.

I would make a distinction. New material has to be treated like a new Bill. If there is additional material that responds to points, the more the merrier. Additional material that represents the poverty of the Bill as introduced should be a reason for adjourning and giving everybody more time to look at the Bill.

Q179 Lord Judge: Does it follow from that that when clauses or parts of a Bill have not been debated in the House of Commons—we have rather a lot of examples—the House of Lords should treat them differently from the way they would treat the parts that had been debated?

Daniel Greenberg: It does. The reason I hesitate slightly is that it would really follow if I believed that the scrutiny in the Commons was normally very thorough technical scrutiny, but it is normally political scrutiny. I am not criticising it for that. It is normally political debate, so the revising Chamber function probably has as much to do on a clause that may have been debated at length in the Commons at a purely political level. There may still need to be debate about how it is going to work and what its unintended consequences and anomalies are. That may not have been done.

Lord Judge: What you are really saying is that the standard of scrutiny

in the Commons is so poor anyway that there is no point in us distinguishing between the bits that have been debated in the Commons and those that have not.

Daniel Greenberg: I do not accept that I said it is so poor; I said it is so high level and political. There is a difference. It is not for me to tell either House what sort of scrutiny it should be doing. The Commons mostly scrutinises at a high political level.

Lord Judge: At what level should the Commons be scrutinising?

Daniel Greenberg: Ideally, it should be doing both. Clearly, it must have the high-level political debates, but it should also have more opportunity to look at the technical effects and consequences. In so far as it does not, should that be something you pick up? It should, but ideally the two Houses would do both.

Lord Judge: Forgive me for asking a very silly question. Where will the time come from for all the political issues to be debated in the Commons and then the line-by-line scrutiny of the technicalities to follow?

Daniel Greenberg: I agree that it would be very difficult. It would be so difficult that you might have to legislate less, and would that not be a shame?

Lord Judge: I have very strong views about that too, but you are the witness and I am the questioner.

Daniel Greenberg: That is my answer. I am sorry to go back to programming. Programming was introduced exactly as Lord Norton said. Both the Opposition and the Government accepted that if you were to get huge amounts of legislation through you needed to do it fast, but that is a premise I do not accept.

Lord Judge: In the context we have just been discussing, do you see the House of Lords having a separate role from the role you envisage the Commons having if there were less legislation? In other words, in the Commons there is political scrutiny and discussion of the political issues raised and then a technical debate as to what it actually means. What is left for the Lords?

Daniel Greenberg: I am not trying to be difficult, but that is a matter for you and the two Chambers to decide. The only thing I feel comfortable saying about it, which is also provocative, is that I certainly feel that the House of Lords has become less purely technical and more political in the past 30 years, which is the only period I have experience of. I sense that even Second Reading debates in the House of Lords are more a rerun of the political Second Reading debate in the Commons. That may be because there are more purely political appointees; it may be for other reasons entirely. I do not know. To the extent that you are asking me whether there is a bit of overlap in a way that perhaps did not happen quite so much 30 years ago, possibly there is. How you deal with that and how the two Chambers agree to divvy things up is not for me.

Lord Judge: What recommendation would you make to us?

Daniel Greenberg: I would recommend that the House of Commons needs to scrutinise properly at both levels, technically as well. I would not think it proper for elected representatives to say, "We're going to pass this on the basis of high-level political scrutiny, and happily there is a Chamber down the Corridor to deal with the difficult technical bits". I do not think that is responsible. It might mean that ultimately you got to a stage where the Commons did the most wonderful scrutiny and there was nothing left for you, but that will not happen.

Q180 **Lord Hunt of Wirral:** Looking back over 42 years of legislative scrutiny, I think a key to the process is of course the Bill, but also the Bill and accompanying documents.

Daniel Greenberg: Yes.

Lord Hunt of Wirral: From recollection, when I first arrived in this place the Explanatory Notes drafted by parliamentary counsel were meticulous. The idea of the Keeling schedule was a very good one. If you were advising us on what we recommend should accompany the Bill, what form should the Explanatory Notes take? What is your advice to us about the idea of expressing the purpose of the Bill in the Keeling process?

Daniel Greenberg: It is not my recollection that parliamentary counsel drafted Explanatory Notes. I am not saying it never happened, but it was never routine. We scrutinised them and I think we had more time to do that at the beginning than perhaps they do now.

Perhaps I can come back to Explanatory Notes in half a second. I want to make a helpful positive suggestion in case I am sounding too negative. There is something that really upsets me. Ministers come into committee with really good notes on clauses, because civil servants have to prepare notes in case every clause is reached. When Clauses 7 to 6,000 are not reached, because the knife comes down, or whatever, those notes literally go into the bin. I am talking about both Commons and Lords

The Chairman: Some Ministers actually give opposition spokespeople certain notes on clauses.

Daniel Greenberg: Indeed, but there is a little bit of readership outside the House. There are a few million eager readers. I declare an interest as editor of Westlaw UK's *Annotated Statutes*. I use notes on clauses as read by Ministers in Committee. They are gold dust. We publish them with the eventual section, because in giving a purposive construction to work out exactly what was meant by it, as Lord Hunt said, they can be absolute gold dust. I cry with frustration knowing that there were another 200 brilliant sets of notes. All I have are the Explanatory Notes that refer to Section 3 and parrot in exactly the same language what Section 3 does.

It is not difficult. It was done for Finance Bills regularly. I am not sure whether the notes on clauses for Finance Bills were part of the Red Book,

but they were certainly published. Finance Bills were exempt from Explanatory Notes when we brought them in because they already had notes on clauses. It is not asking the Government to do anything they do not already do. Civil servants have to write the notes in case the clause is reached, so we know they are there. In this day and age, it will not waste paper or damage rain forests; it is all electronic. Get them published and linked to the eventual section.

The reason Explanatory Notes are so poor is that departments are under horrendous pressure. Explanatory Notes are mostly written as an afterthought: "Bother. We haven't done the notes". Somebody junior has to stay behind over the weekend and write them. They do not know what they are doing, so they just say that Clause 3 does this or Clause 3 does that. Exactly as Lord Hunt says, they should be background material; they should explain a lot of the history, social context and all the stuff that judges and other readers need to know in order to give an intelligent construction to the legislation.

The more documents a department produces, the worse each will be, because it still has the same pressures. Focus on one core piece of material and let it roll it out as notes on clauses and publish it as explanatory material, but let us not keep reinventing the wheel, because that is expensive in terms of resources, and we want to get better material. The key is the stuff they are producing that we never see. Beg them. Do not worry about the Explanatory Notes; let us see the stuff they have already produced, which is generally gold dust.

Lord Hunt of Wirral: And Keeling schedules?

Daniel Greenberg: They are of more use to lawyers than most non-legal readers. Having declared my interest, they are of less importance in these days of electronic updated publication, because most people will go to a service that shows them what the legislation will look like. They are of less importance, but I do not say they are of no importance.

Lord Hunt of Wirral: And purpose clauses?

Daniel Greenberg: Purpose clauses are a good thing and a bad thing. When you can properly articulate the purpose of a provision it is of immense help to judges and other readers to set it out in the clause or Bill, but, when you cannot, do not pretend to because someone has told you that purpose clauses are a good thing, or they are in some manual about drafting—you cannot write manuals about drafting—and you have to have a purpose clause. You cannot articulate a single purpose, whether because it is a portmanteau Bill, a portmanteau provision or for whatever other reason. Do not try it because it will necessarily go wrong.

Q181 **Baroness Drake:** Turning to the issue of public engagement in the scrutiny process, in your previous evidence to us, you expressed some scepticism about the usefulness of public consultation in the scrutiny of Bills, but you suggested that some stakeholders might be given intervener status. How do you suggest that might work, and how would

you identify and select such stakeholders on a consistent and transparent basis?

Daniel Greenberg: The key is openness. I do not want to suggest yet another class of privileged committee or people. This is about making sure people feel that they can engage with legislation. There was an experiment by the Government at one stage to have comments on a website about legislation. You can guess that it was not desperately successful, for reasonably obvious reasons. The first thing I would do in moving towards intervener status, if we were doing that, would be to allow non-Members of Parliament to table amendments to Bills in the same way as people who are not members of a Public Bill Committee can table amendments, and if a member of the Committee wants to take them up, they can. Let everybody table amendments. If you want to print yours in a different colour, fine.

Why do we not have a rule such as the one for the Backbench Business Committee in the Commons, whereby getting 10,000 signatures to your amendment shows that it is worth debating? If it gets 10,000 signatures, you become an intervener, which means that the Leader of the House will move your amendment, if no one else wants to. Someone else could do it. If you do not have a tame Member or Peer who will do it for you, let the Leader of the House do it for you. That would send an extraordinary signal of openness and receptiveness to people about being involved in the technicalities of legislation.

Would they be very good amendments? Sometimes they would. I had involvement recently in a private Bill where there were, in a legal sense, some very unqualified petitioners who had a lot of interest in the policy. They produced their own set of amendments, which were seriously good. They were not all technically perfect, but they were to the point and got their point across very well. If you invited that, you might reawaken people's interest in being involved in the legislative process.

How you decided who could come to speak or write would follow from that. You could have rules for it. You could operate a system similar to the way clerks in the Commons select certain people to give oral evidence to Public Bill Committees, which seems to work okay. Written evidence is pretty pointless in my view. When people show an interest and have something to contribute, you could give them formal intervener status, and if you invited them to address a Grand Committee that would be a rather good thing.

One of the big differences between you and the devolved legislatures is that committees in the latter have officials in the room and sometimes they speak. I am talking about third parties, not officials, but the point is that the heavens do not fall if somebody other than a Minister speaks. If somebody wants to make an important point, requiring them to scribble a note incredibly fast to the Minister, who, if everything is going well, may get it about 50% right when she or he reads it out, is not the best way of gaining access to expert evidence.

Of course there are difficulties in what I have suggested and we can all see lots of them, but I do not think it is ridiculous. It is something you could do if you wanted to, and I think you would find that the public reacted extremely positively.

Baroness Drake: Developing your idea, how could you control those who are already privileged abusing that system to give themselves extra leverage, as opposed to bringing in the people you really want?

Daniel Greenberg: Do you mean like the Government handing out Private Members' Bills in the Commons, which I am told sometimes happens?

Baroness Drake: Different communities have different capacities to mobilise their influence.

Daniel Greenberg: I absolutely accept the point. You do not think I have a simple answer to that, and I have not. Perhaps it goes back to something Lord Pannick said. There are people in both Houses, but particularly here because of the lack of the same political constraint, who have very open minds. If people come forward with a serious point, they will look at it. We all know the major lobby groups that already use Peers and MPs to table amendments. On the whole, they are not shy because they want it to be seen that these are official GMC amendments, Bar Council amendments or whatever it is. On the whole, they want that to be known.

Those who are genuinely individuals could just table amendments. Maybe a clerk could spend some time, perhaps half a day every so often, looking through them for ones that have merit, circulating them to people and saying, "You might like to look at these. If you think something is good in them, you might like to take them up and move them".

Q182 **Lord Wallace of Tankerness:** You have given us much stimulating food for thought. In the best "Desert Island Discs" tradition, if you could take just one of the various suggestions you have made that would enhance the current legislative process, which would it be?

Daniel Greenberg: Direct amendments by outside interests. In perception and practice, it would transform everything you do here.

The Chairman: Thank you very much indeed for coming.