



Liaison Committee

Corrected oral evidence: Review of Investigative and Scrutiny Committees

Tuesday 19 June 2018

11.55 am

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Members present: Lord McFall of Alcluith (Chairman); Earl of Courtown; Lord Foulkes of Cumnock; Lord Low of Dalston; Lord Smith of Hindhead.

Evidence Session No. 12

Heard in Public

Questions 88 - 91

Witnesses

[I](#): Lord Boswell of Aynho; Rt Hon Lord Howell of Guildford.

Examination of witnesses

Lord Boswell and Lord Howell of Guildford.

Q88 **The Chairman:** Good morning, Lord Howell and Lord Boswell. For the *Hansard* writer, can you identify your committees, please?

Lord Howell of Guildford: I am chairman of the House of Lords International Relations Committee.

Lord Boswell of Aynho: I am chairman of the House of Lords EU Select Committee.

The Chairman: Thanks for your attendance. Lord Howell, thank you for your submission, which was very interesting.

Based on your experience of chairing your committees, how can the House better support you and your committee?

Lord Howell of Guildford: My comments are on the advisory side. The House of Lords is a legislative and an advisory Chamber, and I am anxious, as I am sure we all are, to see that our advice and guidance to the Government, Parliament and the public debate is of the highest quality and relevance in the coming years. The paper I submitted to the Committee, which you kindly received, was focused entirely on that, and not on pre and post-legislative committees, Joint Committees, procedure or management committees, or scrutiny committees for delegated legislation. I am talking about the advisory committees.

My preamble remark is that we are dealing with a totally changed world. An entirely new era of international relations has emerged, with new relationships. The context has changed, with major implications for this country, for both its external relations and its domestic and everyday life. That transforming process has been in train for a long while. It was not necessarily triggered by Brexit, although Brexit is obviously part of the changing scene. The decision to leave the European Union has accelerated all the changes, but they were there anyway: the vast transfer of power and wealth to Asia and China, and our interests; the whole Middle Eastern chaos; the new aggression from Russia; and, above all, what is supposed to have been the bedrock of the last 70 years of our international affairs, our reliance on America. That bedrock is now rocky and it changes everything. What I have to say to you is offered in that context.

The Committee adjourned for one minute.

Lord Howell of Guildford: The number one question is whether the current committee structure should be changed, and the answer must be yes. We need an entirely new pattern of investigative committees, both dealing with external issues and, to a lesser extent, with internal domestic policy, although nowadays there is a huge overlap between the two, which has to be disentangled all the time.

We have moved into a much more fluid world, with alliances changing the whole time, and changing relationships governed much more by networks and regions than by countries, as problems over defence indicate. No one knows clearly who the enemy is and who should be aligned with whom and in what defensive arrangements, a matter that will come up at the NATO summit in a few weeks' time.

The suggested draft I put before the Committee was very much a first shot at where we should begin the reshaping business. I am very happy to go into that in detail, if that is what you require at this stage. Broadly, it seems obvious that the subjects in the EU sub-committee structure will have to be reallocated. There are vital new areas of foreign policy that need to be addressed by committee work. I see the case we have now for the mother committee of the European Committee dealing with sub-committees in enormously important areas, but, if one is still thinking in mother committee terms, the new umbrella on the international side will have to be an overall foreign, Commonwealth, security and soft power committee, just as we have the existing Economic Affairs Committee with its sub-committees on the home side, although again there is enormous overlap.

When the board is redrawn and the dice are shaken, we will certainly need a key European committee to monitor and report on European relationships, our new deep and special relations with our neighbours and all European institutions, and with the EU beyond, as well as the European relationship with Russia. That is reflected in many papers being put out about an entirely new security and defence relationship with all our European neighbours, or a stronger one, rather than a new one.

I am afraid that I am a bit of a party pooper on the whole business of a neat deal and a neat departure. It is not going to happen; it will take years and years. It took 20 years of my life for us to join the European Union, and I think it will take at least five to disentangle, if not more. That will require very intense and expert committee work and familiarity, so there are two European committees that we still need.

The big play, all the growth in the world economy and probably the major security issues, will be in Africa and south-east Asia, and in Pacific and Latin American spheres, where we simply have to develop our knowledge and understanding and convey it as best we can to the British public. With the Indo-Pacific and Asian Pacific regions and central Asia being where the play is happening, sub-committees of an overall foreign, Commonwealth, security and soft power committee might focus on those areas, particularly on China and Japan, which are the second and third largest industrial nations.

The central problem, which is now shaking beneath our feet, is the UK-Atlantic-USA relationship. Maybe we need a committee to focus on how we get on with our best partner and ally, the Americans, in the new conditions. I have just been in Washington with my committee, and I can only report that, if we think Europe is divided on some things, it is nothing compared with the canyon-deep divisions in Washington. It is a

tale of two Administrations, or more, arguing with each other and very uncertain about their new relationship with us or anyone else in Europe.

The whole Middle East and north Africa scene has been transformed, not least by changes in the energy scene, but by many other factors, and we have to follow that. My committee has produced one report on the changing Middle East, but hardly was the ink dry when it was already out of date. We need more and better information about what is happening there.

We have to recognise that defence is no longer just tanks, rockets, guns and missiles, and military equipment; it is all about intelligence and cybersecurity, vast new areas of hybrid warfare and complexity, internal security, homegrown terrorism and all the rest, which have to be addressed in a coherent way by a committee of this House. I do not think that comes under my umbrella of foreign, Commonwealth, security and soft power; maybe it needs a separate committee.

Our excellent Science and Technology Committee will need expanding, because technology is now intruding into every aspect of our existence and daily lives. It is not just a question of science research and universities, but something much wider.

The multilateral institutions we have lived by for the last 70 years are all restless and reforming. The UN and NATO, as I already mentioned, are having to face the fact that public diplomacy is now intruding in a massive way on their affairs, and they have to work out how to reach out and not be left as a narrow silo expert with unintelligible jargon and inward-looking arrangements. The Bretton Woods institutions, which I have just been visiting in Washington, are in something of a dilemma as to how they fit into a world where China and the Shanghai Cooperation Organisation are now saying that they want a parallel arrangement, or even a different arrangement, ranging from challenging the dollar with the renminbi to completely new defence architecture.

There is a completely new scene, and we have to address it. Will we overlap with the Commons? Not necessarily. The Commons can look at departments and do that very well. I helped to build up the 1979 Commons Select Committee system; we evolved it from something earlier, and had forecast it in a pamphlet I wrote in 1970, *A New Style of Government*. That has worked well, but we can go deeper and broader, and look more strategically; we do not have to confine ourselves to departmental budgets, when a lot of the issues cross departments and agencies.

Do we want ad hoc and sessional committees? Yes, that is a very nice balance that we have to keep. We can use the ad hoc side to meet all the flexibility that I have described and the new issues coming up. As for short and long-term inquiries, my committee has chosen to do some long-term ones and scatter them with much shorter-term inquiries, where we are not seeking the Government's immediate response but are seeking input to the debate, and maybe to get a debate in the House on

a particular issue coming up. The NATO conference is one example and the UN Assembly in September is another; the recent Commonwealth conference here in London could be a third. These things come by, and people want some starting point from which to comment.

That is all I will say at this stage. There are some remarks to be made about engagement with the public and the promotion of reports, and some to be made about the reputation of the House of Lords generally. I see that they have been touched on; my colleague Lord Forsyth mentioned them. I have plenty of views on that, but I will stop there.

The Chairman: Thank you very much. Lord Boswell, thank you for your submission.

Lord Boswell of Aynho: Thank you, Lord Chairman. At this stage, it is probably sensible if I make a statement of position on what I do, and we can perhaps explore later some of the Brexit-related stuff to which we referred in our submission.

It occurred to me as I reflected for this meeting, and it is perhaps a reflection of the experience that this House can bring to the whole business of inquiry, that probably my first experience in public life was in the 1960s, at the time of the Crossman experimental committees, when I was a staffer to some members of the Agriculture Select Committee, which caused a considerable flurry. In a sense, that taught me some of the benefits and pitfalls of this way of life, but in no sense did it prepare me for the scope of the job I have been discharging since 2012 as chairman of the EU Committee.

That is a unique position, because my predecessors and I have all been formally elected by the House, at the start of each Session, as the principal Deputy Chairman of Committees. I am therefore, as indeed you are, Lord Chairman, as Senior Deputy Speaker, a salaried officeholder like the Lord Speaker. I am required to lay aside any party affiliation for the duration of my term in office, and I am not subject to the rotation rule. It is all bound to colour my evidence, which I am giving on behalf of the committee; you have already referred to the fact that it is a committee submission, which I was very anxious that we should consider and promote. It has been agreed by the committee and reflects its views. I shall tend to park my more trenchant personal views to one side and concentrate on what we said.

The Chairman: Maybe we can have a coffee over that.

Lord Boswell of Aynho: We can have a private discussion. I am finding the comments I have picked up from others very stimulating.

The only point I want to make at this stage is that I do not want to see my experience as in any sense a defence of the status quo regardless, because it is not. Equally, it is not quite a precedent for others, and we need to start with that assumption.

Because I am an officeholder of the House and have put aside my party affiliation, I get Rolls-Royce support; I am not running around asking for more, most of the time. I can represent the committee in the way that the Lord Speaker represents the House, which justifies the administration putting a heavy investment into our work. That is redolent in things such as the office I occupy, and the fact that it is co-located with committee staff. Every single report of an EU committee since the 1970s is available to me immediately in physical form. I am surrounded by them.

Clearly, I do not want to create a kind of fantasy world, and I try to balance it in practice. I have an office that is very conveniently sited for the lift on the fifth floor and I make it a normal practice to keep my door open and expect to be called on by colleagues who are chairs of the six constituent EU sub-committees and by other colleagues who have offices there. I am also available to committee staff and expect them to call. It is not an attempt to put ourselves behind closed doors, but it provides a slightly different tenor and timbre to what one is doing. There are costs; if you mix it more, that in a sense compromises the political impartiality of the office, and you have to watch the balance rather carefully.

It is perhaps occasionally of benefit in dealing with international relations, to which we may come back, that you can, when necessary, slot into the role of representing the House, or there is an expectation that you may. I shall get it on record that we have a regular flow of visitors coming to see what we are doing, what we are interested in, what our primary concerns are and even, on occasion, how they can pick up procedural and scrutiny tips from us.

This is my final point at this stage. Since my initial orientation visit to Brussels over six years ago, I have been going into Commissioners' offices, and it is always gratifying that, unless their staff work was superb and dedicated to the task of flattery, which I do not think it is to that extent, I find a remarkably large incidence of House of Lords EU committee reports scattered on people's shelves. Clearly, from their conversation, they have been read.

Yesterday, we as a Select Committee were interrogating two Ministers, DExEU Minister Robin Walker and Northern Ireland Minister Shailesh Vara. In parallel, two of my colleagues, with the principal clerk, were in Sofia representing the committee and our House at the COSAC meeting, which is the confederation of all the associated European parliamentarians, and a major forum. Our footprint is quite large, and over 43 years we have maintained our ability for dispassionate comment and a degree of integrity, which I would not wish to forgo.

The Chairman: I can validate that view from Brussels and Strasbourg, and the Speakers' conferences I have attended in Europe. That is quite correct.

Q89 Lord Smith of Hindhead: I do not think I have ever been so well briefed on international relations in my life, so thank you very much indeed for that. I now have a very clear understanding of your work, Lord

Boswell, with the EU Select Committee.

What is the purpose of House of Lords committees? Also, if I manage to shake this cough and am still alive in 10 to 20 years' time, as I very much hope to be, where should House of Lords committees be by that time?

Lord Boswell of Aynho: I sympathise with the cough, which you may have detected that I too am trying to deal with.

First, it is a mistake, whatever our formal configuration, our pay arrangements or anything else, to divorce the work of committees from the work of the House as a whole. We should be, for the purpose, a specialist dedicated microcosm of what is going on in the House.

The House does three things. We seek to hold the Executive to account. We scrutinise legislation; I may come back with a slight caveat on that, because of the tuning between EU legislation and domestic legislation. Thirdly, we seek to promote informed debate, in the way I indicated, by producing reports that change the weather or give people a chance to look at things in a different way. Recently, somebody asked my view of the current output from a well-known weekly journal of record, and I said that I rely on it for baseload. I share its thoughts on what is happening in the world, and in about one in every five editions there will be a particular article that strikes me. To use the vernacular, I think, "Blimey, I hadn't thought of that before". It takes your thinking on.

I had a recent discussion with an ambassador in London about one of the many Brexit-related reports we have done, and he just said quietly, "I think that made the weather". It changed the way the debate was scoped. That is a very important part of our role, all of which is without prejudice to issues about how we communicate that, which I have been listening to and participating in as part of the committee, and which are clearly of concern to you. The authoritative baseload work, the excellent support staff work and the quality and impartiality of what we come up with, often but not necessarily studied to the embarrassment of the Government, or to put pressure on them to do things, are entirely appropriate.

Lord Howell of Guildford: Yes, it has to be about feeding into the public debate and the Westminster bubble debate new views and angles on major and serious issues, and possibly doing a little more preparation for longer-term developments, which always seem to come up and take everybody in the political establishment by surprise. The House of Lords is better placed to do that, possibly, than the elected Chamber.

Every situation needs its narrative and a bit of music, as well as endless information. Assimilating and gathering endless information is wonderful for researchers but is not necessarily the way to get creative decisions and insights of the kind that you want to lead the debate. I hope that all the Lords committees can always be ready to tread a little into the future, into the preparatory world and into other angles of looking at things. I

hope they exist in 20 years' time, although, in a world bombarded by change in the digital era, who knows what could emerge?

These are gatherings of people with experience, who know the ways of the inner Westminster, and understand and are possibly in touch with a mass of outside organisations. It is often forgotten that the Lords is a unique assembly in being a network connected not just with the rest of the political system but with a huge range of outside social and domestic think tanks, developments, charities and so on—everyday community activities. I hope that the system will persist, but who is to say, in 20 years? They say nowadays that one inch ahead is total darkness.

Q90 Lord Foulkes of Cumnock: Can we get down to the nitty-gritty? There seems to be a bit of a conflict. As I understand what Lord Boswell is saying, he envisages the chair of the EU Select Committee as it is at the moment continuing for the foreseeable future, and there would be a committee to scrutinise international agreements, one to deal with the devolved Administrations and a sub-committee to deal with external parliamentary relations.

Lord Howell has come up with a list of about six committees that he wants set up to deal with different aspects of international relations. I was a member of the Liaison Committee arguing in favour of setting up the International Relations Committee. Like me, Lord Howell will remember the opposition that we had from the Floor of the House and the establishment here. It was not just on overlap with the EU Committee or the Commons; it was a question of resources. If we are moving towards having a smaller House with fewer Members, how on earth will we manage to keep half a dozen foreign affairs committees of different kinds and three or four EU committees with a full-time chair?

Lord Howell of Guildford: The short answer is that we are not going to manage; there has to be a shift. The whole of my argument is that now, because of outside world affairs, of which the changing European situation is only one aspect, if we want to keep up with the modern world we will need a new pattern of committees that is more reflective of what is really going on in the world.

Europe is immensely important to us. It is our neighbour, but if one is realistic, in proportion to worldwide activity, it is a lesser rather than a greater part. The huge creation of world wealth and economic activity, the advance of technology and the dangers of security are happening as much, if not more, in a post-western world outside Europe, and indeed, outside the Atlantic area.

Do we want to change our committee structure to meet the new reality, or do we not? Obviously, if we keep the old committees we cannot do everything and we cannot plunge out into the wider world. If we want to look at the wider world and tell our nation what is coming and what the problems are, we have to change the pattern of committees.

Lord Foulkes of Cumnock: But we have to be realistic. You remember the debate we had about setting up the International Relations

Committee. It took two or three years to get agreement, and you had to lobby hard, and some of us on the committee had to work hard, to get it. How on earth are you going to get agreement to set up half a dozen committees dealing with a whole range of things, some of which are dealt with by the House of Commons anyway?

Lord Howell of Guildford: Thanks to the information revolution and thanks to the nature of public debate, we are rising up the learning curve very fast indeed. Of course, I do not know how the European situation is actually going to work out, nor do any of us, but certain realities intrude so glaringly that we can no longer ignore them. As you say, we set up the International Relations Committee before the phenomenon of President Trump and the phenomenon of doubts about the bedrock of our relationship with America. We set it up before Brexit and before the real rise of China or the new announcement that, far from being concerned only with its inner affairs—the inner kingdom—it was going to expand its links and influence right across central Asia and into Europe. A new world has emerged in the last five years, and we have to adjust to it.

Lord Foulkes of Cumnock: No one is disagreeing with that. I am being devil's advocate, because I know what kind of problems we are going to face: how do we convince the establishment in the House of Lords that we should have such a wide range of committees with all the resources that implies?

Lord Howell of Guildford: To convince is a difficult exercise. Debate goes on. If the House of Lords does not want to be convinced and wants to stick to the old ways, digging diehards out of ditches is quite a hard business. We have to rely on the common sense and experience of people in our House, which is very considerable. People are very aware; they travel around the world a great deal and see the impact of what is coming and what is affecting this country, in our budget and social security structure, as well as the internal balance in our localities and regions. We have to rely on that wisdom to see that we have to move on.

Lord Foulkes of Cumnock: Am I right in saying that Lord Boswell wants to keep a fair structure of the EU Select Committee?

Lord Boswell of Aynho: The last thing I want is to be involved in a power grab for somebody else's territory. An area we have held back from, and would expect to hold back from, is consideration of domestic legislation, which your earlier evidence sessions addressed. Indeed, some of us, not least because of the political contention, have absented ourselves from some of the direct business on the European Union (Withdrawal) Bill debates. One area that we flag up in our evidence, which I think will require further scrutiny—we do not have a fixed view as to how it is to happen—is that we see a role for more effective upstream scrutiny of the treaty-making process, rather than simply ratifying when it is too late to seek substantive changes. We draw an analogy from the European Parliament. One learns something from the experience of the European Parliament, which is very much built into this and has the beef to do it.

Lord Foulkes of Cumnock: How does that affect the committee structure?

Lord Boswell of Aynho: We have no interest in whether we have six committees, or whatever, and it is not for our decision. It is very much a matter for the House authorities and how they want to dispose of that. All I would say for now, as we say in our evidence, is that Brexit is a process. It is not a one-off event but a process of which, notoriously, we and everybody else are not yet fully aware, because it has not been negotiated through. We know that we have known territory until 29 March next, where British Ministers attend European Councils and other Council meetings. We have an obligation to do scrutiny, which is going on intensely. In fact, we are probably putting more stuff to scrutiny.

Lord Foulkes of Cumnock: You say that it is a matter for the House authorities, but you are paid as chairman of a committee advising the House authorities. What do you think is an ideal or a necessary structure for committees? Is it just one EU committee, or one plus three sub-committees? What do you think?

Lord Boswell of Aynho: That is going very much beyond what we formally recommended in evidence. The most important point is that it is too early to say, until we know what form the Brexit deal takes. We need to look at scrutiny of our Ministers and how we can control it in future, even if they are not formally decision-makers in Europe. We need to look at scrutiny of areas where we will continue in a relationship with the European Union—Euratom, for example, although that is not finalised yet—and how they should be dealt with by this House. Then, there is the wider issue of our relations within the United Kingdom, with the devolved legislatures, and with the Crown dependencies, overseas territories and others, which we addressed yesterday and have addressed in a number of reports. Then, there are our external relations.

The last thing I want is to get into the position of being a bed-blocker, which is a phrase I have used internally. We are not there to say that we must have everything exactly as it was, but we think there are definite disadvantages in moving too rapidly away, until we have some handle on what the future structure of the country's relations will be with Europe. Then we need to map on to that, which is not in any sense gainsaying or indeed rubbishing the role of the International Relations Committee, with which we have perfectly good working relations. We should not leap from our known expertise to a position that may be ahead of where the institutions are, but that is in no sense unreadiness to consider, encourage or make our subsequent input as the situation develops. We will do that, and we will be very happy to assist this Committee again.

Lord Howell of Guildford: I see Lord Boswell's dilemma. I am all for caution and not rushing into things, but we have to make some assumptions. One assumption is that it is current policy that on 31 March, nine and a half months from now, we are no longer a member of the European Union under the treaties. This is probably an issue that the Committee dealt with at an earlier session, but literally on that morning

there will cease to be a stream of European legislation and regulations to scrutinise. Those who were doing that scrutinising before will be redundant or will need to turn their efforts elsewhere. It is going to happen.

Lord Foulkes of Cumnock: That does not allow for the transition period.

Lord Howell of Guildford: But the halt in the legislation is, I think, at the beginning of the transition period. I agree that there are more important things, such as defence and security arrangements, crime arrangements and Interpol, as well as all the cultural arrangements. Masses of things are bound up with the European situation, quite rightly, and frankly I hope they remain so. All of those will have to be readjusted.

The energy and aviation situations are immensely complex. All those things will require attention, which is why I say that there should be at least two European committees operating, if not more. It will be a changed world and it will come rather suddenly, so I should have thought that some sort of preparation for what is most likely at the moment, although nothing is certain, would be wise and prudent.

The Chairman: During the transition period, whenever it is going to end, do you wish for the same arrangements for the EU committee as now, with the main committee and six sub-committees?

Lord Boswell of Aynho: We are not mandating the number of sub-committees. Indeed, we coped with a change in the number of sub-committees just at the beginning of my time. But we are recording that there is an actual change of substance in the role, as Lord Howell said, from our withdrawal on 29 March: Ministers will no longer be bound by scrutiny obligations, because they will not exist.

We have had a dialogue, which is referred to in our evidence, with Ministers about continuing scrutiny during the transition period. Frankly, however, although we have done some internal staff work on it, we have yet to meet, but are to meet, at an official level with the DExEU team to look at how it might do it. I do not think that Ministers are dragging their feet, but we want some reasonably copper-bottomed understanding as to how to do this, which will of course have to be reported to the House.

A separate issue arises about long-term scrutiny arrangements where we continue with Erasmus, Euratom or whatever. Not all of that needs to be done by the EU committee or its six sub-committees, and I am not trying to argue for that. It is probably a bit too early to come to a final view until we know the structure we are dealing with, which we then need to scrutinise.

The Chairman: We are sensitive to that aspect.

Q91 **Lord Low of Dalston:** Can I focus in this way and ask Lord Boswell about primary and secondary legislation that is introduced as a direct result of Brexit? How far should Lords committees participate in strategic

scrutiny of that, or is it also too early to say?

Lord Boswell of Aynho: I think it is. In one sense, in due course, once the label disappears and we are no longer members of the European Union, all legislation becomes domestic legislation. We have a separate issue, which is about the scrutiny of EU legislation that is applicable here in a transition period, or anything that happens thereafter by way of backstop arrangements, and so forth. We need to be clear that that needs doing, but, if it falls into the realm of domestic legislation, it is for consideration how we best articulate that. Of course, that is related to who is actually dealing with our European colleagues. Colleagues are already familiar with our External Affairs and Trade Sub-Committees, which work on common security and defence policy with their European counterparts, for example, and participate in Anglo-French parliamentary exchanges.

All I am really saying is that, in a sense, the relationship that has been channelled through the EU, and is something we have known and been familiar with, becomes much more protean and varied. We will need to have continuing thought, with open minds, as to how best we can influence that process for the future, rather than simply digging in where we are, which is not what we want to do, or moving to a radically different structure that cannot capture the point.

The only point I would make specifically on what we might call the committee interest is that there is a body of expertise that it would be not even in Europe's interest to throw away. I am staggered, because I see the scrutiny correspondence from the sub-committees, by the sheer depth of interrogation of Ministers, which of course is reproduced in dealings at official level with their counterparts, which our committee normally turns out. This week, I signed off nine scrutiny letters from the EU Energy and Environment Sub-Committee, saying to Ministers that we were happy, that we needed further information or that they should keep us in touch. We may get no credit for that as a House—although that is a separate issue, and I am interested in your wanting to engage with it—but it is a really essential part of the groundwork of seeing that the interface with Europe is properly addressed.

The Chairman: Thank you very much for your evidence, which was very helpful to us. We will continue this discussion, because we have a period of time to look at the issue. What you have provided is invaluable to us. It is nice to see you back, Lord Boswell.