



Liaison Committee

Corrected oral evidence: Review of Investigative and Scrutiny Committees

Tuesday 3 July 2018

10.35 am

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Members present: Lord McFall of Alcluith (Chairman); Lord Foulkes of Cumnock; Baroness Garden of Frognal; Baroness Hayter of Kentish Town; Lord Low of Dalston.

Evidence Session No. 17

Heard in Public

Questions 126 - 133

Witnesses

[I](#): The Earl of Kinnoull; Baroness Thomas of Winchester.

Examination of witnesses

The Earl of Kinnoull and Baroness Thomas of Winchester.

Q126 **The Chairman:** Good morning, Lord Kinnoull and Baroness Thomas of Winchester. We are delighted that you are able to provide evidence to us this morning. Before you came in, Lord Kinnoull, a Committee member said that your submission was very succinct, and it was on the basis of that succinctness and comprehensiveness that we invited you here to address us on it. Congratulations on your submission, and we look to much more information coming orally from you in the next half hour.

Q127 **Lord Low of Dalston:** Baroness Thomas, thank you very much for your written submission, in which you made one main point. That is not a criticism. You were making the case for the House of Lords having a committee on disability. At first blush, a whole committee devoted to this one, specialised, subject might strike people as a rather limited and specialised remit. If people were to challenge you in that way, how would you respond?

Baroness Thomas of Winchester: I am very bad at statistics, but I know that there are millions of people who are disabled who do not feel that they are being listened to very much. A doctor came to see me the other day. She has lupus and her condition is fluctuating. She had a lot of questions. She said, "I'm afraid that disabled people aren't much taken notice of, are they?" The answer is, "No, they aren't". The disabled people I know and have dealings with feel quite beleaguered at the moment and that they are often an afterthought, even in diversity.

Diversity has come up the political agenda, but everybody thinks of it in terms of gender, race and colour, not disability. You feel like saying, "If you take notice of diversity on the board of your company"—or whatever—"what do you do about disability?" There will be silence. That is why we need a specialised committee on disability.

However, I have also refined my ideas, which I put in my submission. I can go into those a little now, if you would like me to.

Lord Low of Dalston: Please do. The great purpose of these sessions is so that people may expand on their written submission.

Baroness Thomas of Winchester: Lovely. I thought we might have a committee that was a bit more flexible than the ones we have had before and that would not take months and months on one big inquiry but would do much smaller, more specialised inquiries into issues that affect disabled people in particular. It would mean that the members of the committee would not need to be tied up for months and months, and they would not take evidence from every last person they could think of.

It would be a much more limited inquiry. It would not be replicated in the Commons, but the people on the committee would quite often have direct experience of what we are talking about. That would be quite powerful.

The provision of accessible taxis outside London, for example, might enable more people to get to work.

Q128 **Baroness Garden of Frognal:** Do you see their focus being on specific disabilities?

Baroness Thomas of Winchester: If you had one that was about mobility, which covers a lot of conditions, of course at some point you would have to have one on visual impairment, on hearing impairment and on learning disabilities. That is certainly true. I do not see why you cannot do all of them. That is why we need a committee that could do that. As I say, it would not necessarily take the length of time on each inquiry that a committee takes now, and the membership could change from topic to topic.

Lord Low of Dalston: Just one more point from me. We have just had a disability committee, have we not? We had an ad hoc committee, chaired by Baroness Deech, which came up with a raft of recommendations. Do you not feel that that did the job?

Baroness Thomas of Winchester: No. It did a great job, but it was about discrimination. I suppose you could say that it is all about discrimination, but the Deech Committee could not expand on the point about disabled people running for elected office, for example. We could look into the number of disabled people who had made it into elected office and how they needed to adapt and what specifically they found helpful and unhelpful.

I was on that Committee; it was my idea, I seem to remember. We did not go terrifically into how many profoundly deaf people, blind people and wheelchair users were on various councils. We know that there are very few people with obvious disabilities in the House of Commons. Obviously every organisation will have people with hidden disabilities. That is another category that we could look into.

That Committee was very good, but we still need more to look into all the points that a committee such as the Deech Committee can only give the big picture on. We could focus on the smaller picture, and something might even be done to help, because it might be in that field. We might be able to say, "All it needs is for this to happen and that to happen and the building regulations to change to make this very small change".

Lord Low of Dalston: Thank you very much.

The Chairman: Earl Kinnoull, I heard your speech last night, in which you mentioned that the UK has over 36 agencies. When Brexit is delivered, this will give regulators an awful lot more work and engagement. That was reinforced this morning in a conversation I had with the Earl of Lindsay, who is a member of the EU Financial Affairs Sub-Committee, about what we are going to do. I would like Baroness Hayter to put her question to you on that issue of scrutiny by regulators and the general issue of regulation.

Q129 Baroness Hayter of Kentish Town: I think we share an interest in regulation, which is sad. The Financial Services Consumer Panel is about to publish something very much along the lines of what you are saying. I was struck when it said, on this issue of what will happen, that at the moment, any of the proposals—obviously, this is in the financial sector—are scrutinised by the ECON Committee of the European Parliament. It says in this report, which will come out before too long, that it has plenty of resources that support its work, “external consultancies on our books that we can call upon to do external studies for us at any point, and we can call hearings and workshops on any topic ... We have a very comprehensive set of tools at our disposal, with significant financial resources to make sure” that they can oversee the regulation at the moment.

Once the European Parliament is no longer part of that, how do you see this House, this Parliament, or this Committee being able to carry out anything like that degree of scrutiny of the stuff coming through, not just how the regulators are doing it but on the content of the regulation?

The Earl of Kinnoull: It is a jolly good question, and it was the basis of my original paragraph. The European Parliament has been doing a pretty good job of scrutinising the bits of regulation that have popped above the UK level and into Europe. To put some numbers on that, according to the National Audit Office, 34 EU regulatory agencies affect the UK, so effectively, our regulators feed into them. We have 90-odd regulators, and the size of our regulators is pretty interesting as well. The Financial Conduct Authority spends £500 million a year just on staff and running itself, so these are very big things. The European Parliament has this committee, and when you look at the resolutions it produces at the end of a year—they run on an annual resolution basis—the resolutions are full of really detailed points. I was looking at—that is how I am built—the resolution of EIOPA, which is the European Insurance and Occupational Pensions Authority. Its latest annual resolution is highly detailed, and clearly parliamentarians did not construct that, as they would not have the time, or possibly the expertise, to do it. It has a fairly thin layer of permanent staff to back their committees up and a fairly fat layer of rented-in staff—these consultants—to help them. We in the House of Lords on the European Union Committees operate almost the other way. We have quite a fat layer of 24 full-time staff backing up the committee, who are fantastic—really top-quality people—and every now and again we rent in experts to assist us, and of course we have evidence experts as well. So we have almost done it the other way.

We cannot get around the fact that very good scrutiny has been done of part of regulation within the European Union by the European Parliament, and that will now fall to us to do. We will need to change the way in which we operate in order to be able to fulfil that function. It seems that rather than waiting for things to go wrong and then doing it—what I call the Chinese doctor point—you need to be scrutinising while things are going quite well, and trying to spot problems coming down the wire. I thought that the best way of doing that was to alter the terms of reference for relevant committees and ask them at least to do some of

the big regulators around—you mentioned the financial services regulators. I do not know where they would go to, but the committee should have the responsibility to follow on from the European Parliament and what it has been doing, as I said, rather well, in terms of the scrutiny of the European-level agencies.

Baroness Hayter of Kentish Town: One of the really interesting things that you have just said, and it comes out of the quotation that I gave, is that it uses its expertise to help non-experts. It is interesting that the people who are finally doing the scrutiny should not just be the experts but politicians. Obviously from the consumer point of view, you need the expert to be able to do that translation, even though from my point of view we would want a consumer person involved. How do we build into our system here the right balance between the committee not having to be expert? I do not think that we want to put only experts on the committee.

The Earl of Kinnoull: No.

Baroness Hayter of Kentish Town: How do we build in that balance?

The Earl of Kinnoull: We are pretty good at staffing up our Committee with interesting selections of people. There will always be a few people who know an awful lot about particular things that the Committee is interested in and a few people who are quite definitely lay. But we are staffing up with people who are motivated and keen to learn anyway. I would not suggest any change to the membership of the Committee at all, as we handle that very well.

Behind that, we on the European Union Select Committee had chosen to have a lot of experts who are on the permanent payroll and then to get in a relatively small number of people as and when we need particular expertise on something. Probably the way to approach it is to expand on the idea of a panel of experts. Frankly, I would look for the answer by asking the European Parliament to give us a list of experts it has been using for these things so that you can see what type of people it has been engaging. London is the city of consultants; there are any number of people who hold themselves to be experts in the sort of areas where we would need support. The committee that ended up with the task of scrutinising a major regulator would have to have the budget line item: greater expenditure for external experts.

Q130 **Baroness Hayter of Kentish Town:** There are two things. One is looking at the actual regulations and whether they are fit for purpose. Then there is the supervision of the regulators themselves. Do you see those as two separate jobs? We have also had witnesses—nothing to do with Brexit—who think that maybe there should be a House of Lords committee that looks at regulators in general. Do you see the same committee being able to do both?

The Earl of Kinnoull: They are the two work streams, and they are quite intertwined, because sometimes you might say, "We must have

more regulation, because the regulator is not doing its job very well". Given the knowledge of the area that the regulator is seeking to regulate—take the Competition and Markets Authority, for instance, which will have a major change to its responsibilities with the return of the mergers and acquisitions roles—you would have to have one committee looking at both those strands, because the knowledge that you require as a lay member or as a more expert member will be pretty well the same knowledge base.

Lord Foulkes of Cumnock: May I clarify that you are talking about regulators specifically and not agencies? I had assumed that the Home Affairs Select Committee in the Commons would look after the border agency. Take the regulator Ofgem: does the appropriate Select Committee in the Commons not also deal with that?

The Earl of Kinnoull: If we decide that Ofgem needs to be scrutinised by only one House of Parliament—it has been very satisfactorily scrutinised at the other end—that would be our decision and that would be fine. As I said, there are 90 regulators, as defined by the National Audit Office, of which maybe 10 or 11 are the big boys. It is the rebuttable presumption that the House of Lords should have them on its radar screen.

If there was a crack House of Commons committee, we felt that we could rely on and if something really cropped up we would form a special committee; that would be fine, but we must run through the big boys and decide whether we need to scrutinise them. I refer you again to the European Parliament, which has been doing a lot of work here. It has been spending a lot of money on external consultants, and if you look at the resolutions and things that it has been passing, it is detailed, careful, well-thought-through work from good people.

Lord Foulkes of Cumnock: Good. That is very helpful.

The Chairman: If I remember rightly, 10 or 15 years ago there were over 40 EU directives related to financial services and they have been implemented as a whole. When we leave we will have to assume our own roles, which have been in Brussels up to now. That is another factor that we have to take into consideration, is it not?

The Earl of Kinnoull: Yes. We have just had the IDD—the insurance distribution directive—another one that I know a bit about. That, of course, was thoroughly scrutinised in Brussels by a huge number of people, and there were a relatively large number of changes. We will now have to build into our scrutiny process of major changes to very important areas of regulation, such as the distribution of insurance, something that replicates what has been happening in Brussels with regard to these major directives. I am sure you are right that there are about 40 of them—there are a lot. The IDD replaced something that was about 15 years old, so they need updating every 15 years or so.

Q131 **Baroness Garden of Frognal:** Lord Kinnoull, you are among a number

of people who suggested that there should be greater interaction between the Lords and the devolved Administrations. We have had suggestions, such as a committee on devolution and a formalisation of the Interparliamentary Forum on Brexit. How do you see this fitting into the current or a future committee structure? Perhaps, Lady Thomas, you could comment on whether you see interaction with the devolved Administrations as forming part of your proposals on disability. Lord Kinnoull, perhaps you would like to kick off on answering that question.

The Earl of Kinnoull: My own interactions with the devolved Administrations on the EU Select Committee have been a little haphazard. We have headed off to Edinburgh and to Cardiff en masse. It must have been quite expensive. When we arrived there were diary problems, we saw only half the people we wanted to see, time got a bit short, the room was being used by someone else.

The whole thing was full of good intention, but because it was a one-off it was pretty rough. We met people who were thinking about Brexit, and when we came back we all said, "Gosh, that was very interesting. They're looking at it in a completely different way, and they are doing interesting work", but we have no mechanism at the moment for interacting with the devolved Administrations, particularly the Assemblies.

There is another interest and concern of mine. I spoke in a debate about a draft memorandum of understanding, which was completed in October 2013, so it was before the Scottish referendum, before the Scotland Act, before the Wales Act—before a whole host of devolution that we have had recently. That is a problem.

I feel that the relevant committees in this House should find out which are the relevant committees in the devolved Assemblies and they should set up what I think is usually a video conference but every now and then a face-to-face thing, so that, frankly, one can have a cup of coffee and talk online with the same people who are looking at the same problems.

I have had experience of trying to run things in different countries, and it is amazing how that really helps the fluidity of the interactions that one needs, because instead of reading someone's name in a paper and an angry soundbite, one knows who is there. It would be a very healthy thing. I can assure you that certainly the Scottish Parliament is thinking about many of the same problems that we think about here.

Q132 **Lord Low of Dalston:** Lord Kinnoull, thank you very much for your written evidence. In it, you said, "Great committee reports, poor PR and public impact". That might also be the mantra running through our whole inquiry. Could you enlarge a little on what you meant by that?

The Chairman: Before you do so, Lord Kinnoull, would you like to come in on that last answer, Baroness Thomas?

Baroness Thomas of Winchester: I was just going to say that the Scottish Government do some things better than we do. Their treatment of deaf people, for example, is certainly something that we can learn

from. Lord Bruce of Bennachie said this in a debate on disability last week when he mentioned the video relay service. That is an example of where we could learn from them, and I am sure there will be others. It is a very good point that all committees ought as a matter of course to try to find out what is happening in the devolved Parliaments.

Lord Low of Dalston: That has given Lord Kinnoull a little time to think about this.

The Earl of Kinnoull: Thank you very much. I wrote in my paragraph the simple numbers and the paucity of resource that we have for projecting what the House of Lords does. I looked back at the now more than 30 reports which the EU Select Committee has produced since Brexit. About four or five of them are really ground-breaking. They are really good reports. Many of them did not see the light of day.

In my commercial career, we had a small staff in-house and a number of agencies that helped us. We changed the agencies over time. Agencies are much better, because of course they can employ a really good person and give them four or five totally different things to do. We are very monoculture, which from a PR point of view is quite boring.

A lot of what we on the European Union Select Committee have been doing over the last two years, properly marketed, would have made a much bigger public impact. I regret that our debates in the House are not mentioned. We had another a very interesting debate last night. I read the *Times*, but the *Times* has not mentioned it today. If we had an agency whose job was to let people know, that would be good for the country. Agencies are not that expensive, and it would be very interesting for you to ask them—it is free to ask—to pitch and say what they would do.

The great thing about an agency is that you do not take on a head count and you can cut the budget or the whole agency at any time. It is so good in the commercial world. They are full of good ideas about social media and strong on the things that I am personally weak on. I think that we should increase the budget but not the head count and hire one or two agencies. We should have agencies that are holistic, so I am not talking just about committee work but about debates in the House of Lords.

Baroness Hayter of Kentish Town: I am really glad that you said that, because some people have seen the work of the committees and PR quite separately from the House of Lords. The wider approach that you suggest would be easier to sell, but it is slightly different in the commercial world.

We have also had evidence on how little even other Members of this House know about committee reports. We do not even do our internal communications very well. How have you found that with the EU Committee? Have you found that people on the whole have read them and know them, or is it only one or two of us anoraks?

The Earl of Kinnoull: I am afraid that it is fairly limited to anoraks by now. When you are producing report no. 32, to be honest it is only the anoraks who are still there waiting to receive it, because people see the word "Brexit" and there is a little fatigue. But you make a very good point, which I had not really considered, about committees not doing enough internal PR.

Q133 **Lord Foulkes of Cumnock:** I completely agree with you on that. Every time there is a report in some of the media about the House of Lords, they produce a picture of us all sitting at the State Opening of Parliament—not me; I am never there—wearing robes.

The Earl of Kinnoull: I am sure we could fit you in.

Lord Foulkes of Cumnock: I want to talk about the membership of committees, because I like your suggestion that we have more transparency about committee attendance and that we have a code of conduct. Could you elaborate a bit on that?

Would you also say what you think about the possibility of the members and the Chairs being elected rather than appointed by the Whips, and about the possibility of paying Chairs, as they do in the House of Commons?

The Earl of Kinnoull: I will come to those last two questions later, if I may.

I feel that it is a great privilege to be on a committee. Committees are beautifully staffed and you meet very interesting witnesses. If a seat is empty or someone has not read the papers when they arrive at a session, that is a great shame. One can drive better behaviour simply by making the attendance public. I think people care about that. We collect the data anyway, no one could complain about it and it would drive better behaviour.

I also feel that the Chairman of the committee ought to have some duty so that, if someone is not performing, the Chairman has a method of expressing dissatisfaction, privately, in the hope that if the person feels that they cannot perform, they will move on. That could all be well summarised in a refreshed and revised code. There was certainly a booklet about behaviour on committees at some point, but it could be refreshed and revised in order to improve committee performance. We can be better. There are probably one or two bits of the sub-committees of the European Union Committee where there are problems.

Turning to your questions about electing people to committees, that could be very healthy, although quite complicated, because you want committees to have a party balance, and sometimes people who might not be electorally very popular turn out to be jolly good committee members. There is a bit of thinking to be done there, and I cannot do it on my feet, I am afraid.

As for paying committee Chairmen, of course we pay the European Union Committee Chairman already, and I can assure you that we get a

bargain, because it is a jolly hard-working post. If there was some element of pay for the Chairman, especially if they are to have greater responsibilities, that would be healthy.

Lord Foulkes of Cumnock: Lord Forsyth of Drumlean in his evidence said that he spent more time as Chair of the Economic Affairs Committee than he does as chair of the bank he is chair of. But when I asked him whether he wanted committee Chairs to be paid, he said no, which was an interesting response.

The Earl of Kinnoull: He obviously has the luxury of being able to spend his time like that, but there will be other Members of the House who might make excellent Chairs of a committee but might turn down the role because they simply cannot afford it economically. I was quite shocked when one Member of the House—he joined at roughly the same time as me and I was on a sub-committee with him—turned up one day and said, “I’m afraid I’m going to take a leave of absence, because I’ve got to go back to work”. If the chair of a committee had been available and there was a small payment, it might have kept him in the House. He was quite a young and very talented non-Cross-Bench Peer, and it would have been good to have him.

Lord Foulkes of Cumnock: Baroness Thomas, do you have any comments on these issues?

Baroness Thomas of Winchester: It is a very interesting question, because there are arguments both ways. We certainly do not want to have people doing jobs who are doing them only because they can afford to do them.

On the other hand, we all know that, if we did start to pay committee Chairmen, there would be plenty of negative headlines, saying that a London-based Peer gets plenty of money at £305 a day. I am not sure which way I would come down on this. I can absolutely see why Lord Forsyth said “no payment”, but we do not want to go back to the old days when only rich Peers could afford to be active Members of the House of Lords.

Lord Foulkes of Cumnock: And we need to resolve, as you say, Baroness Thomas, the differential costs of being a Peer living outside London and a Peer who lives in London. More than 50% of the House of Lords is now from London and the south-east, which is untenable.

The Chairman: Thank you. Are there any points that you would like to make before you leave? No. You have been very helpful. Thank you very much indeed.