



Liaison Committee

Corrected oral evidence: Review of Investigative and Scrutiny Committees

Wednesday 11 July 2018

10:35 am

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

Evidence Session No. 19

Heard in Public

Questions 142 - 143

Witnesses

I: Lord Cameron of Dillington; Baroness Deech; Lord Filkin; Lord Inglewood; Baroness McIntosh of Pickering; Lord Shutt of Greetland.

Examination of witnesses

Lord Cameron of Dillington, Baroness Deech, Lord Inglewood, Baroness McIntosh of Pickering, Lord Shutt of Greetland and Lord Filkin.

Q142 **The Chairman:** For the Hansard writer, can you identify yourselves and indicate what committees you chaired?

Lord Shutt of Greetland: Select Committee on the Inquiries Act 2005.

Lord Inglewood: Extradition Law Post-Legislative Inquiry.

Lord Cameron of Dillington: I chaired a committee looking at the NERC Act: the Natural Environment and Rural Communities Act 2006.

Baroness Deech: I chaired the Select Committee on the Equality Act and disability about two years ago.

Baroness McIntosh of Pickering: I chaired the ad hoc Committee on the Licensing Act 2003. Whether it is relevant or not, I chaired the House of Commons Environment, Food and Rural Affairs Select Committee.

Q143 **The Chairman:** Thank you very much and welcome. We have 15 witnesses today, so if one witness has said something and you agree with it, if there could be acceptance, I would be delighted with that. How does post-leg work in an overarching structure in the future? What emphasis should we give to that in the review?

Lord Shutt of Greetland: It is important. We spend lots of time passing laws and it is not a bad idea to see that they are fit for purpose. To that extent, it is very important. I do not know whether you want me to speak about my experiences doing my committee—I feel it is never finished—but I will do it if you want me to.

The Chairman: If it can be precise, I would be very happy for you to.

Lord Shutt of Greetland: I started by being appointed to chair a committee on 16 May 2013. You do not pick your own colleagues, but I was very happy with the selection given to me and people were very good. I had lots of lawyers—happily I was not one—and therefore chairing them did have its challenges. We met lots of witnesses, took lots of evidence and produced a report on 11 March 2014. We were told that the Government would respond within two months, but they did not. We got the response on 30 June, which I have here, from the Ministry of Justice. I say that because one of the problems I found with this inquiry and the aftermath is that I believe there is turf war and therefore I have a concern about this.

We were not happy about our inquiry. We talked about it and said, “This Government response is not good enough”. So we sought a meeting. We were fortunate that the former clerk to the inquiry was keen to keep going and that is important. There are clerks and clerks, but we were very fortunate with our clerk. The Government said in their response that they liked our report and agreed with most of it, but that was not the

case. We made 33 recommendations: 10 were accepted, four accepted but, 14 rejected and five rejected but. So that was the balance, but the weight was with the rejection, not with the recommendations we made and that they said they accepted.

We eventually sought a meeting with the Minister, which we got on 29 October 2014. The Minister said he wanted a month, so we waited. Eventually, we thought we had better have our debate. A general election was looming and we had the debate on 19 March 2015, which was just nicely after the anniversary of the publication date, because we were trying to get further with the Government in terms of their responses. There was some involvement post that, in that Lord Sewel was pursuing the Government on our behalf. I was summoned to meet a very important woman by the name of Sue Gray of the Cabinet Office, not the Ministry of Justice, who said, "What a splendid report" and how they were going to do this, that and the other—and nothing has happened.

On 23 May, the National Audit Office produced a report into inquiries and its report says, "We have looked at the House of Lords report. Much of what the Government said they agreed with, they have not done". I then put a question down, which some members may have spotted, on the last sitting day in June, and although I approached several of the members who had served on the Inquiries Act Committee, apart from Baroness Hamwee and myself, there was little said in our oral question. However, again we had the Minister saying, "What a splendid report", and how they agreed with it and so forth—but black is white, and I have to say that I feel frustrated about this. Here we are now in 2018 and I feel I have a responsibility to keep it going.

The Chairman: So the Government are not paying much attention and there is a turf war.

Lord Shutt of Greetland: I think there is. And I must add one thing. In the Audit Office's report, one of our concerns was that there should be a special unit within government to look after inquiries. They said, "No. We reject this". Lo and behold, the auditors find out that one has been set up just for the Home Office. When did anybody know that?

Lord Inglewood: It is my view, as a general proposition, that post-legislative scrutiny is an integral part of the wider committee work of the House and that one should approach it in a flexible way. It does not necessarily follow that every Act, or every bit of every Act, should be subject to post-legislative scrutiny. I was thinking perhaps we might do a post-legislative scrutiny of the European Union (Withdrawal) Act five years out. In my case, much of what we were considering was the European arrest warrant, so it has remained on the political agenda in a reasonably high-profile way since then. But, as a generalisation, it is in the post post-legislative period where things need to be properly worked up. If I can put it this way, we should try to find a way of pinning down Ministers like a butterfly in the Science Museum after our post-legislative work and put them on the spot to see what has happened. That poses issues of structure, staffing and all kinds of things that are interesting.

Lord Cameron of Dillington: I am going to be slightly more cynical. Post-legislative scrutiny is a very good way of avoiding stepping on toes down the other end, but it is the issue that counts rather than necessarily the post-legislative scrutiny. At the moment, we look at issues that are happening on the continent with our European committees and try to anticipate for the benefit of the UK and maybe even Europe what is going on, working out a way of putting in reports about what we are going to do. Rather than taking all the Acts and looking at them on their fifth birthday or 10th birthday, it is the issue that counts. We ought to be continuing to look at what is happening on the continent and anticipating events there that might affect the quality of life in the UK, or, if we are starting to do trade outside Europe, maybe even looking at the United States, Australia, Canada, et cetera, trying to anticipate what is going on. Maybe we can hang it on a post-legislative scrutiny hook if we want, but it is the issue that counts rather than necessarily the legislative scrutiny.

The Chairman: Maybe you could come back to your issue of stepping on toes later on. It is quite interesting, because we have taken evidence from the House of Commons, the Chair of the Liaison Committee and others and we want to have a positive engagement with them, so it is very helpful if you could elaborate on that.

Baroness Deech: I was privileged to chair a committee on disability, about which I knew nothing at the outset. The report we produced will stand almost as an exemplary textbook on the law for all time to come. We carefully designed the recommendations to cost next to nothing so that the Government would not have the excuse of saying, "It is too expensive". One of the great disappointments of my entire time in the House of Lords is the fact that most of the recommendations, if not rejected, have been left to fester or pushed off to some other body such as the Equality and Human Rights Commission. The excuse often given is that it would be a burden on business—which we find difficult to accept, because the burdens are on disabled people.

I was privileged to have an excellent clerk, Mr Collon, who has continued to help me even after the end of the committee. There has been some follow-up. I will make two points. We need to hold Ministers to account. The Ministers keep changing. Even in the two years or so since the report came out, I have dealt with several different Ministers. One has to start from scratch. I suppose it is the civil servants who are making the decisions, and every time we are promised this and that and it does not happen. The un-carried out recommendations should be publicised after 12 months and the relevant Minister should appear to explain why they have not been carried out. I also think that there should be more choice of topics by members. We cannot do every Act post-legislatively. I have been pushing for some while for the Legal Services Act to be reviewed. It is one which Baroness Hayter knows very well. It is extremely unsatisfactory, has been from the very beginning and is ripe for looking at.

Finally, I will say something a little off piste about selection of members. I was very fortunate to have some expert members, but all deeply committed. I took it on myself to look at the membership of all the EU committees, of which there are about 70 or 72 members. I trawled through them as much as I could and, as far as I can see, only two or three of those 70 have spoken out as leavers—there is a hint with one or two others—which seems extremely unbalanced. You would have thought that EU committees would have, if not half, at least a substantial number of people who are avowed leavers, and that committee is extremely unbalanced. I do not know how members are selected, but it seems that something has gone wrong in that particular set of committees. We have been castigated by the UN for not doing anything about disability. I feel deeply committed to it now, because, as we all get older, we have mobility and sight problems and I am very anxious that there should be efficient follow through, cost free.

The Chairman: You had a robust exchange with me before on the choice of topics by members. I am interested in that aspect, so if you can elaborate on that maybe here or elsewhere, it would be very helpful.

Baroness Deech: I was not impressed with the choice of topics this year.

Baroness McIntosh of Pickering: A theme throughout is more member engagement. There are about 400 working Peers and probably fewer than 100 on committees. It is up to us to show more of an interest, but Members could be involved more at the stage of choosing the topics. With the particular topic we looked at—I too had Michael Collon, and the clerk is very instrumental—in terms of following up there will be an issue of resources that the Liaison Committee will have to address, because we cannot follow up without resources, and that involves committee rooms if there are any additional committee meetings or others.

There is a weakness in the way that the Licensing Act has been interpreted since 2003—and I would argue that 10 years is probably a better period to review than five years, when the Act has probably not had time to bed down. I have had a big campaign in both Houses on the role of us looking at statutory instruments. The Licensing Act went through multiple amendments, not all by primary legislation. Obviously I appreciate that the statutory amendments are delegated legislation, but I had a weird discussion with a clerk once and I was told that we could amend the title of the statutory instrument but not the body—and believe you me, there are times when it could be improved. That will be very much the case as we take through all the Brexit legislation and the statutory instruments there. So we need more Member engagement. In its submission, the Law Society of Scotland made a very strong point about the transparency of members. I believe that it should be more inclusive—perhaps the point that Baroness Deech has reflected—and that it should reflect more the composition of the House and expertise.

To start with, I had no particular expertise at all in this committee. The way that we were guided through by a very expert team was very

mindful. It is how we use that expertise afterwards. The Law Society of Scotland has argued that there should be more transparency in the way that members are appointed. I would like to learn something from the European Parliament system, where Lord Inglewood and I have both served, of substitutes. Perhaps the Liaison Committee is not the best example. As a rule, members turn up once they are appointed to committees. But there should be substitutes who are allowed to appear at committees as a substitute but not speak unless a lead member could not be there on that particular day. It would mean that they could follow the proceedings and hear the evidence at first hand. It is just a thought to secure more member engagement through the process.

When it comes to how we pursue the ideas and the recommendations that we make, one that I think has been particularly a missed goal in terms of the Licensing Act was where the Home Office has agreed to open a consultation on bringing bars airside and seaside behind passport control. We still have wasted another summer where we are seeing lives potentially threatened and disruption on airplanes by people tanking up before they go on planes. I believe in the idea of co-opting some of the original members of the committee on to an annual debate the year after. Obviously, we can table questions as individuals, but we need something to keep the momentum going. There will be a gap in the scrutiny when we leave the European Union, particularly in the framework directives and devolution as a whole. The role of local authorities in planning and education is something that we would be well placed to pursue in this House.

The Chairman: Your Licensing Act and the deficiencies in airports and flights received quite a lot of coverage. It was very, very good. Colleagues, do you have any points? Baroness Hayter?

Baroness Hayter of Kentish Town: I found that absolutely fascinating. A bit of it has refocused completely—it was what Lord Cameron said, I think. I think you said it was the issue that counts. Interestingly enough, I thought that what might come out more was the lessons about how we do legislation in general rather than particular issues—in other words, whether it teaches us something about how we write legislation. Do any of you think that, in addition to the particular issues, be it inquiries on licensing or disability, we are missing something from the lessons from what all of you have done about how we write legislation in the future?

Lord Cameron of Dillington: We do the legislation as best we can. Within this House, we are a House of experts. Therefore, you turn up for those particular Bills that you are interested in. If we come on to the question about how you select people for the committees, I think the expertise that we have in this House is the key. Somehow, we have to make certain that we plug into that expertise. If we are not a House of experts, our whole *raison d'être* within the constitution is irrelevant. Today, the legislation is passed to the best of our ability. In five years' time, first, circumstances change and, secondly, the Government fail to

implement it very well. I think we enact the legislation as well as possible. Whether it is implemented as well as possible is another matter.

Baroness Deech: I do not think that we make enough use of the expertise of the Law Commission—a topic that came up yesterday—which is queuing up with draft Bills for us to implement. I do not think we fully think through the actual practical effects of legislation that we are passing. The two Acts I know well are the Human Fertilisation & Embryology Act and the Legal Services Act. The effect of those Acts not just on people now but in the future is not fully thought out. There should be more consultation ongoing with the people affected as the Act goes through both Houses of Parliament. Amendments are thrown in and passed or not passed. Nobody stops to think how that amendment will affect those who will operate the Act.

I am also not sure whether, at the end, the parliamentary draftsman looks at all the amendments that have been made to the original Bill and makes sure that they do not cancel each other out and so on. I stand to be corrected on that. I do not know whether there is a review of the entire Act—for example, a big one such as the European Union (Withdrawal) Bill—to make sure that the amendments make sense. They have been thrown into the original body of the Bill. I think there should be more consultation with people who are affected. If you wait for another five or 10 years for post-legislative scrutiny, if it ever comes, the damage will have been done.

Lord Inglewood: It seems to me that there is an inherent tension between politics and legislation in post-legislative scrutiny activity. The former is essentially political; the latter is looking at evidence to see whether the thing has worked either as it was intended or as you think it might from looking at the document in question. For example, perhaps you could reduce the problem by having a certain amount of evidence given to the House before we get on to the legislative process. That way, more people would understand more about the reality of the way these things work out there. I pose that as a possibility.

Baroness McIntosh of Pickering: The difficulty with that is that the House of Commons already does a very, very good job of pre-legislative scrutiny on the Select Committees. I was very struck by something that Lord Blencathra said in his evidence to you. The Licensing Act is a case in point. We thought we were all going to be drinking until 2 o'clock in the morning. There was going to be this great café culture. It never materialised. He has made the point that the way that the Bill is implemented may not have been the intention, because it could be different people sitting on the Bill committee and on the statutory instrument as it goes through both Houses. We deal with statutory instruments here either in the Grand Committee room or in the full House. Next door, you are appointed and have to turn up to look at these. They are gone through more line by line.

The ethos behind a Bill is sometimes lost with statutory instruments, which are increasingly important because much more is done through the

regulatory authority than on the face of the Bill. We need a way to harness our powers of scrutiny there. I would be reluctant to go down the pre-legislative route unless it was to be a joint committee with next door. It is something that the House of Commons does very well. They do the pre-leg work; we tend to do the post-leg work. The bit in the middle that is lost is where the ethos behind the Bill is not always implemented through the statutory instruments, which are then judicially reviewed.

Lord Shutt of Greetland: One of the things that came out of what we were doing is that out of all inquiries, there should be a lessons learned document and that should get somewhere. The Government agree, but National Audit Office says three years later that they are still not doing it. The problem with a lot of what we are talking about today is this is not politically exciting stuff. It is dull, boring stuff that should be done properly.

Lord Low of Dalston: I want to follow up something that Lord Inglewood said. Right at the beginning of your evidence, you said that you thought post-legislative scrutiny should be fully integrated into the work of the House. How should that be done? We have heard a number of suggestions. One is that there might be a dedicated post-legislative scrutiny committee with responsibility for doing the post-legislative scrutiny of the House. The other suggestion is that we should have a thematic committee structure and that the post-legislative scrutiny should be done by the committees that have been concerned with the particular area of policy in which the piece of legislation fell. How would you choose between those suggestions or, indeed, another way of integrating post-legislative scrutiny into the work of the House that you might prefer to come up with?

The Chairman: I might bring Lord Lang in, because that was an area that he was interested in.

Lord Lang of Monkton: I was hoping to introduce that in session, but Lord Low has done it much better than I would have done. It is an important session that we would like you to focus on. We would be very interested to hear your reaction to the alternatives that Lord Low has already mentioned. Can you also think about relating it to whether fixed committees or dedicated committees would lose or gain in terms of specialist knowledge? Specialist knowledge can become too narrow and too inhibiting. There are specialists on tap available to Select Committees, whether from within the House or from outside. This brings me back to some of the points that were raised in the earlier discussion. Someone might like to start on that.

Lord Inglewood: I have thought about this, and I think, and it is not simply in order to ingratiate myself, that the present structure of approaching these things is quite good. In the Liaison Committee, you recognise that there is a need for some post-legislative activity. It is not defined too much. That is good, because what we are looking at will vary, as Lord Cameron said, according to what is important and relevant at any particular time. It seems to me that if you have a convention in the

Liaison Committee that you will always have one post-legislative inquiry—or possibly two, depending on the circumstances—you can adapt what the House does to this particular task in the context of its other responsibilities.

I do not think I would be in favour of having a dedicated post-legislative committee, because you get the best value for money from the House by having different members according to the subject matter that you wish to inquire into. That suggests that perhaps if there was some kind of thematic approach to the committee structure, you could tap into that for post-legislative work. That is entirely consistent, but we do not have that structure now, as far as I can tell. That leads one on to what Lord Lang was saying.

In my case, when we were looking at an Extradition Law, we had members of the committee—a couple of very senior lawyers—who were extremely knowledgeable and extremely helpful to the committee and to me as chairman about the way in which we should deal with the topic. At the other end of the spectrum, there were one or two people who really had no knowledge or understanding of it at all. They are valuable because they are the kind of “idiot boy” who can tell the Emperor that he has no clothes. So I think that the best form of scrutiny in this area is to have a combination of people who know about the subject, some who probably know a bit less about the subject, and some who are not very experienced because they bring a fresh insight, provided they are intelligent.

The Chairman: Okay, all human life is here.

Lord Cameron of Dillington: I would totally support everything Lord Inglewood said.

Baroness McIntosh of Pickering: Lord Inglewood has expressed how it is working well at the moment. The weakness that we have all identified is the follow-up. I would like to see the system that I think you are looking at of an annual follow-up, possibly co-opting different members. If there is one each year, the question would be whether you have a rolling programme to do that. At the moment, the strength is that you are introducing new people on to a particular issue, which seems to work well. Where it is falling apart is that we are not able to follow it up and keep the momentum going from some very powerful recommendations that we may have made. I think on the Liaison Committee you are well placed to do that and to look at the topics and co-opt as you think fit from the original committees.

Baroness Deech: I would treat this committee—or a new one, but why not this particular committee—as the overarching committee. Beneath it, it should have a whole number of quite small sub-committees charged with getting through post-legislative scrutiny in a year or less. As Lady McIntosh said, there are 400 working Peers. I am sure there are hundreds of people who would like to be on committees. If you set up a whole lot of small ones to look at different Acts, you could use their

expertise or at least their willingness. They would have to get through it pretty quickly with an overarching committee keeping an eye on what they are doing. Just doing one post-legislative scrutiny a year is simply not enough. We need to do dozens.

The Chairman: I know you want to come in, Lord Filkin. You are in the second set, but is there anything quickly you wanted to say?

Lord Filkin: No. Sorry. I had 11 o'clock in my diary. My apologies for being late.

The Chairman: Yes. Sorry about that. Very well.

Lord Filkin: I was simply going to agree with the point about bringing in expertise rather than having the same people doing it. There is still a major opportunity for the Lords in this respect. We are clearly better at pre-legislative scrutiny than the other end, for a variety of reasons. Government does not like doing post-legislative scrutiny, for obvious reasons. It tends to find out what has failed. Therefore, putting more resource into proper post-legislative scrutiny on a very selective basis—a select number of Bills that are truly important, where hopefully you have some articulation of what the Bill was intended to do, which is often lacking—would help in making a greater contribution from the House to better legislation. Some Bills are such a dog's breakfast that it would be difficult to do effective post-legislative scrutiny on them.

Lord Lang of Monkton: I would like to follow up on the question of pressure on post-legislative scrutiny. There is so much more to do or so much more we would like to be able to do. What do you think about the mechanics of the way in which committees are set up—the timing and logistics of the mechanics, rather than the personnel? For example, after a general election it takes a long time to get them established and before they can really get started they are into recess and so on. Have any of you any thoughts about how these processes could be improved on?

Baroness McIntosh of Pickering: It was the first time I had experienced any House of Lords Committee, but it seemed to me to work quite well. Lord Shutt mentioned that what we were up against in that particular year was if a general election was called, and that would have interrupted the whole process. I am very attracted to Baroness Deech's idea of sub-committees. It works well as it is and I stand to be corrected by other colleagues. We all have to get to know each other and we want to keep an open mind. We want to invite the evidence.

It is very powerful to keep saying to people that written evidence has the same weight as oral evidence. Obviously you are not going to be able to interview the same number of witnesses as you would expect to see written evidence from. In addition, exposing it more through social media and creating a lot more outside engagement allows people to feed things in, and if they came forward with an idea for a witness, we would still have time to do that. From someone who is under it for the first time, it seems to work well.

Lord Cameron of Dillington: On that point, the post-legislative committee I took part in last year was at election time. We did not get going until now, as it were. As a result, our investigations were slightly curtailed because we had to publish our report by the end of March. I am not quite sure why it was the end of March. We thought it might be at the end of the session. In any case, we were curtailed. Perhaps if we are thinking of setting up a committee—which obviously was done before the election—the procedure could be done, so that the moment the election is over we can get on with life. We had to wait until the House had approved the members and did not get started until too late and then were curtailed at the end. I never quite understood why.

Lord Lang of Monkton: It does feed into the question of the political element in appointments if there is a change of Government at the election.

Lord Cameron of Dillington: Yes, quite.

The Chairman: We will take Lord Foulkes and the Earl of Courtown's questions together.

Baroness Garden of Frognal: I thought I would come in earlier, but all right.

The Chairman: Very well. You come in, then, if you want.

Baroness Garden of Frognal: Very well. Thank you very much. That was absolutely fascinating evidence. You all referred to the frustration of the lack of government response to the things that go into reports. Lord Shutt referred to turf wars, Lord Inglewood to pinning down Ministers, and Baroness Deech to the change of Ministers making it difficult. Do you have any suggestions as to how, in practical terms, you might be able to get a more efficient response from Government Ministers to the recommendations? Obviously the evidence and expertise that goes into the post-leg is really valuable, and then it just hits a blank wall and nothing is done. Are there practical solutions as to how we might unblock that?

Lord Shutt of Greetland: I have been thinking about this. We take the best part of a year. We eventually get a response. We then debate it. Perhaps I was unusual in the way in which we challenged the report and tried to keep the show on the road, but I wonder whether we should be keeping the show on the road. I wonder whether the Committee should be brought back for a month every year, or at least we should say that the Committee can have a month to see whether there is anything else it should be doing. That is how I am finding it with this inquiry-type thing. Here we are in 2018 for a report that we did in 2014-15 and clearly little has happened. Therefore, is it right just to say, "We did our best", and that is it? Or should we somehow be saying, "There must be a way of keeping the pot boiling?" And how would one do that? That is the dilemma.

Baroness Garden of Frognal: That was the question I was hoping you were going to answer.

Baroness Deech: Outside of this House, I chaired a committee for the Department of Health on women doctors. We decided at the end to meet once a year. We all got together once a year for about five years and trawled through the recommendations. We asked for a report from all the bodies that had been designated as the ones to carry out the recommendations. Which reminds me—I suppose we should always have a list of who is supposed to carry out the recommendations. We called for a report every year. I gave up after five years because there was simply no secretarial support from the Department of Health and it was too much of a burden on me. I could not do it. However, it was quite a good model. Like with unanswered written questions, we should publicise every month or so a list of recommendations that have not been carried out and have that publicised over and over and over again.

Baroness McIntosh of Pickering: The Liaison Committee is very well placed to perhaps annually, or every six months even, name and shame those departments that have not implemented very clear recommendations that would change the law for the good. Otherwise, there are opportunities—and I know Lady Deech has used these on a couple of occasions—to try to amend other legislation that is related, going through and picking those themes out. However, you need something structured.

Lord Cameron of Dillington: This follow-up question is probably the most important part of the whole exercise, it seems to me. We must do this better. There are two bits to it. One is ensuring that what concessions the Government have made are being fulfilled. The other is perhaps, where any suggestion has been rejected by the Government, doing a wider lobbying exercise to try to ensure that what you believe is very important is carried out. It seems to me that, at this stage, the formal Committee stage of televised interviews is probably not the right way. What one wants is to have a small working group of the Committee.

You could even co-opt an academic expert, or someone from the outside, or maybe even someone from the other end to come and help and go and have conversations with Ministers. But it needs the formal backing of a clerk so that it is recognised that they are not simply seeing an ad hoc group of Peers; they are seeing a formal, small group of a Committee from the Lords. Since we produced our report I have tried very hard to go and see Ministers at the Ministry of Housing, Communities and Local Government, but they are reluctant to tread on Defra's territory. I did go and see David Lidington. I was going to go with an MP who was very keen and very supportive of what we were trying to achieve. Unfortunately, at the last minute the MP could not attend. If we can get a more formal structure with the backing of a clerk and possibly a smaller group and a different way of working—ie, having sensible conversations with Ministers—that would be nice.

Lord Foulkes of Cumnock: I will ask specifically about something that

Baroness Deech wrote in her written evidence. She says, "As you may know, the recent choice of four ad hoc select committees has met with some disappointment". I agree with that. Are you aware that there were rather difficult discussions within the Liaison Committee about these appointments? Perhaps it may be the composition of the Liaison Committee that needs to be looked at. Everyone has been a bit reluctant to suggest to us that our composition might be reviewed. Do you have any thoughts on that?

The Earl of Courtown: I want to go back quickly to what Lady Garden brought up regarding responses from Government. Lady McIntosh talked about naming and shaming. That is happening now with responses from government departments: the departments are named and shamed. As far as recommendations are concerned and the take-up of recommendations, that is obviously a political decision in many ways. However, the fact is there is no excuse for poor responses and our inability to get Ministers in front of us. Can you think of any way that Ministers could be perhaps not subpoenaed but forced to come and respond?

The Chairman: There are two questions there.

Lord Inglewood: Follow-up will cost money. There will need to be more resources dedicated. That is a decision for you all. Secondly, and following on from all these questions, particularly Lord Courtown's, when push comes to shove I do not think that Governments of any political persuasion are particularly bothered about the House of Lords' response on a lot of these detailed matters. When I was on sub-committee A, I tried to persuade Lord Radice that we should get a Minister in after every European Council meeting to report to us. We got them to come once and thereafter they never found that their diaries permitted it. We need to find a way to get Ministers in and focus on them, because the Government—and it is nothing to do with any particular government—is quite happy to be named but it very rarely seems to be shamed by it.

Baroness Deech: I was present in the Chamber, as I am sure you were, when the question of approving the choice of subjects for this year came up. It was met with a very bitter response all around the Chamber. I described the topics as motherhood and apple pie, because I suspected that the Government did not want anything too meaty because we are all so busy with Brexit. It seemed to me that they were hot air committees. I got in touch with everyone who had made a submission. I looked at those submissions and, in general, they were all much more interesting and important than the ones that were chosen. It seemed to me that we ought to be able to vote or have some input.

Likewise with the members of this Committee; wholly admirable, I am sure, but it is a mystery to me how members are appointed to this Committee or to any other committee. I have no idea how it happens. I do not know how I was appointed to the Disability Committee, although I was absolutely delighted and regard it as one of the high points of my

professional career. It changed my thinking for ever. But I do not know who does it and it should be more transparent, with more input.

Lord Foulkes of Cumnock: You have put your finger on it, and it comes up also in Lord Inglewood's written evidence, where he says, "I believe the Whips' Office have too big a role in determining the composition of committees". Lord Inglewood, you are absolutely right. When we discussed the ad hoc committees—I am not sure if it is publicly known—it was the Government Chief Whip who took the lead in pushing those particular subjects. It is wrong, in a House Committee, for a Government Chief Whip to have such a big influence. But no one has had the courage to come up and make any suggestions about the composition of this Committee. Perhaps that is where the problem lies.

Baroness McIntosh of Pickering: May I respond to the Earl of Courtown's question?

The Chairman: Yes.

Baroness McIntosh of Pickering: There are two proposals that emerge from what we have said. One is a sub-committee on a rolling basis. The other is for the Liaison Committee to invite Ministers in. There is a general impression that perhaps the other place, and particularly departments, do not take the House as seriously as we would wish. If we have spent nine months and quite a lot of taxpayers' resources getting to the bottom of the issue, it is important that we have a mechanism by which these recommendations can see life.

Baroness Deech: What we are trying to say is: more members' input. On the Cross Benches we vote on the topics that are put forward for debate. We are all invited to suggest something when it is our turn and we vote. The same should go for post-legislative scrutiny and various other committees, and, while we are discussing legislation, on Private Members' Bills. The business of having a ballot seems to me very, very odd. I hope it is a genuine, honest ballot. I suppose it is, but some very strange things come out on top and extremely important things are much lower down and never get attended to. We ought to brush up Private Members' Bills. There is some very valuable stuff and good ideas there if someone would take a grip on it.

The Chairman: I take it that more member engagement is a feeling shared by every one of you.

Baroness McIntosh of Pickering: No one seems to have grasped my idea of substitutes. It is a way of involving people, and if someone cannot be there on the day you have a substitute so that a witness has a full complement of people taking evidence.

The Chairman: Unless anyone has anything else to say, I will thank you for your evidence. It is very, very important. If you wish to follow up in writing with anything that we have not covered fully—Baroness Deech, you mentioned a couple of things there—I would be happy to receive it.

Thank you very much.