

Public Administration and Constitutional Affairs Committee

Oral evidence: Status of Resolutions of the House of Commons, HC 1587

Monday 19 November 2018

Ordered by the House of Commons to be published on 19 November 2018.

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Members present: Sir Bernard Jenkin (Chair); Ronnie Cowan; Mr Marcus Fysh; Dame Cheryl Gillan; Dr Rupa Huq; Mr David Jones.

Questions 229 - 296

Witness

I: Rt Hon. Andrea Leadsom MP, Leader of the House of Commons.

Examination of witness

Witness: Rt Hon. Andrea Leadsom MP.

Q229 **Chair:** Can I welcome our witness to this inquiry into the role of Parliament in our constitution? We are looking particularly at the status of resolutions. Could I ask you to identify yourself for the record, please?

Andrea Leadsom: Andrea Leadsom, Leader of the House of Commons, Member of Parliament for South Northamptonshire.

Q230 **Chair:** We are particularly grateful to you for giving us time at a very busy time. We will ask short and crisp questions and it will help us if you give short and crisp answers, if at all possible, then I hope we will not detain you longer than you are expecting.

In general terms, what status do Government give to a resolution passed by the House of Commons?

Andrea Leadsom: The Government take very seriously any resolution of the House. With regard specifically to Backbench motions, to Opposition Day motions, the Government always respond with a Minister at the Dispatch Box with speakers from the Government Back Benches. In the specific case of Opposition Day motions, where a resolution of the House is passed Government will come forward with a full response to the resolution within 12 weeks of the date of the Opposition Day debate.



HOUSE OF COMMONS

Q231 **Chair:** You have said that the Government have “listened” to the views of the House when it has passed resolutions critical of Government policies. How do you think the Government demonstrate that?

Andrea Leadsom: As I say, the Government have been clear on Opposition Day motions if a resolution is passed that the Government come forward with a full response to that within 12 weeks of that date. On other Opposition Day motions, if the resolution is not passed by the House because the Government Benches have voted it down, then there is not the same requirement to respond. Nevertheless, in all debates in the House the Government take a very active interest and Back Benchers participate fully.

Q232 **Chair:** It is rather like receiving a Select Committee report: the Government respond within three months or something and that is it. A Select Committee report is purely persuasive or advisory. Are you saying that these resolutions are purely persuasive or advisory? That seems to be the analogous position.

Andrea Leadsom: A resolution of the House, as the Committee will know, is not binding on the Government. It is the opinion of the House and in all circumstances I do not accept it is the same as a Select Committee response, because during debates we have Government Back Benchers responding, we have Government Ministers taking full part in the debate, hearing the views from right across the House and then responding, in the case that the resolution is passed, within 12 weeks.

Q233 **Mr David Jones:** On what basis did you determine that 12 weeks was the appropriate length to respond to a resolution of the House?

Andrea Leadsom: It is not a magical figure. It just allowed for proper time to consider the opinions of the House, for the Department to potentially change where it felt that that was necessary as a result of the resolution passed by the House and to be able to come back to the House with some very specific responses. I would highlight some of the Universal Credit changes, which were very clearly as a result of some of the proposals put forward by the House.

Q234 **Mr David Jones:** You describe this process as a new convention, I think, in reply to a written question. We have heard evidence from witnesses that conventions are matters that arise over a period of time and are conventions as a result of being recognised as such by all sides of the House. Do you think it is possible for a Member of the Government to simply declare a convention?

Andrea Leadsom: No, I do not. I have certainly not in the Chamber called this a convention. I have merely described it as being a sensible and suitable response, taking into account views expressed by Members across the House of how to respond to resolutions that are passed by the House. My new arrangement, as set out in a WMS, was in response to input from colleagues from across the House. I share your definition of convention—that it is accepted by all Members over a period of time.



HOUSE OF COMMONS

Q235 **Mr David Jones:** Do you think it has achieved that level of acceptance so far?

Andrea Leadsom: I think that what it does is it ensures that, where a resolution is passed by the House that expresses the opinion of the House, Ministers do have a suitable amount of time to be able to consider the view of the House and to come back with how they intend to address it. I do think it fulfils a positive and worthwhile role.

Q236 **Dr Rupa Huq:** On the question of when does a convention become a convention, we did witness earlier this year an impasse or logjam, where it felt that no Opposition Days were being granted, and then in October 2017, you said that the Government had chosen not to vote on Opposition Day motions because they were political point scoring. When do you determine what the difference is between political point scoring and legitimate scrutiny?

Andrea Leadsom: I think there is always legitimate scrutiny. There is always the capacity for legitimate scrutiny, whether it is an Opposition Day debate or indeed a Backbench debate. In Adjournment debates, Westminster Hall debates, Parliament has many opportunities to hold Government to account. Parliament takes full advantage of all of those opportunities and it is right that it does so.

As I have already said to the Chairman, Government always respond with Ministers coming to explain and answer questions raised by the House. It is always appropriate to hold Government to account and to scrutinise Government, and the Government will always respond in a proactive and positive way.

Q237 **Dr Rupa Huq:** When we had Margaret Beckett in your place the other day, she was saying it just looks like the Government will not call a vote if they feel they cannot win.

Andrea Leadsom: No, as you will know there is no obligation on Members of Parliament to vote. It is clearly set out in Standing Orders that Members of Parliament do not have to vote and the Government will take a view on a case-by-case basis and individual MPs will do likewise. There is no rule about when votes take place or do not take place but what is very important is that, when the House expresses a view, Ministers are listening to it and are coming back with how they intend to respond to it.

Q238 **Dr Rupa Huq:** Lastly, is there space for a proper scrutiny or indeed political point scoring within parties as well as between them? We have some big, strong parties in this country.

Andrea Leadsom: I think scrutiny is always of value. It is vital in a democracy that all views are heard and if your question is when parties disagree within themselves, then of course that is also incredibly important. What I would say about all Members of Parliament is that they come to this place because they have strong views and they want to do



HOUSE OF COMMONS

the best thing for their country and their constituents. It is right that Members should express those strong views. It is also right that the Government are held to account by Parliament, and that is something that as Leader of the Commons I always try to facilitate.

Q239 Ronnie Cowan: To pick up on something you said, you said that Westminster Hall debates, Backbench business debates and Adjournment debates were opportunities to hold Government to scrutiny. Do you honestly believe that?

Andrea Leadsom: I really do, yes. I must say when I was a Back Bencher I used to find that those means of raising very important issues with a Minister sitting there hearing you is often incredibly important, particularly for example an Adjournment debate, and we have a number of those on particular specialised drugs, for example, where there is rarely the opportunity in a more general or broader debate to have a Minister focused on this particular issue for this particular group of sufferers who would benefit from a particular drug. Yes, all of those debates are incredibly valuable to give Ministers more knowledge about the issue in question and of course to encourage their civil servants to go away and research that particular issue. Very often there is action that results from that. I would absolutely uphold the importance of all debates in this place, genuine debates.

Q240 Ronnie Cowan: There is an importance for them but from my point of view, I have been to those events and what I see is a Government Minister turning up with a pre-prepared statement, not listening to anything in the debate and not answering any questions. From my point of view it is good for the media, it is good to put it on the record, but I certainly do not feel that the Government are taking on— you mentioned the drugs debate. I took part in one in Westminster Hall a couple of weeks ago—five straight questions to the Minister and not one straight answer.

Andrea Leadsom: All I can say is that they are incredibly valuable debates. If you think about it, if you are sitting there as a Minister, whether it is for half an hour or 90 minutes, you are listening to the views that are being expressed. Even if obviously you do have a prepared response to set out Government policy and so on, nevertheless you are learning, you are taking on board new facts and information. You might disagree with it, but on the other hand you might agree with it. It is a fantastic way of raising specific concerns and specific issues directly with Ministers. I would absolutely stand up for the importance of those debates.

Ronnie Cowan: I would like to think you are right.

Q241 Mr David Jones: A brief point. I raised with you earlier, Ms Leadsom, the issue of the so-called new convention, and you seemed to take issue with me on that. In a written answer of 1 November to a question from Angela Rayner you said, "I confirm that the new convention I announced



HOUSE OF COMMONS

in the House on 26 October will apply retrospectively to resolutions of the House passed on Opposition Days earlier this session". You did describe this as a convention. Just for the sake of clarity and the record, is it the case now that you acknowledge that it is not in parliamentary terms a convention?

Andrea Leadsom: What I would say is that I agree with you that a convention is something that is used and accepted over time, so if that wording was misleading, then I apologise for that. Certainly I agree that as a matter of fact a convention is something that comes into use over a period of time. This is in response to a request for the Government to provide a very clear reply to those resolutions of the House that are made where they are calling on the Government to do something and the Government need to respond. It is a convention in the sense of that is what the Government intend to do under those circumstances, but it is not a convention in the sense that you mean it to be, which is parliamentary conventions that are built up over time.

Q242 **Mr David Jones:** Or that is generally understood?

Andrea Leadsom: I will entirely accept your wisdom on the subject.

Q243 **Chair:** Is this new convention now in the Cabinet manual, then—that Ministers must respond to motions passed by the House within 12 weeks?

Andrea Leadsom: It is in a written ministerial statement that that must be the case, and certainly all Departments are agreed that that is how they will respond and my office keeps a record of responses and chases Departments if they are reaching the end of that period. It is the case that all Departments have agreed to provide that feedback to Parliament.

Q244 **Chair:** On this point, in respect of Select Committee reports and the time limit to respond to Select Committee reports it is in the Cabinet manual, so what steps do you think should be taken to make sure that it is put in the Cabinet manual if this is to be taken seriously?

Andrea Leadsom: I am afraid I cannot answer the question as to whether it is in the Cabinet manual. What I can tell you is that all Whitehall Departments are agreed to provide that response within 12 weeks. I can certainly write to the Committee and confirm whether it is or is not in the Cabinet manual and an opinion on whether it should be.

Chair: That would be very helpful, thank you.

Q245 **Dr Rupa Huq:** In the same way, can conventions erode over time? Some would argue that the convention of collective responsibility looks like it is softening in some way, but we have an unwritten constitution. I wonder what you think of that.

Andrea Leadsom: I think that procedures in this place do change over time and I do not want to get into a big argument about what a convention is, because you are obviously trying to lead me down one path. I will say that this place changes over time and in response to



HOUSE OF COMMONS

different scenarios, as we have seen in recent weeks and months. That is appropriate for a Parliament without a written constitution. We are in charge of our own procedures, and so from time to time Parliament does change those procedures. It is right that we should have the flexibility to be able to do so.

Q246 Ronnie Cowan: The Government Departments have conventions that they must respond. Conventions in this place get cast aside on a fairly regular basis, because a convention is a convention. It is not the law.

Andrea Leadsom: I think I have answered the question on conventions. I have agreed that a convention is where something becomes common practice over a period of time and so that is the case with a convention. Parliament sets great store by conventions.

Q247 Ronnie Cowan: It did not with the Sewel convention.

Andrea Leadsom: The Sewel convention is a convention that has grown up over time and has been accepted by all parties. Are you saying that it is not a convention?

Q248 Ronnie Cowan: It does not have to be adhered to.

Andrea Leadsom: A convention is a normal accepted practice that builds up over time. I am not advocating anything about the response to resolutions of the House on Opposition Day motions other than the fact that, as I set out in a WMS, the Government will respond within 12 weeks to resolutions that are passed by the House.

Q249 Mr Marcus Fysh: Can I ask about motions of return, which are an archaic form of convention or procedure that has come back into flavour recently? I wonder if you can explain for the viewers at home what the nature of that is, first off, and if you can give any examples of the circumstances in which they were used prior to the modern age. I have heard it was the 19th century, but I have never been told of the circumstances—what happened in the 19th century that needed this convention.

Andrea Leadsom: We are obviously on the same wavelength, because I asked exactly the same question of my officials: if it has not been used for a long time, when was the last time it was used? This is the humble address, in cases other than to congratulate Her Majesty. For example last week I had the pleasure of going with the Prime Minister and Opposition leaders and the Speakers of both Houses to present a humble address to His Royal Highness, who is celebrating his 70th birthday. That is the sort of use of a humble address in the modern day.

However, the last time it was believed to have been used for a return, as you describe it, was in 1866 by John Stuart Mill, as part of a campaign to extend the electoral franchise to women, which is quite topical in this hundredth year of women's vote. John Stuart Mill moved an address for, "A return of the number of freeholders, householders and others in



HOUSE OF COMMONS

England and Wales who fulfilling the conditions of property or rent or prescribed by law as the qualification for the electoral franchise are excluded from the franchise by reason of their sex". What he was trying to establish there was that men with property were allowed to vote but women with property were not allowed to vote. That was a specific request for a return and it says here, "The Government of the day accepted the motion but may not have provided the information specifically requested", and that was believed to be the last time it was used for that purpose.

Q250 Mr Marcus Fysh: Thank you for that. Can you say a bit more about it in the modern day? Why has the Government firstly been happy to comply with those sorts of motions that have been passed on Opposition Days when it has ignored other Opposition Day motions, and what are the limits of the type of information that the Government will or will not divulge?

Andrea Leadsom: It is absolutely right to say that a motion for a return is binding on the Government, however in responding to such motions the Government has to strike a balance between seeking to provide Parliament with the information that Parliament is looking for but also avoiding disclosing it in such a way that damages the national interest. That could, for example, include putting personal data or national security at risk or could breach important established conventions or legislation. The challenge is to meet the demand of Parliament that is binding while at the same time not resulting in breaking the law or going against very clearly established conventions.

Q251 Mr Marcus Fysh: In the context of the two that have been allowed to stand and become effective—the request earlier in the year for information as to the economic evidence on which decisions were being made in the Brexit Department and latterly the legal advice that has been provided to Cabinet, both of which are very important political pieces of evidence—can you say a bit more about whether there would be any type of papers or advice that the Government would refuse to provide? It seems to me that those are pretty key things.

Andrea Leadsom: I think the key point here is that the request for return, the humble address, is very important and it is absolutely right that Members on all sides have a right to understand further information when they require to do so. At the same time, for example, there is a very strong constitutional convention that the opinions of Law Officers should remain confidential. We also have explicit exemptions in the Freedom of Information Act for opinions provided by civil servants, so that they then are not finding themselves in a position where they worry that, in giving their best advice to Ministers, it could somehow end up in the public domain.

There are issues around the content of information that is made public because of the implication for future clear and free speaking and advice to be given, but there are also issues around the level of publicity that



that information receives. You will recall that the first time the humble address was used, information was requested to be made available, if I recall, either to MPs or it was on Privy Council terms. Now, of course the latest humble address is seeking a huge amount of information and confidential advice to be made public. Those are very clearly difficult squares to circle, difficult things to come into alignment with. It is very important to abide by the motion, but at the same time to defend longstanding constitutional and legal requirements.

Q252 Mr Marcus Fysh: In terms of making the judgment about whether it is the right thing to obey a binding motion of that kind, you have just described how legal advice in Cabinet, for example, should be protected in order to preserve its quality over time, but why are we not saying that this humble address system is not something that should be reformed for the modern age? Clearly it is an archaism that has not been very well thought through in terms of the balance between Parliament and the rights of Parliament and the rights or the need for the Executive to have decision-making space.

Andrea Leadsom: What I can say is that there is specifically advice being taken by Government on how to ensure that the opinions of Law Officers can be protected. Of course for Government to receive opinions from Law Officers is absolutely key and if Law Officers feel that that will then need to be made publicly available that will constrain their ability to provide sound advice. Likewise, where there are very contested policy matters being discussed, civil servants will struggle to provide clear and frank advice if they feel that those opinions will somehow end up on the front pages of the newspapers.

There is clearly a balance to be struck here, and the Government are looking at where the balance should lie, and I am sure that the Committee will have its own views. This is absolutely vital for the good working of Government—that Ministers can be given frank advice. At the same time, it is also important that Government respond, particularly to a humble address that is being put forward in this way. It is that careful balance to be struck and it is for Government to decide how best to strike that balance.

Q253 Mr Marcus Fysh: Lastly, the economic advice that was provided in the first one I think raised as many questions for professionals in the economics sphere as it answered in terms of the full models and the ways in which the assumptions within that economic evidence had been applied within that model. There have been more recent requests of the Treasury to provide more of that evidence. Do you feel that it would be appropriate for those full models to be put into the public sphere, so that they can be properly peer assessed, given how important and how critical a factor that has been in the Government's entire approach over the last nine months?

Andrea Leadsom: No.



HOUSE OF COMMONS

Q254 **Chair:** It is not germane to the inquiry, but I will invite you to give a response.

Andrea Leadsom: The response that I was going to give is that it is not really a matter for the Leader of the Commons to say what evidence should be provided. Really, I am just here to talk about the conventions and to reiterate that Government will give as much information as possible to Parliament to be able to form their views. On the other hand, it is important to respect the ability of civil servants, Law Officers and others to provide frank and open advice to Ministers without feeling that tomorrow it is going to be in the press. That is a genuine dilemma and it is something that I hope this Committee will have strong views on.

Q255 **Chair:** I think it has been a very interesting set of exchanges, because clearly if this convention is used willy-nilly, it will lose its currency and that would be bad for Parliament. On the other hand, as you have said, there is no clarity about what should be subject to a humble address and what would be going too far. You said, "This is a matter for the Government". Can I suggest that it would be a good matter for the Government to set out in writing so that there is clarity and it would be good to seek a consensus across Parliament about what is appropriate for a humble address to request and where the limits lie?

Andrea Leadsom: I must slightly correct you. I was not saying it is for Government to decide on the appropriate use of a humble address. What I was saying is that it is for Government to decide how to respond and to balance the need to provide a direct response to such a motion while at the same time defending, as I have already explained, the ability of Law Officers and civil servants to give frank advice. It is for Government to decide how to respond, but bearing in mind those conflicting—

Q256 **Chair:** It sounds as if the Government are going to make it up as they go along and do what is convenient for them, or it will be a political tussle.

Andrea Leadsom: No, not at all, Chairman. As you will know, it is for the House to then decide whether that is adequate, so Government will absolutely respond and Government accepts the obligation to respond. I am merely pointing out that there are certain legal as well as longstanding constitutional conventions that require that Government are very careful not to undermine these longstanding legal and constitutional conventions while fully responding. I would have to strongly disagree that the Government would in any sense attempt to decide on a case-by-case basis. It is a fact that the Government must respond to the humble address and that the Government will seek to do that by not wherever possible undermining either the law or longstanding constitutional conventions that undermine the ability of Government to function properly.

Just to remind all colleagues here, the Freedom of Information Act went to great efforts to ensure that the ability of civil servants and Law Officers to continue to freely and frankly advise Ministers was upheld. What the



HOUSE OF COMMONS

current use of the humble address risks doing is undermining the protections under that Freedom of Information Act by cutting across it.

Q257 **Chair:** A very constructive suggestion you seem to be making is that there should be some parity between what a humble address is allowed to demand and the framework provided by the Freedom of Information Act. On the other hand we could not have the Information Commissioner adjudicating on what a resolution of the House means. What do you think is going to be a better way of resolving what you yourself describe as a dilemma?

Andrea Leadsom: As I have mentioned the CDL is taking advice on what can or could be considered in order to protect the advice of Law Officers from becoming undermined by virtue of being called for at will. That work is underway now, but nevertheless, as CDL said last week, "The Government will absolutely abide by the terms of the humble address in making available to all Members of the House a full and reasoned position statement laying out the Government's legal position on the withdrawal agreement. Furthermore that the Attorney General will assist further by making an oral statement and taking questions from Members of the House in the normal way," abiding by the commitment that we have always made, which is that Parliament will have all the information it needs ahead of the vote on the final treaty agreement.

Q258 **Chair:** By CDL, of course, you mean the Chancellor of the Duchy of Lancaster, Mr Lidington?

Andrea Leadsom: Yes, exactly.

Q259 **Chair:** It would seem to me that if that thinking is going on, the Government should set it out in writing as a proposal for the House to consider accepting.

Andrea Leadsom: Again as you will appreciate, Chairman, it was last week that this issue became very live and the Chancellor of the Duchy of Lancaster, Mr Lidington, will be taking advice on that over the next few weeks.

Q260 **Chair:** So it is a bit premature to make that commitment?

Andrea Leadsom: Yes.

Chair: Okay, but I think you can see the direction of our thinking. Thank you very much.

Q261 **Dame Cheryl Gillan:** Just before I get on to my series of questions, just to clarify in my mind, the most authoritative work on procedure and constitutional conventions is of course our own "Erskine May" which has not been updated since 2011, but started back in 1844. Does your office play any part in recommending to "Erskine May" or putting up for consideration to "Erskine May" those aspects that you are describing now as a convention, or in fact is what you are describing really regular practice?



Andrea Leadsom: With regards to the issue of the use of the humble address, as I have just explained we are taking some advice on what could be possible ways forward to ensure that advice provided by Law Officers or indeed opinions of Law Officers can be protected from just becoming publicly available. That is very early days, however on the more general point it would be for Select Committees of this House as they often do, the Procedure Committee, this Committee, to make proposals on recommendations that they would like to see taken forward and I, as Leader of the House, will always be keen to hear from Committees who have views on what changes are necessary. Of course I also, as Leader of the Commons, can bring forward motions to make changes if those seem to be necessary.

Yes, this Committee, the Procedure Committee, other Committees, can consider proposed changes and make recommendations that can be brought forward.

Q262 **Dame Cheryl Gillan:** Does your office interact at all with “Erskine May”?

Andrea Leadsom: My office has a number of senior parliamentary advisers who come forward with their close contact and knowledge of “Erskine May” as it is now and make recommendations for change when we are looking for advice on how we might be able to facilitate a particular change. We are constantly discussing measures that we might like to introduce or consider—for example, on baby leave, or whatever it might be—but I would not say that we sit next door or have an official kind of review mechanism that is set out in convention.

Q263 **Dame Cheryl Gillan:** It would seem that when it is in “Erskine May” it is a convention and I just wondered if perhaps you could take away from this Committee, I would like to know what the critical path is from getting something that is a regular practice considered for inclusion in “Erskine May” to change what goes on. My main body of questions is on confidence motions and the Fixed-term Parliaments Act.

As you fully appreciate, there is a controversy about whether it is now possible to have a confidence motion expressed outside the terms of the Fixed-term Parliaments Act of 2011. What is the Government’s view on this controversy?

Andrea Leadsom: The Act has changed constitutional practice, so it has replaced previous conventions and it has codified how motions of no confidence operate in future. That is the case.

Q264 **Dame Cheryl Gillan:** Would it be possible, then, for the Government to make a vote on a substantive issue, such as a motion under section 13 of the EU withdrawal Act a matter of confidence?

Andrea Leadsom: It is only the case that a no confidence motion can be considered as having statutory effect if it is brought forward under the Fixed-term Parliaments Act.



HOUSE OF COMMONS

Q265 **Dame Cheryl Gillan:** Okay, but the Act itself is silent on the wider constitutional convention of the House that the Government needs to maintain their confidence. How does that square?

Andrea Leadsom: As things stand the Government have the confidence of the House. If anybody wanted to dispute that, then they would need to test that motion under the terms of the Act, not under any other terms.

Q266 **Dame Cheryl Gillan:** Okay, so if there was a motion on a piece of legislation that was deemed to be an act of confidence, that would have no effect whatsoever? It has to be a motion of confidence specifically under the fixed terms of the Act?

Andrea Leadsom: To have statutory effect, yes.

Dame Cheryl Gillan: Okay, that is very clear.

Q267 **Mr David Jones:** Yes. Pursuing the Fixed-term Parliaments Act it has been suggested that it might be possible for a Government to game the Act, if it was unable to get a motion through under section 2(1) with the requisite majority, simply by tabling a motion of no confidence in itself and then allowing the 14 days to elapse after presumably winning with an overall majority.

We heard from Mark Harper, who was the Minister who took the legislation through the House, that his view had been at Committee stage that such an approach would be unconstitutional and he told us again in evidence that he stood by that view. What is your view about that?

Andrea Leadsom: My view is that, as I have already said, the only way to bring forward a no confidence motion that has statutory effect is under the terms of the Fixed-term Parliaments Act. If such a motion is passed, that this House has no confidence in the Government, then it is a matter for Her Majesty's Government to win a confidence motion in the Government within 14 calendar days. That is very clearly set out in the Act and I would not speculate on what else could be done within that.

Q268 **Mr David Jones:** Theoretically, it would be possible therefore for a Government to table a motion of no confidence in themselves under section 2(3) and, as I say, allow the 14 days to elapse without a motion of confidence. What is your view about Mr Harper's opinion that to do such a thing would be unconstitutional? Would you regard it as unconstitutional?

Andrea Leadsom: I would not express a view on Mr Harper's opinion. What I would say is that the terms of the Act are very clear and so to have statutory effect it is the case that a no confidence motion brought under the terms of the Act has statutory effect and that a no confidence motion in any other terms would not therefore have statutory effect, so it might have political effect but it would not have statutory effect. It is only a no confidence motion under the terms of the Act.

Q269 **Mr David Jones:** Yes, I appreciate that. It is just that Mr Harper took the



HOUSE OF COMMONS

view that to game the process, to abuse the process, would be unconstitutional. Would you not regard such an action on the part of the Government to be an abuse of the process?

Andrea Leadsom: What I would say there is that this Act is binding on all and therefore any no confidence motion under that Act would be constitutional by definition, because it is part of a legally binding Act of Parliament. I would say that any no confidence motion under the Fixed-term Parliaments Act by definition has statutory effect and is therefore constitutional.

Q270 **Mr David Jones:** Would you agree that there would be political consequences, in that the optics would be rather odd, of a Government passing a vote of no confidence in themselves?

Andrea Leadsom: I think that there could be all sorts of political ramifications, as indeed there could of all manner of confidence motions, but in terms of the statutory consequences it would only be under the Fixed-term Parliaments Act.

Q271 **Dr Rupa Huq:** These are all hypothetical questions that have strange relevance now, but my question is, if the Government lost a vote of no confidence tabled under the Fixed-term Parliaments Act and it was clear that the Opposition could form an alternative Government, would the Prime Minister be under a duty to resign rather than wait 14 days to trigger an early election?

Andrea Leadsom: Under the Fixed-term Parliaments Act, the Government, if they have lost a no confidence motion, would have 14 calendar days in which to pass a confidence in the Government motion. If they fail to do that, that then leads to a general election. You are speculating on a very complex alternative, but the fact is that it is for a confidence motion in Her Majesty's Government within 14 days and you will appreciate that Her Majesty's Government in spite of having lost a no confidence vote would still be Her Majesty's Government at that point.

Q272 **Chair:** The role of Leader of the House is a very special one. Your predecessor, Herbert Morrison, described the Leader of the House as having, "A general responsibility to ensure that business arrangements have regard to what is right and proper in the interests of the House as a whole". What does that mean in practical terms that puts you beyond just being a Member of the Cabinet?

Andrea Leadsom: I would say I take very seriously the responsibility to be Parliament's voice in Government as well as Government's voice in Parliament. What that means, for example, is that when colleagues come to talk to me about things like their own Private Member's Bill, or scheduling for a Backbench debate that they are very keen to see, or indeed the issue of baby leave, some of the things that have been proposed to me, even the Women MPs of the World Conference that we had during the short recess just now—all of these things are areas where I feel I am absolutely able to support colleagues from right across the



HOUSE OF COMMONS

House to make progress with things that particularly interest them. I take that very seriously. I do genuinely believe that my role is of course to be a part of the Government supporting what the Government are doing, but also to enable Back-Bench colleagues right across the House to be able to do their job and to be properly representing their own constituents.

Q273 **Chair:** It is a kind of bipartisan, cross-party role.

Andrea Leadsom: Exactly a cross-party role, very much so.

Q274 **Chair:** Of course, those are very relevant and important matters. Does that sometimes conflict with your role as a Government Minister, as a spokesperson for the Government?

Andrea Leadsom: Not on the whole. There can be frustrations when I know a particular Back Bencher is really keen to get a debate on a particular topic and I am aware that the Government have to progress with a particular Bill or a particular alternative. I can feel quite conflicted there, because I am trying to help Back Benchers at the same time as fulfilling the role of Government, but not in a fundamental sense, no. I think it is generally just the desire to please too many people and obviously you cannot always do that.

Q275 **Chair:** In the event that the Government were to lose a vote of confidence, and we will assume a statutory vote of confidence, how would that alter what your obligations are, given that the Government themselves have lost confidence in the House but you are still Leader of the House? What do you think that would do to your role?

Andrea Leadsom: I would remain as Leader of the Commons, all things being equal, and it would be for the Government to pass a confidence in Her Majesty's Government vote within 14 calendar days. If you are asking me whether they then did not, then we would be in general election territory, so there I would again still be Leader of the Commons.

Q276 **Chair:** But during that 14-day period the authority of the Government to command the business of the House has been severely impaired and yet you are the Leader of the House. How would that affect how you would advise this caretaker Government, which is what they are for that period, even if their mandate is renewed at the end of 14 days? How would you see your role in advising the Government about the conduct of business during that period?

Andrea Leadsom: I think, as it is now, my approach to being Leader of the Commons is to try to be very inclusive to all views, to listen respectfully to views across the House and to see people privately and indeed in the Chamber at Business Questions, during other motions, to listen respectfully to their views and to try to come up with sensible, logical and defensible answers. When I feel that we can make progress that is in support of a Back Bencher, whichever party they are from, to try to progress that in Government. I do not think that would change during a 14-day period.



HOUSE OF COMMONS

Q277 **Chair:** What would change is that the Government as a whole would no longer command confidence. How would you make sure that you commanded confidence personally in that role as leader during that period?

Andrea Leadsom: As I have said, by doing what I always do, which is listen respectfully to views—

Q278 **Chair:** But you are suggesting that nothing would change very much.

Andrea Leadsom: During that 14-day period.

Q279 **Chair:** But I am making a suggestion that the chemistry of the place would be very different during that period and that you would perhaps have a different role.

Andrea Leadsom: I am not sure if it would be a different role. I see where you are going, in the sense that if it were more confrontational, perhaps—

Chair: Rather likely, under the circumstances.

Andrea Leadsom: My role might be to try to spend time with individuals and to try to accommodate views, but I think it would be potentially even busier than it is now, as opposed to entirely different. I do not really see what you are getting at in the sense of it being a different world.

Q280 **Chair:** How much do you think it would be an expectation that business during that period would have to be conducted on the basis of consensus between the main parties instead of the usual timetable motions or dictating business or whatever? The Government have lost their authority at that point.

Andrea Leadsom: We are talking about a very short period of time. You may well have a point, but that would not be a matter for me specifically. It is for the Government to propose legislation. I announce the business on a Thursday. I always try to accommodate Opposition requests and Backbench requests as it is, and indeed popular requests from Back Benchers for particular debates, for example, on the centenary of the armistice or on International Women's Day. There are various particular requests that I am keen to fulfil. That of course continues.

In terms of the Government tabling business, it would entirely depend on the circumstances: if there was urgent legislation that was about to be finalised, if there was something that would be extremely controversial to be brought forward that might be avoidable. I just cannot speculate on what the circumstances would throw up, but all I can say is that I think the role of Leader is very much one to perhaps be less partisan than most other Ministers because of the unique role of being Parliament's spokesperson in Government. I would expect that I would be doing quite a lot of speaking up for Parliament during such a period.

Q281 **Chair:** All I can say is that Harold Wilson said, "A week is a long time in



HOUSE OF COMMONS

politics". I imagine 14 days of a Government without the confidence of the House would seem to be a very, very long time indeed, during which a great deal could happen.

Andrea Leadsom: Do you yourself, Chairman, have a view on how the role would change? Is there something that you have in your mind that would be very different?

Q282 **Chair:** I think it would be rather like the wrap-up of parliamentary business before a general election. There would have to be plenty of horse trading and mutual understanding about what is permissible for the Government to obtain and what would be too confrontational. In that respect, your role would be to act as a go-between between the House and Government far more than perhaps in the normal course of business, though in a coalition or a maintenance and supply arrangement maybe you are playing much of that role already, which is why it does not seem too unusual to you.

Do you want to comment on what I have just said?

Andrea Leadsom: We are just agreeing, really. As I say, I suspect it would be even busier than usual, but nevertheless the function is to be both Parliament's spokesman in Government and vice versa. It would probably intensify. That is true. Of course, if the Government failed to pass a confidence motion within 14 days, we would be in general election territory, so the wash-up that you describe would then be live.

Q283 **Chair:** Looking at other confidence situations outside the statutory framework, what advice would you give the House in the event that the Government declared a matter to be a vote of confidence, to be treated as a confidence vote? If there was a prospect of losing that vote, would you advise that the consequences would be that the Prime Minister would have to resign, or that Government would have to treat it as a matter of confidence anyway, or that the relevant Minister would have to resign, or is this of no consequence whatever anymore because we have the statutory motion and the confidence attached to other matters is now of no consequence at all?

Andrea Leadsom: As a technical matter, the latter is the case.

Q284 **Chair:** Legally speaking, yes.

Andrea Leadsom: From a statutory point of view, it only matters if a no confidence motion is passed under the terms of the Fixed-term Parliaments Act.

Q285 **Chair:** Correct, but I am asking you—

Andrea Leadsom: I am not going to speculate on who I think should resign in the event that somebody else decides to have a no confidence motion for some other reason. How can I possibly speculate on that?

Q286 **Chair:** I ask you this question because the last Government, the coalition Government, passed this new Act, and they asserted that other motions



HOUSE OF COMMONS

of confidence would not be affected, and we have had academic advice that the confidence issue can still be attached to a measure, or even the loss of the Budget would amount to a vote of confidence, or a vote on the Queen's Speech would amount to a loss of a vote of confidence, and that there would be constitutional consequences for that. The Government are now insisting that that is not the case.

Andrea Leadsom: I can only inform the Committee that the statutory effect of a no confidence motion is only felt if it is under the terms of the Fixed-term Parliaments Act. As I said earlier, there may be political consequences.

Q287 **Chair:** Yes, I appreciate that, but that is an elliptical comment. Are you saying, therefore, that what did constitute a vote of confidence before the statute now no longer has any effect? It did under convention before, and you are saying those conventions have now been overtaken by statute.

Andrea Leadsom: Yes, that is what I am saying.

Q288 **Chair:** That is very clear. If the Opposition put down a motion to reduce the Chancellor's salary by £100, that was the old-fashioned way of doing it. The modern way might be to say, "This House has no confidence in the Chancellor of the Exchequer"—nothing personal, mind. That would have no effect? He would carry on?

Andrea Leadsom: It would not have a statutory effect under the Fixed-term Parliaments Act.

Q289 **Chair:** If a Minister personally lost the confidence of the House, that would be a matter for the Government to decide what to do? It would have no effect?

Andrea Leadsom: It would have no statutory effect.

Q290 **Chair:** No statutory effect, but previously—

Andrea Leadsom: Chairman, you know as well as I do that there can be political effects. People resign, as we have seen.

Q291 **Chair:** Before the Fixed-term Parliaments Act, there would have been no question but that the Minister would have to resign, but you are saying that is not the case anymore?

Andrea Leadsom: I am not sure. Did you say that back-to-front? Just to be very clear, a motion of no confidence will only—

Q292 **Chair:** In a Minister.

Andrea Leadsom: A motion of no confidence in the Government under the Fixed-term Parliaments Act—

Q293 **Chair:** You have said that many times, but a motion of—

Andrea Leadsom: Yes, that is the point. You are inviting me to talk about other things, and I am telling you that they do not have statutory



HOUSE OF COMMONS

effect, and I am not going to speculate on who might have to resign if the House resolved that it had no confidence in an individual.

Q294 **Chair:** You have been loquacious about conventions during this session. It used to be a convention that if a Minister lost the confidence of the House in an explicit motion, the Minister would resign. You are saying you do not know what would happen now?

Andrea Leadsom: No. I am saying that under the Fixed-term Parliaments Act, a motion of no confidence will have statutory effect, and no other motion of no confidence will have statutory effect.

Q295 **Mr David Jones:** This is not something that we can berate you for personally, Mrs Leadsom, but in its response to the report of the Political and Constitutional Reform Committee in November 2010 the Government said explicitly that the procedure under the Fixed-term Parliaments Act, or Bill as it then was, would not affect the existing conventions on confidence. You appear to be saying that that is not true—that it is not the case that the then existing conventions on confidence have been swept aside.

Andrea Leadsom: I am not saying anything about the power of the House to bring forward a no confidence motion in any aspect of the House. All I am saying is that a no confidence motion, to have statutory effect, needs to be under the terms of the Fixed-term Parliaments Act, which is different.

Q296 **Mr David Jones:** Which is quite to the contrary of what was said by the Government in their response to the Committee in November 2010.

Andrea Leadsom: Possibly where the difference lies is that it is of course the case that Parliament can always bring forward no confidence motions in individuals or in the Government and so on, and that may well have an effect. I am merely setting out that the statutory effect—the binding effect under the Act—means that that replaces conventions. I am not for a moment saying, if there were a no confidence motion in an individual or in a position or that someone's pay should be cut, that that would have no impact, but it would not be under the Fixed-term Parliaments Act.

Chair: It has been a very interesting session. Thank you very, very much indeed, and we have not kept you more than an hour. Thank you very much.

Andrea Leadsom: Thank you very much. Thanks.