



House of Commons
Public Administration
Select Committee

Propriety and Honours: Interim Findings

Fourth Report of Session 2005–06



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Report and Appendices, together with formal minutes

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The Public Administration Select Committee

The Public Administration Select Committee is appointed by the House of Commons to examine the reports of the Parliamentary Commissioner for Administration, of the Health Service Commissioners for England, Scotland and Wales and of the Parliamentary Ombudsman for Northern Ireland, which are laid before this House, and matters in connection therewith and to consider matters relating to the quality and standards of administration provided by civil service departments, and other matters relating to the civil service.

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Contents

Report	<i>Page</i>
1 Introduction	3
2 Honours and Propriety – a short history	3
3 Recent Developments	4
4 Current Controversies	5
5 The Police Investigation	6
6 Are Political Honours Appropriate?	7
An honourable profession?	7
Political accountability	8
Enhanced scrutiny	10
Peerages	10
Higher honours	11
7 Resignation and Dissolution Honours	12
Resignation honours	12
Dissolution honours	14
8 The House of Lords Appointments Commission	14
9 The Appointments Process	16
Conclusions and recommendations	18
Formal Minutes	21
Witnesses	22
List of Written Evidence	23
Reports from the Public Administration Select Committee	24

1 Introduction

1. In 2004 the Public Administration Select Committee conducted a major inquiry into the honours system.¹ Earlier this year we decided to undertake a further evidence session following up this report with a particular focus on the propriety aspects of the honours system. Allegations that honours were being offered in return for loans to party funds and sponsorship of the Government's city academy schools prompted us to extend this into a substantive inquiry into propriety and honours. On 14 March we announced that, as part of our current inquiry into ethics and standards in public life, the Committee would investigate whether the machinery for the scrutiny of honours and peerages for political service was working.

2. In a separate development, following complaints by a Member of this House, the police began investigating allegations of the sale of honours under the Honours (Prevention of Abuses) Act 1925. We have been meeting privately with representatives of the police and the Crown Prosecution Service and have taken legal advice about the possibility that our inquiry, if conducted wholly in public, might prejudice their investigations. We are grateful to Mr Christopher Sallon QC, for his expert advice to us on this issue.

3. The matters under investigation are central to the political and parliamentary process. They touch on how individuals qualify for membership of the legislature and on how political parties raise funds. Parliament has an interest and a duty in ensuring that these matters are conducted properly. We are looking at the implications for the honours system and the Constitutional Affairs Committee are considering the issue of party funding. After careful consideration, we concluded that we should continue with our inquiry notwithstanding the police investigation, and produce an interim report. We have taken evidence from the Cabinet Secretary and members of the House of Lords Appointments Commission in public and report on the scrutiny of the honours system on the basis of that evidence and other written submissions.

2 Honours and Propriety – a short history

4. Abuse of the honours system on an epic scale is associated historically with David Lloyd George and his agent, Maundy Gregory, the first and, so far, only person to be convicted of selling honours under the Honours (Prevention of Abuses) Act 1925. It was during Lloyd George's premiership, between 1916 and 1922, that 120 hereditary peerages were created and more than 1,500 knighthoods were awarded. However, the sale of honours seems to have pre-dated Lloyd George. Andrew Bonar Law's papers, for instance, reveal that in 1911, his party manager, Arthur Steel-Maitland, had reported that "a year's peerages are hypothecated" and that an income of between £120,000 and £140,000 could be expected by the end of 1913.² Maundy Gregory himself continued to ply his trade until 1933 when he was finally charged and convicted under the 1925 Act.

1 Public Administration Select Committee, Fifth Report of Session 2003-04, *A Matter of Honour: Reforming the Honours System*, HC 212

2 The Bonar Law Papers, House of Lords Records Office.

5. It was Lloyd George's activities which led to a Royal Commission on Honours in 1922. The Royal Commission acknowledged that:

...there is no doubt that there have been for some time, and recently in increasing numbers, persons who, for want of a better name, we may stigmatise as touts, who have been going about asserting that they were in a position to secure honours in return for specified payments.³

6. It sought to deal with this by recommending that a small committee of privy counsellors should scrutinise for propriety persons put forward for honours for political services. A nomination should be accompanied with a citation and a statement from the political party that, "no payment or expectation of payment... was directly or indirectly associated with the recommendation" and with the name of the original proposer. It also recommended legislation penalising anyone attempting to offer or accept an honour in return for a pecuniary payment or other valuable consideration. The Royal Commission's recommendations, in producing the 1925 Act and the Political Honours Scrutiny Committee (PHSC), created the ethical framework which, in essence, still supports the operation of the honours system today.⁴

3 Recent Developments

7. In its fifth report on the funding of political parties in 1998, the Committee on Standards in Public Life (CSPL) identified a potential loophole: non-political honours for service to a sector or charity might not be scrutinised even where the nominee was a contributor to party funds. The report made clear that, "... a person should deserve an honour irrespective of any payments made to a political party or cause".⁵ The CSPL recommended that the PHSC should scrutinise all awards from CBE and above where a nominee had directly or indirectly donated £5,000 or more in the last five years and that it should satisfy itself that the donation made no contribution to the nomination. The PHSC should also monitor the relationship between honours and donations to ensure that an undue preponderance of honours was not conferred on those who had directly or indirectly made donations. The CSPL thought this could be largely achieved through access to the Electoral Commission's register of donations.

8. Our predecessor Committee in the last Parliament comprehensively reviewed the honours system in 2004. Concurrent with our own inquiry, the Government asked Sir Hayden Phillips, then the most senior permanent secretary in Whitehall and latterly responsible for supervising the Prime Minister's honours list on behalf of the Cabinet Secretary, to undertake a separate review. The Government's Response to our report accepted the need for greater transparency in the operation of the honours system but rejected our main conclusion that it should be made explicitly independent by the creation of an honours commission. Instead it amended existing arrangements along the lines

3 *Report of the Royal Commission on Honours*, Cmd. 1789, December 1922, para 21.

4 The PHSC was renamed the Honours Scrutiny Committee in 2002. The original acronym is used throughout for consistency.

5 Fifth Report of the Committee for Standards in Public Life, *The Funding of Political Parties in the United Kingdom*, Cm 4057, October 1998, para 14.30.

recommended by Sir Hayden Phillips, introducing a majority of non-civil service members onto the committees which assess candidates for the Prime Minister's list, and recruiting these through OCPA regulated open competition.

9. Our report did not deal extensively with propriety issues. However, commenting specifically on the appointments to the House of Lords, we noted that, "uncertainties over the status of the peerage continue to be a cause of confusion in the honours system".⁶ We concluded:

... we share the unease expressed by a number of our witnesses at the continued award of honours to donors and others who have rendered political or similar service. There was special concern about the use of honours as the "lubricant of the state", and some scepticism at the claims of those who run the system that it is entirely based on merit. The regular conferral of knighthoods on Members is sometimes viewed, cynically, as a mere tool of political party management.⁷

In light of current events these words were to prove prescient.

4 Current Controversies

10. At the end of 2005, there were suggestions in the media that honours had been awarded improperly. These took the form of two major allegations. The first was that the House of Lords Appointments Commission (hereafter the Appointments Commission) had advised against certain nominees on the latest list of working peers put forward by the Prime Minister. The second was a Sunday Times story alleging that Des Smith, a council member of the Specialist Schools and Academies Trust that helps recruit sponsors for academies, had disclosed that, if a donor gave sufficient money, he could be nominated for an honour.⁸ The media noted that a number of those nominated to the peerage and for other honours were also benefactors of city academy schools.

11. These stories were given a further twist when it was revealed that political parties had been soliciting loans from potential donors, allegedly as a way of circumventing the legal requirement for political parties to declare donations or contributions above £5,000 under the Political Parties Elections and Referendums Act 2000. Four of those lenders also appeared on the nomination list for working peers, three of whom were among those reportedly "blocked" by the Appointments Commission.

12. Faced with these controversies, the Prime Minister announced on 23 March that he would no longer add his own names to the honours list.⁹ However, the system for appointing working peers would remain unchanged pending the second stage of House of Lords reform, with the party leaders continuing to put forward names to the Appointments Commission. The new Leader of the Commons, Rt Hon Jack Straw MP, has been charged with taking second stage Lords reform forward. At the same time Sir Hayden

6 HC (2003-04) 212, para 88

7 *Ibid.*, para 128

8 "Revealed: cash for honours scandal", and "Yes, we would nominate Malcolm", *The Sunday Times*, 15 January 2006

9 HC Deb, 23 March 2006, col 34WS

Phillips, the former Permanent Secretary of the Department for Constitutional Affairs, has been asked to undertake consultations with the political parties with the aim of reaching a consensus on party funding reforms.

13. In the meantime, the new list of working peers was published on 11 April. Those individuals whose names had appeared in the media as having been “blocked” by the Appointments Commission did not appear on it, in some cases having already publicly withdrawn themselves from consideration.

14. We welcome the Prime Minister’s announcement of 23 March that he will no longer add his own names to the twice-yearly honours lists which have already been subject to scrutiny by the independent committees. This decision will help to reinforce the propriety and independence of the system. It is a practice which we trust will be continued by future Prime Ministers.

5 The Police Investigation

15. As we began assembling witnesses for this inquiry in March 2006, the police asked for an urgent meeting. On 27 March we reported to the House that we had agreed to a short pause in our inquiry into Propriety and Honours to allow the police to make progress in their investigation, and report back to us.¹⁰ On 15 May, the police and Crown Prosecution Service (CPS) updated us, in private, on the progress of their investigations. The police and CPS invited us to delay our inquiry once again. They suggested that not only might Committee hearings prejudice any eventual trial, the Committee’s inquiry could potentially undermine the current investigations being carried out by the police.

16. We made it clear to the police that our inquiry does not cover the same ground, or serve the same purpose, as theirs, although inevitably there is some overlap in witnesses. The police wish to discover whether there have been breaches of the law, in particular, we understand, of the Honours (Prevention of Abuses) Act 1925 and the Political Parties, Elections and Referendums Act 2000. Our concern is whether the current arrangements for ensuring the integrity of the honours system are both robust and fair.

17. The police and CPS consider that our inquiry may prejudice their investigations for a number of reasons, amongst which are that:

- witnesses could be asked to appear before the Committee in a different order from that in which the police wish to interview them and so disturb the order of the investigation;
- witnesses could be prejudiced if questioned without the usual police caution being administered or without access to necessary documentation;
- witnesses could be consciously or unconsciously influenced by the evidence of other witnesses;

¹⁰ Public Administration Select Committee, Third Special Report of Session 2005-06, *Inquiry into the Scrutiny of Political Honours*, HC 1020

- the inquiry would give witnesses an opportunity to rehearse their evidence before appearing in any subsequent trial.

18. The police and CPS identified a further possible danger to any possible trial, should it take place, namely, that publicity generated by the proceedings could result in an abuse of the process of the court and could lead to an application to stay the proceedings.

19. These are serious points, and we reflected carefully before responding to them. We believe it is essential that allegations of criminal activity are properly investigated and, if prosecuted, result in a fair trial. However, these important principles must be balanced against the ability of the House and its Committees to investigate matters of direct concern to Parliament. This inquiry began before any police investigations were contemplated, and concerns matters on which Parliament may be asked to make decisions before any proceedings are concluded. We do not believe that the nature of our inquiry need pose any danger to the investigation or trial process. But we recognise the point made by the police and CPS that there may be a possibility that parts of our inquiry, if conducted in public, could jeopardise the investigation and the integrity of any trial process, not least because of the likely nature of the associated reporting and publicity.

20. It became our intention therefore to proceed in ways which minimised the risks identified by the police while still exploring the policy issues involved. For this reason we announced that we would hear evidence in public from the Cabinet Secretary and members of the House of Lords Appointments Commission and produce an interim report on our findings so far. We would take further evidence and produce a further report in due course.

21. Although the observance of propriety over the award of peerages and honours is overseen by non-statutory bodies, enforced by their own standing and reputation and governed by convention and good practice, the current police investigation is a firm reminder that impropriety can also be subject to the criminal law. In the 19th Century, legislation was introduced to prevent the sale of public offices. The Honours (Prevention of Abuses) Act 1925 extended similar principles to the honours system. There has only ever been one successful prosecution under the 1925 Act. It is too early to explore the legal safeguards and remedies which should govern propriety in this area, and this report does not attempt it, since we do not know what the outcome of the current police investigation may be, nor how the way the 1925 Act is framed may affect that investigation. **We will review the law as it affects public life and corruption as part of a further report, once the police investigation is complete and the lessons from it are available. We have invited the police to contribute to this review.**

6 Are Political Honours Appropriate?

An honourable profession?

22. For Arthur Henderson, a Labour member of the 1922 Royal Commission which first examined this matter, it was clear that it was not proper to reward political service through a patronage system of honours. He observed that, “It cannot be doubted that honours have been conferred upon persons whose chief claim to recognition was Party service, and ...

that the financial exigencies of political parties were in themselves almost a sufficient reason for the conferment of political honours”.¹¹ In his view the abolition of political honours would not in any way diminish either the volume or the quantity of the services given to the community by its citizens.¹²

23. There continue to be different views on the appropriateness of honours being awarded for political service. Active participation in the democratic process is not dishonourable. Indeed it is a key plank of our own foreign policy to foster democracy, party systems and good governance in many countries around the world. It cannot be considered less desirable at home. The challenge is to recognise the value of political participation for civic life, especially by local volunteers, while avoiding the use of the honours system as an instrument of political patronage. However, the risk remains that honours will be mobilised for patronage and the perception is that they have been. In particular there is a belief that large financial supporters of a party or a government programme are rewarded with an honour or peerage for their generosity rather than their worthiness.

24. The evidence is that there has always been a close correlation between party funders and the distribution of honours. In some respects, of course, this may be inevitable since large donors are often wealthy and successful individuals who might be recognised by the honours system for other reasons. It is this which has led to the principle, accepted by the PHSC and subsequently by the Appointments Commission as well as the Committee on Standards in Public Life, that a donation to a political party should not be a bar to being honoured. It should be neither an advantage nor a disadvantage.

Political accountability

25. However, translating this principle into practice is not an easy task. In our view certain improvements to current practices are possible and desirable. First, appointment to the House of Lords, as we suggested in our Honours report, should no longer be considered a part of the honours system.¹³ Sir Gus O’Donnell seemed clear in his own mind about the distinction when he told us that, “As far as I am concerned, I have them [honours and peerages] in two separate areas”.¹⁴ He went on to explain that what is important about peerages is that it is people who can make a contribution that go to the House of Lords. That is why peerages are different from honours, which recognise contributions to society.¹⁵ However, this confusion is present even now in the Appointments Commission itself. Lord Stevenson told us that:

the broad test we work to is to convince ourselves that a given nominee will enhance the House of Lords ... and the workings of the honours system.¹⁶

11 Cmd. 1789, Note of Dissent, p 13

12 *Ibid.*, p 14

13 HC (2003-04) 212 para 88

14 Oral evidence taken before the Public Administration Select Committee on 16 May 2006, HC (2005-06) 884-v,Q 256 [Sir Gus O’Donnell]

15 *Ibid.*, Q 258

16 Ev 12

26. It is right to give recognition through the honours system to political activity as to other walks of life but that should not include enhanced probability of access to the legislature for party donors. As Lord Hurd, a member of the Appointments Commission, observed “There are lots of acts of virtue which do not necessarily lead to the House of Lords”.¹⁷

27. Asked specifically about peerages for sponsors of city academies, Sir Gus O’Donnell thought “... it was perfectly reasonable for a [party leader] to decide they want someone ... who is an expert and knows a lot about education...”.¹⁸ Sir Alistair Graham had reservations. For him the working peers are a “fact of life” appointed by a “conscious and transparent arrangement”. However:

It is slightly different when you get one particular government programme, in this case education, where a small group of people – because they are a relatively small group of people – have the money to make a contribution to an academy and therefore make a position in the House of Lords as a result of that.

He believed that to be corrupt. His remedy was to urge reform of the House of Lords.¹⁹

28. We agree with Sir Alistair on the need to complete the changes already made to the House of Lords. We welcome the fact that the Prime Minister announced on 23 March that second stage reform will once again be taken up, although it is likely that reaching agreement and securing legislation will take some time.

29. There will therefore be further lists of working peers prior to then. It has long been the case that parties reflect their political priorities through their choice of membership of the parliamentary party in the Upper House. The key question is who those individuals should be and how they are selected. Working peers essentially form the respective parliamentary parties in the Second Chamber. All the parties (and not just their leaders) might therefore be expected to have a greater role in the selection and approval of candidates for nomination as party peers, pending completion of the second stage of Lords reform, though this is clearly a matter for the parties. The corollary of such a change, of course, would be that, although the Prime Minister would remain constitutionally responsible for putting the final list forward to the Queen, this would be done without amendment to nominations put forward by the political parties.

30. Making it explicit that nominations to the peerage entail appointment to the legislature rather than the award of an honour would make those nominated to be working peers more like those appointed to be ministers in the Upper House. This would make the credibility of members of a parliamentary party in the Second Chamber the direct responsibility of the parties concerned. It would be consistent with the case put to us that it has always been the convention that parties place supporters of their policies in the Upper House. As a consequence, it should also make the manner in which such nominees are chosen by the party leadership a matter of active interest and responsibility for the party itself. Such a shift would, of course, have to be modulated to

17 Ev 17

18 HC (2005-06) 884-v, Q 299

19 Oral evidence taken before the Public Administration Select Committee on 27 April 2006, HC (2005-06) 884-iv, Qq 228 and 229 [Sir Alistair Graham]

reflect the eventual character of a reformed House of Lords, possibly elected in whole or in part.

Enhanced scrutiny

31. In our original report on the honours system, we recommended the abolition of the PHSC on condition that an independent honours commission would, among other things, take on its responsibility for propriety issues.²⁰ This did not happen. The PHSC was abolished but its responsibility for vetting honours was divided up between the Appointments Commission and the honours committees. This was a retrograde step which diffused consistent application of standards of propriety across separate bodies.

Peerages

32. In its written evidence to us the Appointments Commission noted that in April 2005 the Commission took on the remaining task of the PHSC, the vetting of a small number of individuals on the honours list, but that the Prime Minister had not asked it to take on the scrutiny of political donations made by candidates for higher honours.²¹ This was because of the belief that, with the Electoral Commission's register of donations covering the years since 2001, there was no longer any need for this degree of formal scrutiny.²² The honours committees do, however, take account of the register of donations kept by the Electoral Commission in examining citations for honours. This decision to rely mainly on this register has proved flawed. Events in recent months have shown that it is unequal to the task of providing full reassurance about both nominations to the peerage or the award of honours and declared financial connections with a party. It is also unfortunate that the form sent to those whose name had been put forward specified the information required in a way which did not make it sufficiently clear that all (financial and other) connections to a party were relevant, whether or not they fell within the remit of the Electoral Commission.

33. Lord Stevenson admitted to us that, "There was ambiguity as to what a donation was", leaving the way open for undeclarable loans to be omitted from the certification process for nominations of working peers.²³ Nonetheless he believed that the Appointments Commission should have been told about the undeclared loans made by some of the party nominees for a peerage. He went on to announce that:

our requirements... will be redrafted with a very strong banner saying we would expect to be told about everything and anything that could possibly be thought to affect a peerage.²⁴

34. We recognise that legislation currently going through Parliament will require all loans to be declared. However, as recent events have shown, decisions about the probity of an individual cannot rely safely on the way in which parties have chosen to interpret their

20 HC (2003-04) 212 para 164

21 Ev 27

22 *Ibid.*

23 Ev 18

24 Ev 14

legal obligations to declare their funding streams. Thus, safeguards about propriety in both the appointments process to the House of Lords and awards under the honours system would be more robust if financial or other connections of any description could be thoroughly scrutinised. **We therefore welcome the Appointments Commission's announcement that it intends to make abundantly clear on their forms and other material their absolute requirement to be informed about any financial or other matter which might affect consideration of a nomination for the peerage. Political parties have a duty to follow the spirit, as well as the letter, of the law and ensure that they are open and honest about the information they provide.**

Higher honours

35. We recognise that achieving similar clarity in the honours system is more difficult but, as with peerages, reliance on the register of donations is not enough. There should be a more thorough scrutiny process for those candidates for higher honours who have made political donations or may have other financial connections to Government. The current safeguards need strengthening in line with the Appointments Commission's own enhanced processes. It was put to us, including by the Appointments Commission itself, that, since a candidate does not know that he or she is under consideration for an award, the certification process cannot operate in the same way as for nominations to the peerage.²⁵ In fact, as the Ceremonial Secretariat's written evidence to us shows, candidates for an honour are asked in writing whether they wish to accept their award. It should be possible at that stage to include a declaration form similar to that required by the Appointments Commission from individuals nominated for a peerage or even, if experience shows this is desirable, require such a declaration at an earlier stage in the process.

36. Scrutinising nominations for higher honours to assess the appropriateness of any financial connection or other valuable consideration which may exist between candidates and a political party should go beyond reliance on the Electoral Commission's register of donations even when the legislation is amended to require all loans to be declared. A declaration form, to be signed by the candidate, stating whether or not there are any financial or other connections with a political party which could affect the award of an honour should accompany a "sounding" letter which makes a conditional offer of an award to an individual.

37. It would also be helpful if there was more explicit definition of what constitutes sufficient merit for an award. While contributions to party funds have never been considered a reason to disbar a deserving person from an honour neither have they been considered as according any merit for a person possessed of only some distinction. This formula has worked well enough over the years. However, it seems to us that the ability to make such an assessment has become increasingly complicated by awards made to individuals who also support particular government policies or programmes, especially ones where there is a requirement for financial sponsorship or the taking up of contracts by the private sector to ensure the policy succeeds. Press reports have quoted "senior" Downing Street sources admitting a linkage between support for city academies and the

award of a peerage to ensure political support for this initiative in the House of Lords.²⁶ It is then a fine judgement as to whether awards which include such contributions are entirely for services to education, health or other areas of public life or are more closely connected to party advantage. **We believe that an assessment of whether an individual is of sufficient merit for an award should include not just contributions to party funds but also whether a nominee has contributed to or supported government programmes in a material way. This might include, for example, sponsorship of city academy schools or a contract to supply government services. There may well be good grounds for honouring those who have contributed to government programmes, but the process for the assessment must be transparent.**

38. **Greater transparency in the process would, in our view, also help to allay doubts over certain awards. In our report in 2004 we recommended that citations for all honours should be published. Recent events have only added force to our argument. Once again we would strongly commend this approach, at least for the higher honours.**

39. A remaining consideration is which body would be best placed to undertake this enhanced scrutiny process. Containing former members from and exercising most of the functions of the PHSC, the Appointments Commission would seem well placed to take on the task. However, there is an equally good case for the now revamped honours committees taking on this role. They would be able to assess candidates against the wider field of candidates. **Consideration should be given as to whether the Appointments Commission or the honours committees should undertake this enhanced scrutiny process.**

7 Resignation and Dissolution Honours

Resignation honours

40. In his evidence to us, Lord Stevenson was initially uncertain about the scope the Appointments Commission had over scrutiny of resignation honours lists:

[...]. It is embarrassing for me, because frankly, I think they should. I think it does, actually. I think this will fall under our scrutiny but I am rather embarrassed that I cannot give you complete certainty. I will follow it up afterwards and give you complete certainty.²⁷

41. He wrote to the Committee subsequently and told us as that, “My understanding now is that if there is a Prime Minister's resignation list, we will be asked to vet it”.²⁸ In answer to a Parliamentary Question put down by a member of this Committee, Gordon Prentice MP, asking if he would make it his policy to submit his resignation honours list to the Appointments Commission for scrutiny and approval, the Prime Minister said, “The

26 “No 10 admits link between school donors and peerages”, *The Observer*, 16 April 2006.

27 Ev 21

28 Ev 25

House of Lords Appointments Commission will continue to scrutinise any names put to them as appropriate, in the usual way”.²⁹

42. Resignation honours are, of course, relatively rare and “the usual way” is in fact more of a series of isolated examples than the Prime Minister’s answer would suggest. The PHSC was involved with both Harold Wilson’s and Margaret Thatcher’s resignation honours lists with differing effectiveness.

43. The Government’s internal review of the honours system which this Committee published in November 2003 described the PHSC’s role in the ‘Lavender List’ episode in the following terms:

The biggest public controversy during the Committee’s 77-year history was Harold Wilson’s resignation list of 1976. This episode demonstrated the Committee’s ineffectiveness in the face of a Prime Minister who ignored their comments and objections. All but one of the original names appeared in the published list despite the Committee’s representations that they could not approve of at least half of the list. The Committee was even uncertain of its right to insist that its report be submitted to the Queen.³⁰

44. There seems to have been confusion as to whether a resignation list could be considered as conferring political honours, and to whether it was legitimately a matter for scrutiny by PHSC or just a reward for personal services. The view taken seems to have been that half the names were not ‘political’ and therefore outside the Committee’s remit. Much of this is a matter of public record, set out in the letter Lady Summerskill, the Labour party nominee on the PHSC, wrote to *The Times* on 27 May 1977 where she revealed that the Committee had met to scrutinise Wilson’s list.

45. In contrast it appears that Mrs Thatcher’s resignation honours list was scrutinised by the PHSC with more success. It was alleged at the time that she had proposed, among others, Rupert Murdoch for an honorary knighthood and Jeffery Archer for a peerage, but the PHSC had objected to both names which were duly removed.³¹

46. Since then the PHSC has been merged into the Appointments Commission and the honours committees have been reformed on a basis of greater independent participation. Despite the confusion which seems to mark the extent to which resignation honours lists are “political” and therefore appropriately the subject of scrutiny by the Appointments Commission, it seems to us that the logic of a list in which the Prime Minister is effectively putting forward his own names for honours suggests this should be open to scrutiny in a similar way to any names added by him to the biannual honours lists. **The Prime Minister’s vague assurances and the Appointment’s Commission “understanding” that it will vet any resignation honours list are unnecessarily equivocal. The Appointments Commission is specifically charged with considering names which have not been subject to the normal assessment and selection processes. This body should be clearly and unequivocally responsible for vetting Prime Ministerial resignation honours lists.**

29 HC Deb, 8 June 2006, col 827W

30 www.parliament.uk/documents/upload/JP%204willdoc%20Oversight.doc

31 Adam Raphael, “Honours that carry a whiff of corruption”, *The Observer*, 23 December 1990

Dissolution honours

47. We are concerned that the use of peerages as a means of political patronage can also take subtler forms. Anecdotal evidence suggests that certain Members of Parliament who resign their seats very close to a general election, thus allowing the party leadership greater leeway in selecting a successor candidate, find their way into the House of Lords. Using appointment to the legislature as a means of party management risks undermining the workings and the reputation of the House of Lords which the Appointments Commission is charged to protect. This was a practice over which the Appointments Commission felt they had limited, if any, locus, restricting their scrutiny to matters of propriety rather than suitability with regard to party nominees as working peers. Lord Stevenson told us that:

... as a general proposition, going back – and you are describing someone who I am sure does not exist, some very straightforward, undistinguished, completely honourable MP, but who in your judgement, in this hypothetical state, might not be someone who would contribute a great deal to the House of Lords – having checked that that person passed our propriety tests, that would be it. We do not have a brief to assess people for what I call suitability.³²

48. However, when pressed about the possibility that a seat in the Commons might be exchanged for one in the Lords, he conceded that:

It is reasonable to conjecture that if we found that, in some sense of the word “sold”, someone had sold their seat, it would be reasonable for this Commission to look at that under the propriety test...³³

49. Wider party responsibility over the choice of candidates should also help to overcome concerns over MPs announcing their retirement from the Commons in the immediate run up to a general election and being subsequently ennobled in the dissolution honours list. The impression of peerages being offered as inducements in kind, rather than conferred in the expectation of future participation in the legislature, is damaging. To the extent that it happens, it should stop.

8 The House of Lords Appointments Commission

50. The Royal Commission on the Reform of the House of Lords (the Wakeham Commission) envisaged a powerful role for a House of Lords Appointments Commission, removing the Prime Minister from any role in appointing members of the Second Chamber. The Wakeham Commission’s report recommended a statutory Appointments Commission made up of eight Commissioners: three nominees from the main political parties, one nominee from the Convenor of the Cross Benchers and four independents, one of whom would be the Chairman. The Commissioners were to be appointed by the Queen on an Address of the Second Chamber for a single term and could be removed only

32 Ev 16

33 *Ibid.*

by a Resolution of the Second Chamber. Among other things, the Appointments Commission would have a general duty from the Crown to appoint members of the Upper House and to do so on its own authority. Selection by the Appointments Commission would thus be the sole route into the Second Chamber. The Appointments Commission would also be able to determine the size of the Second Chamber taking account of the workload, levels of attendance and the need for political balance reflecting the share of the votes cast at the preceding election. More controversially this Appointments Commission would not only vet nominations for propriety and security but also appoint people with party affiliations, whether or not they had the support of their political party.³⁴ The Government's White Paper accepted most of the Wakeham Commission's recommendations but rejected the proposal for individual nominations of those with party affiliations.³⁵

51. However, the first stage of House of Lords reform has left interim arrangements which fall well short of the Royal Commission's ambitions and the Government's stated intentions. A House of Lords Appointments Commission was set up by the Prime Minister in May 2000. Its role is to recommend individuals to the Queen for appointment as non-party-political peers and to vet party nominations to peerages for propriety. It is an advisory non-departmental public body sponsored by the Cabinet Office. It is supported by a small office which forms part of the Independent Offices management unit of the Cabinet Office.³⁶

52. There is also a mixed bag of appointment routes to the House of Lords which in addition to bishops, judges, royal personal appointments and the remaining 92 hereditary peers include:

- party (so-called working peers) who are vetted by the Appointments Commission;
- a small number appointed as ministers;
- those individuals put forward in resignation or dissolution honours lists;
- Cross Benchers, in particular the self-nominated, so-called 'people's peers', who are effectively nominated by the Appointments Commission;
- former public servants (10 in any one Parliament) appointed by the Prime Minister.³⁷

53. It had always been envisaged that the Appointments Commission should be a statutory body with wide powers, removing the patronage of the Prime Minister. The current Appointments Commission has a non-statutory, advisory role. Nonetheless, the controversy over the appointment of working peers has shown that it is a watchdog with bite. This would seem an argument for maintaining the current status of this body. However, Lord Hurd told us that, in his view, the appointments process should be settled

34 Royal Commission on the Reform of the House of Lords, *A House for the Future*, Cm 4534, January 2000

35 The Prime Minister, *The House of Lords: Completing the Reform*, Cm 5291, November 2001

36 Ev 25-27

37 So far this Parliament there have been two: Sir Andrew Turnbull and Sir Nigel Crisp.

by Parliament and overseen by a body it has set up and operated through rules it has determined. We agree with his assessment that, “... it would be a happier situation ... if there are going to be appointed members [to the House of Lords that] an appointments commission ... should be set up by statute”.³⁸ In a House of Lords reformed by statute and which may contain an element of appointed members, a non-statutory, advisory body would be inconsistent with an independent nominations process. **The Appointments Commission has shown that it can scrutinise nominations effectively and stand up to pressure from political parties. Nevertheless, its position should be reinforced by defining the Appointments Commission’s role, powers and independence in statute as soon as possible, and certainly as part of any reform of the House of Lords which retains an appointed element of its membership.**

9 The Appointments Process

54. In its written evidence the Appointments Commission described the test it applied when scrutinising nominees for propriety.³⁹ These are firstly that the individual should be of good standing in the community in general and with particular regard to HM Revenue and Customs and other regulatory authorities and secondly be a credible nominee. These appear reasonable criteria. However, as the subsequent paragraphs of the Appointments Commission’s memorandum make apparent, interpreting these two tests requires further definition in turn. It thus goes on to describe additional considerations. Although ensuring the credibility of a nominee is principally for party leaders, the Appointments Commission has a role in assessing whether the nominee would enhance the workings and reputation of the House of Lords and the honours system.

55. The Appointments Commission also acknowledges that “a central concern” in judging the credibility of nominees is whether they have made a significant political donation and whether they have been the subject of controversy.⁴⁰

56. These criteria are essentially value judgements. As Lord Stevenson conceded, “Propriety is in the eyes of the beholder. It is a matter of judgement ...”.⁴¹ Inevitably this therefore raises questions about due process and fairness and the legitimacy and visibility of the criteria on which judgements about the probity of individuals are made. Implicit in the failure of the Appointments Commission to advise in favour of a particular nominee for a peerage is that there are areas of controversy surrounding an individual’s career or that they are judged to lack the skills and experience necessary to make an adequate contribution to the House of Lords. Lord Hurd was candid about the difficulties involved in exercising such judgements and the difficulty of discussing these with the individuals concerned. He thought the process would have to “remain a confidential business. It is actually in everybody’s interest”.⁴²

38 Ev 21

39 Ev 25

40 *Ibid.*

41 Ev 12

42 Ev 15

57. The process is, of course, intended to be totally confidential. The rejection of one individual would therefore be a private matter and should not rebound on their public standing. In fact, as the events of the last few months have shown, a negative opinion by the Appointments Commission does leak. Nor, despite the Appointments Commission's protestation to the contrary, is this unprecedented. Doubts over conditions placed on nominees, for example in relation to residency requirements, have become public before. Having such information become public may damage the reputation of the nominee without any form of redress or any possibility of defence.

58. It is this concern which led Dr Chai Patel to write to and then publish a letter to the Appointments Commission. In his letter he complained that, "At no time have I ever had the opportunity to present the evidence from my standpoint". He claimed that, "There can be no other outcome than that this will seriously affect my ability to continue working within the health and education sector". He concluded that he was now, "...in the position whereby I can neither be offered the opportunity to undertake public service, nor be able to defend my reputation in day-to-day life".⁴³ He was not alone. Mr Barry Townsley in his letter to us explained how he was prompted to withdraw his name from consideration because, "much of the ensuing media coverage, so far as it concerned my family and me, has been grossly offensive, inaccurate and unfair".⁴⁴

59. The Appointments Commission, in its reply to Dr Patel, was sympathetic but could offer scant comfort. Lord Stevenson explained to us that it is not the Commissioners' decision to refuse a nomination, they are merely advisers. He also told us that Prime Ministers have never rejected their advice although he agreed that, in the event of a Prime Minister refusing to accept it, the Commissioners would feel bound to consider their position very carefully.⁴⁵ So in practice the distinction between adviser and decision taker is slight.

60. Although honours systems are inherently subjective, the criteria used should be as explicit as possible. This applies as much to the general honours system as to appointments to the peerage. The criteria should be kept under continuing review. For example, the most recent honours list contained awards to leading business figures who allegedly had taken steps to avoid paying UK taxes, something which might be thought inappropriate for an honours system. It is essential that the criteria for awarding honours, and for not awarding them, above all in relation to propriety matters, are clear and command public support.

61. The Appointments Commission is quite candid about the judgements it is required to make and how it interprets the criteria it has set for itself. However, because these are necessarily value judgements, we believe the Appointments Commission—and those responsible for the general honours system—should consult with the political parties and more widely about the criteria that ought to be applied in assessing propriety and how they should be interpreted. Ultimately decisions about the probity of individual nominees must rest with the Commissioners and the Committees but we believe that wider consultation about the basis on which judgements are made would help to

43 www.press-office.blogspot.com

44 Ev 32

45 Ev 14-15 [Lord Stevenson]

reinforce the legitimacy of the process. It is also important that confidentiality is maintained in relation to individual names.

62. Honours systems enable a society to recognise achievements and service that it values. This is an important role and deserves to be taken seriously. This makes it essential that the system for awarding honours of all kinds commands public confidence. Judgements are inherently subjective, but the criteria used should be as clear as possible and the machinery should be robust and independent. It is particularly important that the integrity of the system should not be compromised by its association with patronage and the reward for partisan favours. Our observations and recommendations are designed to help achieve this.

63. They build upon the recommendations we made following our review of the honours system in 2004. We regret that many were not acted upon, in particular the setting up of an independent honours commission. In view of the controversy which has engulfed the award of peerages and honours, including an unprecedented police investigation, we trust the Government will now want to respond more positively to our recommendations.

Conclusions and recommendations

Political Honours

1. We welcome the Prime Minister's announcement of 23 March that he will no longer add his own names to the twice-yearly honours lists which have already been subject to scrutiny by the independent committees. This decision will help to reinforce the propriety and independence of the system. It is a practice which we trust will be continued by future Prime Ministers. (Paragraph 14)
2. We will review the law as it affects public life and corruption as part of a further report, once the police investigation is complete and the lessons from it are available. We have invited the police to contribute to this review. (Paragraph 21)
3. Making it explicit that nominations to the peerage entail appointment to the legislature rather than the award of an honour would make those nominated to be working peers more like those appointed to be ministers in the Upper House. This would make the credibility of members of a parliamentary party in the Second Chamber the direct responsibility of the parties concerned. It would be consistent with the case put to us that it has always been the convention that parties place supporters of their policies in the Upper House. As a consequence, it should also make the manner in which such nominees are chosen by the party leadership a matter of active interest and responsibility for the party itself. Such a shift would, of course, have to be modulated to reflect the eventual character of a reformed House of Lords, possibly elected in whole or in part. (Paragraph 30)
4. We welcome the Appointments Commission's announcement that it intends to make abundantly clear on their forms and other material their absolute requirement to be informed about any financial or other matter which might affect consideration of a nomination for the peerage. Political parties have a duty to follow the spirit, as well as the letter, of the law and ensure that they are open and honest about the information they provide. (Paragraph 34)

5. Scrutinising nominations for higher honours to assess the appropriateness of any financial connection or other valuable consideration which may exist between candidates and a political party should go beyond reliance on the Electoral Commission's register of donations even when the legislation is amended to require all loans to be declared. A declaration form, to be signed by the candidate, stating whether or not there are any financial or other connections with a political party which could affect the award of an honour should accompany a "sounding" letter which makes a conditional offer of an award to an individual. (Paragraph 36)
6. We believe that an assessment of whether an individual is of sufficient merit for an award should include not just contributions to party funds but also whether a nominee has contributed to or supported government programmes in a material way. This might include, for example, sponsorship of city academy schools or a contract to supply government services. There may well be good grounds for honouring those who have contributed to government programmes, but the process for the assessment must be transparent. (Paragraph 37)
7. Greater transparency in the process would, in our view, also help to allay doubts over certain awards. In our report in 2004 we recommended that citations for all honours should be published. Recent events have only added force to our argument. Once again we would strongly commend this approach, at least for the higher honours. (Paragraph 38)
8. Consideration should be given as to whether the Appointments Commission or the honours committees should undertake this enhanced scrutiny process. (Paragraph 39)
9. The Prime Minister's vague assurances and the Appointment's Commission "understanding" that it will vet any resignation honours list are unnecessarily equivocal. The Appointments Commission is specifically charged with considering names which have not been subject to the normal assessment and selection processes. This body should be clearly and unequivocally responsible for vetting Prime Ministerial resignation honours lists. (Paragraph 46)
10. Wider party responsibility over the choice of candidates should also help to overcome concerns over MPs announcing their retirement from the Commons in the immediate run up to a general election and being subsequently ennobled in the dissolution honours list. The impression of peerages being offered as inducements in kind, rather than conferred in the expectation of future participation in the legislature, is damaging. To the extent that it happens, it should stop. (Paragraph 49)

The House of Lords Appointments Commission

11. The Appointments Commission has shown that it can scrutinise nominations effectively and stand up to pressure from political parties. Nevertheless, its position should be reinforced by defining the Appointments Commission's role, powers and independence in statute as soon as possible, and certainly as part of any reform of the House of Lords which retains an appointed element of its membership. (Paragraph 53)

The Appointments Process

12. The Appointments Commission is quite candid about the judgements it is required to make and how it interprets the criteria it has set for itself. However, because these are necessarily value judgements, we believe the Appointments Commission—and those responsible for the general honours system—should consult with the political parties and more widely about the criteria that ought to be applied in assessing propriety and how they should be interpreted. Ultimately decisions about the probity of individual nominees must rest with the Commissioners and the Committees but we believe that wider consultation about the basis on which judgements are made would help to reinforce the legitimacy of the process. It is also important that confidentiality is maintained in relation to individual names. (Paragraph 61)

Formal Minutes

Thursday 6 July 2006

Members present:

Dr Tony Wright, in the Chair

David Heyes

Kelvin Hopkins

Mr Ian Liddell-Grainger

Julie Morgan

Mr Gordon Prentice

Jenny Willott

Draft Report [*Propriety and Honours: Interim Findings*], proposed by the Chairman, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 63 read and agreed to.

Resolved, That the Report be the Fourth Report of the Committee to the House.

Ordered, That the Chairman make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Several Papers were ordered to be appended to the Report.

Ordered, That the Appendices to the Report be reported to the House.

[Adjourned till Thursday 13 July at 9.45 a.m.]

Witnesses

Monday 15 May 2006

Deputy Assistant Commissioner John Yates QPM, and **Detective Superintendent Graham McNulty**, Metropolitan Police, and **Ms Carmen Dowd**, Head of Special Crime Division, Crown Prosecution Service

Ev 1

Tuesday 16 May 2006

Lord Stevenson of Coddenham CBE, **Rt Hon Lord Hurd of Westwell CH, CBE** and **Mrs Angela Sarkis CBE**, House of Lords Appointments Commission

Ev 12

List of Written Evidence

1	Letter from Lord Stevenson, House of Lords Appointments Commission, to the Chairman of the Committee	Ev 25
2	House of Lords Appointments Commission	Ev 25
3	Richard Heller	Ev 30
4	Letter from Barry Townsley	Ev 32
5	Cabinet Office	Ev 33

Reports from the Public Administration Select Committee

The following reports have been produced during the current session.

Session 2005–06

First Report	A Debt of Honour	HC 735
Second Report	Tax Credits: putting things right	HC 577
Third Report	Legislative and Regulatory Reform Bill	HC 1033
First Special Report	The Attendance of the Prime Minister's Strategy Adviser before the Public Administration Select Committee	HC 690
Second Special Report	Ministerial Accountability and Parliamentary Questions: Government Response to the Committee's Fifth Report	HC 853
Third Special Report	Inquiry into the Scrutiny of Political Honours	HC 1020
Fourth Special Report	Tax Credits: putting things right: Government Response to the Committee's Second Report	HC1076

Oral evidence

Taken before the Public Administration Select Committee

on Monday 15 May 2006

Members present:

Dr Tony Wright, in the Chair

Mr David Burrowes
Paul Flynn
David Heyes
Kelvin Hopkins

Mr Gordon Prentice
Paul Rowen
Grant Shapps
Jenny Willott

Witnesses: **Deputy Assistant Commissioner John Yates QPM, Detective Superintendent Graham McNulty and Ms Carmen Dowd**, Head of Special Crime Division, Crown Prosecution Service, gave evidence.

Q1 Chairman: Let me welcome our witnesses this afternoon. As you know, this is a private session, although we will conduct it in a formal way and it will eventually, in some form, with agreement, be published as part of the report.

Deputy Assistant Commissioner Yates: Right.

Q2 Chairman: This is designed to encourage maximum openness on both sides. We are delighted to see Deputy Assistant Commissioner John Yates again. We saw you six weeks ago on 27 March, I think.

Deputy Assistant Commissioner Yates: That is right, you did.

Q3 Chairman: You are accompanied by Carmen Dowd, who is the Head of the Special Crime Division of the Crown Prosecution Service.

Ms Dowd: That is right.

Q4 Chairman: Thank you very much indeed for coming along. I think, Mr Yates, you want to say something by way of introduction.

Deputy Assistant Commissioner Yates: I do not know whether it would help you if you have an update to tell you where we are? It might take about five minutes if that is okay.

Q5 Chairman: Please.

Deputy Assistant Commissioner Yates: First of all, I am very grateful to the Committee for the earlier decision not to resume your deliberations until I had the opportunity to brief you this afternoon, it has made a great difference and I am very grateful to you for that. I would say significant progress has been made, although there have been some inevitable delays, mainly due to the elections on 4 May when clearly the focus of parties was elsewhere and were not able to help us 100% of their time; I understood that. We have recovered and been provided with a very large amount of documentation from the three major parties. It has taken some time to gather what they consider to be relevant and provide it to us. There are some gaps in the information. We are working very hard with all the parties to see those issues are addressed. It would, of course, be

regrettable from our perspective if we had to resort to any more formal means to gather this material. In any event there is a significant and ongoing task to sift through that material and analyse it for evidential value. I have set the parameters of the inquiry, and these are thus: firstly, the initial focus is the provision of loans to the three main parties and the nomination by parties to the House of Lords Appointment Commission 2005; secondly, the sponsorship of the city academies and nominations for honours which might be associated with such sponsorship. Of course, as ever, these inquiry parameters remain flexible and can be adjusted over time as necessary pending what information we get. At this stage we are considering matters under the Honours (Prevention of Abuse) Act 1925 as well as the Political Parties Election and Referendum Act 2000. Of course, other relevant legislation may come into play depending upon what the inquiries reveal. As no doubt you are aware, there are a number of other bodies and people looking at parallel issues. To reduce the risk of duplication and overlap I have met with some key people, these being the Electoral Commission, the Constitutional Affairs Select Committee as well as Sir Hayden Phillips, who has been commissioned by the Prime Minister, as you are aware, to look at the state funding of parties. All have agreed, and again I am very grateful, that the police should take the lead and undertaken to exercise the utmost caution to ensure that none of their inquiries undermine our investigation. Our investigation is making progress and has already uncovered, in my view, a number of issues which merit further detailed examination. Clearly I will be reluctant to go into the detail of that at the moment due to the obvious evidential and disclosure issues which may arise in the future. You will be aware that a number of witnesses have already been seen and interviewed, a number of individuals have been interviewed under caution. One man has been arrested in connection with a specialist schools academy matter, and he is now under police bail. I did take an initial view, and I think one I expressed to your good selves, that it may have been possible to interview at an early stage witnesses or suspects, those individuals who the Committee have indicated

15 May 2006 Deputy Assistant Commissioner John Yates QPM, Detective Superintendent Graham McNulty and Ms Carmen Dowd

may be of interest to yourselves. The view was that it may have been possible to get an early account from these people and then revisit them if the developing inquiry indicated that would be helpful. This would not be the normal practice but may, of course, have enabled your good selves to resume deliberations at an early stage. As I indicated from the outset we are working closely with the CPS—Carmen and her colleagues—and senior counsel to ensure that the investigation remains focused and, indeed, proportionate. We have already made an initial submission to the CPS consisting of a report and over a thousand pages of documents. As recently as Saturday we recovered a further nine ring binders full of documentation, and clearly that takes time, again, to sift and analyse. I know final operational matters are clearly matters for ourselves as the police. CPS, counsel and ourselves are of the view that to interview individuals out of sync when all the facts would not be available would not be sensible. To do so would be contrary to normal practice and would, both in my view and that of the counsel and CPS, be likely to undermine the investigative process. This means, therefore, I will be asking you—pleading with you—today to consider carefully the position of the Committee with regard to certain key individuals. The detailed rationale is this: I consider it is a danger that information that may impact upon the investigation being released into the public domain prior to the criminal investigation being completed would potentially, consciously or unconsciously, influence the accounts of those yet to be seen by the investigative team. It may provide, also, an incomplete picture of events which might itself place any witness who gives evidence before your Committee in an embarrassing or prejudicial position in the future. By this I mean that witnesses potentially seen by the Committee may not have access to relevant documentation or pre-interview disclosure which could assist them in completing their accounts. I consider that in an inquiry of this sort it is of the utmost importance that any questioning is conducted on an informed and comprehensive basis so as to enable the witness to provide a full and detailed account of any relevant events. The anxiety we have on the Committee proceeding is that witnesses would not necessarily be provided with that opportunity and this would not be either in their best interests or the interests of the investigation. The second point I make is this: it is of course the case that any police investigation has to be conducted in accordance with the ordinary duty to act fairly and impartially. This includes giving in certain cases a caution to remind that person that he or she does not have to answer any questions. We consider it important that the investigation should be conducted with regard to the ordinary rules and that it is undesirable for witnesses to feel as though they have to give their account in public without the safeguard operated in our investigation. The third and final point around this is this: we also consider there is a risk that individuals may be deterred or discouraged from co-operating with the police inquiry should the Committee proceed. Already a

number of potentially important witnesses have declined to co-operate with my investigation because they fear the wide publicity that would ensue. At the present time, Members will note that there has been no breach of security or leaks around the investigation. This, I know, is providing some of the key witnesses with the confidence that their information and evidence will be handled in an appropriate and sensitive way. Finally, I move to this: it has been six weeks but in terms of this type of investigation my inquiries are at a relatively early stage. I recognise that some individuals who we wish to see are fairly obvious and have also already been the subject of intense media scrutiny. However, it is fair to say that there are a number of other people who may be as equally important to the investigation who move from the category of witness and suspect as the investigation develops. I am reluctant to speculate on those particular people in this forum as these are clearly very sensitive issues for all parties involved. As I said to you when I was last before you, for your Committee to interview any individuals who may be a relevant witness or suspect in a criminal inquiry before he or she has at least been interviewed by the police will be likely, in my view, to undermine the investigative process. It is the view both of senior counsel and of CPS that examining witnesses before the Committee at this stage—at this stage—could have an impact upon any criminal prosecution. As for timings, again I am slightly reluctant to be committed on this particular point but I have a dedicated team of around eight detectives working on this case. They have been working extremely hard, every weekend, since 27 March. All I can say is that the investigation will remain focused and we will have to go where the evidence takes us. As I am sure the Committee appreciates, these matters are far from straightforward and certain issues, before we attempt them, will require detailed legal advice before we move matters forward. By necessity this, therefore, will take some time. In conclusion, I am once again seeking your co-operation to ensure that my criminal investigation is not unwittingly undermined by your quite proper desire to make progress with your own inquiries. The matters which interest us both are of the utmost seriousness and my early view is that there are issues that do require further detailed examination by us before the Crown Prosecution Service can come to a view under either the evidential test or the public interest test. These are, in my view, matters for the police to examine at this stage within the quite proper constraints of the criminal law. I am very grateful.

Q6 Chairman: Thank you very much indeed for that. If we could ask you some questions. Can I ask you, first of all, to tell us, having been on this now for a good number of weeks, and having amassed, as you say, a thousand pages of documentation and new ring binders being found every day, whether your judgment now is that this is going to lead to a positive conclusion in terms of charges?

15 May 2006 Deputy Assistant Commissioner John Yates QPM, Detective Superintendent Graham McNulty and Ms Carmen Dowd

Deputy Assistant Commissioner Yates: Ours, of course, is a search for truth and a search for evidence. All I would say is there are matters which, in my view, require further detailed examination. Whether that leads to the CPS taking a view around charges or otherwise is a matter for CPS. The early stage is far from simple, the documentation is very detailed, in some cases it has been provided rather later than I would have wished. I hoped to have been slightly further down the investigative road than I am but we are moving along as fast as we can. The outcome it would be very unwise for me to speculate on.

Q7 Chairman: If you can say to us, “I can tell you we have done enough to tell you that there is going to be some outcome to this. I cannot tell you exactly what it will be, I cannot tell you the individuals and so on, but I can tell you . . .” obviously that would shape the way in which we approached it. If you say, “I have been doing it for several weeks, there is all this documentation but I still cannot form a judgment on whether it is going anywhere or not”, that probably leads to a different view.

Deputy Assistant Commissioner Yates: I think you are asking me a very difficult question which is, frankly, difficult to answer because we have not seen all the key people. There are a number of very obvious individuals we have not seen yet who we need to see. We will need to hear their accounts. Until I have heard their accounts and matched them to the other evidence that we are uncovering and analysing I cannot say in this forum or any forum that something is going to lead to a charge or a prosecution.

Q8 Chairman: I imagine—I watch the programmes on the television, I am an expert on these things—normally by a certain stage in an investigation you have a sense of whether it is going somewhere. All I am asking you is, is it going anywhere?

Deputy Assistant Commissioner Yates: The indication I have given you is that there are matters which require further examination. I think that is about as far as I would dare go. There are matters which require further examination. Where that leads to, what outcome, I cannot say.

Q9 Mr Prentice: We are all walking on eggshells here, are we not?

Deputy Assistant Commissioner Yates: We are.

Q10 Mr Prentice: I am interested in the conversation that you had with the CPS because when you came to see us before, six weeks ago, you said that the investigation was triggered—I am speaking from memory here—after you had consulted the CPS. Am I right in my recollection?

Deputy Assistant Commissioner Yates: No. Clearly we would consult with the CPS first. The decision to launch an investigation is one for the police. They would take a view.

Q11 Mr Prentice: It is this business of consulting the CPS. When you went along to see the CPS with whatever evidence you had at that stage, whether it was press articles or what have you, can you just take us through the dialogue that you had, you and the CPS? Did the CPS say, to you “Given what you have told us, we think that there is a likelihood of a successful prosecution” or was it too premature to say that? Did the CPS say, “Yes, on the basis of what you have shown us, we feel it is in the public interest to have this investigation.” Did you have a discussion about an Act of Parliament which a lot of people consider to be otiose because it has been around for donkey’s years and there has only been one successful prosecution and that was way back in 1933? What happened when you had that conversation with the CPS?

Deputy Assistant Commissioner Yates: I will talk first and then no doubt Carmen will contribute afterwards. We were at such an early stage. We had literally press cuttings, we had the substance of the *Sunday Times* article and we had the Act, and other matters as well but very, very preliminary discussions were around, “Well, you have got to go and have a look, have you not?” Now we have had a look, a preliminary look, over six weeks, we have gathered material, there are matters which require further looking into. I cannot say now, it will be very difficult to say, “I am definitely going to press charges here” and come back in nine months’ time and I have got nothing. It would be madness for me to speculate around charges, evidential tests, public interest.

Ms Dowd: The purpose of CPS’s early involvement in an investigation of this nature is in order to assist the officers in their operational duties, to remain focused and to make sure there is progress made expeditiously essentially. The CPS have undertaken to provide ongoing legal advice as and when required around various investigative issues. It is entirely a matter for the police as to how they conduct their investigation but our involvement is to ensure that it is focused and progressed in a certain way.

Q12 Chairman: What is happening is that every issue that pops up in our political life at the moment, people are saying, “Try the police with this one as well”. We started on very narrow territory—

Deputy Assistant Commissioner Yates: Yes.

Q13 Chairman: — which was the propriety of the honours system and the 1925 Act, and the subsequent procedure that has been put in place to monitor propriety of the system. We have now moved into the 2000 Act and the whole loans versus donations issue. I sense that probably is looking more interesting to you than the 1925 Act, but that is only a guess. Then people are coming along and tossing all kinds of other things at you as well, thinking that the police will have a go at those. We have the stuff from Wales, we have all kinds of things going on. On this basis this inquiry is going to run forever more.

15 May 2006 Deputy Assistant Commissioner John Yates QPM, Detective Superintendent Graham McNulty and Ms Carmen Dowd

Deputy Assistant Commissioner Yates: No, let me reassure you on that point. Our inquiry remains focused on the issues I outlined at the start. It is on those two simple issues. It is flexible but, believe me, I have been getting 20 letters a day on the same things as you have probably been getting, probably the same copies actually, and they are going somewhere else and will be dealt with as appropriate. In terms of this inquiry it is very focused on these issues and the issues I have outlined to you. I am absolutely determined that matters will not do that and go far too wide and take forever. That is not in anyone's interest, least of all the Committee, least of all the people who are potentially under suspicion, least of all potential witnesses with the recall many years later. We will remain focused and I am determined that will be the case.

Q14 Mr Burrowes: Would you say that your concern, as you outlined today, is primarily a concern about potentially undermining the investigation as distinct from prejudicing a fair trial.

Deputy Assistant Commissioner Yates: I think it is in two stages. There is a potential at the end for a fair trial to be undermined but at the moment I am focused on the investigation in terms of what we are trying to do and what we are trying to achieve. We are trying to get the best evidence and the best accounts from our witnesses. Clearly all these issues, if played out in the future, I think I said last time, could amount to some sort of abuse argument being mounted by a defence team.

Q15 Mr Burrowes: You said that last time. Particularly this time the concern is one in relation to the investigative process: witnesses coming or not coming, feeling inhibited, the quality of the investigation and whether it is going to become good evidence. You are wavering more in that ground rather than so much the evidential admissibility point.

Deputy Assistant Commissioner Yates: If we do not deal with the first bit properly we will never get to the second bit.

Q16 Mr Burrowes: If we deal with the first bit, surely it is not unusual for there to be other inquiries conducted—internal inquiries, disciplinary inquiries—that happen before or concurrently with an investigation? Someone can have an employment investigation, someone can have a disciplinary investigation, you may have concerns about these but those carry on as normal and are dealt with appropriately by the courts when evidence comes through.

Deputy Assistant Commissioner Yates: I would probably dispute that but an analogy in terms of the police criminal system, the discipline process, does not start until the conclusion of any criminal proceedings. It is after that that the discipline process starts. No doubt you can give me other

examples if it does happen but as a simple analogy of discipline and crime, crime takes precedent every time.

Q17 Mr Burrowes: It is also the case that evidence can come, in terms of investigative evidence and you can get information to secure an investigation from internal processes.

Ms Dowd: I think the key must surely be whether the sets of parallel proceedings that you are thinking of actually go to the very issues that both sets of people are investigating. For example, on the summary dismissal of an employee which relates to criminal investigation there would not be a hearing or an examination of the evidence that would be at issue in any criminal proceedings. For instance, in a coroner's court they look at a specific area of how a person died, where they died et cetera. Now very often coroner's hearings are adjourned awaiting the outcome of a criminal investigation and/or proceedings because the issue of how a person died is the essence of the criminal matter. That might not always be the case, there probably are circumstances where those issues are so diverse that there is not going to be any crossover or potential risk.

Q18 Mr Burrowes: Let me give an example and say in an employment situation where someone steals something, they would have their own inquiry and that information could be of assistance to the police and the questioning which goes on in such an inquiry would not prejudice a subsequent trial. The admissibility of that information would be dealt with appropriately by the courts at the right time.

Ms Dowd: As I say, I think it would depend on whether the issues go to the crux of the criminal proceedings.

Q19 Mr Burrowes: As an example it would do.

Ms Dowd: As an example, if an employer had the power to summarily dismiss someone for stealing then there would not be any hearing or investigation in that sense around that issue. For instance, in the police disciplinary proceedings they are on hold if the issues are concurrent to the criminal investigations and, likewise, all the public sector disciplinary proceedings are.

Q20 Mr Burrowes: Consciously, from their point of view, if investigations were to continue there could be information from that which could be of assistance to enable you to deal appropriately with your investigation to deal with it in that way. You can use it to the benefit of the investigation rather than looking at it as in any way seen to inhibit such investigation.

Deputy Assistant Commissioner Yates: You then go to the heart of how your evidence is gathered in terms of what we have access to, did they have an interview, period of disclosure, did they have the benefit of caution? All those issues go to the fairness of the impartiality points that we made earlier around how the process is managed.

Q21 Mr Burrowes: Is that not perhaps the flaw in the case you are making, the fact that we are not obviously a court, plainly not a court, and we are not subject to those precautions. Indeed, when a witness comes they come initially voluntarily and the fact they are coming voluntarily means that you can benefit from that voluntary attendance. It would be hard to see how clearly they would be prejudicing a fair trial when they are voluntarily giving answers to questions.

Deputy Assistant Commissioner Yates: I would probably dispute they come voluntarily in some of the circumstances. If you call them and they do not come, firstly I know you have wide-ranging powers to compel them and, secondly, the type of figures we are talking about are people who have to come before your Committee in my view. They are then subject to your proper scrutiny and the very wide-range of powers you have but do not have the benefits and the constraints that we operate under in the criminal investigation about the way we obtain our evidence.

Q22 Chairman: They are queuing up to come and tell us how unjustly they have been treated.

Deputy Assistant Commissioner Yates: What, by us?

Chairman: By the world.

Deputy Assistant Commissioner Yates: The world!

Q23 Chairman: Essentially they are asking to come so that in public they can say they are not the kind of people they have been described in the press as. Why should we deny them the opportunity to come and do that?

Deputy Assistant Commissioner Yates: Because there is an ongoing criminal inquiry where we are considering matters that are of the utmost seriousness, with full deference to the wide powers you have and, in my view, this should take precedence over your deliberations.

Q24 Chairman: I wonder if we are talking at cross-purposes here because in a sense you are talking to us as though we are doing the equivalent job to you whereas, in fact, our enterprise is entirely different. We are looking simply at the system for governing propriety in the honours system. As a way of illuminating that we have evidence proposed from some people who have been caught up in that system but the nature of our inquiry is not the forensic one and the criminal one that you have, it is one that is designed to look at the system and is designed to do a certain job. It may be that these are complementary inquiries.

Deputy Assistant Commissioner Yates: There is absolutely no rocket science about what we do. You will be asking exactly the same questions and have exactly the same areas of interest in these witnesses that we have about how any loan was garnered, how it was going to be paid, what were the issues, who spoke to you, how did it happen. These are very simple issues but those are the very simple questions that we need to have answered to ensure that we can

conduct our matters to their natural conclusion. The areas of interest will not be complementary in my view, they will be exactly the same.

Q25 Chairman: Some of them have written to us telling us these things anyway, already.

Deputy Assistant Commissioner Yates: It is entirely within their right to do so. We would like—in the nicest possible way—to get to them first and get their accounts in evidential format that we can potentially present to the Crown Prosecution Service at a later stage to say, “Is there a case to answer here?”

Q26 Grant Shapps: Essentially you have got a problem here because you have come here today, six weeks after you first appeared on 27 March when we were led to believe this was a matter that would not take months and months to resolve, to tell us that actually things are running slower than you had anticipated, witnesses and paperwork are slower in coming forward. At the same time you need to tell us enough to stave off our eventually inevitable report. My running commentary of the discussion so far in my mind—I do not speak for anyone else—would be that I am far from convinced so far. You have not given us the compelling reasons that we are looking for not to proceed with our own investigations. Apart from anything, as colleagues have mentioned, it seems to us that these people are contacting newspapers all the time and telling them their side of the story and what they think, and that is fine with you but actually for some reason Parliament cannot do its job. That just seems to be in the wrong proportions. Are you sure there is not something else you could be telling us in order to convince us?

Deputy Assistant Commissioner Yates: As you know, as I said, this is not an investigation that has suffered with leaks or briefings or off record briefings or briefings in the corridor, we have conducted this with complete discretion and that has enormous advantages. With the greatest of respect to this room, if I am going to go into detail of the evidence I have uncovered I do not have the confidence that it will not find its way into the public domain and I do not think you would expect me to. What I have said, and I am trying to labour the point, is there are issues which have been uncovered that require further detailed examination. I am asking you to have confidence in me, as a senior officer, and I am saying that with due integrity. There are issues which require further examination and the examination should take place by the police in a way and with the proper constraints of the criminal law but you have to take my word for that. Where it leads to I do not know and I cannot speculate.

Q27 Grant Shapps: In a sense we did take your word for that six weeks ago, what is the time now?

Deputy Assistant Commissioner Yates: I knew you were going to ask that. Having said I am reluctant to go into timings, I would hope to have a preliminary submission to the CPS probably in September which will be a preliminary view to say where we are going. That is what I have agreed with Carmen and counsel.

15 May 2006 Deputy Assistant Commissioner John Yates QPM, Detective Superintendent Graham McNulty and Ms Carmen Dowd

That will be my aim, which is actually not that far away. Many of our witnesses are incredibly busy people, they do not just turn up the next day for interviews as one would like, they say, “In two or three weeks’ time we can see you because we are out or abroad or wherever”. It is not as straightforward as saying people are flocking to my door to be interviewed. I am sure they are doing their very best but it is not straightforward.

Q28 Grant Shapps: You are talking about a time, which you say is not far away, which is four months away which is way outside the initial indications on this.

Deputy Assistant Commissioner Yates: I do not think I committed myself last time, I said I would come back and tell you how I was doing. I never said I would have a result in May/June, I said I would come back and tell you how I was getting on because it was so early. Most investigations of this sort can take a long time. You look at the average fraud inquiry, for example, it will take many years. What I will do with this, as I have said, is keep it focused.

Q29 Grant Shapps: These witnesses have become, in a sense, central to our own honours and propriety report/investigation. If you are asking us to put that on ice until the autumn that pushes our own parliamentary work behind. What would be your objection, if any, to us interviewing the same witnesses in private?

Deputy Assistant Commissioner Yates: I understand that it is not really in private because transcripts are published pretty soon afterwards.

Q30 Chairman: That is up to us to decide. It can be published after you have come to a conclusion with your inquiries.

Deputy Assistant Commissioner Yates: That is a possibility. It puts people under the same pressure but not the wide public scrutiny that a TV appearance might do. That is a possibility.

Q31 David Heyes: I think we need to remind ourselves that we started this inquiry long before these events about loans for peerages. We have got an ongoing ethics and standards inquiry. Tomorrow we are seeing the Cabinet Secretary and some members of the House of Lords Appointments Commission. Later in the week we have got some academic experts to give us their views on these sorts of issues. We are going to go along and do that. I wonder—this is the question—whether you are asking us to close down that line of inquiry entirely, to put our ethics and standards inquiry on the shelf until September or maybe some later date when you feel confident to say to us, “You can go ahead with this”. You said it would be unhelpful to interview any potential witness or potential suspect. I am sure that the great and good that we are seeing in the next week would not fall into that category but it could be as we go on with our inquiry that people who superficially look entirely innocent of any suspicion, entirely above suspicion, later turn out to have been

drawn into this and to be potentially suspects or witnesses for you. Are you really saying to us, “Stop your inquiry altogether” and if you are not we need to be clearer on how far you say we can go in your view?

Deputy Assistant Commissioner Yates: In an ideal world it would be the former, but I also recognise the challenges that poses for you. As ever in life there are grey areas and compromises to be drawn. You are absolutely right in terms of people who at the moment are completely above suspicion who suddenly fall into the category of being a suspect and I cannot say when that is going to happen, or if it is going to happen. Your key people this week, who knows? I could not say. In an ideal world, it would be to do just what you said, to suspend those issues while we do this.

Q32 David Heyes: We think we know the names of the people you would have on an interview list, because they are in the public domain, names like Patel, Levy, Ashcroft and so on. We understand that you are asking us to steer clear of people who fall into that category, but I am still struggling to understand where the demarcation line is where you would be content for us to go ahead, and presumably the Cabinet Secretary would be content for us to see him tomorrow, and the Lords, Hurd and people like that who are members of the House of Lords Appointments Commission. It could be, of course, that they reveal things in our inquiry with them tomorrow that might relate to other individuals who might be on the list of suspects that you are not able to share with us or that has not got its way into the public domain.

Deputy Assistant Commissioner Yates: If there is a compromise to be had it would be for a detailed conversation outside of this room on those issues because I have not got that absolute detail to hand now. Certainly we need to consider all of those issues and ask you to be willing to consider those issues.

Q33 David Heyes: To put it more directly, can you conceive of a situation where privately outside this room you would be able to give the Chairman a list of names of people who you would not want us to involve in our inquiry?

Deputy Assistant Commissioner Yates: Yes.

Q34 Jenny Willott: I just want to ask one question to Ms Dowd. It is the same question that Tony asked DAC Yates at the beginning. Looking at what has been gathered so far and the evidence that has been passed over to the police, in your opinion as a very initial thought are you looking at any realistic prospects of prosecution?

Ms Dowd: That would be impossible to comment on at this stage, it is too early in the investigation. You have heard that only on Saturday nine lever arch files of evidence were handed to the police.

Q35 Jenny Willott: I thought you said that was the second bunch of information that was passed over.

15 May 2006 Deputy Assistant Commissioner John Yates QPM, Detective Superintendent Graham McNulty and Ms Carmen Dowd

Ms Dowd: Yes. We had a preliminary report and submission of approximately 1,000 pages which is being considered.

Q36 Jenny Willott: You cannot say from that whether it looks like—

Ms Dowd: No.

Q37 Jenny Willott: It is a complete no-go?

Ms Dowd: It is unfair to try and draw either of us on those comments when the investigation is at such an early stage.

Q38 Jenny Willott: If it is clear from the papers you are looking at that there are things that could be investigated but there is nothing that is holding up enough, that will affect how we see our decision about whether or not to go further ahead. If it looks clear, and you are not going to say obviously who or what the charges will be, that there is a significant amount of evidence that could be used in a prosecution that would hold up then that might alter our decision about how to go ahead.

Ms Dowd: All I can pray in aid is what DAC Yates has said that a number of issues need further inquiry.

Deputy Assistant Commissioner Yates: I am not ducking this issue. It is absolutely impossible to say at this early stage of a criminal inquiry whether that evidence is going to hold up in criminal court. We are relatively early on in an inquiry, we have not seen a number of key people, and we are keeping those people to the end in terms of the evidence gathering process to be able to give us the best opportunity to put that to them or ask them to account for certain issues. We are so early in that process that to invite speculation about whether document A would stand up in court and document B would not is just impossible. I am not being obstructive.

Q39 Jenny Willott: That is not what I am asking. I would not expect you to be able to answer that so far in advance. For us to make a decision on this, just being told that there are some issues that need further investigation does not give us very much of a handle on what the actual situation is or how prejudicial anything we might do could be.

Deputy Assistant Commissioner Yates: I was rather hoping it would come across as a heavy hint.

Ms Dowd: It is impossible to predict what is going to come out of the investigation at this stage. We could not be drawn on what it might or might not amount to.

Q40 Jenny Willott: That was why I asked based on the paperwork you have already seen.

Ms Dowd: It would be impossible even to comment on the basis of the paperwork we have seen because it is just so preliminary at the moment.

Chairman: I know that a heavy hint from the police is worth far more than a light hint from other quarters.

Q41 Mr Prentice: Did I mishear you earlier? Did you say that some people had declined to co-operate with the investigation?

Deputy Assistant Commissioner Yates: Yes. If they are witnesses, a bit like yourselves, we cannot put thumbscrews on them and say “come and talk to us”. If they do not want to talk to us, they do not want to talk to us.

Mr Prentice: I am sorry, I did not catch all of that.

Deputy Assistant Commissioner Yates: If they are witnesses, if they do not want to talk to—

Mr Prentice: They do not want to talk to you.

Deputy Assistant Commissioner Yates: They do not have to.

Q42 Mr Prentice: Why? If the police were to say to me, “Mr Prentice, we would like to talk to you about something”, I would say “fire away”. Why would they not want to co-operate with your investigation?

Deputy Assistant Commissioner Yates: In some cases they have taken legal advice that says in their view there is nothing they can help us with—in their view. Clearly there are things we think they could help us with but I cannot—

Mr Prentice: People take legal advice which tells them that they should not co-operate with the police?

Chairman: We are innocents here, as you understand. This shocks us greatly.

Q43 Mr Prentice: You know I am shocked. I go through life being shocked. [***]

Deputy Assistant Commissioner Yates: [***].

Q44 Mr Prentice: [***].

Deputy Assistant Commissioner Yates: [***].

Q45 Mr Prentice: We had Sir Alistair Graham in front of us last week. He chairs the Committee on Standards in Public Life. You told us earlier about your investigation in city academies. I put it to him that it was corrupt, with a small ‘c’, I think, to reward people who sponsor city academies with a peerage, and he agreed with me that that was corrupt. Number 10 in *The Observer* on 18 October made the connection absolutely clear and explicit. I said in the Committee it has not been denied, it has not been clarified, it has not been retracted by Number 10. The Number 10 spokesperson said, “Yes, people who sponsor city academies should be in the House of Lords, hopefully taking the Labour whip, so that they can contribute to the public debate on the benefit of city academies”. Of those two, which view do you lean towards?

Deputy Assistant Commissioner Yates: I do not have a view on that at the moment.

Q46 Mr Prentice: You do not?

Deputy Assistant Commissioner Yates: No.

Q47 Grant Shapps: Just one comment you made to my colleague, David, about witnesses. I thought you had said in your opening statement that at least one witness had perhaps moved from witness to suspect.

15 May 2006 Deputy Assistant Commissioner John Yates QPM, Detective Superintendent Graham McNulty and Ms Carmen Dowd

Deputy Assistant Commissioner Yates: They can move.

Q48 Grant Shapps: Not that it has happened? I thought you were indicating that in something you read.

Deputy Assistant Commissioner Yates: I think it may have happened actually. I will have to look backwards in a second and hopefully get a nod.

Q49 Grant Shapps: I thought that was what you read.

Deputy Assistant Commissioner Yates: Yes. It happened last week.

Q50 Grant Shapps: It has happened?

Deputy Assistant Commissioner Yates: Yes.

Q51 Grant Shapps: I thought in answer to David's question just now you said it had not happened.

Deputy Assistant Commissioner Yates: It has happened, from my left, and it can happen all the time. I am sorry if I was unclear.

Q52 Paul Flynn: Blaenau Gwent: did you have a formal complaint about the possible offer of a peerage corruptly to the late Peter Law?

Deputy Assistant Commissioner Yates: We have had a letter on that. We have reviewed it and we are not investigating the matter.

Q53 Paul Flynn: You decided very rapidly not to continue with that, you have thrown it out?

Deputy Assistant Commissioner Yates: Yes. There was an issue, of which I have not got the detail in my head—My colleague may be able to assist us, if you would like.

Q54 Paul Flynn: Perhaps your colleague can tell us. You have looked at the other cases and decided there might be matters in there you want to investigate further but you decided nothing further in this case.

Deputy Assistant Commissioner Yates: There was an issue around the denial of it in another forum which indicated that there was nothing there.

Q55 Paul Flynn: It was the television interview that Peter Law gave in December?

Deputy Assistant Commissioner Yates: My colleague has got the details.

Detective Superintendent McNulty: Could you repeat the question?

Q56 Paul Flynn: You had a letter, a formal complaint, but within a fortnight you rejected it and said there were no grounds for complaint. What was the basis for that?

Detective Superintendent McNulty: There were a couple of reasons in terms of it fitting within the guidelines of this investigation because there have been lots of complaints about various individuals. We did review it very quickly and from that we ascertained a couple of things, one of which was the TV interview where he denied that he had been

offered a peerage prior to passing away. At that point we got back on to this investigation and felt that point should not be followed up.

Q57 Chairman: Just so that we get the parameters of this: are we dealing with all political parties?

Deputy Assistant Commissioner Yates: The three major political parties.

Q58 Chairman: So we are across the parties.

Deputy Assistant Commissioner Yates: Yes.

Q59 Chairman: What period are we talking about?

Deputy Assistant Commissioner Yates: Initially back to 2005 but then working back, if need be, to 2000.

Detective Superintendent McNulty: It adds up to about 140, 150 peerages. The rationale for that is how do you work out if the 2005 peerage list is unusual? You look at the other years' previously to ascertain if anything different happened.

Deputy Assistant Commissioner Yates: You have got to look back in order to make the judgment around that.

Q60 Chairman: We know there is a correlation—it has been done statistically by people—between giving money to political parties and finding honours bestowed on you. That has been a truism of political life always. It does not really require policemen to go out and find that. Why do we not just acknowledge that is the case?

Deputy Assistant Commissioner Yates: We work within the law and that is the law. That is what we are charged with doing.

Q61 Chairman: [***].

Deputy Assistant Commissioner Yates: That is a view. We have had a complaint of a crime, an allegation of crime, and there is a law against it and that is what we are charged with doing. You can think whatever you like around what patronage operates within the political world but we have got an allegation of crime and we are going to investigate it. We will take it to its natural conclusion, we will take it to where the evidence takes us.

Q62 Mr Prentice: Has this happened before where a member of the public has been in touch with the police following the publication of an Honours List to say, "This is manifestly corrupt, you ought to investigate this", but it was never proceeded with?

Deputy Assistant Commissioner Yates: It could have done. I do not know.

Q63 Mr Prentice: It must be in the memory of the Metropolitan Police, the organisation, if this sort of thing has happened. This is headline grabbing investigation, is it not? You must have discussed this within the Met, "Well, we have had complaints, we get them every year because people are upset that someone has got a peerage who does not deserve it". All I want to know is if you have had these complaints did you choose not to pursue them in previous years?

15 May 2006 Deputy Assistant Commissioner John Yates QPM, Detective Superintendent Graham McNulty and Ms Carmen Dowd

Deputy Assistant Commissioner Yates: Not to my knowledge. Each complaint is dealt with on its merits. There has to be some *prima facie* material which says this looks odd otherwise we would be pursuing every allegation that anybody could make about anything and devoting resources to it. There has got to be some *prima facie* material which says this looks odd and something worth investigating. People make allegations to us. John Prescott was an example last week where we made the decision very quickly there is no offence here.

Q64 Mr Prentice: What was the evidence in this case that persuaded you to pursue it? Was it the *Sunday Times* newspaper?

Deputy Assistant Commissioner Yates: The *Sunday Times* has an element to it, but I do not want to discuss in this wide forum with so many people here exactly what the issues are that have caused us to embark on this criminal investigation in any detail.

Q65 Chairman: Are the *Sunday Times* giving you their sources?

Deputy Assistant Commissioner Yates: I do not want to discuss about witnesses. It is not proper for me to discuss in this forum which witnesses we have seen. They give us information and evidence in confidence and I have to respect that until such time as there is a need for it to be given in a court potentially.

Q66 Chairman: Presumably the CPS before proceeding would have to be persuaded of the likelihood of conviction, would they not?

Ms Dowd: That is right, yes. All cases are reviewed in accordance with the code which requires us to say there is a realistic prospect of conviction in any case. That is the first limb.

Q67 Chairman: My impression is, and you tell me if I am wrong—in fact, you probably will not tell me at all—the attention has rather shifted here from the 1925 Act, which was where we started, to the 2000 Act because of all this stuff about loans coming in. My sense is there is more in that, that it was always unlikely you were going to find someone who said to you, “Oh, yes, he said ‘You give me a million pounds and I will give you a seat in the House of Lords.’” My sense is the world does not work like that, but the world probably does work with someone saying, “Hey, don’t give us a donation, give us a loan because that enables us to get round the reporting provisions of the 2000 Act”. My sense is that is where your attention is.

Deputy Assistant Commissioner Yates: You are right, I do not want to go into too much detail. There is a sense that could be the case. You start off with an allegation but that does not confine you to that. An allegation of theft does not mean you cannot take on an allegation of fraud or something else, another limb of the Theft Act at another stage. You would not be wrong in speculating that.

Q68 Chairman: If you are right on this, the bit you are ceasing to be so interested in happens to be the bit that we are interested in.

Deputy Assistant Commissioner Yates: No.

Q69 Chairman: And the bit you are getting most interested in is the bit that we are not primarily interested in.

Deputy Assistant Commissioner Yates: It is a parallel interest, equal interest in both aspects.

Q70 Chairman: We do not want to go around in circles on this. I think the key word that you used—your key word—was “undermined”. That sets us the biggest test, the biggest challenge.

Deputy Assistant Commissioner Yates: I recognise that.

Q71 Chairman: You are saying to us, “If you proceed there is a chance that you will undermine our work, a successful investigation, a successful prosecution”. We have to judge whether that is so or not. Why is it so if the people who we want to interview want to be interviewed by us, if it is not that we are in search of forensic evidence leading to criminal prosecution but want to talk about their experience of the system that we are investigating and why is it if the proceedings that they are engaged in are covered by parliamentary privilege and cannot be used in court?

Deputy Assistant Commissioner Yates: There are a number of areas there. Primarily, to us the first account is what we want to get dealt with and adduced from them within the appropriate constraint of the criminal law with the benefit of a caution, if necessary, to remind them of their rights and allow us the best opportunity to give the fairest and best account. That would include, particularly if you are a suspect, a wide-ranging pre-interview disclosure where they have access to all relevant documentation that we are going to test them on in any interview. My feeling is that in this forum that would not be the case, they would not have access to all of that documentation because you have not got access to it.

Chairman: That is not what we do.

Deputy Assistant Commissioner Yates: Exactly. So you are getting an account from them, potentially in public—

Chairman: That is what Parliament does.

Deputy Assistant Commissioner Yates: You asked me the question why it would undermine a police investigation. You are getting an account from them in public without the benefit of either disclosure or potentially a caution. Some people may well want to come and speak to your Committee, they may want to speak in public about how they have been badly wronged, and I can understand that, but that does not complement a criminal investigation that we are running.

15 May 2006 Deputy Assistant Commissioner John Yates QPM, Detective Superintendent Graham McNulty and Ms Carmen Dowd

Ms Dowd: There is also the issue that DAC Yates outlined at the beginning about consciously or unconsciously affecting other people's accounts if it is in the public arena and cross-contamination, et cetera.

Q72 Jenny Willott: Can I just clarify this. Basically you are asking us not to pursue this inquiry until at least September, is that right?

Deputy Assistant Commissioner Yates: That is my best wish.

Q73 Jenny Willott: If we were to do it so that we held sessions in private, nothing was published and people were not able to find out what people had said, there was not public pressure, and so on, would that alleviate most of your concerns about that?

Deputy Assistant Commissioner Yates: It would not be perfect, it would not be perfect at all, because at the end of the day the Committee is large and there are lots of people around. I am not saying anyone would leak but these things spoken about in such a wide forum can easily get out into the public domain. It would not be perfect but I recognise there could be a need and you have already been patient with us, and I am grateful for your patience today, and there may be a need for a compromise. Although it would not be perfect I would prefer your first suggestion.

Q74 Chairman: Are you asking the Constitutional Affairs Committee to postpone its inquiry for the same duration?

Deputy Assistant Commissioner Yates: I have got a stay of execution from them until June when no doubt I will be back doing exactly what I am doing here and asking them in essence to do the same.

Q75 Chairman: Do colleagues have any further questions? We are going to deliberate on this and we have decided although we are going to have a chat now, we are not going to take a view now, we will take a view about this tomorrow. We have explained to you that because this is a private session, technically it is the case that you should agree with us what you say. We are taking our own source of legal advice on this to make sure that this question of undermining is interrogated quite closely because I think you are right to say that is the key element for us. First of all, can I thank you very much for coming and talking to us in the way that you have, even if you have not told us everything. I promise you that we shall give the most careful consideration to what you have said.

Deputy Assistant Commissioner Yates: I am very grateful to the Committee. I recognise the difficulties that you face. There is just one issue around the media in terms of what I can say. I propose, subject to your views, not to discuss what we have discussed in here but to provide the media with a very brief investigation update which is just a compilation of what they already know, but providing them with

something to say that the investigation is seeing these witnesses, not naming people, in a very brief statement. Would you be content with that?

Q76 Chairman: You are fully entitled to do that. You can do that anyway.

Deputy Assistant Commissioner Yates: I can do that.

Q77 Chairman: We would be grateful if you could let us see it.

Deputy Assistant Commissioner Yates: Yes, I will let you see it.

Q78 Chairman: I am being asked to ask you one further question, if you could bear with us for one second, just so that we can test the underlying argument a bit further. You talked about the effect of the investigation. We would like you to say something briefly about, if it came to a court case, to what extent could anything that we do realistically be said to prejudice what goes on in a court.

Ms Dowd: Obviously, we cannot predict that the investigation will result in any court case but I think it is generally accepted that it is undesirable that witnesses rehearse their evidence in a forum before giving evidence in court and that could give rise potentially to arguments about an abuse of process or impact on a defendant's right to a fair trial. In this scenario I cannot imagine and gauge how that could be constructed at this time at so early a stage of the investigation but it is certainly a potential risk.

Q79 Mr Burrows: Have you any authorities for when that has happened, when there has been an abuse of process in that particular instance?

Ms Dowd: I have not researched that point, in fairness, so I do not have anything to hand. There is also the issue of publicity generally. There is going to be a lot of media interest in this. There has been, there will continue to be, and if a case was ever launched there certainly would continue to be, and so there has to be a balancing act in recognising that we are here now and that there might be a delay, et cetera, so those risks again have to be weighed up. There are risks around pronouncements about the veracity of witnesses, for example, or pronouncements about the culpability or otherwise of people who appear before you. I simply do not know whether that is in the remit of the Committee.

Q80 Chairman: But parliamentary proceedings themselves could not be called in aid in court, could they?

Ms Dowd: No, but those will be made public, will they not? Whether that would have a risk to the proceedings I simply do not know, but there is that potential.

Q81 Chairman: We shall reflect on that as we think about the session. As I say, we shall not say anything tonight apart from the fact that we have had a useful discussion with you, but we shall come to a view in the morning.

15 May 2006 Deputy Assistant Commissioner John Yates QPM, Detective Superintendent Graham McNulty and Ms Carmen Dowd

Deputy Assistant Commissioner Yates: In terms of any media lines, it is half a page. Do you want me to read it out to you and see what you think?

Q82 Chairman: Yes, perhaps you would do that for us.

Deputy Assistant Commissioner Yates: It is termed an "Investigation Update". "The investigation is currently considering matters under the Honours (Prevention of Abuses) Act 1925 and the Political parties, Elections and Referendums Act 2000, although it does not discount other legislation should it become relevant to the case. Significant progress has been made in the inquiry to date, although in many ways the investigation is still at a relatively early stage. A large amount of documentation has been provided to us and it is a major and ongoing task for the investigative team to examine it all. We have already identified a number of issues that merit further detailed examination. One man has been arrested and is currently on police bail. A number of other individuals have been interviewed under caution. Further individuals have been interviewed, not under caution, as witnesses. We have had a wide range of allegations into the inquiry since it began but the parameters of this initial investigation are the provision of loans and the nominations by parties to the House of Lords Appointments Commission 2005 and sponsorship of city academies and nomination for honours that might be associated with such sponsorship. We are

conscious of the several government and statutory authority inquiries into the issues raised by the allegations of 'cash for peerages'. Whilst recognising the quite proper aim of these parallel inquiries to pursue their responsibilities, we are seeking the continued co-operation of all interested parties to ensure that their inquiries do not unwittingly undermine the criminal investigation."

Q83 Chairman: That is helpful. You have not mentioned September. The one thing you will be asked is, "Give us a date".

Deputy Assistant Commissioner Yates: I will bat that off. Are you content for us to give that out?

Q84 Chairman: I think so, yes. This is your statement of your investigation.

Deputy Assistant Commissioner Yates: I know. It is not to do with proceedings in here. It is purely our investigation.

Q85 Chairman: And I accept the fact that you are trying to run this very tightly and not to brief along the way. You are right to say it is different for a parliamentary committee but in our own way we have also been reasonably disciplined and co-operative about this, so we do take seriously what you say.

Deputy Assistant Commissioner Yates: I am very grateful. Thank you for your patience.

Chairman: Thank you very much.

Tuesday 16 May 2006

Members present:

Dr Tony Wright, in the Chair

Mr David Burrowes
Paul Flynn
David Heyes
Kelvin Hopkins
Julie Morgan

Mr Gordon Prentice
Paul Rowen
Grant Shapps
Jenny Willott

Witnesses: **Lord Stevenson of Coddendam CBE**, a Member of the House of Lords and Chairman of the House of Lords Appointments Commission, **Rt Hon Lord Hurd of Westwell CH, CBE**, a Member of the House of Lords and Member of the House of Lords Appointments Commission, and **Mrs Angela Sarkis CBE**, Member of the House of Lords Appointments Commission, gave evidence.

Q86 Chairman: Could I welcome our witnesses for the second half of the morning. I am sorry we have kept you waiting. We are very pleased to see you, Lord Stevenson, who chairs the House of Lords Appointments Commission; Lord Hurd, who sits on the Commission; and Angela Sarkis, who sits on the Commission as an independent member. Thank you very much for coming. You know why we have asked you. Would any of you like to say anything by way of introduction?

Lord Stevenson of Coddendam: I do not propose to summarise the paper we have let you have but I think one or two short observations might be helpful. Can I say first of all, I know it is a truism, a cliché, to say how much we welcome being here but as a matter of fact, after the events of the last six months, we very much welcome being able to explain what we do to this Committee, and when I have finished my brief introductory comments, we will endeavour to answer any questions the Committee puts to us, subject only, of course, to the duty of confidentiality we have to nominees. I will make observations about the work of the Commission under three heads: first, our composition; second our role; third, our processes. We were set up in 2000 by the Prime Minister as an independent Commission with seven members, three nominated by the three main parties, four independents selected by competition. One of the four independents, Deirdre Hine, stood down last year because of other commitments. That is the composition. I am extremely pleased to have one independent and one political member here, which I think gives you a full hand to deal with. Secondly, our roles. We have two roles. The first role is that of nominating to the Queen non-party political peers, which has until the last six months been the major thing we have done, but that, I understand, is not what we are discussing today. The second is vetting the political list for propriety, and I think it is worth saying a word or two about the difference between the two roles, because it is an important one. With the non-party political peers, we select them; we are selecting them and nominating them to the Queen. With the party-political list, they are selected by the political parties co-ordinated by Number 10, and we are vetting them for propriety; we are not playing a part in the selection. It is an obvious distinction but a crucial one, I think, in discussing it. Propriety is in

the eye of the beholder. It is a matter of judgment, and I think it is worth sharing with you how we have interpreted it. We have tried to look at it. We have discussed it at two levels: one, we need to satisfy ourselves that a given nominee is of good standing in the community, both in general and with regard to the regulatory agencies in our society. Second, we want to satisfy ourselves that a given nominee is credible. Again, credibility is a matter of judgment, and these are judgments. The broad test we work to is to convince ourselves that a given nominee will not diminish, demean, but will enhance the House of Lords and its workings and the workings of the honours system. With donors who are nominees for party-political peerages, we also address the question of whether that person would be a credible nominee if he or she had not made a donation or a loan. That is all I have to say on our roles. On process, our process starts with a bundle of papers from Number 10 and ends when we advise the Prime Minister. So we receive a list from the Prime Minister, co-ordinated through the parties, and for each nominee we have—and you have copies, I think, of the documents—a declaration and consent form signed by each nominee covering quite a lot of subjects which are all set out in the documents, a citation from the party explaining why the nominee is being put forward, and a certificate from the party chairman which sets out the details of any donations, links to the party, *etc.* They are all set out. We then carry out whatever checks we judge are necessary along the lines that are indicated in the papers, we collate our findings, and we sit and talk about nominees. We will go back and make further checks, follow particular questions if it is necessary, we will then form our opinions, and we will give our advice to the Prime Minister. And I think it is important to stress, because it is something of which there has been a certain amount of understandable public misunderstanding, we do not have a right of veto; we give the Prime Minister advice, and he is the final decision-taker. You will see from annex B that our approach has evolved as we have gone on. We are constantly seeking to improve the way we do it, and it has changed as we have gone along, and we will continue to do that. I do not think we have reached perfection, by any stretch of the imagination. I would say however that I think it is

**16 May 2006 Lord Stevenson of Coddendam CBE, Rt Hon Lord Hurd of Westwell CH, CBE
and Mrs Angela Sarkis CBE**

not unfair to say that our process has been substantially stress-tested over the last few months and we are reasonably comfortable that it has stood up to the pressure. On that note, my colleagues and I are happy to field any questions that you have for us.

Q87 Chairman: Would either of you like to add anything at the outset?

Lord Hurd of Westwell: No, nothing at this stage.

Q88 Chairman: Can I just start by asking about the current controversy. These names have come out, not because of you, and I know that you feel strongly that you have had no part in that. Is this the first time that there has been dispute between yourselves and Number 10 and the party leaders about the names?

Lord Stevenson of Coddendam: Can I say first of all, thank you for the implicit statement you made. Just to be quite clear, you are referring to the fact that the names were leaked, and we have read the rumours and counter-rumours. Just to make it quite clear, we have been in existence for six years, we have dealt with over 4,000 names, four lists, etc. There has never been a leak, and I am robustly confident there was not a leak from us. And it has made our life a lot more difficult as a result. As you are aware, we are bound by a duty of confidentiality not to talk about particular cases. Our advice to the Prime Minister is also confidential, so it would be wrong of me to talk about it. I think it is fair to draw your attention to the fact that the Prime Minister, I understand, has said publicly that he will always take our advice, and that is not a misleading statement. The answer is there have not been significant disagreements. I think it would be fair to say there have not been disagreements. The Prime Minister should be taken at his word: he said he would take our advice and he has.

Q89 Chairman: So any time that you may have raised any question about any names, this has been readily accepted by the Prime Minister and the party leaders?

Lord Stevenson of Coddendam: I think that is reasonable.

Lord Hurd of Westwell: I think there are what one might call “courteous exchanges” before that point.

Q90 Chairman: That is what we want to know about: the courteous exchanges.

Lord Hurd of Westwell: No, no. From the moment that we actually give the advice, in our experience, it has always been taken.

Q91 Chairman: Those of you, like Lord Hurd, who sit on the Commission from the parties, as it were, have not had to make representations to the party leaders about the fact that there were various warning lights flashing about names?

Lord Hurd of Westwell: The Commission has never made any representation to party leaders as a commission. We have confined ourselves to vetting

on the lines that the Chairman, Dennis Stevenson, has stated, the names which they have submitted to us.

Q92 Chairman: People are suggesting that over recent years there have been instances which now are causing concern and interest from HM Constabulary, and I wonder whether these have passed through your hands. For example, I am told in relation to two names submitted by Iain Duncan Smith that it was not revealed at the time that the people in question had given loans to the party. Do you know anything about this?

Lord Stevenson of Coddendam: You will understand, Chairman, I cannot talk about specifics, and we are talking about a very few names, so responding to that at all would be to respond to specifics. I think I would make a general observation, since loans have come into the public arena, that the Commission has been briefed on some loans on lists past and present, and has evidently not been briefed on others. We only know what we have been told.

Q93 Chairman: What if the Commission discovers subsequently that information that has been given to it has been wrong or that it has not been supplied with information that would have been relevant to your consideration of a name? What happens then?

Lord Stevenson of Coddendam: That is a very good question, Chairman. I believe it to be the formal answer that our job stops, our remit stops when we send the advice to the Prime Minister and Number 10 and we have no, if I can call it, “post-sales care” jobs of any kind. What I would be bound to say, speaking for myself and my colleagues, is were we to discover that we had not received information, we would have to sit down as a group and talk about it and think about it very carefully, but the formal position is we do not have a role post our advice.

Q94 Mr Prentice: You should have a role, should you not? We have here Dr Chai Patel’s letter—I am not going to speak about the specifics, but to illustrate the concern. Chai Patel was put up for a peerage and he was knocked back, and you are not going to tell us the reasons, but you have not told Dr Patel the reasons why you could not recommend his elevation to the peerage, have you?

Lord Stevenson of Coddendam: I think you are asking a general question about feedback. We have, as we have briefed this Committee before, a general policy on feedback, which I might ask one of my colleagues to enlarge on in a moment. In relation to the party-political list, they are very different from our own nominees for non-party politicals, because we are not the decision-takers and therefore we are advising on a decision; we cannot feed back on a decision we have taken because we have not taken a decision.

Q95 Mr Prentice: I understand all that, but there is Dr Chai Patel, and there was a leak, and you tell us, and we believe you, that the leak did not come from your office, but he tells the world that his reputation

**16 May 2006 Lord Stevenson of Coddendam CBE, Rt Hon Lord Hurd of Westwell CH, CBE
and Mrs Angela Sarkis CBE**

has been traduced, that he was recommended for a peerage but someone somewhere decided that he did not fit the bill, and he has no recourse. He has told the world that he is unable to rely on the system—and you are part of the system—offering him a fair hearing. He goes on to say, “I would have expected more from a committee of such stature.” That is your committee. You talked about post-sales care, but do you owe some kind of duty of care to people like Chai Patel?

Lord Stevenson of Coddendam: We are talking fundamentally about a post-leak situation and there is no question that the leak put people like Dr Patel in a wholly unenviable position and, when we wrote to him, we were very sympathetic to that. The leak was not of our making. We have done our job. We were given a job to do, to give independent advice to the Prime Minister on the political list, and we have done that. It is very difficult to see what else we can do. I deeply regret the leak and I hope very much there will never be a leak again.

Q96 Mr Prentice: You told us that the system has been stress-tested and that it seems to be working well. When you got the certificate of compliance or whatever it is called from Ian McCartney in his hospital bed that everything was in order, and then it subsequently emerged that the treasurer of the Labour party did not know anything about the £14 million in loans, did you not think “Perhaps the system ought to change. We cannot just rely on a certificate from the party chair but we ought to dig more deeply”?

Lord Stevenson of Coddendam: What we actually did, just to be quite specific, before the event you talked about, there was a newspaper story about a loan, and we moved very quickly and asked all three political parties if there were any loans from any of the nominees, and we moved very swiftly—we were at quite an advanced stage of our considerations—to do that. I would simply say to you two things. One, that quite clearly, yes, we should have been briefed, and we and any successors we have should be briefed on loans. Two, if you read—I will not take it out for the moment—the terms in which we brief the parties and individuals, it is made clear in some detail what is expected of them, including that they should observe the conditions of the 2000 Act, the one that affects the Electoral Commission. I think you may take it that, if you read these things, our requirements are pretty strong stuff, they will be redrafted with a very strong banner saying we would expect to be told about anything and everything that could possibly be thought to affect a peerage.

Mr Prentice: That is very reassuring.

Q97 Chairman: Can I just return to our exchange a moment ago. I am still not clear what the answer was. What I really want to know from you is before the current round of controversies—because of the leak we know all about the current names—have there been occasions previously when the Commission has advised against particular names?

Lord Stevenson of Coddendam: No. I think that is correct, but I would rather not be drawn further.

Q98 Chairman: No. I just simply want to know.

Lord Stevenson of Coddendam: No, this is the first . . . If I could just enlarge, there have been issues—one that I can remember about a particular nominee—which we felt it right to follow through and check certain things. I would draw to your attention that we have insisted on residency as a qualification and paying UK taxes as another. That is an innovation we have made to the system, and I would rather not be drawn any further, Chairman.

Q99 Chairman: Is Lord Ashcroft resident here and paying UK taxes?

Lord Stevenson of Coddendam: I do not know. He pre-dates what I understand from the Cabinet Secretary is called “HOLAC”. We do not call ourselves “HOLAC”. He pre-dates us.

Q100 Chairman: From your answer I take it that there have been issues that you have flagged up but the issues have been satisfactorily addressed so there have been no outstanding ones in relation to the names. Could I ask Lord Hurd, because you have been involved in the Political Honours Scrutiny Committee that has now been absorbed into the Appointments Commission, and I think one of the interesting questions is, here we have had an Honours Scrutiny Committee since the horrors of Lloyd George; we know that there is a very strong correlation between the giving of money to political parties and the receipt of honours, and yet we have not, through the Political Honours Scrutiny Committee over all those years, had the kind of cases that we have seen this year. What has been happening?

Lord Hurd of Westwell: My memory does not quite go back to the terrors of Lloyd George. No, the Honours Scrutiny Committee was doing basically the same job as has been described, that is to say, it was receiving names through the Prime Minister from the party leaders, it was making checks, it was getting certificates from the Chief Whip in those days, it was considering the results of those checks and it was advising the Prime Minister. The differences are that the present Commission has independent members—we were just the three nominees of the parties, one of whom was the chairman—and it operates in a considerably more thorough and in my view satisfactory way, which is one reason why we on the Honours Scrutiny Committee, as it were, willed our own destruction; we asked really that we should be wound up and the job should be transferred to the body which has been created and is doing similar work, and that was accepted in Hayden Phillips’ report and accepted by the Prime Minister. So we were doing the same job. Of course, the main difference is that there were not leaks. The answer to your question is that there were; we had our moments. We had our cases, and our advice was taken, and neither the advice nor the difficulty was leaked, and therefore the individuals

**16 May 2006 Lord Stevenson of Coddenham CBE, Rt Hon Lord Hurd of Westwell CH, CBE
and Mrs Angela Sarkis CBE**

concerned were not embarrassed. Could I just add a point possibly on the Patel point? It has worried us all that not just Dr Patel but others have been put in a very difficult position. They or their wives or friends have read their name in the newspaper, and it emerges there are difficulties and they do not appear on the final list. It would be very hard to imagine us, I think, getting into the kind of discussion which Dr Patel clearly wants and felt he was entitled to because of the leak. As the Chairman has explained, we have to exercise our judgment in the area of propriety and credibility, whether somebody is going to be by their presence in the Lords lift the proceedings or diminish them or whatever. This is very difficult to discuss with the people concerned. There are plenty of honourable, law-abiding, good people walking the streets who any commission might say there are lots of things they would be good at but being a member of the House of Lords is not actually one of them, but to explain all that in the presence of lawyers and comings and goings is almost impossible. I think that is likely to remain a confidential business. It is actually in everybody's interests.

Q101 Chairman: Just so we are clear about the history, under the previous Honours Scrutiny Committee there were occasions when that Committee advised against certain names, were there?

Lord Hurd of Westwell: Sometimes it is a matter of timing. The question of tax residency is a classic case. That situation can be changed by the individual. So advice which may be cogent at one point on that may change. But there were certainly moments when the old committee, in my time, and no doubt back through the decades, did give advice against the immediate appearance of somebody on that list.

Q102 Chairman: Did the Prime Minister of the day always take the advice that you gave?

Lord Hurd of Westwell: In my time, yes.

Q103 Chairman: This relates now to what you do. As you say, the Prime Minister takes the decision. You only advise. If the Prime Minister says, "That is all very interesting advice but nevertheless, I am going to carry on," what happens then?

Lord Stevenson of Coddenham: It has not happened, Chairman, and it is rather hypothetical. We would have to consider our position, with the options of presumably resigning or going public, or if we thought it was very marginal, perhaps not, but it has not happened, and the Prime Minister has said in public that it is his intention to take our advice.

Q104 Chairman: Surely, the Commission needs to have a position on what would happen. You have suggested that you might resign, you have suggested that you might go public.

Lord Stevenson of Coddenham: I think this is clear. One is dealing with this on a case by case basis and I think you have to look at an actual example and the

terms of our advice and the strength of our advice, because, just being very hypothetical, you could imagine advice where we thought, "We don't agree with him but we can see why his position is not wholly unreasonable." There might be other advice where we had a very strong view against and we would be in a different position and perhaps consider more radical options, but it is hypothetical; it has not happened.

Q105 Chairman: Let me just ask one further question—it has been referred to already by Lord Hurd—which is on the criteria that you use. Looking at these, you talk about there being two really. One is good standing in the community and the other is that the person should be a credible nominee. These are very difficult judgments to make, are they not?

Lord Stevenson of Coddenham: Very.

Q106 Chairman: If the Prime Minister puts forward a completely undistinguished party hack, then presumably this goes through on the nod, does it?

Lord Stevenson of Coddenham: I did make the distinction in my introductory remarks between the non-party political peers and the political list. The non-party political peers, we make the judgment as to their suitability. For the party-political peers, the parties make the judgment as to their suitability and we are concerned only with their propriety, and I have defined how we interpret it. So I would not want to get involved in discussing party hacks and "on the nod" but in principle, if the Prime Minister's list contains someone who his party or someone in another party judges as suitable, and if we then judge that they pass our propriety test, we would recommend them.

Q107 Chairman: If the party leader puts forward a name of someone who is distinguished only by their lack of distinction, they are in every ordinary sense credible nominees, but they are not contaminated by donation, then they go through on the nod, do they not?

Lord Stevenson of Coddenham: We would consider them properly, vetting them for propriety, and if they pass the test, yes. We do not have a brief to check them for suitability or parliamentary talents or legislative talent.

Lord Hurd of Westwell: It is not just donations. Our test goes wider than donations.

Q108 Chairman: Yes, they are not in trouble with the tax authorities and they have not fallen foul of the regulators and all that, but apart from that, they have done nothing to distinguish themselves in life, they will sail through, but if someone has given some money, you will start looking at them.

Mrs Sarkis: We are only a part of the process. The parties have to take responsibility themselves for the quality and the standard and suitability of the names they are putting forward. We have to really emphasize, we receive a list of names with the accompanying paperwork, and that is our part in the

**16 May 2006 Lord Stevenson of Coddendam CBE, Rt Hon Lord Hurd of Westwell CH, CBE
and Mrs Angela Sarkis CBE**

whole process. So we do not have a role in looking in advance as we do with our own nominees. That is a totally different ball game. The public record is there, which suggests that we have been successful in how we have looked at our own independent nominees, in that we have been incredibly careful to vet them very carefully.

Q109 Chairman: If a party leader says to an MP “You give up your seat to us and we will put you in the Lords,”—I am told this happens, and has happened regularly for years—does this come to your attention?

Lord Stevenson of Coddendam: No.

Mrs Sarkis: It is a matter for them.

Lord Stevenson of Coddendam: It is outwith our brief. Our brief is to vet the political list for propriety.

Q110 Chairman: So people can sell their seat, but they cannot donate money without being scrutinised by you.

Lord Stevenson of Coddendam: It is your language, Chairman. It is reasonable to conjecture that if we found that, in some sense of the word “sold”, someone had sold their seat, it would be reasonable for this Commission to look at that under the propriety test, but as a general proposition, going back—and you are describing someone who I am sure does not exist, some very straightforward, undistinguished, completely honourable MP, but who in your judgment, in this hypothetical state, might not be someone who would contribute a great deal to the House of Lords—having checked that that person passed our propriety tests, that would be it. We do not have a brief to assess people for what I call suitability.

Q111 Mr Prentice: If an academic were to look at this matter and to find that almost every retiring MP who announced the retirement once the whistle had been blown for a General Election found themselves magically in the House of Lords, you would want to look at this?

Lord Stevenson of Coddendam: I think you raise a very interesting scenario.

Q112 Mr Prentice: This is not rocket science. You are the man responsible for all this and I am saying that you would want to look at this if someone gave you the figures.

Lord Stevenson of Coddendam: I go back: our brief with the political list is to test for propriety, to vet for propriety, and therefore, to the extent that someone showed us something which was *prima facie* improper and therefore would mean that that person or those people might be thought to be going to diminish the reputation of the House by going there, yes, we would.

Q113 Grant Shapps: Can you remind us how members of your Commission are made up, other than the political members, how you are actually appointed? This question could be to Angela Sarkis.

Mrs Sarkis: There were originally seven members of the Commission. There are now six because one has stepped down early through other pressures of work. The political nominations . . .

Q114 Grant Shapps: Those I understand. I am interested in the so-called independents.

Mrs Sarkis: We were appointed through open competition. The jobs were advertised. We applied for those jobs and went through the normal process of application.

Q115 Grant Shapps: The Prime Minister plays what role in that?

Mrs Sarkis: It was his office who actually did the recruitment.

Lord Stevenson of Coddendam: To be very precise—and I do not quite know who within government did it—there was a rather intimidating interview panel chaired by the then Head of the Civil Service, Sir Richard Wilson. I imagine that panel then made a recommendation to the Prime Minister but that was exactly what happened, and there were head-hunters, you will not be surprised to hear.

Q116 Grant Shapps: The answer, as I understand it, is that you are in fact appointed by the Prime Minister but via that panel.

Mrs Sarkis: That is correct.

Q117 Grant Shapps: So in a sense, we do have the Prime Minister’s own people to an extent sitting on a committee to decide on appointments which quite often will come via the Prime Minister. So there is a little bit of a circular connection here, is there not?

Mrs Sarkis: No, I do not accept that at all. We are certainly not the Prime Minister’s people. We are incredibly independent individuals. I can give you my assurance of that. But that apart, we recognise and take that role very, very seriously, being independent on this Commission. We know the importance of the work. We have already been discussing the significance of what we do. We need to ensure that the independent people are bringing an independent view and an independent perspective, which at times will be different to the political appointees.

Q118 Grant Shapps: Nonetheless, we must accept that the Prime Minister must have liked you at the point that he appointed you, otherwise there would be no point in him having appointed you.

Lord Stevenson of Coddendam: Does the Prime Minister know you?

Mrs Sarkis: No, he does not.

Lord Stevenson of Coddendam: I see where you are driving to. I just do not think it is right actually. It was very remote from the Prime Minister. The Head of the Civil Service did it. It was unbelievably post-Nolan-esque proper, and we have operated very independently and we have no complaints.

16 May 2006 Lord Stevenson of Coddendam CBE, Rt Hon Lord Hurd of Westwell CH, CBE
and Mrs Angela Sarkis CBE

Q119 Grant Shapps: Thanks to this leak in fact we have seen the demonstration of your independence. It just occurred to me that might be in the same way that members go to the House of Lords, politically appointed, and then end up being terribly independent because they are there for the rest of their lives. Do you consider that there is ever a sense of civic virtue in giving money to political parties?

Lord Stevenson of Coddendam: Gosh! Can I say I think the issue as to the ethics, the civic virtue or whatever the expression was you used to the Cabinet Secretary earlier on, is not a matter for this Commission. We have a narrow job that starts when we receive the names from Number 10 and send the advice in. We might individually have our own views about the funding of political parties, but as a Commission we do not.

Q120 Grant Shapps: Let me ask it the other way around. Does it rule out an individual now?

Lord Stevenson of Coddendam: No, donations and loans absolutely are not a means, with any automaticity, of getting a peerage, but they are not a bar to getting a peerage, and to some extent that is what we exist for.

Q121 Grant Shapps: Just to understand this process, if you had a candidate in front of you and you could not really determine any other reason why this politically suggested candidate had been placed in front of you other than the fact they seem to have given £1 million or £2 million to a political party, you would then automatically reject them?

Lord Stevenson of Coddendam: We would not reject them. In that hypothetical situation, we would be likely to advise the Prime Minister in the terms that it was difficult to see that they were a worthy candidate.

Q122 Grant Shapps: That type of hypothetical situation is the type of thing that we may have seen in recent times.

Lord Stevenson of Coddendam: You may have done, yes.

Q123 Grant Shapps: Would you say that, as a Commission, you have become more activist in your role?

Lord Stevenson of Coddendam: What do you mean by “activist”?

Q124 Grant Shapps: Simply that if you go back a few years, it is quite clear the politically appointed people who had donated money could still make their way into the Lords. It seems that now, certainly in the last year, it is almost impossible for that to happen because you are much more activist than you were.

Lord Stevenson of Coddendam: No. I am very glad you asked the question. To make something absolutely clear, we have not by dint of what has happened over the last six months acquired sharper

teeth or been more activist or tougher. It just happens that the list we have received, which most unfortunately was leaked, which made the whole process infinitely more difficult for everyone, contained a number of people about whom we advised the Prime Minister in a certain way and we did not see previous lists as having people about whom we would give that advice. We have not raised the strength of our scrutiny.

Q125 Grant Shapps: I hear what you are saying but there is something which does not add up here. On the one hand, you are saying that there was never a time in the past where your recommendation to the Prime Minister was not accepted; in fact, you went as far as to say if that had ever happened, you might want to consider resigning or going public or something else. So you are very clear that your recommendations have always been accepted, but on the other hand, we know that you have, quite rightly, in recent times—you have suggested that that hypothetical might be true—actually prevented people who have given money and apparently done nothing else from getting a peerage. How can both be simultaneously true? In the past we know that people have been made peers because of the money they have given to political parties, and yet you say you have not become more activist. You must have become more activist in your approach.

Lord Stevenson of Coddendam: No. If I go back to the fundamentals, the dialogue we had a moment ago, giving a donation or a loan does not *ipso facto* rule you out of getting a peerage, nor, *ipso facto*, does it get you a peerage. It is our job to vet for propriety people who come on political lists and with particular attention but not exclusive attention to those who have given donations or loans, and I have shared with you the judgments we make in doing that, and that means that some people who have given loans/donations we will see as credible nominees and others we will not. To go back to the question, these are subjective judgments. I do not see us as having become more or less activist.

Lord Hurd of Westwell: What we have done is we have continually tried to tighten and complete our procedures. The Chairman has already given one example, which concerns loans. We are now removing any conceivable scintilla of doubt—we do not think there was a reasonable doubt, but in future there will be absolutely no doubt that loans have to be declared in the certificate we get. Another change we have made which has not been mentioned is we decided to shift the requirement from the Chief Whip to the chairman of the party. Why? Because—and this was our experience on Honours Scrutiny—the Chief Whip does not always necessarily know. He knows the parliamentary aspect, but that is only one aspect. We thought that the chairman of the party was more likely to be in a position to be able to sign a certificate in good faith on the whole range of political activity, and that was a change which I think tightened it up. So we may be becoming more effective by tightening our own procedures.

**16 May 2006 Lord Stevenson of Coddendam CBE, Rt Hon Lord Hurd of Westwell CH, CBE
and Mrs Angela Sarkis CBE**

Q126 Grant Shapps: So let me understand this correctly. You are saying you do not regard yourselves as becoming more activist as a Commission, but you do think that the rules that you have adopted have tightened up, which might actually in effect come to the same thing. You are giving us a patchwork picture of your work and, for reasons of confidentiality, you cannot fill them all in, but at the same time, you are asking us to believe that it is only in the last set of nominations that four people were effectively rejected, that you have never recommended rejection prior to that, and that the Prime Minister has always agreed with your recommendations. That makes it sound like it is only recently that you have started rejecting on the grounds of cash.

Lord Stevenson of Coddendam: I understand that and, just to recap, there is a paper which sets out the evolution of our processes. It is very clear and, as Douglas has said, we have tried, frankly, to remove ambiguity. There was ambiguity as to what a donation was: if people were giving money from their companies or overseas trusts or whatever. We should be as specific as possible. If I can be very specific, at the time we did that, we were just as watchful for those kinds of donations as we are today. So I really do not think we have become more activist. I think perhaps we have learned how to be more systematic. I would accept that completely.

Q127 Chairman: Just on Grant's earlier question, Jack Straw was on the *Today* programme this morning. His strong argument was that giving money to a political party is a good thing to do. It is, in Grant's language, an act of civic virtue. As Gordon will remind us in a moment, we have the Prime Minister saying that people who give money to government programmes like academies ought to be in the Lords because these are good people doing good things. Yet your approach is to regard a donation as a potential disability.

Lord Stevenson of Coddendam: No. There is no automaticity either way. Our job is to vet everyone on the political list for propriety and, for very obvious reasons, we have obviously looked very hard at people who have given donations or made loans. It is not a disability. It is no bar in either event.

Q128 Chairman: Your form of words is you assess whether or not an individual could have been a credible nominee if he or she had made no political donations.

Lord Stevenson of Coddendam: Yes.

Lord Hurd of Westwell: It is not a qualification and it is not a disqualification.

Q129 Chairman: No, but it is not regarded as an act of civic virtue, is it?

Lord Hurd of Westwell: Not an act of civic virtue to be rewarded by a seat in the House of Lords.

Q130 Chairman: If it is an act of civic virtue, as Jack Straw and the Prime Minister argue, to give money to political parties and to government programmes,

this surely then should be reflected in the honours system, the criteria for which are set by the Government, and in your consideration of nominations for the House of Lords.

Lord Hurd of Westwell: There are lots of acts of virtue which do not necessarily lead to the House of Lords.

Q131 Mr Burrows: In terms of the concern about political donations, you are saying there is concern in terms of the credibility in terms of significant political donations. Is there then a sliding scale, as to a high level of donation raises a concern but if it is a small level, there is not a concern?

Lord Stevenson of Coddendam: No.

Q132 Mr Burrows: The amount or timing of a donation does not have a bearing?

Lord Stevenson of Coddendam: You have asked two different things. As a practical matter, I think I am right in saying that if someone has given less than £5,000, they do not have to declare that donation to the Electoral Commission, although—again, I am speaking from memory—I think you will find, and I applaud it, that quite a number of our nominees will actually tell us they have given £1,000 or whatever or gifts in kind, etc. I cannot remember us taking views on quantum. Timing is a different matter. Timing is relevant. If someone had given a huge donation the day before a nomination went in, we might have a view on that or it might affect things.

Q133 Mr Burrows: Just taking it wider, you say that on the grounds of the criteria, any sort of relationship could affect a peerage, and that no doubt covers financial or other support for a government project or benefiting from a government contract by a nominee. Is that all covered?

Lord Stevenson of Coddendam: If you read through what we require of the parties, and we require of individuals, it is pretty sweeping although, as I said to Mr Prentice, I think there will be some letters in bold type in capitals at the top saying that, in the spirit of the matter, we expect to be told about anything that conceivably be thought to affect a peerage, or words to that effect. On the issue that you raise, which has come up in conversation, of contributions to government programmes, and reference I think has been made to academies, I think it is probably accurate that we have been told about all such donations to government projects, and certainly academies, in the citations, and in any event, they have been very much in the public domain, so we have known about it.

Q134 Mr Burrows: Not just financial; other support. Are you confining yourselves purely to financial relationships?

Lord Stevenson of Coddendam: If I read this out, when the certificate that the party chairman sends for someone who has given a donation, it says, "1. The individuals have made donations (in money or in kind) either directly or indirectly, to the Party or political fund. I have detailed the nature of this

**16 May 2006 Lord Stevenson of Coddendam CBE, Rt Hon Lord Hurd of Westwell CH, CBE
and Mrs Angela Sarkis CBE**

contribution . . . 2. There is no personal financial relationship between the named individuals and any senior Party member. 3. The recommendations are not associated, directly or indirectly, with this contribution or the expectation of a future contribution to the Party, political fund or to a senior Party member. 4. Those names are resident in the UK for tax purposes and intend to remain so or are willing to become so upon appointment.” If you read the guidance to the chairman of the party, it is very explicit to follow the 2000 Act and the criteria for the Electoral Commission. That does not talk about moneys that nominees may have given to charities, to other government programmes, etc, and as a matter of fact, I think we as a Commission would not expect a party chairman to know if someone had given half a million pounds to charity or whatever, unless there was a personal relationship with a politician, which is covered here. What I think it is fair to say is that we have a very comprehensive picture, normally because we have been told it, but if not, nowadays you can find out exactly what people are given and what they have done, so we will know what donations they have made, both to things inside government or outside government.

Q135 Mr Burrowes: But in terms of in-kind support for government projects, is there not a duty on that nominee to disclose that, and that is a level of interest that you would have?

Lord Stevenson of Coddendam: I think actually you get on to very tricky ground when you are talking about a political list. It is clearly quite right that we get the last cent of money and in-kind support to the political party, directly or indirectly, and all the right language is there. I think as a matter of fact we know, because we can find out, and normally people tell us as part of their citation what other moneys they are giving in other places. I cannot think of a hypothetical example, but I imagine the donors to academies give money rather than things in kind but they may give things in kind. If they were giving substantial moneys or in kind, I would expect us to have found that out, but we do not require that of them, although we tend to know about it.

Lord Hurd of Westwell: If such cases came before us, if someone was nominated, and part of the reasoning was that they had given a great deal in time, effort, money to say the regeneration of Liverpool or a big city through all kinds of means, that would be one thing and we would regard that as a plus rather than a minus, I think, when the test of credibility came, but if it came to our ears that before they had done any of that they had been promised a peerage, that would be an entirely different situation. We have not actually had to consider a case of this kind. That is the sort of way we would look at it.

Q136 Chairman: If they know they are more likely to get a peerage if they do such things, it is not a question of a promise, is it? It is that they know how the system works.

Lord Hurd of Westwell: Expectations sit in the air. I think a promise is the important point, is it not, or a half-promise, a wink and a nod? These are the things we would have to judge in each particular case.

Q137 Chairman: When you were answering David just now, you did not mention loans explicitly.

Lord Stevenson of Coddendam: I did.

Q138 Chairman: In relation to the names that have caused all the trouble, it is not the case that loans figured in those assessments, is it, because all the loan argument only blew up subsequently?

Lord Stevenson of Coddendam: With one exception, which happened afterwards. I do not want to get drawn into particular people.

Q139 Chairman: Are you revising what you are doing about loans?

Lord Stevenson of Coddendam: We already require the parties and the individuals to comply with the 2000 Act in the same terms as the Electoral Commission does, and that of course brings one into the tricky area of what is a commercial loan. Under that, we would expect the party and the individual to tell us of any loans that were not strictly commercial, and indeed, some have. We have been briefed on some and not on others. We have not had the opportunity but we will, as a Commission, be sitting down in a reflective way and looking at the totality of our process with a view to trying to improve it for the future. We have not discussed it but I think it is likely that we will say we just want to know about any loans, commercial or non-commercial, for the avoidance of doubt. We have formerly required people to tell us about loans under the 2000 Act.

Q140 Jenny Willott: I just have two sets of questions. The first one is about the decisions that you make on individuals. Do you arrive at these decisions on the basis of consensus? Has there ever been divergence between the independent members of the Commission and the party political appointees?

Lord Stevenson of Coddendam: The short answer is, as it happens, we have had a consensual view throughout our history. It does not mean to say we would not have to vote at some point but we have not.

Mrs Sarkis: We certainly do have consensual views but we certainly also have quite rigorous discussions as Commission members. I would not necessarily say that has been on independent or party lines actually. I think it is more to do with different experience around the table. There are different weights we would put on the evidence that we have before us, because we do seek a lot of evidence from various places, and then it is a question of weighing it all up, and listening to colleagues who have other experience or other knowledge.

Q141 Jenny Willott: Do you do more checks on some nominees than others?

Lord Stevenson of Coddendam: It is a case by case thing.

**16 May 2006 Lord Stevenson of Coddenham CBE, Rt Hon Lord Hurd of Westwell CH, CBE
and Mrs Angela Sarkis CBE**

Q142 Jenny Willott: If something comes out after you have given your advice to the Prime Minister that would have affected your decision, is there anything you can do at that stage? What steps would you take?

Lord Stevenson of Coddenham: As I think I or one of us said in response to an earlier question, if the human being has been nominated to the Queen and ennobled, there is nothing formally we can do about it. If something were to come out before the Prime Minister had made up his mind, I think we would tell the Prime Minister very swiftly. The answer is if the peerage has been bestowed, we cannot do anything.

Q143 Jenny Willott: Has it ever happened that after you have made a decision you have discovered more information?

Lord Stevenson of Coddenham: It has happened that before the Prime Minister has made up his mind we have discovered more information. I would rather not be drawn.

Q144 Jenny Willott: Can I ask about closing loopholes, because clearly, you do try to identify and close loopholes.

Lord Stevenson of Coddenham: We do try to, yes.

Q145 Jenny Willott: Absolutely. You went looking for the issues, for example, about paying taxes and being resident in the UK. There were two elements that I wanted to ask. One David has already touched upon, which is less obvious financial relationships. Would you consider looking at a relationship in terms of government contracts between an individual who has been put forward for a peerage that has a relationship with a political party? Would you ever consider that?

Lord Stevenson of Coddenham: I think that if we were looking at someone who was involved in a company that had an important financial relationship with the Government, we would expect to be told about that in both the party citation and the nominee's own citation, and I am about to venture a little further and say I would hope that, if we were not, we would be savvy enough to notice it for ourselves. It is quite a small, centralised country. If a company is dealing with the Government, it would be quite well-known.

Q146 Jenny Willott: Are people open and honest with you in providing that sort of information?

Lord Stevenson of Coddenham: Broadly, yes.

Q147 Jenny Willott: The final element is about the convention that Ministers in the Lords are exempt from vetting. Do you think that this should change so that they are vetted as well, given that the loopholes that exist seem to be abused often? Do you see this as a potential future area?

Lord Stevenson of Coddenham: Our brief does not contain taking views on these matters. We are an independent body set up by the Prime Minister, who has created our terms of reference. We are not the statutory commission that, for example, Wakeham

considered, which might take views on that. The Commission as a whole does not have a view. I think it is fair to say various individual members might be broadly sympathetic to the view you are putting across, but the Commission as a whole does not have any right to hold that view.

Q148 Jenny Willott: Do either of the others have any comment to add to that?

Mrs Sarkis: I think I agree with the Chairman. These are questions which might perhaps be properly looked at as the consideration happens of the reforming of the House of Lords.

Lord Hurd of Westwell: Particularly in this age of very rapid ministerial shuffles.

Lord Stevenson of Coddenham: We do not have a formal position but it is a non-trivial question.

Q149 Jenny Willott: The final thing is: are there any other loopholes that you are aware of that you are trying to close at the moment?

Lord Stevenson of Coddenham: If I say "no", I am hung either way, am I not? All I can say is we are doing our best. You will have seen from annex B that we have tightened it and tightened it. I have already referred to the fact that I do think that in future we should ask for all loans. I do not personally take the view—this has not been discussed by the Commission, but I think that if someone has made a loan to a political party, and even at the most usurious rate of interest, I think if that person is then nominated for a peerage, we would like to know about it; it is relevant. The party might not obtain money in any other way. I think that is something worth closing. I cannot think of any other loopholes, but I am sure they will emerge; they always do.

Mrs Sarkis: We have actually had six lists so far, and after each of those we have revised what we do and our processes to tighten up each time, and I am sure this one will be no exception. One of the things we will also be wanting to do is to make our information more explicit on the website so that the public are better aware about our processes and how we work.

Q150 Jenny Willott: Does that suggest that there are people on each list that you have been given that, had you changed the rules prior to the decisions you were making, you would not have recommended to the Prime Minister?

Mrs Sarkis: No, it does not. What it has made clear to us is that the system could have been easier to understand for people outside, and in particular the public, who are not always aware of what we do.

Q151 Chairman: On the question of exemptions and loopholes, am I not right in thinking that the Resignation Honours List is exempt from your scrutiny?

Lord Stevenson of Coddenham: I think the presumption is made about MPs, unless one of them was obviously moneyed, that we do not apply the same test that we would to someone who had made a donation.

**16 May 2006 Lord Stevenson of Coddenham CBE, Rt Hon Lord Hurd of Westwell CH, CBE
and Mrs Angela Sarkis CBE**

Q152 Chairman: What I am thinking of is the prime ministerial resignation list. If you think of the dispute into which the honours system was brought by Harold Wilson's famous lavender list, it is possible that such a thing may happen again.

Lord Hurd of Westwell: We have not had one, have we?

Q153 Chairman: We may never get another one! My understanding is that these do not fall under your scrutiny.

Lord Stevenson of Coddenham: I hope you are wrong. It is embarrassing for me, because frankly, I think they should. I think it does, actually. I think this will fall under our scrutiny but I am rather embarrassed that I cannot give you complete certainty. I will follow it up afterwards and give you complete certainty. I think you are wrong.¹

Lord Hurd of Westwell: The Prime Minister has specifically said that he reserves—I am now going on to non-party peers—the right to put 10 people into the Lords, not taking a party whip but non-party peers, but they are of course vetted.

Q154 Chairman: Please go away and look at this. My understanding is that the resignation list does not fall to you to be scrutinised. I am interested that you would feel it to be an omission if that were the case.

Lord Stevenson of Coddenham: We will write to you formally with our understanding of it.

Q155 Chairman: If you discovered that was the case, perhaps you would be making representations that it should be covered.

Lord Hurd of Westwell: Talking about loopholes or gaps, I think a big gap—and this is a personal view—is that we ought to be a statutory body. Not *we* ought to be, but there ought to be a statutory body. Your kind of point and one or two others that come up are really matters that ought to be settled by Parliament when a body is established, and then it can go ahead and operate. To some extent we have been making our own rules, improving our procedures and so on, but I think it would be a happier situation, whatever else happens about the Lords, if there are going to be appointed members of any kind, an appointments commission will be needed and it should be set up by statute.

Chairman: Yes. I am grateful for you saying that.

Q156 Julie Morgan: What sort of time do you spend on these decisions, for example, this recent disputed group that unfortunately was leaked? Can you say generally how long you spent discussing these particular issues?

Lord Stevenson of Coddenham: The last few months. If you had asked me or any of us that question a year ago, we would have given you a different answer. There have been no general rules. We have spent a huge amount of time over the last few months on these decisions, with innumerable meetings and a huge amount of staff time. There are not any general

rules. With the previous lists, we have done our vetting processes thoroughly but there have not been as many difficult decisions to take. I am afraid I cannot give you an answer.

Q157 Julie Morgan: If you have had a difficult decision, you have spent hours, days?

Lord Stevenson of Coddenham: At various points the system, by which I do not mean just the political system, but the expectation is of a turn-around of these things very quickly, and somehow the fourth estate learns there are lists and on it goes, and although it has disappeared now, there was a definite feeling in the air we were dragging our feet, delaying things, in the three months after Christmas. As far as we were concerned, we took the view we had to discuss the timing, because people were saying, "Hey, what's happening?" We took the view we would take as long as necessary to do the job properly, and that will be the view we will always take.

Q158 Julie Morgan: But you were aware of outside pressure.

Lord Stevenson of Coddenham: Yes. There was no insidious pressure, I hasten to add, and no pressure that I can remember from the heart of government, but just expectations, and it being in the atmosphere, and people saying, "Where is that list? They are dragging their feet," etc.

Q159 Julie Morgan: Do you ever feel uneasy about sitting in judgment on people?

Lord Stevenson of Coddenham: That is a good question! You put the question in a general way, and I will take it in a general way, because, like all of us in this room, I make judgments that affect people all the time, and of course, the answer is yes, making judgments that affect human beings, whether it is in your place of work or about one's children, it is a great responsibility.

Q160 Julie Morgan: Do you think that there is a case for not so many judgments to be made, and that it would be better in fact if people were elected to the House of Lords?

Lord Stevenson of Coddenham: That is a space into which I have to say I am not going, Chairman. I am very sorry.

Q161 Paul Rowen: In annex B you state that you carried out a substantial review after the 2004 list. What was the reason for carrying out that substantial review?

Lord Stevenson of Coddenham: As a general case, we would always review what we are doing at appropriate points, and a very obvious appropriate point is when we have done a list, no more and no less than that. We will be doing that now, not just because it has been a particularly time-consuming list but just as a matter of principle, going back to the discussion about loopholes, because we are just trying to improve it as we go along.

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**16 May 2006 Lord Stevenson of Coddendam CBE, Rt Hon Lord Hurd of Westwell CH, CBE
and Mrs Angela Sarkis CBE**

Q162 Paul Rowen: So you have no concerns about the 2004 list that led you to tighten the criteria, as you have done here?

Lord Stevenson of Coddendam: No, we were not carrying out a review because we had specific concerns. We were trying to apply what we had learned as we were going.

Q163 Paul Rowen: I know in the new criteria it does talk about money and donations in kind. When did you first become aware that loans might be an issue?

Lord Stevenson of Coddendam: I think I said earlier on, and it is important, that we have known about some loans. We have asked people to tell us about loans, and, surprise, surprise, some have, and they have been considered. We have known about the terms of the 2000 Act. When did we become aware of the saliency of loans in the most recent list? When we read that a particularly large loan had been made by one nominee, and that is when, as I said earlier on in response to a question, we moved very fast and got round all three political parties asking, which we had to do. It was rather late in the consideration and we had to move very fast to find out. But we have always known about loans and they were in the 2000 Act.

Q164 Paul Rowen: You say you have asked people. Do you actually interview people who are being considered for a peerage?

Lord Stevenson of Coddendam: With the non-party political peers we have interviewed them, and in many cases more than once. For the vetting of political peers, only by exception; when there are particular situations where we need clarification or whatever, we will interview or talk to people. We reserve the right always to go back to people and say, "Hey, what do you think about this?" or whatever. It is the exception rather than the general rule.

Q165 Paul Rowen: You state in here that, rather than ask the Chief Whip, you now ask the party chairman. Do you think that is the appropriate person or do you think the net should go wider in terms of who might be involved who may know about certain things?

Lord Stevenson of Coddendam: It is a good question to which I do not have a well-rounded answer. It is the kind of thing we will be reviewing.

Q166 Paul Rowen: In the light of what has become public knowledge recently, have you had a retrospective look at some of your appointments to see whether they would meet the new criteria?

Lord Stevenson of Coddendam: The new criteria?

Q167 Paul Rowen: The one you have for this year's working peers list and perhaps the ones that you may be wanting to introduce next year.

Lord Stevenson of Coddendam: No, is the short answer. As I said, our job finishes with the advice we give.

Q168 Paul Flynn: I was surprised at your answers; you are not contrite about your past behaviour. Your first list you produced of people's peers were widely regarded as being peers' peers. Do you not regret that? With the exception of Baroness Findlay, lots of them took a long time to make their maiden speeches and then did very little after that. Was it not a bit of a horlicks?

Lord Stevenson of Coddendam: I certainly learned, Chairman, not to venture any views about hairdressers. I would just say, and it is not what we are primarily discussing, that if you look at the recent debate on Assisted Dying for the Terminally Ill Bill, you will find a number of the non-party political peers who spoke making some quite outstanding contributions, and I think there is now enough evidence of the vast majority of the 36—now, sadly, 35 because Michael Chan has died—of the peers that we recommended to the Queen making a very substantial contribution. We are broadly comfortable and again, we can always improve; we can always do better.

Q169 Paul Flynn: You said after you were challenged on this that you could not appoint someone who was, for instance, a bus conductor or a hairdresser or a waitress because they would not have the self-confidence to stand up in the House of Lords and make a speech. Speaking as an ex-bus conductor who married a waitress . . .

Lord Stevenson of Coddendam: Can I say that I do not wish to be drawn, and I learned from that experience how unwise it was to be drawn on those issues. All I would say to you, very seriously, is that it always has been the case and continues to be the case that anyone can apply to be a peer, and we have criteria which are publicly available that anyone can look up on the website or be sent the printed document which we apply even-handedly to anyone who applies.

Q170 Paul Flynn: Finally, has the Queen ever turned down one of your nominations? If she did, what would you do?

Lord Stevenson of Coddendam: I will have to take refuge: I have no idea what the constitutional niceties are in replying to that question. I think you can guess the answer to that but I would rather avoid it, if I may.

Chairman: You do not need to answer that.

Q171 Mr Prentice: I feel as if I have squeezed the orange dry but I am going to have one more go. I am going to ask Lord Hurd. When I was asking Gus O'Donnell, the Cabinet Secretary, about whether it was legitimate to ennoble sponsors of city academies, I saw you shaking your head. Why were you shaking your head?

Lord Hurd of Westwell: It must have been just preparatory to blowing my nose. I have no recollection of that. I think it is a highly improper question!

**16 May 2006 Lord Stevenson of Coddendam CBE, Rt Hon Lord Hurd of Westwell CH, CBE
and Mrs Angela Sarkis CBE**

Q172 Mr Prentice: I am just going to stick with this for 60 seconds because it is so important. We have a police investigation on city academies. Let me put it this way, and I put the same question to sir Alistair Graham: if there were, as there will be, Conservative governments in future, and if they had a policy—they do not at the moment but it may change—to promote grammar schools, would it be legitimate to ennoble people who had endowed grammar schools and to make it clear, explicitly clear, in the way that 10 Downing Street has made it clear in the case of city academies, that it is perfectly legitimate to put people in the House of Lords who have given money, sponsored something that the Government approves of, in this case grammar schools, in the present Government's case city academies?

Lord Hurd of Westwell: My own view is simply this. If there is a public policy which a government has proclaimed and which Parliament has approved, which is public policy, which requires all kinds of help, as most public policies do, from people outside government, sometimes in terms of money, sometimes in terms of work or public support or whatever, I see no reason why that support for a public policy approved by Parliament should not be included in a citation for a peerage. It has to be vetted in the usual way and I do not see anything wrong with it.

Q173 Mr Prentice: So people involved in the private sector in medicine who were involved in the development of the private sector in the NHS, they could legitimately be rewarded with a peerage? That is the stated objective of the government of the day, that 15% of the NHS should be run by the private sector, in inverted commas.

Lord Hurd of Westwell: All I could do would be to repeat what I have already said.

Q174 Mr Prentice: My final question is this: were you shocked and surprised when the police got involved in this business?

Lord Stevenson of Coddendam: "Shocked" is an emotive term. I think the answer is we just got on with doing our job, and our job, which is what we are here to respond to questions on, is vetting that list we get from Number 10 with the paperwork, which goes back with the advice to the Prime Minister.

Q175 Mr Prentice: Is there an issue here for the police or has it all been blown out of . . .

Lord Stevenson of Coddendam: I have no idea. We cannot comment on it. A lot of public attention has focused on what we are doing, but it is quite a narrow bit of the chain, and frankly, personally, and I doubt whether my colleagues—and I do not wish to shut any of my colleagues up on this—I do not feel able to take a view on that. I really do not. I do not have enough knowledge.

Q176 Chairman: Does Lord Hurd have a view?

Lord Hurd of Westwell: We have a system about peerages, we have a system about honours, which I think is pretty good and I do not think is in either case corrupt, any more than I think the election system is corrupt because there are occasional cases of breaches of election law. In these last months there have been suggestions that the law which was put in place to deal with the terrors of Lloyd George has been breached. That is a matter for the police, and that is the legal side of it, a possible criminal offence, which is being investigated. The Appointments Commission is charged with a different part of the thing. We are not in charge of policing the 1925 Act; we are in charge of propriety, in the way that we have explained. So the two are not in conflict and, it seems to me absolutely right, as the Cabinet Secretary said, that your Committee should continue investigating the kind of area which you have been investigating, including us, alongside the police, and not be deterred from doing your duty because there is a criminal investigation in another part of the field.

Q177 Mr Burrowes: In your vetting procedure, in looking through applications, if it became apparent that there was, in your view, potential criminality, would you feel obliged to refer that to the police?

Lord Stevenson of Coddendam: Yes.

Q178 Mr Burrowes: So the answer is you have not come across in your vetting procedures and your considerations any instances which give rise to any criminality?

Lord Stevenson of Coddendam: I would rather not be drawn. We are getting into very hypothetical territory.

Q179 Grant Shapps: It has become clear actually, in an hour and a quarter of questioning, that we have really got to the bottom of this, with Lord Hurd's answer. If one of us had £1 million and we wanted a peerage, the advice really—not quite from the Appointments Commission but nearly—is that actually, you are better off giving that £1 million to a project which is official government policy like a city academy than you are giving it directly to the political party.

Lord Stevenson of Coddendam: Can I just say that is a misconstruction of what Douglas said. Douglas made it quite plain he was speaking personally and not for the Appointments Commission. That is way beyond the Appointments Commission's remit. I go back to what I said. On the area we are discussing today we have rather a narrow remit, which indeed the Chairman, by his rather careful questioning, I think pointed up rather elegantly earlier on, which is to vet that list that comes from Number 10 for propriety. Full stop. It begs the issue that Douglas talked about. What you are saying is absolutely not in the horizons of the Appointments Commission.

16 May 2006 Lord Stevenson of Coddendam CBE, Rt Hon Lord Hurd of Westwell CH, CBE
and Mrs Angela Sarkis CBE

Q180 Grant Shapps: It is actually the natural conclusion of what you were saying though, is it not? If you give that £1 million via a project, there is a peerage quite possible or certainly favourably looked upon. Give the money to a political party—actually nowadays, even lend the money to a political party, it is likely to disadvantage you, if your objective is just to get a peerage.

Lord Stevenson of Coddendam: That is a speculation, an inferential argument, which is quite outwith the considerations of the Appointments Commission.

Q181 Grant Shapps: It chimes in with exactly what we have just been told though.

Lord Stevenson of Coddendam: No.

Lord Hurd of Westwell: It is a conclusion you are drawing. It is not clearly what I was even in a personal view saying.

Chairman: I think we can draw this to a conclusion at that point. Could I thank you very, very much for coming along. We are very interested in the work that you are doing. The police are quite keen that we should not see certain witnesses, but I can reassure you that they did not mind us seeing you. We have benefited greatly. If you would drop me a line about the resignation list, I would be very grateful indeed. Thank you very much.

Written evidence

Letter from Lord Stevenson, House of Lords Appointments Commission, to the Chairman of the Committee

When we last met on 16 May you raised the question as to whether we would be asked to vet any resignation list. My understanding now is that if there is a Prime Minister's resignation list, we will be asked to vet it.

20 June 2006

Memorandum by the House of Lords Appointments Commission

This memorandum sets out the process followed by the Appointments Commission when scrutinising nominees for party-political peerages and honours; it does not cover the Commission's other role which is to recommend nominees for non-party-political peerages. While there are similarities in the processes for the sake of clarity they will be discussed under different headings. A note on the role of the Appointments Commission itself is at Annex A and one on the evolution of the scrutiny process at Annex B.

SCRUTINY OF NOMINEES FOR PARTY-POLITICAL PEERAGES

2. Appointments to the House of Lords are made by Her Majesty The Queen. By constitutional convention The Queen acts on the advice of the Prime Minister. He determines the timing of the list and the number of peerages on offer to the parties. He invites the Appointments Commission to vet the nominees for propriety. The role of the Commission is to offer advice to the Prime Minister on the propriety of the nominations; it does not have a veto.

The Commission's tests

3. In carrying out its vetting role, the Commission defines "propriety" as follows:
- first, the individual should be in good standing in the community in general and with particular regard to HM Revenue and Customs and other regulatory authorities; and
 - second, the individual should be a credible nominee.

4. The primary responsibility for determining credibility lies with the Party Leader, who selects the nominees. The Commission's main criterion in assessing credibility is whether the nominee would be likely to enhance rather than diminish the workings and the reputation of the House of Lords itself and the honours system more generally.

5. Of central concern to the Commission is the credibility of individuals who have made significant political donations. The Commission has decided that the best way of addressing this issue is to reach a view on whether or not the individual could have been a credible nominee if he or she had made no political donations.

6. If a nominee has been the subject of controversy, the Commission's role necessarily involves it in making judgements as to whether or not the controversy is likely to affect his or her credibility. It is not the Commission's role to make quasi-judicial judgements on the matters it comes across, involving as that would *inter alia* exhaustive enquiries and stepping into areas of jurisdiction that belong to others. However, given its remit, the Commission has to assess the likely effect of that controversy on the credibility of a nominee.

The checking process

7. The Honours Secretary in No10 writes to the Commission inviting it to carry out its vetting of the nominees put forward by the political parties. Enclosed with this letter are:

- the declaration/consent form which has been signed by the individual nominee;
- a citation for each nominee setting out the reasons why the party was proposing him or her; and
- a certificate from the Party chairman setting out any donations to the party and/or support for senior party members and declaring that they are not connected to the nomination.

A blank copy of each of these forms is attached at Annex C.

8. The Commission then undertakes the checks it deems necessary. This always includes its standard checks, with the following:

- "regulatory" authorities:
 - HM Revenue and Customs;
 - The Security Service;
 - The Home Office.
- Ceremonial Secretariat in the Cabinet Office (if an individual had been considered for an honour previously the Secretariat might hold information about them).

9. The Commission carries out checks via the internet with:

- the Electoral Commission’s register
- a media database, to see what had been said about the individuals in the media
- a “Google” search, to ensure the Commission is aware of all publicly available information.

10. It also identifies the “parent” department for a nominee (if there is one) and writes to ask it if it is aware of anything about the individual which would make him or her unsuitable for recommendation. For example, it would write to the Department of Trade and Industry about anyone who had business interests.

The Commission’s deliberations

11. The Commission then discusses the findings from its checks; this may involve one meeting or a series of meetings. In line with its code of practice, members will declare any relevant personal interest in relation to a nominee and, in light of the nature of this, may withdraw from any decision about the nomination.

12. During its deliberations, the Commission may request further information on a number of points from the regulatory authorities, political parties or nominees.

Correspondence with No 10

13. Once the Commission has agreed the advice it will offer the Prime Minister, the Secretary will convey this in writing. The letter will either advise that the Commission had no matters it wishes to raise or draw any concerns to his attention.

14. It is then for the Prime Minister to decide, in light of the Commission’s advice, whether or not he wishes to recommend an individual to Her Majesty for appointment.

HONOURS SCRUTINY

15. The Prime Minister asks the Commission, after making whatever enquiries it thinks appropriate, to let him know whether or not it is aware of anything in the history, current circumstances or general character of the individual which might suggest that he or she was not a fit and proper person to be recommended to The Queen for the award in question.

16. As a candidate for an honour does not know that he or she is under consideration for an award, the Commission does not receive a declaration or consent form from the nominee. Otherwise, it receives the same information about a nominee for an honour as it does for a nominee for a peerage.

17. The Commission carries out the same checks as it does in relation to nominees for peerages. The nature of its response to the Prime Minister is also the same. The same issue in relation to political donations also arises.

May 2006

Annex A

HOUSE OF LORDS APPOINTMENTS COMMISSION

THE ROLE OF THE COMMISSION

The House of Lords Appointments Commission was set up by the Prime Minister in May 2000. Its role was and is:

- to recommend individuals for appointment as non-party-political peers; and
- to vet for propriety nominations for peerages.

2. In April 2005 the Prime Minister invited the Commission to take on a further task, to vet for propriety any names he might add to the honours lists.

Recommending non-party-political peers

3. The Commission has made the following recommendations

- April 2001 15 nominees
- May 2004 7 nominees
- March 2005 2 nominees
- July 2005 5 nominees
- May 2006 7 nominees

Vetting nominations for peerages

4. The Prime Minister invites the Appointments Commission to vet for propriety most nominees for peerages. This includes nominees of the political parties, former distinguished public servants (the Prime Minister has reserved the right to nominate direct to The Queen up to 10 such nominees in a Parliament) and the Commission's own nominees. It does not include individuals who are made a peer in order to carry out a Ministerial role, Law Lords and Bishops. The task was formerly carried out by the (Political) Honours Scrutiny Committee.

Vetting the honours lists

5. In April 2005 the Commission took on the remaining task of the (Political) Honours Scrutiny Committee, the vetting of a small number of individuals on the honours list. These comprised:

- individuals being put forward by the political parties for political and public services;
- Members of Parliament being put forward for services to Parliament; and
- Any one added to an honours list at a late stage, who would not therefore have been subject to the normal assessment and selection processes.

6. However, the Prime Minister did not ask the Commission to take on one of the tasks of the Scrutiny Committee, looking at political donations made by candidates for high honours. The Prime Minister explained that because the Electoral Commission's Register of Donations provided information on political donations covering the four years since 2001, there was no longer any need for this degree of formal scrutiny.

7. The Commission vetted individuals on the Birthday Honours 2005 and the New Year Honours 2006 lists.

8. Although the Commission has yet to be formally notified, it is likely that (some of) this role will fall following the Prime Minister's recent announcement that he will no longer have a direct involvement in the Honours lists.

Membership of the Commission

9. The Commission currently comprises three independent members and three representatives of the main political parties, as follows:

- Lord Stevenson (Chairman)
- Mrs Felicity Huston
- Ms Angela Sarkis
- Baroness Dean (Labour)
- Lord Dholakia (Liberal Democrat)
- Lord Hurd (Conservative).

10. Dame Deirdre Hine was an independent member from May 2000 until June 2005, when she stepped down because of other commitments.

Status of the Commission

11. The Commission is an advisory non-departmental public body sponsored by the Cabinet Office. It is supported by a small office which forms part of the Independent Offices management unit of the Cabinet Office.

Annex B**THE EVOLUTION OF THE SCRUTINY PROCESS**

When the Appointments Commission was set up in May 2000, the Prime Minister invited it to take on the role of vetting nominations for peerages, a role previously carried out by the (Political) Honours Scrutiny Committee. The Appointments Commission based its approach on that of the Scrutiny Committee, that is, carrying out checks with the vetting authorities and "parent" departments. It added checks with the media, Google, the Ceremonial Secretariat in the Cabinet Office and the Electoral Commission.

2. With the establishment of the Electoral Commission the Appointments Commission followed its approach to donations. The Appointments Commission therefore asked individuals to declare any donations that were declarable to the Electoral Commission in the previous five years or would have been if the Electoral Commission had been in existence (but see below for the pre-election lists).

3. Leaving its own nominees and former distinguished public servants to one side, the Appointments Commission has vetted nominees of the political parties as follows:

— May 2001	Pre-election list
— July—September 2001	Mr Black
— February—April 2004	Working peers list
— August—September 2004	Messrs Kinnock and Patten
— April—May 2005	Pre-election list
— October 2005—March 2006	Working peers list.

4. These documents accompanied the invitation to the Appointments Commission to vet the early lists (but see paragraph 5 regarding the pre-election lists):

- a declaration/consent form signed by the nominee;
- a citation setting out the reason for the nomination; and
- a Chief Whip’s certificate confirming details of any significant donations made by the nominee and if made, that they were not connected to the nomination.

5. The Appointments Commission took the decision that there was no need to ask nominees on the 2001 Pre-election List or the parties to declare donations because the individuals were all MPs and were being put forward for services to the party in Parliament. The same approach was taken in relation to the 2005 Pre-election List.

6. The Appointments Commission has adapted its process in the light of experience. For example, its advice on the 2001 Pre-election List included a request for fuller citations. It carried out a substantial review after the 2004 Working Peers List. It decided that:

- the Party Chairman was in a better position than the Chief Whip to comment on the nominee’s relationship (financial and otherwise) with the Party;
- to stress that declarations should include donations in money or in kind, made direct or indirectly;
- all donations made to a party should be included, that is the five years limit for donations would be removed;
- any personal financial relationship between a nominee and a senior party member should be declared; and
- all nominees should be resident in the UK or willing to become so on appointment.

7. These changes were introduced for the 2005–06 Working Peers List, and the Chairman’s certificate and declaration/ consent forms amended accordingly.

8. The Appointments Commission is currently considering the lessons learnt during its deliberations on the 2005–06 Working Peers List and, undoubtedly, will wish to make further changes in due course.

Annex C

House of Lords Appointments Commission

VETTING OF PARTY-POLITICAL NOMINEES: THE COMMISSION’S REQUIREMENTS

INTRODUCTION

1. The House of Lords Appointments Commission is responsible for the vetting for propriety of party-political nominees to the House of Lords. To carry out this task, the Commission needs accurate, detailed information from both the relevant political party and the individual being nominated. For each party-political nominee, the Commission asks for the following documents:

- Party Chairman’s certificate;
- Detailed citation;
- Nominee’s signed consent form.

PARTY CHAIRMAN’S CERTIFICATE

2. The Party Chairman’s certificate confirms that all the necessary enquiries in connection to the nomination(s) have been made. Model wording for the certificates is set out in annex A.

3. Parties should investigate donations (both in money and in kind) made by the nominee either directly or indirectly. An indirect donation would, for example, be one from a company or trust where the nominee would be expected to exercise significant direction, or from a trade union of which the individual was an office holder or major supporter. Donations by close family members, such as spouses, would also be regarded as an indirect donation.

4. The Appointments Commission regards significant donations as any which have been reported to the Electoral Commission under the provisions of the Political Parties, Elections and Referendum Act 2000, or would have been had the Electoral Commission been in existence. The Appointments Commission asks parties to report on all such donations.

5. The Commission wishes to know about all significant donations, regardless of when they were made. Therefore, parties should ensure that all significant donations that can be recalled are reported. The Commission appreciates that this may be difficult for donations received prior to the provisions of the PPERA came into effect.

6. Further, the Commission asks the Party Chairman to state that to the best of his or her knowledge, the nomination is not connected to any donation to the party, political fund or personal financial relationship between the nominee and senior party members.

7. Where a donation has been made, either directly or indirectly, an annex should be attached to the certificate showing the value of the donation(s) made by each individual broken down on an annual basis. In instances when the donation has been made in kind, an estimated value of the donation should be given. In addition to this, where donations have been made indirectly, details should be provided of the nominee's relationship with the person or body that made the donation.

8. Where a personal financial relationship exists between the nominee and a senior party member, an annex should be provided outlining the nature of the relationship and level of remuneration. An example of a personal financial relationship may include the employment of a senior party member by a company where the nominee would be expected to exercise significant direction.

9. The Commission also expects the parties to ensure that all of the nominees are either resident in the UK, or willing to become so upon appointment.

CITATION

10. The Commission wishes each nominee's citation to include the party's grounds for recommendation. This information is particularly important for those nominees who have been large donors.

NOMINEE'S CONSENT FORM

11. The Commission will continue to provide a consent form for each nominee to sign. This form will ask nominees to:

- confirm residency in the UK, or a preparedness to become resident upon appointment;
- make a statement of propriety;
- report all donations they have had a role in, regardless of how long ago they may have been;
- report on any personal financial relationship with senior party members; and
- inform it of any further donations made between the date of completion of the form and the announcement of their appointment.

FURTHER ENQUIRIES

12. Once it has received this information the Commission will consider the nomination. While it hopes that the detailed information it has requested will be sufficient for its enquiries, from time to time it may be necessary for it to meet either the party officials or the nominee to discuss aspects of the nomination.

House of Lords Appointments Commission

June 2005

Annex A

Party Chairman's Model Certificates

CERTIFICATE A—NO EVIDENCE OF DONATIONS

I have carried out all the necessary enquiries in connection with the recommendations on the attached list and I can certify that to the best of my knowledge:

1. The individuals have not made significant donations, either directly or indirectly, to the Party or a political fund.
2. There is no personal financial relationship between the named individuals and any senior Party member.
3. The recommendations are not associated, directly or indirectly, with any contribution or expectation of contribution to the Party, a political fund or senior Party members.
4. Those named are resident in the United Kingdom for tax purposes and intend to remain so, or are willing to become so upon appointment.

Signed:..... Party Chairman

CERTIFICATE B—EVIDENCE OF DONATIONS

I have carried out all the necessary enquiries in connection with the recommendations on the attached list and I can certify that to the best of my knowledge:

1. The individuals have made donations (in money or in kind) either directly or indirectly, to the Party or political fund. I have detailed the nature of this contribution in the attached annex.
2. There is no personal financial relationship between the named individuals and any senior Party member.
3. The recommendations are not associated, directly or indirectly with this contribution or the expectation of a future contribution to the Party, political fund or to a senior Party member.
4. Those named are resident in the United Kingdom for tax purposes and intend to remain so, or are willing to become so upon appointment.

Signed:..... Party Chairman

CERTIFICATE C—EVIDENCE OF FINANCIAL RELATIONSHIP WITH SENIOR PARTY MEMBER

I have carried out all the necessary enquiries in connection with the recommendations on the attached list and I can certify that to the best of my knowledge:

1. The individuals have not made significant donations, either directly or indirectly, to the Party or political fund.
2. There is a personal financial relationship between the named individuals and a senior Party member. I have detailed the nature of this relationship in the attached annex.
3. The recommendations are not associated, directly or indirectly, with any contribution or the expectation of a contribution to the Party, a political fund or to a senior Party member.
4. Those named on the attached list are resident in the United Kingdom for tax purposes and intend to remain so, or are willing to become so upon appointment.

Signed:..... Party Chairman

Citation Document

Recommendation for: Life Peerage

Full Name:

Home Address:

Telephone Number:

Date of Birth:

Proposed by:

Short Citation:

Citation:

Memorandum by Richard Heller

1. This evidence is offered to the Committee by an individual with no prospect of obtaining an honour either by payment or merit. I hope that it will therefore be regarded as disinterested.
2. Its prime purpose is to suggest that the Committee look at the links between donations and honours in the wider context of the purchase of influence in public life. It offers the Committee a proposal for amendment of the existing law on the purchase of honours to include the attempted purchase or sale of public appointments, or the attempted financial procurement of changes in public policy or actions or omissions by any public official. It also suggests that all peers and MPs should declare their donations or loans to any political movement, other than ordinary membership fees.
3. The Committee might also wish to study what internal mechanisms, if any, are employed by the parties to scrutinize donations and loans. In the wake of the Mittalgate affair the Labour party set up an ad hoc committee chaired by Lord (Matthew) Evans of Temple Guiting, now a government minister. Remarkably,

Lord Levy, the party's chief fundraiser was a member, which made him responsible for scrutinizing his own efforts. I am not aware of any parallel initiative by other parties, but it might be instructive for the Committee to see if they existed, what criteria they applied and what results they achieved.

THE LAW ON THE SALE OF HONOURS

4. The Committee will be aware that the Honours scandals of Lloyd George's Coalition government from 1916 to 1922 prompted the Honours (Prevention of Abuses) Act 1925. This made it for the first time a criminal offence to buy or sell, or attempt to buy or sell any dignity or title of honour. To this day only one person has ever been convicted or even charged with an offence under the Act—the notorious honours broker Maundy Gregory. Interestingly, Gregory was charged years after his heyday for a particularly blatant offence when he tried to sell a knighthood to an affronted naval commander. He pleaded guilty (to protect his more famous clients), served a short sentence, and was pensioned off to live in France.

5. Since Gregory's conviction in 1933 the law has been flouted systematically with impunity. Honours have been given regularly in exchange for political donations (officially "for political and public service").

THE CASE FOR A NEW LAW

6. The sale of honours is a public mischief which should be prevented by law. It tarnishes the sovereign, as the fount of honour. It devalues awards to people for service to the state. The sale of a peerage is particularly offensive, since it confers legislative power on the purchaser (and executive power if he or she then becomes a minister). However, recent developments have revealed the possibility of allied and arguably more serious dangers to public life. The Ecclestone affair suggested that donations could be used to secure changes in public policy. The Mittalgate affair suggested that they might be used to procure actions by public officials—even the Prime Minister. Whether or not these suggestions were true, they highlight the case for bringing such matters within the ambit of the law.

7. Two other aspects of modern government also point to the potential value of new law. The first is the proliferation of quangos, taskforces and other advisory bodies with an influence on public policy. Modern Prime Ministers have an almost limitless power to appoint people to such bodies, without any form of scrutiny. It is arguably more important to prevent the sale of such appointments than the sale of honours, since they confer power as well as status. The second is the growth of organized lobbying, which is virtually unregulated except by lobbyists themselves. The "Lobbygate affair" opened the possibility that lobbyists would make direct offers, as in the United States, to secure changes in public policy. A new law could check this development without preventing people from employing others to help make their case to government.

8. To assist the Committee's deliberations, I have drafted a revised law based on amendment to the 1925 Act. This is reproduced in the Appendix, with a Commentary.

9. I hope that the Committee might also consider the merits of requiring all peers to declare substantial donations or loans to any political cause. This would aid transparency in public life and save researchers unnecessary labour. It would also add a small safeguard against the creation of "soft money" on the American model—contributions to political causes which benefit parties without showing up in their accounts. I think it would be right for MPs to submit themselves to the same discipline.

16 March 2006

Appendix: The Public Life (Prevention of Abuses) Act 2006

An Act to amend the Honours (Prevention of Abuses) Act 1925, to make provision for the prevention of other abuses in public life, and for connected purposes

1. If any person:

- (a) accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, for any purpose; or
- (b) gives, or agrees or proposes to give, or offers to any person,

any gift, money or valuable consideration as an inducement or reward for procuring or assisting or endeavouring to procure

- (i) the grant of a dignity or title of honour to any person or otherwise in connection with such a grant, or
- (ii) appointment to any office of profit under the Crown or any public appointment, or
- (iii) any change in the law or public policy for the time being in force in any part of the United Kingdom, or

- (iv) any action or omission by any person holding an office of profit under the Crown or any public appointment,

he is guilty of an offence and liable on conviction on indictment to imprisonment for a term not exceeding three months or a fine not exceeding the prescribed sum, or to both; and where the person convicted, whether on indictment or summarily, received any such gift, money or consideration which is capable of forfeiture, he is in addition to any other penalty liable to forfeit the same to Her Majesty.

2. An offence under this Act may be committed outside the United Kingdom.

Commentary

Upright passages reflect the existing wording of the 1925 Act: italic passages are additions. New sub-clause iii) might at first sight appear to criminalize legitimate lobbying or advocacy. I think not. In my view it would criminalize the suggestion of any direct link between paying money etc and changing the law or public policy. It would also criminalize any form of payment by results for a lobbyist, if the law is changed. It would not criminalize the payment of money etc to secure the assistance of any person or organization in campaigning to secure a change in the law. If sub-clause iii) made lobbyists more cautious in their promises and their methods, so much the better. Sub-clause iv) creates a new offence which would be a useful supplement to the laws on corruption of public officials. I believe that Clause 2 might plug a gap in the 1925 Act, on the assumption that a revised Act would actually be enforced rather than fall into disuse.

Letter to the Chairman from Mr Barry Townsley

I am writing to the Committee, in the context of its inquiry into political honours, to record the facts in relation to my own case that has become the subject of considerable public scrutiny.

Shortly before the May 2005 General Election I was informed by the Labour Party that it urgently needed to raise money in order to mount its campaign. After having discussed this with Lord Levy who I knew not only as a leading Labour fund raiser but also in other charitable contexts, I agreed to make a loan of £1 million.

Thereafter, I signed a loan agreement which took the form of a letter dated 13 April from Matt Carter, then General Secretary on behalf of the Labour Party. The loan was on commercial terms. The payment was effected by transfer from my bank to the Labour Party current account on 25 April 2005.

I believe the loan was not a reportable donation for the purposes of the Political Parties, Elections and Referendums Act 2000. The letter of agreement makes this point.

I was approached because I was known to the party as a supporter and had made considerable donations on previous occasions totalling some £500,000 prior to the Electoral Commission's current arrangements having been put in place.

There was no agreement or discussion of any kind whatsoever that I would or might be "rewarded" with any honour. I was willing to make the loan because I was and continue to be a Labour supporter.

It was obvious to me that running an election campaign costs money—a fact that appears to be conveniently overlooked by much of the media and some politicians—and that I was in a position to help the party that I supported. On this occasion I felt that a loan was a suitable arrangement.

To date I have not asked for repayment of the loan which continues to bear interest.

To complete the picture in relation to the loan, on 8 February 2006 I was written to by the Labour Party as the initial one year loan period was coming to term. On receipt of that letter I agreed to extend the loan for a further two years on the same terms.

In late October 2005 my name along with a number of others appeared in the press in connection with the appointment of working peers. Much of the ensuing media coverage, so far as it concerned my family and me, has been grossly offensive, inaccurate and unfair.

In early February 2006 I decided to withdraw my name from any consideration. A letter to this effect was delivered to the Prime Minister on 10 February 2006.

In conclusion I should say that I am proud to continue to be involved with the Academies Programme, the Department for Education and Skills and to have supported the Prime Minister who I hold in high regard.

I intend to make this letter public and then to make no further comment on this matter.

21 March 2006

Memorandum by the Cabinet Office

1. This note brings the Committee up to date on progress in the reform of the honours system since the government's reply to the Select Committee (Cm 6479: Reform of the Honours System) in February 2005.

AN INDEPENDENT SYSTEM

2. In its report (*A Matter of Honour*), the Committee recommended the establishment of a Statutory Honours Commission, with members appointed by transparent procedures and publicly named. The Government has made a number of major reforms in response:

- Independent chairs and members have been selected through public advertising in accordance with Nolan principles;
- Experts from outside the Civil Service form the majority of committee members;
- Main Committee is formed principally from the chairs of the expert sub-committees;
- All committee members are named.

3. This has gone most of the way to meet the Committee's recommendations. But given that The Queen is advised by Her Ministers, it is right that the advice should continue to be put to Her by the Prime Minister.

4. The new committees (full list at Annex A) have now considered proposals for honours in the New Year 2006 honours round and the forthcoming Birthday list. The members of the committees are keen to get better coverage of the honours system (one of the Select Committee's recommendations) and are working to spread knowledge of the system, and the ways in which nominations can be made. They also want to use their own knowledge to help identify and work with areas of the community which are under-represented.

5. As well as chairing the Main Honours Committee, the Cabinet Secretary is also a member of the State committee which looks at candidates for honours from the Civil Service. The Committee is chaired by Sir David Cooksey.

6. The House of Lords Appointments Commission (HOLAC) was established in April 2001 as an independent non-departmental public body to advise the Prime Minister on his recommendations for peerages to The Queen. The Commission's role is to vet all nominees for peerages for propriety (except Ministers and Law Lords).

7. In addition, from June 2005 until March 2006 HOLAC gave advice on the propriety of the candidature of individuals added to the list by the Prime Minister (see para 17 below).

ORDER OF THE BRITISH EMPIRE

8. In its review of the honours system the Committee recommended that there should be no further appointments to the Order of the British Empire and that a new Order, the Order of British Excellence, should be founded in its place. (Recommendation 2)

9. A Memorandum setting out the government's conclusion on the Committee's recommendation is attached at Annex B. Major stakeholders were consulted; opinion sampling has been carried out. The conclusion is that there is no enthusiasm for change; the government does not propose to take the matter further.

DIVERSITY AND PUBLIC AWARENESS

10. In its report on the reform of the honours system, the government agreed that more needed to be done to increase awareness (PASC Recommendations 14 & 15).

11. As the Committee is aware, the Cabinet Office launched a publicity campaign "Do the Honours" in January 2006 to encourage more nominations for women. Leaflets were sent to public libraries, citizen's advice bureaux and post offices throughout the country. The website was improved, including an electronic version of the nomination form. The new honours committees have been working to encourage a more diverse spread of nominations. Further work is in hand with the Commission for Racial Equality to raise awareness of the honours system amongst ethnic minority groups.

12. In order to help increase understanding of what can seem a complicated system, the Cabinet Office has produced a flow chart (copy at Annex C) showing the various processes involved in the consideration of a nomination for an honour.

13. In its review, the Committee believed that existing holders of awards and future recipients would welcome the opportunity to wear a small badge or emblem on non-formal dress and recommended this be introduced (Recommendation 17). The government accepted this and agreed to look into the options and to consult interested parties.

14. The principle of a button-hole badge has now been agreed. Work is in hand on the possible design and manufacture of such an emblem. A public announcement will be made as soon as possible.

POLICY DEVELOPMENTS

15. The major policy development since February 2005 has been the Prime Minister's announcement on 23 March 2006 that he would no longer exercise his right as Prime Minister to nominate individuals directly for honours. His principal involvement in honours in the future will be in setting the strategic policy framework. This will involve the Prime Minister giving a remit to the independent committees as to the general direction of policy, including priority areas for recognition. In practical terms this means that the list submitted to The Queen by the Prime Minister will be the list agreed by the Main Honours Committee. The Prime Minister will forward the list to The Queen without amendment. In accordance with the Prime Minister's decision, the No 10 Appointments Secretary has ceased to be a member of the Main Honours Committee and the specialist honours committees.

CABINET SECRETARY'S ROLE

16. The Committee will recall that the Cabinet Secretary chairs the Main Honours Committee. This brings together the work of the eight specialist committees. Other members are the eight chairs of the specialist committees, the Chief of Defence Staff, the Permanent Secretary, Foreign and Commonwealth Office and another Permanent Secretary (presently Sir David Normington of the Home Office). The committee reviews the work of the sub-committees, reassesses any sensitive or controversial recommendations or omissions and seeks to ensure that the balance between the various sectors is satisfactory. It agrees the list of candidates to be recommended by the Cabinet Secretary, as chair of the Committee, to the Prime Minister.

17. Until the 23 March announcement, the next step would have been for the Prime Minister to consider the proposals and discuss them with the Cabinet Secretary. At that stage, in line with practice over successive administrations, the Prime Minister might suggest the addition of some names which had not come forward through the committee system. If he did so the names (at any level from MBE upwards) would be submitted to HOLAC for consideration. The role of the Commission is to decide whether there is anything in the past history or character of individuals which might render them unsuitable for an award. HOLAC took over this role in 2005 from the Honours Scrutiny Committee, which has been disbanded. This was reported in Cm 6479.

SUBMISSION TO THE QUEEN

18. Notwithstanding that the Prime Minister has said that he will not change the recommendations put to him by the Main Honours Committee, it remains his responsibility to submit the proposals for honours to The Queen. This will continue.

TEAM AWARDS

19. The Committee proposed the introduction of collegiate honours (Recommendation 18). The government is looking carefully at this suggestion. A number of practical difficulties arise. A decision will be reached shortly and an announcement made.

May 2006

Annex A

Committee Composition BY NAMED INDIVIDUALS

ARTS AND MEDIA

Independent Chair	Lord Rothschild
Permanent Secretary (Department for Culture, Media and Sport)	Dame Sue Street
Permanent Secretary (Scottish Executive)	John Elvidge
Non-civil service members	Jenny Abramsky John Gross Ben Okri Andreas Whittam Smith

Total 7

SPORT

Independent Chair	Lord MacLaurin
Permanent Secretary (Department for Culture, Media and Sport)	Dame Sue Street
Permanent Secretary (National Assembly for Wales)	Sir Jon Shortridge
Non-civil service members	Dame Tanni Grey Thompson Tony Lewis Ian McGeechan Sir Matthew Pinsent Tessa Sanderson Sir Bobby Robson

Total 9

HEALTH

Independent Chair	Dame Carol Black
Permanent Secretary (Department of Health)	Hugh Taylor (Acting)
Chief Medical Officer (England)	Sir Liam Donaldson
Chief Medical Officer (N.Ireland)	Cover by CMO (Wales) Ann Lloyd
Chief Nurse—Scotland	Paul Martin
Non-civil service members	Sir Netar Mallick Dame Karlene Davis Professor Mansel Aylward Niall Dickson Professor Anthony Newman Taylor Professor Irene Scott Neil McKay

Total 12

EDUCATION

Independent Chair	Dame Alexandra Burslem
Permanent Secretary (Department for Education and Skills)	David Bell
Permanent Secretary (Northern Ireland Executive)	Nigel Hamilton
Non-civil service members	Professor Sir George Bain John Anderson James Gillard Professor Ludmilla Jordanova Sir Mike Tomlinson Mary Oliver

Total 9

SCIENCE AND TECHNOLOGY

Independent Chair	Lord May
Permanent Secretary (Department of Trade and Industry)	Sir Brian Bender
Chief Scientific Adviser	Sir David King
Non-civil service members	Professor Sir Richard Brook Professor Sir Partha Dasgupta Professor Dame Julia Higgins Rob Margetts Professor Noreen Murray

Total 8

 ECONOMY

Independent Chair	Sir John Collins
Permanent Secretary (HM Treasury)	Nicholas Macpherson
Permanent Secretary (Department of Trade and Industry)	Sir Brian Bender
Permanent Secretary (Department for Culture, Media and Sport)	Dame Sue Street
Permanent Secretary (Scottish Executive)	John Elvidge
Non-civil service members	Dame Steve Shirley Rob Margetts Rosemarie Harris Christopher Hyman Peter Chappelow David Thomas

Total 11

 COMMUNITY, VOLUNTARY AND LOCAL SERVICE

Independent Chair	Lord Newton
Permanent Secretary (Home Office)	Sir David Normington
Permanent Secretary (Office of the Deputy Prime Minister)	Peter Housden
Permanent Secretary (Department for Education and Skills)	David Bell
Permanent Secretary (Department for Constitutional Affairs)	Alex Allan
Permanent Secretary (Northern Ireland Office)	Jonathan Phillips
Non-civil service members	Mohammed Aziz Sir Jeremy Beecham Stephen Bubb Christine Harris Professor Ted Milburn Elspeth Mitcheson Richard Temple Cox Mary Thomas

Total 14

 STATE

Independent Chair	Sir David Cooksey
Cabinet Secretary	Sir Gus O'Donnell
Permanent Secretary DCA	Alex Allan
Non-civil service members	Mohammed Aziz Dame Jessica Rawson Sir Michael Tomlinson

Total 6

*Cabinet Office**May 2006*

HONOURS: FUTURE OF THE ORDER OF THE BRITISH EMPIRE

NOTE BY THE CABINET OFFICE

1. In its Report “A Matter of Honour: Reforming the Honours System” (HC212-I), the Public Administration Select Committee (PASC) recommended (Para 153) that:

“There should be no further appointments to the Order of the British Empire. A new Order, the Order of British Excellence, should be founded in its place”.

2. In its reply to the Committee (Reform of the Honours System, Cm 6479) the government said:

“The government has considered [these recommendations] carefully.

The Government believes that the Order of the British Empire continues to play a well-understood—and in terms of numbers—predominant role in the honours system. It was founded in 1917 in order to make space within the honours system for those who had made important contributions to sustaining the life of the nation during the war. It has developed and matured in scope and recognition. There are currently some 120,000 men and women members of the Order and normally around 1150—1200 are appointed at each honours round . . .

The government does not believe the case has been made for change to the Order of the British Empire. It is regarded with affection and respect by very many people, not only in the United Kingdom. But the government is conscious that for some the title of the Order of the British Empire feels anachronistic in a different sense to other historic titles. The government will consider the matter further, without prejudice as to whether there should be any change.”

3. The government has now concluded its examination of the matter.

4. We have consulted the Officers of the Order; they do not see the need for change. They believe that the enthusiasm of new members and the dedication to the Order of existing members (witnessed by the several hundreds who filled St Paul’s Cathedral at the 4-yearly Service of Remembrance in 2004) give no cause to suggest that change is necessary. A change could not be embarked upon without a major exercise in public consultation.

5. Before embarking on such an exercise, which would be time consuming and expensive, the Government has carried out some opinion polling to establish whether there is a real public desire for change, and whether, if there were to be change, there is agreement as to the likely candidates to replace the Order of the British Empire.

6. The results of the survey, undertaken by RSEB in August 2005 are enclosed. The main points of the findings are:

- (a) 47% thought that the title of the Order of the British Empire reflects our nation’s history and should be retained;
- (b) 15% thought that the title of the Order was inappropriate in post Empire times and should be replaced;
- (c) 38% had no opinion either way;
- (d) If there was to be a change, there was no clear favourite as to a new name. When names were suggested the main preferences were:
 - Should remain the same—OBE—39%;
 - Order of the United Kingdom—13%;
 - Order of British Excellence—9%;
 - Order of Honour 8%.

7. The retention of the status quo was favoured most by people aged 65+ (53%) and by social groups AB and C1 (49%). Those most in favour of change came from age groups 55–64 in social group AB. The largest group with no opinion (59%) was age group 16–24.

8. Of non-white responders:

- 61% had no opinion on the Order as a whole;
- 23% thought that the status quo should remain;
- 13% preferred the Order of the United Kingdom as a replacement.

9. The largest groups believing that the title of the Order was inappropriate and should be replaced were:

- Northern Ireland (23%);
- London (20%).

10. In the light of these findings, the government has concluded that the case for a change to the Order of the British Empire has not been made. It therefore does not propose to take the matter further.

Cabinet Office

May 2006
