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HOUSE OF LORDS

Select Committee on the
Speakership of the House

Session 2005–06

The Speakership of the House of Lords

Report with Evidence

Published by the Authority of the House of Lords

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HL Paper 92

The Select Committee on the Speakership of the House: extract from the Minutes of Proceedings of the House of Lords, 12 July 2005

24. Speakership of the House—It was moved by the Lord President (Baroness Amos) to resolve that this House should elect its own presiding officer; that a Select Committee on the Speakership of the House be appointed to consider further how to implement this resolution with full regard to the House's tradition of self-regulation; that the following Lords be named of the Committee:

L. Ampthill
L. Carter
Bp Chelmsford
L. Desai
L. Freeman
B. Gould of Potternewton
L. Higgins
L. Lloyd of Berwick (Chairman)
L. Marsh
B. Miller of Chilthorne Damer
L. Tordoff
L. Trefgarne;

and that the Select Committee shall make recommendations to the House by 20th December 2005.

General Information

General information about the House of Lords and its Committees is on the Internet at www.parliament.uk.

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The Speakership of the House of Lords

INTRODUCTION

1. The House agreed on 12 July 2005 to a motion to resolve “that this House should elect its own presiding officer”¹ and appointed this Committee “to consider further how to implement this resolution with full regard to the House’s tradition of self-regulation”. We were required to report by 20 December 2005.²
2. Our membership is similar to that of the previous committee which reported in 2003.³ We shall refer to that Report⁴ from time to time. But we hope it will be for the convenience of the House for this report to be self-contained, even though that will make it longer than it would otherwise be.
3. The Report made in 2003 was debated on 12 January 2004, and we have taken account of the views expressed in debate on that occasion as well as on 12 July 2005.
4. In October 2005 we issued a notice to Members of the House inviting them to submit written evidence (but indicating that there was no need for views submitted to our predecessors to be resubmitted). We received submissions from 47 Members, and one from the Hansard Society. Copies of the written evidence have been placed in the Library of the House.
5. We heard oral evidence from the Leader of the House (Baroness Amos) and the Lord Chancellor (Lord Falconer of Thoroton), the Leader of the Opposition (Lord Strathclyde) and the Opposition Chief Whip (Lord Cope of Berkeley), the Leader of the Liberal Democrat Peers (Lord McNally) and the Liberal Democrat Chief Whip (Lord Shutt of Greetland), the Convenor of the Crossbench peers (Lord Williamson of Horton), and the Chairman of Committees (Lord Brabazon of Tara) and the Principal Deputy Chairman (Lord Grenfell). Their evidence, together with a memorandum from Lord Weatherill and Baroness Boothroyd, is printed with this Report. We are grateful to all those who submitted evidence.

OUTLINE OF THE REPORT – SELF-REGULATION

6. We shall start by referring again to what we understand by self-regulation, to which under the terms of the motion we must pay “full regard.” Self-regulation is described in the *Companion to the Standing Orders* as follows:

“The House is self-regulating: the Lord Speaker has no power to rule on matters of order. In practice this means that the preservation of order

¹ In this Report we have generally used the term “Speaker” rather than “presiding officer”. The Lord Chancellor’s role is described in Standing Order 17 as that of “Speaker”, and Schedule 6 to the Constitutional Reform Act 2005 transfers certain functions of the Lord Chancellor to “the Speaker of the House of Lords”.

² Hansard, 12 July 2005, columns 1000–1032.

³ Lord Higgins replaced the late Lord Alexander of Weedon, and the Bishop of Chelmsford was added.

⁴ HL Paper 199, Session 2002–03.

and the maintenance of the rules of debate are the responsibility of the House itself, that is, of all the Members who are present, and any Member may draw attention to breaches of order or failures to observe customs.”⁵

7. In our previous report we summarised many of the aspects of self-regulation which distinguish procedure in the House of Lords from procedure in the House of Commons. The most important of these are as follows:
 - (a) Lords address the House, not the Woolsack.
 - (b) The Lord Speaker (we return later to the question of the title) has no power to rule on points of order.
 - (c) The Lord Speaker has no power to call on Lords to speak in debates. In theory the House decides whom it wishes to hear. In practice a list of speakers is usually determined through the “usual channels”.
 - (d) There is no selection of amendments; all are debated unless not moved.
 - (e) The Lord Speaker has no power to adjudicate at question time when two or more Members rise together, and neither gives way. This is a matter for the House, advised when necessary by the Leader of the House, or in her absence by the Deputy Leader or Chief Whip.
 - (f) The Lord Speaker has no power to intervene if a Member speaks too long in a time-limited debate, or comments at undue length on a Ministerial Statement, or strays from the point or is repetitious. These are matters for the House as a whole, again advised as necessary by the Leader, the Deputy Leader or a Government Whip.
8. The overwhelming weight of evidence which we have received is against a House of Commons type speaker. We do not want to go down that road. This was the view which we expressed in our previous report. It was also the view expressed by the three Working Groups which have examined the concept of self-regulation since 1971.⁶
9. In our previous report we adopted a suggestion put forward by Lord Williams of Mostyn that the Speaker should act as “guardian of the Companion”. But this term did not find favour with the House. As Lord Cope of Berkeley pointed out (Q 13), it might imply that all responsibility for self-regulation would rest with the Speaker rather than the House as a whole. Baroness Amos agreed (Q 56):

“I think if we have now moved on and the ‘guardian of the Companion’ as a phrase was useful at that time but is no longer in summing up the spirit of what the House is seeking to achieve, then I think we should no longer use it and find a different term.”
10. In the remainder of this Report we consider first the appropriate role and functions of the Speaker within and outside the Chamber. We then go on to consider the election arrangements and other aspects of the speakership.

⁵ *Companion to the Standing Orders* 2005, paragraph 4.01, page 55.

⁶ 10th Report from the Procedure Committee, Session 1970–71 (HL 227); HL Paper 9, Session 1987–88; HL Paper 34, Session 1998–99. The relevant paragraphs were quoted in paragraphs 9–11 of our predecessors’ Report.

THE ROLE OF THE SPEAKER IN THE CHAMBER

11. The primary role of a Speaker is to preside over proceedings in the Chamber.⁷ At present the Lord Chancellor, like most of his recent predecessors, undertakes that role for half an hour or so on most days, but otherwise rarely. At other times the Chairman of Committees or another member of the panel of deputies presides. We would expect an elected Speaker to spend much more time in the Chamber than the Lord Chancellor, usually not less than three hours⁸ per sitting day except when other commitments as Speaker make that impossible. He or she would also preside on major occasions. Like the Lord Chancellor, the Speaker would seek the leave of the House for any necessary absence.
12. The Lord Chancellor is not authorised to take the chair when the House is in Committee. But at some times of year the main business on two or three days in a week may be committee stages. So we recommend that the Speaker should be empowered to take the chair in Committee of the whole House in the Chamber as well as to sit on the Woolsack.⁹

Question time

13. The Lord Chancellor's role at question time is purely formal. The duty of advising the House when to move on to the next question, or assisting when two (or more) members rise at the same time, and neither gives way, is currently performed by the Leader of the House or, if she is absent, the Deputy Leader or a senior whip.¹⁰ Our previous report recommended that this procedural role should be transferred to the Speaker. We were influenced by the advice of Lord Williams of Mostyn who said that he sometimes found it invidious to choose between "a very senior member of the Conservative Party and a relatively new member of another party."¹¹ Baroness Amos told us that she too was in favour of transferring that procedural role to the Speaker. There was much other evidence to the same effect.
14. On the other hand we have been impressed by the arguments and evidence the other way. There is widespread concern that any change in the role currently performed by the Lord Chancellor would be a "slippery slope" ending in a loss of self-regulation. Instead of exercising self-restraint and old-

⁷ Standing Order 18(1) is as follows: "It is the duty of the Lord Chancellor ordinarily to attend the Lords House of Parliament as Speaker of the House; and in case the Lord Chancellor be absent, his place on the Woolsack may be taken either by a Deputy Speaker, authorised under the Great Seal from the Queen to supply that place, or by a Deputy Chairman, appointed by the House; and if neither a Deputy Speaker nor a Deputy Chairman be present, the Lords may then choose their own Speaker during that vacancy."

⁸ At present deputies normally undertake 90-minute stints, so the effect of our recommendation would be that the Speaker would undertake two such stints.

⁹ This was recommended to the predecessor Committee in evidence by the Chairman of Committees.

¹⁰ The position of the Leader is described in the *Companion to the Standing Orders* as follows:

"The Leader of the House is appointed by the Prime Minister, is a member of the Cabinet, and is responsible for the conduct of government business in the Lords. Because the Speaker of the House of Lords has no powers to rule on matters of procedure, the Leader also advises the House on procedure and order, and has the responsibility of drawing attention to violations or abuse. However, the Leader is endowed with no formal authority, and the maintenance of order in the House is the responsibility of the House as a whole. The Leader also expresses the sense of the House on formal occasions, such as motions of thanks or congratulation."

¹¹ HL Paper 199, Session 2002–03, Q 22.

fashioned courtesy Members might be tempted to stand their ground. This could ultimately lead to a Commons type speakership which nobody wants, and is wholly inconsistent with self-regulation.

15. Moreover, the Leader's role at question time has, for many Members, a symbolic significance. It is the one occasion when the Leader can be seen to be fulfilling a role as Leader of the whole House and not as Leader of a political party. Continuing to give this role to the Leader also has the advantage that it is then easier for members of other front benches to rise in support of the Leader in those cases, happily very rare, when that may become necessary. This lies at the heart of self-regulation.
16. Views differ as to how well self-regulation works at question time. We received a good deal of evidence that, with occasional exceptions, the existing system works well enough. We therefore accept the evidence we have received which supports the conclusion that the role of assisting the House at question time should remain with the Leader and not be transferred to the Speaker. This is of course a matter for the House itself to decide.

Other functions in the Chamber

17. At other times of day the Leader is seldom present in the Chamber and the duty of advising the House currently tends to fall on the Government Whip on duty. This is not always satisfactory, especially when the Whip is inexperienced, or heavily engaged as number two on the bill in question. Lord Brabazon of Tara and Lord Grenfell have told us that there are often occasions when it would be helpful if the Lord on the Woolsack could assist the House by reminding members of the relevant parts of the *Companion*. It is odd that the Lord on the Woolsack should be the only Member of the House who is prohibited from assisting in such circumstances. Others with experience on the Woolsack have confirmed this view. Such assistance would usually be given at the start of the particular business in hand, for example how time is to be divided between the front and back benches in response to a statement, the correct procedure at Report stage, the handling of grouped amendments, and the procedure to be followed in the case of amendments to amendments. Although this assistance would usually be given at the start of the business in hand, it could also be helpful at other stages when, for one reason or another, procedural problems arise.¹² Such advice should be strictly limited to procedural guidance.
18. If the Lord on the Woolsack were permitted to assist the House in this limited way, it is important that he should observe the same formalities as any other Member of the House. He should always address the House as a whole, and not any individual Member. He should never intervene when a

¹² A good example of such a problem (referred to in evidence by Lord Brabazon of Tara (Q 183)) occurred during the Report stage of the Racial and Religious Hatred Bill on 8 November 2005 (Hansard columns 509–20). The *Companion* provides (paragraph 6.126) that “only the mover of an amendment or the Lord in charge of the bill speaks after the minister on report except for short questions of elucidation to the minister or where the minister speaks early to assist the House in debate”. Lord Foulkes of Cumnock, on moving an amendment, invited the Minister, Baroness Scotland of Asthal, to respond to certain questions at an early stage of the debate, which she did. After she had finished, seven Members of the House in turn asked questions or put points “before the Minister sits down”. It fell to Lord Mackay of Clashfern to point out that this was quite unnecessary since the situation was specifically covered by the exemption stated in the *Companion*. There followed a debate in the usual way to which the Minister in due course replied. Lord Brabazon of Tara, who was on the Woolsack at the time, told us that he would have intervened at a much earlier stage if he had been permitted to do so.

Member is on his feet. His function would be to assist, and not to rule. It is in our view essential that we should not create a situation in which potential points of order might arise.

19. Any advice or assistance given by the Speaker would be subject to the view of the House as a whole. The functions we see for the Speaker at question time (purely formal) and at other times (procedural) would be clearly set out in the *Companion*. This would act as a bar to any tendency on the part of the Speaker to expand his role. If the functions of the speaker are clearly and strictly codified in the *Companion*, the House will see to it that the line is nowhere crossed.¹³
20. It may be said that it is illogical that the Speaker should have the role which we envisage for him at times other than question time, but only a ceremonial role at question time itself. We see the force of this, but logic is not always the best guide to sound practice. There is a real difference of atmosphere between question time and other times of the day. At question time there is always a good attendance, and feelings may run high. This may also, of course, be true of other times of the day; but it is less likely.
21. We envisage that the Government Chief Whip would continue to advise the House on speaking times in debates. Enforcing such time limits is a sensitive matter, better handled by the front benches rather than the Speaker.¹⁴ Timed debates will be brought to an end, as now by the Speaker on an indication from the Table.
22. Other interventions, in particular those calling attention to the failure of an individual Member to comply with the rules, should continue to come from the front benches. This would be the case, for example, when arguments deployed in committee were repeated at length on report. The front benches would be aware of this but the Speaker or Deputy Speaker might not.
23. It was noted in our previous report that communication between the Table and the Speaker is harder than between the Table and the Leader. We repeat our suggestion that, if it is desired to overcome this difficulty, an electronic system could be installed so as to enable messages to be passed discreetly between the Speaker, whether in the Chair or on the Woolsack, and the Clerk at the Table.

THE ROLE OF THE SPEAKER OUTSIDE THE CHAMBER

24. The evidence we have received suggests that there is a case for combining the role of the Speaker with some of the functions now performed by the Chairman of Committees. We have already indicated that the new Speaker should spend much more time on the Woolsack than the Lord Chancellor does at present. There are obviously some functions carried out by the Chairman of Committees, such as his role in relation to private legislation, which it would not be appropriate for the Speaker to assume. What we

¹³ This was a point made by Lord Grenfell (Q 183): “It is the old slippery slope argument. I feel very, very strongly indeed that if the functions, duties, responsibilities of the Lord Speaker are very, very clearly and strictly codified, then that acts as a bar to that kind of expansion of function. In a properly self-regulating House, the House will see that the line is nowhere crossed. That is the beauty of a self-regulating House.”

¹⁴ We suggest that it would facilitate self-regulation and be helpful to the Front Benches, the Member speaking and the House generally if the digital clock in the Chamber—as in the Commons—began to flash a minute before the time limit and rapidly once it was exceeded.

recommend below is designed to achieve a more equal balance between the two roles than exists at present.

25. We recommend that the Speaker should become Chairman of the House Committee and a member of the Procedure Committee. The Chairman of Committees should continue to be the spokesman of the House Committee as well as of the Procedure Committee when presenting their Reports and answering questions on administrative matters.
26. We also recommend that the Speaker should take over the Chairman of Committees' formal responsibility for the security of the Lords part of the Parliamentary estate. The Speaker of the House of Commons already exercises the same responsibility in relation to that House, and the Chairman of Committees suggested to us in his written and oral evidence (Q 182) that it would be appropriate for the Speaker to take on this role.
27. The Speaker would take over the Lord Chancellor's role as one of the three "keyholders" of Westminster Hall, together with the Speaker of the House of Commons and the Lord Great Chamberlain.

Representing the House at home

28. The Speaker should also have a wide role representing the House at home, and acting where appropriate as an apolitical spokesman. Baroness Amos has said that she would want an elected Speaker to "have a strong representational role and a strong role in public engagement".¹⁵ Baroness Williams of Crosby made a similar point in the debate on our previous Report, suggesting that an elected Speaker should have "a crucial educational function": "Most of our public do not know very much about the role of the House of Lords; they do not understand its importance.... It is important that we get across the significance of the work of the House. That should be one of the main functions of the new presiding officer."¹⁶
29. We agree with the point made by Lord Williamson of Horton when he said that once a Speaker is elected we shall have, in a sense, two persons to "represent" the House – the Speaker and the Leader. He could see no difficulty in distinguishing between them, and defining their separate roles (Q 131).

Representing the House overseas

30. Lord Grenfell told us that he goes abroad about five times a year to attend Speakers' conferences of one sort or another on behalf of the Lord Chancellor. He thought that the demand on the Speaker would increase once we had someone who would be identified by other parliaments "as the embodiment of the House of Lords" (Q 173). Lord Williamson of Horton used the same expression (Q 131). Lord Grenfell was asked whether attendance at Speakers' conferences was of any benefit to the House. His view was that the House should be represented on these occasions, mainly because it looks bad if we are not, but also because it could be embarrassing if decisions are taken without our being aware of them (Q 176).

¹⁵ Hansard, 12 July 2005, column 1002.

¹⁶ Hansard, 12 January 2004, column 392.

31. In addition to overseas visits the Speaker will take over the Lord Chancellor's role in entertaining visiting speakers and parliamentarians from abroad.

Private Notice Questions

32. We repeat the conclusion stated in paragraph 19 of our previous report. There seems to be widespread agreement that the decision to allow Private Notice Questions should not be taken by the Leader since they are often politically sensitive, especially at times when the House of Commons is not sitting. Nor are Private Notice Questions suitable for the usual channels. This role of the Leader should therefore be given to the Speaker. If the decision is challenged by the peer asking the question then it would be for the House to decide, as now.

Miscellaneous roles

33. At present the Leader of the House has the role, rarely exercised, of determining whether the *sub judice* rule may be overridden "where a ministerial decision is in question, or a case concerns issues of national importance such as the economy, public order or the essential services".¹⁷ We repeat our previous recommendation¹⁸ that this role should be transferred to the Speaker.
34. The Lord Chancellor at present has the role of authorising the recall the House during a recess (under Standing Order 17). In his absence the Chairman of Committees may act "after consultation with Her Majesty's Government". We propose that this very limited function should be transferred to the Speaker, with the Chairman of Committees continuing to act as deputy, and that consultation with Her Majesty's Government should be required in all cases.
35. Appendix 3 to this Report lists certain statutory roles of the Lord Chancellor (most of them referred to in paragraph 45 of our predecessors' report) which have already been transferred to "the Speaker of the House of Lords" by Schedule 6 to the Constitutional Reform Act 2005.
36. Appendix 4 to this Report lists the Standing Orders which refer to the Lord Chancellor, and contains our recommendations for amending them (where appropriate).

METHOD OF ELECTION

37. We recommend a system of election requiring only a single secret ballot, by means of the alternative vote. Such a system has successfully been used in by-elections to elect hereditary peers. As in relation to such by-elections, we recommend that Standing Orders should provide that elections should be held in accordance with arrangements made by the Clerk of the Parliaments, who would act as returning officer.
38. Candidates would be proposed and seconded by two Members. Voters would rank candidates in order of preference. If no candidate received at least half the first-preference votes then the candidates with fewest votes would be progressively eliminated until one candidate had at least half the

¹⁷ *Companion to the Standing Orders*, paragraphs 4.58 and 4.59.

¹⁸ HL Paper 199, Session 2002–03, paragraph 28.

remaining valid votes. As in the Commons, a simple motion of appointment would suffice if there was only one candidate.

39. A factual statement of the service in the House of each candidate would be prepared by the Clerk of the Parliaments and made available to Members.
40. The name of the successful candidate should then be submitted to Her Majesty the Queen, who would be invited to make the formal appointment.

PERIOD OF APPOINTMENT

41. We propose that a Speaker should be elected for a period of five years, with the possibility of one renewal. We consider it important that an election should not coincide with the start of a new Parliament, because of the practical difficulties that would arise.
42. To avoid a hiatus in the event of the death or resignation of a Speaker we propose that Standing Orders should provide that the Chairman of Committees may act during any vacancy in the office of Speaker. The subsequent election should be for a further full term starting from the date of election.

THE TIMING OF THE FIRST ELECTION OF A SPEAKER

43. Lord Strathclyde told us that he saw no reason why the Lord Chancellor should not continue to act as Speaker so long as he remains Lord Chancellor. This was his understanding of what the House agreed on 12 July 2005. The Lord Chancellor had said that he would be prepared to continue as Speaker so long as it was the wish of the House. Therefore we need only take steps to elect a Speaker when a Lord Chancellor is appointed who is not a member of the House.
44. The Lord Chancellor, on the other hand, stated his position as follows (Q 42):

“I hope I have made clear – I certainly did on the previous occasion I gave evidence to Lord Lloyd’s committee – that my personal view was that I should cease to be Presiding Officer as quickly as possible; because I do not think it is right (and this is a practical matter) that the Lord Chancellor should both be responsible for the ministerial things he is responsible for and be the Speaker of the House of Lords as well. I think both sides of the equation suffer in relation to it.”
45. The timing of the first election, and the effect of the motion agreed on 12 July, is a question which only the House can decide. We would only point out that there would be a danger of a hiatus if no new Speaker had been elected and a Lord Chancellor were appointed who was not a Member of the House.

DEPUTIES

46. The Chairman of Committees should retain his title and should also be designated Deputy Speaker. We have referred above to those of his duties which could be transferred to the Speaker. Otherwise his duties would remain much as at present.
47. The Principal Deputy Chairman, Lord Grenfell, spends very little time on the woolsack—about 1½ hours a week. He will spend even less time

deputising for the Lord Chancellor when attendance at international gatherings will fall to the Speaker. On the other hand, Lord Grenfell described his job as Chairman of the European Union Committee as very onerous, normally from 9.30 until 6.00 or 7.00 four or five days a week. He is currently paid a salary as Principal Deputy Chairman, but is paid nothing as Chairman of the European Union Committee. Lord Grenfell described this as a fiction. It might seem more sensible that he should be paid for what he does rather than for what he does not do. But we recognise that this raises wider questions which fall outside our terms of reference. If and when Lord Grenfell is paid a salary as Chairman of the European Union Committee, we would recommend that the Office of Principal Deputy Chairman should fall into abeyance. It was only created in 1974 to solve the problem of paying the Chairman of the European Committee.

48. A panel of deputies will continue to be needed. We consider it desirable that members of the panel should normally undertake three hours' duty per week, and on that basis there should be a smaller panel of deputies than at present. We suggest a panel of twelve members.

STAFF SUPPORT AND OFFICE ACCOMMODATION

49. The Speaker will need personal staff, but we leave it to the House Committee to determine the appropriate number and grading.
50. The rooms recently occupied by the Lord Chancellor, his Permanent Secretary and his private office are likely to provide more than enough space for the Speaker and any staff, and we leave it to the Administration and Works Committee to settle the arrangements.

TITLE

51. "Lord Speaker" is the existing title. It is the title used in the Standing Orders and the *Companion*. It is the title used in the Constitutional Reform Act 2005. Baroness Boothroyd and Lord Weatherill have confirmed their view¹⁹ that it is the appropriate title, and should not lead to any confusion.²⁰

DRESS

52. We suggest that the Speaker should wear a gown, but not a wig. On ceremonial occasions he should wear his Parliamentary robes.

PRECEDENCE

53. On Parliamentary occasions the Lord Speaker should have precedence immediately after the Speaker of the House of Commons. We hope that the Lord Speaker, if not already a Privy Councillor, would be appointed as one.

SALARY AND PENSION

54. The Senior Salaries Review Body should be invited to propose a salary and pension arrangements which would be appropriate vis-à-vis those of the

¹⁹ HL Paper 199, Session 2002–03, Q 75 and Q 76. Written evidence, page 47.

²⁰ We note that both Houses of the Canadian Parliament have a Speaker, the Speaker of the Senate and the Speaker of the House of Commons.

Chairman and Principal Deputy Chairman of Committees. We have noted that the Lord Chancellor and the Speaker of the House of Commons currently have much more favourable pension arrangements than the Chairman and Principal Deputy Chairman of Committees.

APPENDIX 1: ORDERS OF REFERENCE AND MEMBERSHIP OF THE SELECT COMMITTEE

Extract from the Minutes of Proceedings of the House of Lords, Tuesday 12 July 2005

24. Speakership of the House—It was moved by the Lord President (Baroness Amos) to resolve that this House should elect its own presiding officer; that a Select Committee on the Speakership of the House be appointed to consider further how to implement this resolution with full regard to the House's tradition of self-regulation; that the following Lords be named of the Committee:

- L. Ampthill
- L. Carter
- Bp Chelmsford
- L. Desai
- L. Freeman
- B. Gould of Potternewton
- L. Higgins
- L. Lloyd of Berwick (Chairman)
- L. Marsh
- B. Miller of Chilthorne Domer
- L. Tordoff
- L. Trefgarne;

and that the Select Committee shall make recommendations to the House by 20th December 2005;

after debate, the motion was agreed to.

APPENDIX 2: LIST OF THOSE WHO GAVE EVIDENCE

Those marked with an asterisk gave oral evidence.

- *Baroness Amos
 - Lord Barnett and Lord Peston
 - Lord Biffen
 - Lord Blaker
- *Lord Brabazon of Tara
 - Lord Campbell of Alloway
 - Lord Cobbold
 - Viscount Colville of Culross
- *Lord Cope of Berkeley
 - Lord Corbett of Castle Vale
 - Lord Dean of Harptree
 - Baroness D'Souza
 - Lord Dubs
 - Viscount Eccles and Baroness Eccles of Moulton
 - Lord Elton
- *Lord Falconer of Thoroton
 - Baroness Flather
 - Baroness Fookes
 - Baroness Gardner of Parkes
 - Lord Garel-Jones
- *Lord Grenfell
 - Lord Hamilton of Epsom
 - Lord Haskel
 - Lord Hodgson of Astley Abbots
 - Lord Jenkin of Roding
 - Lord Lucas
 - Lord Mackay of Clashfern
- *Lord McNally
 - Lord Northbrook
 - Baroness Platt of Writtle
 - Lord Rodgers of Quarry Bank
 - Lord Roper
 - Bishop of St Albans
 - Lady Saltoun of Abernethy
 - Lord Sanderson of Bowden
 - Baroness Shephard of Northwold
- *Lord Shutt of Greetland
 - Lord Steel of Aikwood
- *Lord Strathclyde
 - Lord Temple-Morris
 - Lord Thomas of Swynnerton
 - Viscount Ullswater
 - Lord Waddington
 - Lord Wakeham
 - Lord Weatherill and Baroness Boothroyd
 - Lord Wedderburn of Charlton
 - Baroness Whitaker
 - Lord Williams of Elvel
- *Lord Williamson of Horton
 - Hansard Society

APPENDIX 3: STATUTORY FUNCTIONS ALREADY TRANSFERRED TO THE SPEAKER OF THE HOUSE OF LORDS

The following statutory functions of the Lord Chancellor, listed in paragraph 45 of our predecessors' Report, have already been transferred to "the Speaker of the House of Lords" by Schedule 6 to the Constitutional Reform Act 2005:

- under the Church of England (Assembly) Powers Act 1919, the appointment of the Lords members of the Ecclesiastical Committee;
- under the Statutory Instruments Act 1946 and the Laying of Documents before Parliament (Interpretation) Act 1948, the role of receiving notifications in cases where a statutory instrument comes into operation before being laid;
- under the Exchequer and Audit Departments Act 1957, the giving of authority for an authorised officer to perform functions of the Comptroller and Auditor General;
- under the Ministerial and other Salaries Act 1975, the power to determine who is the Leader of the Opposition in the House.

The Schedule also transfers the following statutory roles to the Speaker of the House:

- under the Clerk of the Parliaments Act 1824, the power to appoint, subject to approval by the House, clerks officiating at the Table other than the Clerk of the Parliaments.
- under the Parliamentary Papers Act 1840, the role (held concurrently with the Clerk of the Parliaments) of certifying that papers have been published by order of the House
- under the Consolidation of Enactments (Procedure) Act 1949, the role of the Lord Chancellor in relation to the parliamentary scrutiny of consolidation bills which incorporate "corrections and minor improvements".

APPENDIX 4: AMENDMENTS TO STANDING ORDERS

We list below all those Standing Orders which mention the Lord Chancellor and indicate what amendments, if any, we propose in implementation of our proposals:

Standing Order 11: Register of hereditary peers

11. Any hereditary peer (not previously in receipt of a writ of summons) who wishes to be included in the register maintained by the Clerk of the Parliaments pursuant to Standing Order 10(5) shall petition the House and any such petition shall be referred to the Lord Chancellor to consider and report upon whether such peer has established his right to be included in the register.

Recommendation

We recommend no change. While the Register remains in existence the Lord Chancellor or his successor, with responsibility for the Crown Office, remains the appropriate person to consider petitions.

Standing Order 17: Recall of the House

17.—(1) If, during any adjournment of the House, the Lord Chancellor is satisfied that the public interest requires that the House should meet at a time earlier than that appointed, he may signify that he is so satisfied and notice shall be given and thereupon the House shall meet at the time stated in the notice, as if it had been duly adjourned to that time.

(2) If the Lord Chancellor is unable to act for the purposes of this Standing Order, the Chairman of Committees, after consultation with Her Majesty's Government, may act in his stead.

(3) Notwithstanding any adjournment of the House, the House may meet for judicial business at a time earlier than that appointed if the Lord Chancellor or, in his absence, the senior Lord of Appeal in Ordinary is satisfied that it should do so and has signified that he is so satisfied and has given notice to such Lords as he thinks fit.

Recommendation

In Standing Orders 17(1) and (2), the reference to the Lord Chancellor should be amended to refer to the Lord Speaker, acting after consultation with Her Majesty's Government. Standing Order 17(3) will no longer be needed if and when the new supreme court is established, and in the meantime no amendment is required.

Standing Order 18: Speaker of the House

18.—(1) It is the duty of the Lord Chancellor ordinarily to attend the Lords House of Parliament as Speaker of the House; and in case the Lord Chancellor be absent, his place on the Woolsack may be taken either by a Deputy Speaker, authorised under the Great Seal from the Queen to supply that place, or by a Deputy Chairman, appointed by the House; and if neither a Deputy Speaker nor a Deputy Chairman be present, the Lords may then choose their own Speaker during that vacancy.

(2) In order better to discharge his duties as a Minister of the Crown, the Lord Chancellor may, if he thinks fit, leave the Woolsack and sit in such other part of

the House as he may find convenient; and in such circumstances his place on the Woolsack shall be taken by a Deputy Speaker or Deputy Chairman.

Recommendation

In Standing Order 18(1), both references to the Lord Chancellor should be amended to refer to the Lord Speaker. The words “or in the Chair” should be inserted after “Woolsack”. Standing Order 18(2) should be repealed.

Standing Order 19: The Lord Chancellor

19. The Lord Chancellor, when he speaks to the House, is always to speak uncovered, and is not to adjourn the House, or do anything else as Mouth of the House, without the consent of the Lords first had; and any matter on which there is a difference of opinion among the Lords is to be put to the Question; and if the Lord Chancellor will speak to any thing particularly, he is to go to his own place as a Peer or such other part of the House as he may find convenient.

Recommendation

This Standing Order should be repealed. The new Speaker will be given no powers to act in the House without consent, and no Standing Order is needed to curtail powers which will not have been granted.

Standing Order 52: Joint Committee on Consolidation Bills

52. There shall be a Select Committee consisting of twelve Lords, who shall be appointed on the recommendation of the Lord Chancellor at the commencement of every session, to join with a Committee of the House of Commons as the Joint Committee on Consolidation etc. Bills, to which shall be referred: ...

Recommendation

The words “on the recommendation of the Lord Chancellor” should be left out. The effect would be that the members would be nominated in the usual way by the Committee of Selection.

Standing Order 63: Committees of the Whole House

63. To have more freedom of debate, and that arguments may be used (pro and contra), Committees of the Whole House are appointed, sometimes for Bills, sometimes to discuss matters of great moment. Whenever the House resolves itself into a Committee, the Lord Chancellor leaves the Woolsack and the Lord Chairman of Committees presides over the Committee; Standing Order No. 31. (No Lord to speak more than once to a Motion) shall not apply when the House is in Committee.

Recommendation

The words “Whenever the House resolves itself into a Committee, the Lord Chancellor leaves the Woolsack and the Lord Chairman of Committees presides over the Committee;” should be left out.

Standing Order 72: Notifications

72. In cases where it has been necessary to bring a Statutory Instrument into operation before it has been laid before Parliament, the notification thereof (which is required by the Statutory Instruments Act 1946 to be sent to the Lord Chancellor) shall be laid upon the Table of the House.

Recommendation

This Standing Order should be amended to refer to the Lord Speaker, pursuant to the amendment made to the Statutory Instruments Act 1946 by Schedule 6 to the Constitutional Reform Act 2005.

Standing Order 76: Proceedings upon opening the Parliament

76.—(1) At the beginning of Parliament, after prayers shall have been said, the Lord Chancellor shall take the oath appointed to be taken, according to the Act of Parliament made for that purpose, and then all the Peers and Lords of Parliament present shall in like manner take and subscribe the said oath.

(2) After Her Majesty's Speech from the Throne, some Bill (pro formâ) is to be read; which being done, the Lord Chancellor is to report Her Majesty's Speech, and then the House shall proceed to nominate the Chairman of Committees.

(3) At the beginning of every other Session during the same Parliament, after prayers said, some Bill (pro formâ) is to be read, Her Majesty's Speech reported and the Chairman of Committees nominated.

Recommendation

Both references to the Lord Chancellor should be amended to refer to the Lord Speaker.

Standing Order 79: Claims of Peerage

79. In claims of Peerage the following directions shall apply in regard to claims by Petition which have been referred to the Committee for Privileges:

(1) The Petitioner shall lodge his case, pedigree and proofs with the Clerk of the Parliaments within six weeks from the date of the presentation of his Petition to the House.

(2) Records and documents in public custody may be proved before the Committee by copies officially certified as in ordinary legal proceedings. The production of originals of such documents shall not be required except on an order of the Lord Chancellor or Chairman of Committees.

Originals of records and documents in private custody, together with copies thereof, must be produced and proved before the Committee.

(3) In unopposed claims the record of the documentary evidence given before the Committee shall be examined by an examiner appointed by the Crown Agent. The Crown Agent may, if he think fit, similar appoint an examiner in opposed claims. The cost of the examination shall be borne by the claimant.

(4) The fees to be charged shall be such as shall be authorised from time to time by the House.

Recommendation

The reference to the Lord Chancellor should be amended to refer to the Lord Speaker.

Standing Order 80: Claims of Irish Peerages

80. A claim to any Peerage of Ireland shall be made by Petition to the House, which Petition shall be referred to the Lord Chancellor to consider and report upon to the House.

Recommendation

As in relation to Standing Order 11, we propose no change.

Standing Order 87: Appellate and Appeal Committees

87.—(1) For the purposes of its appellate jurisdiction, the House shall have Appellate and Appeal Committees, of which all Lords qualified under the Appellate Jurisdiction Acts 1876 and 1887 shall be members.

(2) These Committees shall be:

(a) two Appellate Committees, which shall hear any cause or matter referred to them and shall report thereon to the House;

(b) two Appeal Committees, which shall consider any Petition or application for leave to appeal that may be referred to them and any matter relating thereto, or to causes depending, or formerly depending, in this House, and shall report thereon to the House.

(3) In any criminal matter, or in any matter concerning extradition, an Appeal Committee may take decisions and give directions on behalf of the House.

(4) In any Appellate or Appeal Committee the Chair shall be taken by the Lord Chancellor or, in his absence, by the senior Lord of Appeal in Ordinary present, such seniority being determined in accordance with the Commission for the time being appointing Speakers for the purpose of the hearing and determination of Appeals.

(5) For the purposes of section 8 of the Appellate Jurisdiction Act 1876, any Appellate Committee may sit and act while Parliament is prorogued.

Recommendation

This Standing Order will no longer be needed if and when the new supreme court is established, and in the meantime no amendment is required.

Minutes of Evidence

TUESDAY 18 OCTOBER 2005

Present	Ampthill, L	Higgins, L
	Carter, L	Lloyd of Berwick, L (Chairman)
	Chelmsford, Bp	Miller of Chilthorne Domer, B
	Desai, L	Tordoff, L
	Freeman, L	Trefgarne, L
	Gould of Potternewton, B	

Memorandum by Lord Strathclyde

We welcome the stated intention of the current Lord Chancellor to continue to serve as our Speaker. We have agreed certain changes to minimize any burden on him and would be prepared to investigate other changes. The office of Lord Chancellor lends prestige, precedence and authority to the House; we agree with Lord Falconer that present arrangements should continue unchanged for his term of office.

However, the House has recognized that the current Prime Minister may not appoint another Lord Chancellor to this House. We therefore have to consider provisional arrangements should Lord Falconer retire, be removed from office or resign. I would offer the following observations:

1. The overwhelming opinion of the House is that the existing system in the Chamber works well. *The onus must be on those advocating change to advance compelling reasons why a long-established and delicate balance should be upset.* A major reason for transferring roles to a new office put forward in paras 23 and 24 of the Committee's report—in effect, “we must give him/her something to do or we won't get anybody applying”—is wholly unsatisfactory as a basis for far-reaching change.
2. The overwhelming opinion of the House is that the nature of the House derives significantly from its being self-regulating. *It is essential that self-regulation is retained and that the Chair be given no disciplinary authority over the House. Every Committee that has considered this in the modern era has reached this conclusion.* Whatever the Government or Government Ministers of the time may feel, it is surely the perception of the House that must be paramount.
3. *We therefore disagree that the Chair be given a role as “Guardian of the Companion”. The House should remain guardian of its own procedures.* A majority of those (“many”) who gave written evidence agreed with this. The Committee should not underestimate the risk of the Chair gradually extending its role or of the invidious practice of “Points of Order”, which has so damaged the Commons, emerging. Indeed, if the Chair is to be the “Guardian of the Companion”, I am at a loss to understand why some peers would not appeal for the intervention of the Chair.
4. If the next Lord Chancellor is unable/unwilling to serve we believe *a process of gradual reform would be desirable. The presiding role should therefore be fulfilled by the existing Lord Chairman of Committees, preferably under that title* (assuming the title Lord Chancellor was unavailable), in order to avoid confusion with Mr Speaker in another place.
5. The Leader of the House should retain her existing functions in reflecting the voice of the House, assisted by Government and Opposition Front Bench whips. The whole House role of Leader of the House should not be dispensed with as an accidental by-product of these changes to provide an artificial role for a Speaker. It is important to the House to have a Leader, with a role additional to the purely political, present at the Cabinet table and able to convey to Cabinet the views of the House. *The Committee should appreciate the Opposition has no objection to this role of the Leader, indeed, it strongly welcomes it, considers it a benefit to the House and wishes to preserve it.*
6. *We strongly disagree with the idea of an additional post—with pension, personal staff, travel allowances, new communications systems within the Chamber and other costs—being created at a basic salary cost of nearly £100,000, as proposed in the Committee's first report.* We believe the public would find it hard to understand

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the case for such expense on a post without which the House has operated perfectly well for generations. It could even bring the House into disrepute.

7. It is for the Committee to recommend options on how a Lord Chairman should be chosen. If it is election, then the simplest possible system should be adopted in order to avoid confused and contentious elections. It would be desirable, if practicable, for an agreed candidate to emerge, as now, and as frequently in the House of Commons. *It would be very damaging to the House and to the office of Lord Chairman to have elections contested along party lines.*
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Examination of Witnesses

Witnesses: RT HON LORD STRATHCLYDE and RT HON LORD COPE OF BERKELEY, Members of the House, examined.

Q1 Chairman: Lord Strathclyde and Lord Cope, we are very grateful to you indeed for coming to give evidence before us. On the last occasion, Lord Strathclyde, you were almost the last witness to give evidence before the Committee, on this occasion you are the first; we are very glad to see you and Lord Cope. On the last occasion we asked you to start, if you wished to make a statement. On this occasion you have furnished us with a note; would you have any objection if that note became public?

Lord Strathclyde: No.

Q2 Chairman: We have no objection, if you are happy, and then if there are any members of the public who are present they can perhaps follow some of the questions. Right at the beginning could you say a few more words to expand the first two paragraphs of your note, that is to say before we come to the numbered paragraphs. We will want to ask about the numbered paragraphs, but it is important to understand the first two paragraphs first.

Lord Strathclyde: Of course, Lord Chairman. First of all, can I say how grateful Lord Cope and I are to be invited to come and give oral evidence to this Committee. As you pointed out, last time I came it was right at the end and it had no effect on your final report, so I am rather hoping that on this occasion, Lord Chairman, the result may be entirely different. As you can see, I have not changed my tune very much, but what we are involved in, this Committee and giving evidence, is a very important matter and I hope that you will end up with a united report that will have the authority that I think this subject deserves in the House. As you know, Lord Chairman, I supported the motion setting up this Committee because I thought it was important for the Committee to see just how much had changed since you first looked at it. For instance, we started off originally on the idea that there would be no Lord Chancellor: there is still a Lord Chancellor. The House has reduced the obligation on the Lord Chancellor to sit in the House down to only 30 minutes a day on Mondays, Tuesdays and Wednesdays. It is, by no stretch of the imagination, an onerous job, and of course the Lord Chancellor

has said time and time again that he is happy to continue in this role, and I hope that he will. Knowing him the way I do, I would be very surprised if he was not willing to continue doing the job that was done so well by all of his predecessors—Lord Irvine, Lord Mackay, Lord Hailsham and so on. It is inconceivable that we would end up at the end of this process with a Lord Chancellor who is a Member of this House but who does not come into the House at all during questions and sits on the Woolsack. I very much hope, Lord Chairman, that you and your Committee will change your mind, because what I think we are talking about is the contingency, in the event that the Prime Minister decides that the role of Lord Chancellor should no longer be carried out by a peer and that it should be a post in the House of Commons; it is that eventuality that we are dealing with. The alternative model that I prefer is that the Lord Chairman of Committees should step into the shoes of the Lord Chancellor; that is what works extremely effectively at the moment and there has been no case made successfully to change that role and it is done more than adequately by whoever fills the job of Lord Chairman of Committees. It has the added advantage of no further expense, no more bureaucracy, no aggrandisement, no change in the regulations, at every level I think it is the right way forward. You asked me to particularly concentrate on the first two paragraphs of my evidence and I rather hope that you feel that I have dealt with that before getting on to either answering any of the other questions or answering some of the questions that you were kind enough to furnish me with at the end of last week.

Q3 Chairman: I am sure we will want to come to the numbered questions, but I am not quite sure that you are right in saying that what we are now discussing is a contingency. I had the impression—but I may be quite wrong about this—that the motion put before the House, which was not opposed, was that we would elect a Speaker, call it what you will, and that our task is to proceed now on that assumption, that there will be an election for a speakership. Certainly on the last occasion we were discussing contingencies

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and assumptions, but now we have to direct our minds, have we not, to the motion that was actually passed on 12 July 2005?

Lord Strathclyde: Lord Chairman, it is interesting you should say that because I do not think that at all and if I had thought that, not only would I not have supported the motion but I would have voted against it and encouraged others to do so too, and it might well not have passed. No, I think that what this Committee is looking at is if there is no Lord Chancellor sitting on the Woolsack and therefore it is preparing for the eventuality that I expect may well happen in years to come, but is not necessarily going to happen now. In fact, the motion has no time limit on it and we already have a very good arrangement with a perfectly good Lord Chancellor willing to do the job and there is no reason why that should not continue. I made that point in my speech on that day, 12 July, my Lords. In column 1003 I make the point that there is no reason why we should not carry on the way that we are. The motion did not say there is going to be an elected speaker when you have reported, it said that it is desirable that there should be one to consider further how to implement this resolution, and then of course it goes on with full regard to the House's tradition of self-regulation and so on. I have no problem with this Committee looking at all the means for there to be an election of a speaker, appellation, dress, role and so forth, but I am saying there is no need to do it now.

Chairman: I do not know what the Committee thinks, but my impression was that the effect of the motion was that we should now proceed to elect a Speaker and that we the Committee should recommend on what terms he should be elected.

Lord Trefgarne: Absolutely not. My Lord Chairman, my view is not that at all. My view is that the House has not yet decided when it shall move to elect the Speaker, it may be one day. They have asked us to look at the arrangements for doing so, but at the moment the Lord Chancellor is happy to continue to serve. That is fine by me.

Q4 Lord Desai: Can I ask the following question, which I did say in my contribution to the debate on 12 July: would you be in favour of the Lord Chancellor, wherever he sits, to come and preside over the House?

Lord Strathclyde: Wherever he sits?

Q5 Lord Desai: If he sits in the House of Commons would you invite the Lord Chancellor to come and preside over the House?

Lord Strathclyde: No.

Q6 Lord Desai: If it is the office of Lord Chancellor which lends dignity to the House, the House does not have its own dignity from what I gather you were

saying. Sir Thomas More did, although he was not a Member of the House of Lords he presided over the House of Lords—why not?

Lord Strathclyde: Although I think it is technically correct, Lord Chairman, that the Woolsack is not part of the House and therefore a Member of the House of Commons could sit there, in all practice that is never going to happen and therefore I totally accept the position that governs our meeting, that if the post of Lord Chancellor is given to somebody who is not a peer, then that person would not sit as Speaker of the House and therefore we need a replacement, which is the purpose of this Committee, but there is no need to do that until that situation arises.

Q7 Lord Desai: Would you then take it away if another Prime Minister or the same Prime Minister was to appoint somebody in the House of Lords and there was a Speaker already elected? Would you say the Speaker should resign in favour of the new Lord Chancellor?

Lord Strathclyde: I very much favour the idea that if the post of Lord Chancellor came back to the House of Lords, he would sit on the Woolsack. What are we talking about here? Another half hour a day sitting on the Woolsack; the Lord Chairman of Committees can quite easily do that. This is not about name and you might want to call him something else.

Q8 Lord Desai: How many hours the other person sits we have to decide later on.

Lord Strathclyde: That is what the current Lord Chancellor does. I know that you are taking evidence from the Lord Chancellor and I hope you ask him what does he see his job as being, because apart from one or two ceremonial events the most time-consuming part of his job is to sit on the Woolsack for half an hour a day for three days a week.

Q9 Lord Desai: Let me put a scenario. If there is no Lord Chancellor for the time being, we elect the Lord Chairman to be the Speaker, but if another Lord Chancellor comes in the House of Lords that person goes away and we are back—

Lord Strathclyde: He does not go away, he steps down from being on the Woolsack during the course of Question Time.

Q10 Lord Desai: Nullifying the election of the House of Lords.

Lord Strathclyde: Not if that is the agreement at the beginning, in the event of a Lord Chancellor being appointed, he would go back and sit on the Woolsack. I do not see any difficulty with that, either in logic or political good practice.

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Lord Carter: The point has been made by Lord Strathclyde in his speech in July, when he said, “If that person is elected, rather than chosen, as now, by the House, I have no strong feelings about that . . .” I presume that means that you do not object, if we follow your example of the Lord Chairman, the House actually electing the Lord Chairman rather than the current procedure, agreement by the usual channels, where they agree amongst themselves the next Lord Chairman. There is a further point, if I may, that leads on from that. I wonder if Lord Strathclyde would agree that there is almost a perverse incentive for the Prime Minister in this sense, let us say we move for a Lord Chairman elect, so that we have somebody who is ready—we have a Lord Chairman who has been elected and he or she is there, he or she is waiting and ready for when the change comes with the Judicial Appointments Commission. The Lord Chancellor would then move to the front bench and would be a Minister in the Lords, let us call him Lord Chancellor. If, on the other hand, we do not do that and we wait and see what happens, is it not almost a perverse incentive for a Prime Minister to force the issue by actually appointing a Lord Chancellor in the Commons? We have not got a Speaker, we are back to an undignified scramble to find a successor to the Lord Chancellor through some form of election, which you do support, and so that needs to be thought through very carefully. I think the House would like, if there is to be a Lord Chairman on the Woolsack or whatever, for the Lord Chancellor, in the new post, to be in the House of Lords, on the front bench as Secretary of State for Constitutional Affairs and Lord Chancellor. The easiest way of achieving that is to have a Lord Chairman elect ready so that he can go straight onto the Woolsack and the Lord Chancellor then goes from the Woolsack to the front bench like any other Minister. On a different point, about the guardian of the *Companion*, as I said in the debate in the House, so long as the *Companion* or indeed the Standing Orders say the House is responsible for its own order, there is no way that the Speaker, the presiding officer or whatever, can rule on order; there is no point having a point of order because there is no one to rule on it, so as long as that crucial point is made the House, through its Standing Orders or *Companion*, makes the point that the House is responsible for its own order, then I think the concerns you have expressed in paragraphs 2 and 3 actually go away.

Q11 Lord Higgins: But it cannot then be the guardian of the *Companion*.

Lord Strathclyde: Lord Chairman, on the first point that Lord Carter raised on elections and choosing, first of all the current arrangement—which I think has worked very well, but I am not saying that it

should be stuck in all time—is that the usual channels, as they do on so many other aspects of the House, take soundings, take a view and present that to the House, but there is nothing to stop the House either putting up another candidate—somebody else being put forward for the job—and for a vote taking place in the traditional manner, but the Standing Order does use the word “choose”; Lord Chairman, you are a lawyer, not me, but “choose” does not mean no election, it presumably can mean an election, so I think the current position is either choosing or election, and we are getting into the realms of semantics, I do not think there is a great difference between the two. Secondly, to use Lord Carter’s word, perverse, it would indeed be perverse for the Prime Minister—

Q12 Lord Carter: I said perverse incentive, it is not the same thing.

Lord Strathclyde: It would be a perverse incentive too and I just cannot believe that a Prime Minister would behave on that basis. If I can put it this way, I do not think it was a primary consideration of the original announcement that the Prime Minister made in 2003. On the point about the guardian of the *Companion*—this is a very important point, it is central to a large part of the debate over the future role of this person—I have a view that we would not be discussing any of this if the Prime Minister had not made his announcement about changing the judicial functions of the Lord Chancellor, and there is a feeling that people, perhaps even members of the Committee, are scrabbling around looking for something for this person to do, because as I have already explained it is not a very difficult job. Lord Higgins was making this point, there is a tension between the idea of calling somebody the guardian of the *Companion* and saying “Well, in fact, you are not really, it is still with the House.” The system that we have had for as long as I have been in the House works very well. If people have a problem about procedure or the *Companion* to Standing Orders, their first port of call is probably to the Private Secretary to the Chief Whip and the Leader of the House, who has great knowledge, and if he or she does not know it is appointed to the clerks. If it is a very big issue, the Clerk of the Parliaments will write to the Leader and then they hear consultation, and then the Leader will take a view and transmit that information to the House. In all of that there seems to be total clarity and accountability at every level, and the worst thing you can do is to muddle it by putting in a speaker who still has to go to the clerks for advice. The problem is that when they give that advice to the House it can then be challenged, and then you get down that road of points of order—probably not immediately, but it will not be long

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before we get to continually challenging the decisions that are being put forward by the Speaker.

Chairman: We have got onto the numbered points already. Did Lady Miller want to add anything on the initial point?

Q13 Baroness Miller of Chilthorne Domer: I certainly did on that point, if I may. Lord Strathclyde, you say that the case has not been made and that certainly the will of the House—and here I would agree with you—is that the House remains the guardian of the *Companion*. However, where I perhaps part company with you is the fact that whether the Prime Minister had decided to do a shuffle of the Lord Chancellor or not, we would not have been looking at this. I could not believe that we would that self-congratulatory that we think that everything is going along swimmingly all of the time, and that there is not a case for actually looking in depth at our procedures and seeing if we can improve them. The thing that I would be very interested in your view on is that when you are there day to day, and suppose at a second reading speech the Chief Whip gets up and says everyone can only speak for six minutes and some people accept that and some people do not and overrun to nine or ten minutes, or indeed at Question Time when the Leader of the House decides who will go next if people cannot organise themselves to do it, surely that does become an area that is not working particularly well, and is even worse in committees where people give second reading speeches again. Surely there must be some room for improvement.

Lord Cope of Berkeley: If I may say so, My Lord Chairman, we certainly do look at possible changes in procedure all the time, and that is why we have a Procedure Committee which does exactly that. There have been frequent changes made in the wording of the *Companion* etc and from time to time in the Standing Orders to try to improve our proceedings, so I do not think we are complacent and just say it is all fine. There are another two particular points: as far as the advisory time limits are concerned in second reading debates and that sort of thing, it seems to me that they are actually working quite well, and I give as an example last week when we had an enormous debate on a particular motion, which caused a lot of interest in the House, we had 70 something speakers and virtually every backbencher was within the six minutes. There was a moment when somebody was trying to apply the backbench speaking limit to the front bencher from the Liberal Democrat party, but as far as the backbenchers are concerned it all went very smoothly and, generally speaking, it does. It is only advisory and I do not think the House would want it, in any case, to be a rigid six minutes or whatever it turned out to be in a particular debate, simply because we all know that on

any particular subject there are some very great experts in your Lordships' House whom the House want to hear from, or there are particular matters on which they have great experience and great wisdom to add, and we would not necessarily want to constrain every Member within the same limits as the average limit for the whole thing. I think that advisory limits are actually working quite well at the moment, and I do not think that makes the case for switching from self-regulation to a regulator, because that is after all what is proposed. If you have somebody sitting on the Woolsack whose job is to enforce the six minutes or whatever it is in a particular debate, you have a regulator, whether you call them the Speaker or the Lord Chairman or whatever and then of course you are abandoning self-regulation, which is not what the House requested in the motion setting up your Committee. Of course, once you have regulation it will not be long before the regulator needs some sanctions, which so far has not been considered very much.

Q14 Baroness Miller of Chilthorne Domer: Lord Chairman, could I ask Lord Strathclyde to answer my question, is there room for improvement?

Lord Strathclyde: Lord Chairman, I am very keen to answer this and also hope that what I have said will not be taken as a tone of self-congratulation. Since 1997 we have had three major reviews about procedures, one by Lady Holton, one by Lord Williams of Mostyn and one by Lady Amos, so there is, as the Chief Whip outlined, perpetual change about the way we do things. I welcome it, in fact I am part of the Procedure Committee that approves these things; they do not approve everything that is done, but on the whole we have a very good process for making change to the way we do things, and the way we do things is unrecognisable from what we did ten years ago. It is cosmetically, but if you scratch beneath the surface it is done very differently, so we do have a system for allowing for great change. Also, I think what we are talking about in this leadership debate is about how to change procedure, which is done.

Q15 Lord Tordoff: With respect, Lord Chairman, that is not what we are talking about, we are talking about how to make sure the procedure is actually adhered to by Members of the House.

Lord Strathclyde: Let me move straight on to that, enforcement.

Q16 Lord Tordoff: I did not use the word enforcement.

Lord Strathclyde: We know what we mean by the use of that word, how do we make sure that the House maintains itself in order? First of all, overwhelmingly, it does, and you would have to be

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very strange to go to the House of Commons with a Speaker, with full powers, and believe that they are better behaved than the House of Lords that has none. Ask anybody the answer to that question, it is obvious. It is the primary role of the Government front bench to keep order if it looks as if it is going wrong, and often that is what happens if it is applied flexibly. I am, for instance, not a great fan of the informal time limits on second readings, but I also recognise why the Chief Whips believe that they are important, and that is no criticism of my colleague here. They are informal and advisory, they are not like time-limited debates where the whips are very good at getting people to move on to the next one, likewise at Question Time. The reason why we get, sometimes, a little bit aerated about the behaviour at Question Time is because it goes wrong very rarely and when it does go wrong there is a bit of a kerfuffle and then it sorts itself out. I am not sure that having a person on the Woolsack who stood up and said Lloyd, Amptill, Carter, whatever, would make a great deal of difference to that at all.

Chairman: No. Lord Higgins was next.

Q17 Lord Higgins: If I can go with the mainstream of the argument, I entirely accept that if we could remain with the present situation with Lord Falconer on the Woolsack, the whole thing would work very well, as indeed it does at the moment, but if we look forward from that, is not the problem that the role of the Speaker as such is quite clearly small—and that was accepted in the previous report—so that removing the Lord Chancellor's other functions leaves a vacuum. The danger is then that someone tries to fill that vacuum by introducing the kind of changes which are suggested which would undermine the self-regulation principle. If one looks at paragraphs 24 to 27 of the previous Committee's report, it is essentially a thin end of the wedge argument, but it does seem to me that, for example, transferring the powers on Question Time to the Speaker is already the beginning of the wedge, the wedge is already there even at that point, and if you go on, as the Committee then suggested, to being guardian of the *Companion*, the wedge is widening already. The Committee very optimistically says of course it happens elsewhere in other circumstances, but there is no reason to suppose, once that wedge is that far in, that the system is not being undermined. Would you agree that that is the danger?

Lord Strathclyde: I agree with that very much, Lord Chairman, in fact I pray in aid of my argument the evidence that I gave to you. It is just worth reading paragraph 24 of the Committee's previous report: "Our own view is that the transfer of the Leader's limited functions at Question Time would be in the best interests of the House in securing a suitable candidate to fulfil the role of Speaker . . .". In other

words the Committee was simply looking for a role for a new Speaker—one that is not strictly necessary. There may be other suggestions but if you have the existing practice of making the Lord Chairman sit in the Lord Chancellor's place, performing precisely the same function, you do not get into any of this territory, in fact you do not get into much of the territory that your list of questions are all about.

Q18 Lord Higgins: If I may make one other point, My Lord Chairman, starting again from the basis that if we can stay where we are that is a very comfortable situation, if we are left with this vacuum because the remaining powers of the Speaker are so limited, and we arrive at what you describe as the contingency situation, do you see your suggestion that the role of Speaker might be combined with that of Lord Chairman of the Committees as a potentially permanent arrangement, because in your note you actually use the word "gradual reform" and then slide onto the proposal. It is simply that unless you are going to fill the gap in a dangerous way, then latching it onto some other post is the only real way out of it permanently.

Lord Strathclyde: I agree with that too, and you would expect me to because it was very much part of the evidence that I furnished. I do not want to use the phrase "a two-stage reform" but in fact that is what it could well be: stage 1 is the Lord Chancellor surrenders his powers, or is removed by the Prime Minister—and this answer the question of Lord Carter that I did not answer earlier on—the Lord Chairman simply takes over, and if after a bit that is regarded as not being suitable, or if by that time the House has changed further and there is a requirement to have somebody with more discipline or powers of enforcement, then you go onto stage 2 and you have an all-singing and all-dancing Speaker. I would regret that, but it may become necessary in due course. Does that answer your question?

Q19 Lord Higgins: I think so, but it would seem that if the role were united, if you like, with that of the Lord Chairman, he is most unlikely—unless the House, as was suggested earlier, wanted to make a change anyway, which it can do at any stage—or the House is most unlikely to feel the urgency to find the Speaker some other job, because the Lord Chairman will certainly be fully employed.

Lord Strathclyde: That is quite right. There are two former Lord Chairmen of Committees on your Committee, so they will have a much better view as to whether they would have the time to fulfil the role of Chairman than I do, but knowing them both very well I cannot believe that it would have been a great difficulty for them. It would be different if it had powers of discipline.

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Q20 Baroness Gould of Potternewton: I wonder if I might, Lord Strathclyde, follow the point about the role of the Chairmen of the Committees if they were to take over and whether, in fact, they could fulfil that role? Do you envisage that there are any functions which the Lord Chancellor currently does—assuming the Lord Chancellor goes into the Commons—which would then have to be retained in the Lords, and what about things like activities outside the Chamber? We talked an awful lot about the House, talked an awful lot about the half hour sitting on the Woolsack, which to me are not the important things in that sense; the important things are the things that this person would do outside the Chamber and outside the House. The Chairman of Committees, it seems to me, has a fulltime occupation now; how would it be possible for somebody to take on that role?

Lord Strathclyde: It would be for the Chairman of Committees to explain to you whether he would have time or not, and I would not venture to suggest whether he does, but my feeling is that he would. What are the other roles of the Lord Chancellor—and this is very much the second question that you raise. There is this representative role at Speaker's conferences, which will continue to be undertaken—I think I am right in thinking the Chairman of Committees already does a large part of those—roles in public engagement such as events that take place in Westminster Hall or in the Royal Gallery. I would expect the Speaker of the House to perform those functions. I am not so sure though at the State Opening of Parliament or at prorogation, where I think there is no reason why a senior Government Minister could not perform that function, either the Lord Chancellor if they were in the House of Lords or even the Leader of the House, but there may be some proprietorial or presidential rules of precedence about that, and there is also of course the Speaker of the House of Commons who comes to the House to present himself, with the Lord Chancellor in his place, and I do not know whether or not that would be able to continue, I would hope that it would be possible. Something that the Leader of the House I know attaches a great deal of importance to is the ambassadorial role of the House, that we need a person to do it, and I am attracted to the idea of people being ambassadors of the House of Lords, but this is not going to work with combining it with the role of Speaker because he has to be on the Woolsack at half past two every afternoon, so they are not going to be able to get very far out of London before they have to come back. The model I have always been attracted to but has never been put into place is that the House of Lords library and information office should have a panel of 15 or 20 peers willing to perform this function, meet school groups, teachers, universities and all the other groups of people that

like to have somebody from the House of Lords to talk to them about their work, rather than that being the sole role of the Speaker. My Lord Chairman, in your list there are also questions about recall of the House and advice to Members on practice and procedure, which I think we have already dealt with. Recall of the House I think is a function of the usual channels, it is not the advice of the Lord Chancellor but it might be, but there is no reason why it should not be a usual channels Leader type of arrangement.

Q21 Lord Carter: My Lord Chairman, I think I was involved in more recalls of the House than any other Chief Whip. It is agreed by the Government and the Speaker and the Lord Chancellor just say yes.

Lord Strathclyde: In that case there is no change.

Q22 Lord Tordoff: There are very rare occasions when the Lord Chancellor at the moment, or in his absence the Chairman of Committees, would have to sign the recall of Parliament—I did actually sign one, but it was never sent out because the Lord Chancellor was found on a beach somewhere. There is a specific function there which somebody has to deal with. It is fairly esoteric.

Lord Strathclyde: It is usually in cases of grave emergency of one sort or another—war or a huge disaster. It is usually fairly obvious, if I may say so.

Q23 Lord Carter: What I am saying is that it might not be the Speaker or the Lord Chancellor who decides whether Parliament should be recalled, but somebody has officially to sign the document.

Lord Strathclyde: That could be this person.

Q24 Lord Freeman: My Lord Chairman, the record will show that Lord Strathclyde and Lord Cope have made quite clear that they envisage no change in the Chamber for the powers of the Lord Chancellor and Lord Chairman of Committees in his stead. May I ask a question just for the record: outside the Chamber but within Parliament, does Lord Strathclyde see any change there, particularly in relation to Private Notice Questions, selection of amendments, order of speakers?

Lord Strathclyde: All of that list is ghastly. Private Notice Questions are the preserve of the Leader of the House, who does it extremely well and has done it extremely well in the past, and there is very little debate. Exposing a Speaker to that would be a bad idea, because either they would do exactly what the Speaker in the House of Commons does, or they would not, and that would be subject to challenge. I see no advantage in changing the role of PNQs. Likewise, we have no selection of amendments. One of the great strengths of the House of Lords is that every member has a right to lay an amendment and the Government is obliged to answer it by a Minister;

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I hope that we never abuse our procedures in such a way to allow the selection of amendments as Lord Freeman suggested. Likewise for the Speaker's List, it is done extremely well by the Government Whips' Office as a service to the whole House and I cannot imagine why anybody would want to change that. It certainly would not be an improvement, all it would mean is that it would be taking up another office on the principal floor and employing a whole lot of new people.

Q25 Bishop of Chelmsford: I wanted to ask a question about the psychology of this change, if I may. Assuming that at some point in line with the legislation the Government puts the Lord Chancellor into the House of Commons, and we are left without a Lord Chancellor in the Lords, is there not a danger that you might be under-estimating the significance of that in terms of the status and history of this role and its impact upon the House, and that simply to replace the Speaker functions with someone else carrying the list through, is not going to fill the gap in terms of the perception of the House—in a sense it is Lady Gould's point about public perception and role.

Lord Strathclyde: I think it is a very nice question, the psychology of the change. Psychology plays an important part in Parliament and how it is represented outside and, yes, I do think it would be a very major step if the role of Lord Chancellor was taken away from the House of Lords, particularly if that meant that in the House of Lords there was only one full Member of Cabinet left who would be the Leader of the House, because at the moment there are two and it is not so many years ago that there were three or even four. I think that would be a terrible thing and as a House we would feel slighted if we lost a Member of the Cabinet and that was not replaced. But supposing there were still two Members of the Cabinet and the Minister for Education was in the House of Lords, or DTI, as has been true before, then I think that just having a person who sits on the Woolsack as Chairman of Committees would not be at all damaging. The Chairman of Committees is a significant person in the workings of the House; in fact, they probably know more about the everyday working practices and what is going on in your Lordships' House than any other person—apart from the Chief Whip—and they are very important. The Lord Chairman of Committees sits on all the committees and if we had another person—this is a slight digression, but a very slight digression—if we had a Speaker are we expecting then that the Speaker would sit on the House Committee, which has been recently formed, and the Chairman of Committees, in which case who would chair it, who would respond to the questions on the floor of the House? I pose these questions, but I do not know what the answer is

to them, they are very difficult and very complicated. Going back to the Lord Bishop, psychology is very important but we have already started down this process and we are just trying to make sure that we do not end up in a mess.

Q26 Lord Amptill: Two very brief questions, if I may. Does either noble Lord know any other Parliament in the civilised-ish world to conduct itself without having a chairman or the equivalent, a person with some authority sitting in the chair?

Lord Strathclyde: I do not, but I think that in the civilised world the House of Lords is one of the most civilised influences, a beacon of civilisation. My Lord Chairman, we are not devoid of figures of authority in the House, that is not what this debate should be about, but what it is about is are we devolving the responsibilities—senior back benchers like Lord Tordoff, like Lord Amptill, like those who sit on the Privy Council benches, who are not on the front benches, are we saying they are no longer capable of being part of the process of keeping order and that we are giving it to one person who should sit on the Woolsack? I think the answer to Lord Amptill's question is that we probably are unique, but it is no bad thing and it works jolly well.

Q27 Lord Amptill: The whole House is united about one thing and one thing only, perhaps, which is that none of us want a bossy Speaker, that is a certainty, but the curiosity that arises from all that is that the one person who cannot intervene if there is a misdemeanour of not great importance is the person who is sitting on the Woolsack, that is the one person who is silenced. The whole House could intervene, but very, very few of them any longer do. There is one star turn on the Government front bench who has the courage to get up and say "Oy"—

Lord Strathclyde: Yes, and she is very good at it.

Q28 Lord Tordoff: If I may just follow that point, it is not just a question of, as it were, calling people to order, it is the fact that fairly frequently it would be useful to have somebody to be able to advise the House on what the situation is in relation to the rubric, and indeed to advise the person who is speaking at the moment, that it would make sense if they were to do so on and so forth, not in any authoritarian way.

Lord Cope of Berkeley: My Lord Chairman, I just wanted to say, on the point Lord Amptill made, that it has never after all been part of the role of the British Constitution to follow what other people do; other people follow our constitution rather than the other way around. I have been to quite a lot of parliaments in the course of my time, visiting one or another, and I have yet to come across one which actually conducts itself as well as the House of Lords does,

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and that is because we are self-regulating, in my view. If you give any powers to the peer on the Woolsack they will gradually, over time, become larger and larger and there will be calls more and more for him or her to intervene more frequently. It happens with all regulators, once you have a regulator and a system of rules then they do tend to escalate. As far as Lord Tordoff's point is concerned about advising the House or whoever happens to be speaking at the time on matters to do with order, this is exactly what should, in my view, be done by the Leader of the House if present, or the Government Whip, or indeed for that matter should be done by any other senior Member of the House. I have not been here as long as many here, but I do remember, for instance, Lord Sheppard used to do it extremely effectively when a back bencher. He was very experienced and had a lot of authority and he did it very effectively. Just at the moment we do not have a character able to do it quite as effectively, but I am sure that others could arise—even some of those present here—and I do not think they should feel in any way inhibited and I hope they do not feel in any way inhibited from intervening, either with gentle advice or, for that matter, occasionally a lot stronger. That is self-regulation and there are grave dangers, it seems to me, in abandoning self-regulation, and I do not see why we should do that just because other countries do not agree.

Lord Amptill: He is right that we are all frightened of the slippery slope, as it is so frequently called, but the answer is that we are on a less slippery but still a slight slope of things not being conducted quite as nicely as they used to be. That is all, and I thank you both very much for your replies.

Chairman: Lord Trefgarne is the only person who has not had a chance to speak.

Lord Trefgarne: I have two questions, the first is on the tabling of amendments, it is of course the case that we can all table as many amendments as we like, but there have been issues from time to time when the clerks have ruled a particular amendment, for example, outside the scope of the privilege, and I have experienced that myself. I was not persuaded by the clerks' arguments, I tabled my amendment anyway and the moment I rose to move it, the Leader of the House rose to tell me that her advice was that it was out of order. I could at that point have asked the leave of the House to proceed; I did nothing of the sort, I left it at once, because I take the view that the advice of the clerks is the advice of the clerks and that is that. I was teasing, but I never had any intention of pressing it against the advice of the clerks—I did not tell her that of course.

Lord Desai: Would you have been better served by a Speaker?

Lord Trefgarne: Had it been a Speaker I would have pressed on, absolutely.

Lord Amptill: You needed a Speaker.

Q29 Lord Trefgarne: No, I did not need a Speaker.
Lord Strathclyde: My Lord Chairman, is not the point of Lord Trefgarne's story to explain just how well the current system works, and that Lord Desai and others have not made the case for why there needs to be a change. With respect I warn the Committee that we should do nothing that undermines the authority that we all get from the clerks being there as a fountain of all knowledge and who do it extremely well, with the ability, as Lord Trefgarne has demonstrated, of questioning that in the House if that is required.

Lord Trefgarne: It was not just a spurious question, I was actually heavily advised from outside the House that my amendment was in order, but I decided immediately that the advice of the clerks was the advice of the clerks and that is that, whether they were wrong or right.

Lord Desai: That is not self-regulation, that is regulation by clerks.

Chairman: Lord Trefgarne, you had a second question.

Lord Trefgarne: One quick one, My Lord Chairman, thank you. Private Notice Questions: here I do believe that we have not got the procedure quite right. The plain fact is that Private Notice Questions tabled by back benchers are never, ever allowed. I have tabled half a dozen or more in my life, never had one of them, not one. Once I was refused because it was five past twelve when I tabled it, not before twelve. Gorbliney!

Baroness Gould of Potternewton: What was his ruling?

Q30 Lord Trefgarne: Because the Standing Order says it has got to be tabled by twelve o'clock. I do think that procedure has got to be reviewed, I do not think that is right at all.

Lord Strathclyde: If the PNQ procedure needs to be reformed, then Lord Trefgarne should make his views known to the Procedure Committee and they will take it very seriously.

Q31 Baroness Gould of Potternewton: May I ask two very quick questions that relate to the points that you made about the people in the House standing up and doing the self-regulation. That does not apply in committee and there are times when you are chairing a committee when it would actually be very, very helpful for you to have the ability to guide the committee a little bit more than we are able to. We have to think about that as well, but that is a bit of an aside. The real question I wanted to ask was actually about Lord Amptill said there is only one Whip who really does stand up and do the job; I think the reason for that is that the Whips now take on a much more

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political role and actually participate as Ministers much more than the Whips used to. It can be invidious then for somebody who is involved in that political debate to have to stand up and actually take on some disciplinary role. That is the question, do you not think it is invidious?

Lord Strathclyde: On the first point on discipline within the House, I am sure that there are one or two of our Deputy Chairmen chairing committees who do occasionally nudge the committee in the right direction, particularly when we get into these very long committees and we have these wonderful clerks who come out with these numbers, with the alphabet soup at the end of it. The Deputy Chairmen, or whoever is in charge of the committees, are very good at bringing order and I know that works equally well in the Moses Room in Grand Committee as it does on the floor of the House.

Q32 Lord Tordoff: Technically they are not supposed to.

Lord Strathclyde: Technically they may not, but it sort of works and if it works let it happen.

Q33 Lord Tordoff: Because the Deputy Chairmen break the rules.

Lord Strathclyde: Maybe there is a philosophical point, that the rules should be working to be flexible on that. The danger is that this Committee is going to produce a book of rules which will then be rigidly applied and it will all go wrong. On the second point that has been made about the role of the front bencher, first of all I do not think that the Whips today are any more political than they were when I was Chief Whip. They certainly have more computers, but my first job as a Whip in 1989 was to take through the Companies Bill of that year, with Lord Carter. I did that on my own, I was not a Minister, it was highly political, but whoever is acting as Minister should have a Whip on the front bench, whose primary responsibility is the House rather than the Government. But there is a geographical reason: they are next to the clerks and the chap on the Woolsack is not. They sit you near to the clerks, you can say this is all going horribly wrong and explain what it is, and then up gets the Whip. It has been suggested to me, and I cannot believe it, that because the Government are very keen on this change they discourage the Whips from involving themselves—I cannot believe that this is true—but the Whips should

realise that they are in strong and authoritative positions and it is part of their role to make sure that the House does not get out of order.

Q34 Chairman: There is just one important point which I ought to get quite clear in my mind, and that is the effect of the motion which has already been agreed to. Your view is that it is saying yes, the Speaker should be elected, but the House has not decided when, is that right?

Lord Strathclyde: Yes. I do not get so bound up in the word election—choose, election, whether we go down the way the House of Commons does it, whether we keep it pretty much the same—

Q35 Chairman: I am sorry, I was not on how it should be done, but when it should be done.

Lord Strathclyde: It should be done no sooner than when we have run out of Lord Chancellors in this House. I hope that we will have Lord Chancellors in this House for a very long time.

Q36 Chairman: On what on the last occasion you called your two-stage approach, which you have again referred to today, would that involve electing a Speaker or whatever he is to be called, the presiding officer, and leaving him with exactly the same powers that the Lord Chancellor has at the moment, no more and no less, and seeing how it works for perhaps two or three years? If it is found that discipline is insufficient then one could think about it again at that stage. That was what you meant, I think, by a two-stage process.

Lord Strathclyde: It was. Also at that stage one could look again at these issues of status, of dress, sitting on committees and a lot of the questions that none of us really know the answer to because they are dealing with imponderables. Take each a step at a time and do it slowly.

Q37 Chairman: You have made that very clear indeed, Lord Strathclyde.

Lord Cope of Berkeley: The resolution of course also supported strongly the continuance of self-regulation and so did the debate.

Q38 Chairman: I think, Lord Cope, we all absolutely understand that.

Lord Cope of Berkeley: By contrast with a regulator.

Chairman: A point you made very effectively in your speech. Thank you very much.

TUESDAY 25 OCTOBER 2005

Present	Amptill, L Carter, L Chelmsford, Bp Desai, L Freeman, L Gould of Potternewton, B	Higgins, L Lloyd of Berwick, L (Chairman) Marsh, L Miller of Chilthorne Domer, B Tordoff, L Trefgarne, L
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Examination of Witnesses

Witnesses: RT HON BARONESS AMOS, a Member of the House, Leader of the House of Lords, and RT HON LORD FALCONER OF THOROTON, a Member of the House, Lord Chancellor and Secretary of State for Constitutional Affairs, examined.

Q39 Chairman: Good morning. We are very grateful to you both for coming to the Committee. The Lord Chancellor has of course given evidence on the last occasion and we have what he said then before us today. First of all, would either of you wish to make a general statement before we ask questions?

Baroness Amos: No, we are happy to go straight to questions.

Q40 Chairman: I am sure there will be plenty of questions to come. Could I start by asking whether you have looked at the evidence which Lord Strathclyde gave last week? We would like to know how you see the situation as a result of the motion which was passed on 12 July this year?

Baroness Amos: My understanding is that the House made a decision that it wanted to elect its own Presiding Officer and asked this Committee to look at that issue; and the House will then make its own judgment on the basis of the advice from this Committee as to the process for doing that and the functions of a Presiding Officer.

Lord Falconer of Thoroton: I think the motion is pretty clear. It was passed by the House that the House should elect its own Presiding Officer. Lord Strathclyde appeared to be arguing, with the support of Lord Trefgarne I notice in the discussion, that the House should elect its own Presiding Officer (but only when the Lord Chancellor is no longer in this House). I see it as being completely uncaveated. As I understand the decision that has been made by the House, the House has now decided that it should elect its own Presiding Officer and there are no limitations on that. As I understand it, it is for this Committee to work out the detail of how that might be done. There is the specific reference to self-regulation in the motion, which means that has got to be had regard to; but I am afraid I do not see it at all as being some sort of contingency measure against something in the future.

Q41 Lord Trefgarne: Could I simply ask the Lord Chancellor with your permission My Lord Chairman, is it not true that he has said he will remain the Presiding Officer for so long as the House so wishes?

Lord Falconer of Thoroton: Yes, of course.

Q42 Lord Trefgarne: I think at an earlier moment he said he would not mind going sooner rather than later?

Lord Falconer of Thoroton: My own personal view is that I should go as the Presiding Officer as soon as I possibly can. Standing Order 18 makes it clear it is my duty to sit on the Woolsack, subject to exceptions. I accept my duty and do it as willingly and as enthusiastically as I can. I hope I have made clear—I certainly did on the previous occasion I gave evidence to Lord Lloyd's committee—that my personal view was that I should cease to be Presiding Officer as quickly as possible; because I do not think it is right (and this is a practical matter) that the Lord Chancellor should both be responsible for the ministerial things he is responsible for and be the Speaker of the House of Lords as well. I think both sides of the equation suffer in relation to it. The beginning of the note that Lord Strathclyde and Lord Cope put in (I have not got it in front of me but I saw it this morning and I was quite surprised by it) sort of suggested that I want to go on being the Speaker; I may have got the words slightly wrong in relation to it. "We welcome the best intention of the current Lord Chancellor to continue to serve as our Speaker. We agree with Lord Falconer that present arrangements should continue unchanged for his term of office". I do not know when I said that. I have no recollection of saying it. It is not my view. My view is that it should be changed; but I make it absolutely clear, as I have made it clear all along, I will do as I have done for the last two and a half years, respecting completely the views of the House, and comply with all Standing Orders of the House.

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Q43 Baroness Gould of Potternewton: I wonder my Lord Chairman if I could follow up on what the Lord Chancellor has just said. You made the point you feel in fact both posts suffer from the fact you are taking on both posts. Could you elaborate on that?

Lord Falconer of Thoroton: Could I start with my ministerial duties. I think it would be wrong for me as a minister responsible for a particular department not to spend time in that department. Indeed, I think the norm should be that if you are ministerially in charge of a department you should be in that department to provide leadership to both civil servants and fellow politicians. I therefore regard it as my role to be in Selborne House where the Department for Constitutional Affairs is based. I have a job in the House to do as Speaker, so that means on Mondays, Tuesdays, Wednesday and Fridays (Fridays the House only sits occasionally) I and my private office have got to come down to the House of Lords. I arrive between 1.00 and 1.30; I change my clothes between 1.30 and 2.00; I see the Clerk between 2.15 and 2.20 to discuss any issues; and I sit on the Woolsack from approximately 2.30 to some time between 3.00 and 3.30. The consequence of that is that every day my day is broken up. I do not know if you ever go along Victoria Street at between about 12.00 and 1.00, what you will see are two or three of my extremely competent private secretaries carrying great bags down Victoria Street so that the work can continue. In terms of running a ministerial department that is less than ideal. It means your day is constantly divided; you cannot have meetings that go throughout the day; and it is just not sensible. The things I am responsible for—the Court Service, Legal Aid, human rights—like many of my colleagues, they are important things. They require attention; they require effort in relation to it. I do not think that job is well served by having somebody who is treading down Victoria Street with his private secretaries in his wake three or sometimes four days a week. The other side of the coin is that we want a Speaker. There is a job to be done there—not in any way impinging on self-regulation—but it is a job, as I do from time to time but much less than this House deserves, where I see visiting speakers, I see visiting heads of second chambers; I see people on a regular basis because they want to see the Lord Chancellor because he is the Speaker of the second chamber. If we are to have (as I hope we do have) a self-regulating system, I think there is real value to have somebody who is not at odds with sections of the House. This is not a criticism but everybody knows around this table that from time to time I have introduced policies which significant sections of this House have been at odds with—House of Lords reform, constitutional reform and issues like that. It is difficult to have somebody who is there whether it be, to use Gareth's words, the guardian of the Companion or some other protector

of the interests of the House, somebody who, for perfectly legitimate reasons, is at odds with significant sections of the House on policy. It does not mean that any new Speaker would be, as it were, just a patsy for everybody; but his or her view should be focusing on what is in the interests of this House. It is very difficult to do that if you are at odds with a significant minority or, in some cases dare I mention it, at odds with the majority of the House on particular issues. Both from the point of view of doing the job as a minister, and from the point of view of what the House deserves and needs, I think both ends of the equation suffer and suffer very considerably.

Q44 Lord Freeman: May I ask the Lord Chancellor, can he envisage a situation where the Prime Minister splits the two posts—the Secretary of State for Constitutional Affairs and the Lord Chancellor, both appointed by the Prime Minister—with the Secretary of State for Constitutional Affairs perhaps sitting in the House of Commons and the Lord Chancellor sitting in the House of Lords?

Lord Falconer of Thoroton: No, the two roles are inextricably linked: the Court Service, the Legal Aid budget and human rights. I see no distinction in terms of ministerial function between the two. I cannot see a basis on which the two would be separated, so I think it unlikely.

Q45 Lord Freeman: Under any circumstances?

Lord Falconer of Thoroton: It is not impossible but I think it very, very unlikely that it would happen.

Q46 Lord Higgins: Arising from a point which has been made, as far as title is concerned, is there anything which you now do under the title of Lord Chancellor, or under new arrangements, which could not equally well be done or appropriately done under the title of Secretary of State for Constitutional Affairs?

Lord Falconer of Thoroton: No, I think they could all be done under either title. I think it is more appropriate, in relation to my role in appointing judges, that it be done by the Lord Chancellor rather than the Secretary of State for Constitutional Affairs.

Q47 Lord Carter: If you leave out the speakership duties between 1.30 to 3.30, what are the rest of the functions the Lord Chancellor performs inside the department?

Lord Falconer of Thoroton: There are ministerial functions. I have also got a range of other functions which are reducing in scope. For example, I am a visitor of a significant number of educational establishments. For example, I have a series of ceremonial roles outside Parliament. When a bishop swears allegiance to the State before the Queen I

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attend that ceremony. I also receive the Lord Mayor elect and pass on, on behalf of the Queen, the fact that she approves his election. I have a range of ceremonial functions. My function as the guardian of the independent judiciary and the rule of law is one that is bound up very, very considerably with my ministerial role; because I would see that as being the voice of the independent judiciary's rule of law within government.

Q48 Lord Carter: I understand there are some functions which can be transferred by Order and others require a change in legislation. Which are the ones that can be transferred by Order?

Lord Falconer of Thoroton: The ones that cannot be transferred away from the Lord Chancellor and Secretary of State for Constitutional Affairs without primary legislation are: the rule of law, independence of the judiciary, Legal Aid and responsibility for the courts.¹

Q49 Lord Carter: Would you see any functions which could be transferred by Order as suitable for the Speaker of the House of Lords?

Lord Falconer of Thoroton: No. There are things like responsibility for human rights. I have got responsibility for Crown dependencies. They are a rag-bag of ministerial jobs.

Q50 Lord Carter: I was thinking more of ceremonial functions and visiting functions?

Lord Falconer of Thoroton: Yes, but in relation to ministerial functions for example, the trend is not to move them to somebody who has got no experience of higher education. The policy direction is to move them to something called the Office of Independent Invigilators. That is the wrong phrase but the most splendid quango has been set up by the Department for Education and Skills. The sorts of issues I get as visitor are: "You didn't supervise me properly at university. I got a third; in fact I was entitled to a first". It is that sort of issue. Although I know any new Presiding Officer would be absolutely splendid at it, I think it is probably better that it goes to somebody who knows a little bit about it from experience. I have also got responsibility, which I share with the Speaker, in determining what happens in relation to Westminster Hall. There is permission that needs to be granted for exhibitions, and the Gunpowder Plot is there at the moment. Plainly that would go to the Presiding Officer and not the Lord Chancellor.

¹ *Note by witness:* The Constitutional Reform Act 2005 entrenches certain functions in the Lord Chancellorship, so that they cannot be transferred from the Lord Chancellor by an order under the Ministers of the Crown Act 1975. These functions concern the rule of law, the independence of the judiciary, custody and exercise of the Great Seal, and responsibility for the courts, the judiciary and judicial appointments. There are no entrenched functions in the Secretary of State'ship for Constitutional Affairs.

Q51 Baroness Gould of Potternewton: I know the Leader of the House has a particular interest in actually having an education role for whoever is the "Speaker" of the House. When we met Lord Strathclyde last week he actually said he thought it would be a good idea to have a panel of 15–20 people who took on various things like visiting schools and so on. I wonder how you see that fitting into your concept of the role of education being performed by the Speaker?

Baroness Amos: I would not see it as incompatible. I would certainly want to see any Presiding Officer in the House having three particular areas of responsibility, if you like, within the Chamber, and certainly I would want to see a "light touch role" within the Chamber. For example, taking on the responsibilities I now have at Question Time; responsibilities outside the Chamber, that would include looking at whether or not the Presiding Officer should chair a couple of committees, for example—although I would still consider that presentation of committee reports should be done by another person—and an important representational role including visiting parliamentarians, but particularly a public education function. I feel very strongly that the role of Parliament and the role of this House in Parliament, raising awareness of the importance of what we do here with young people, is something I would like to see any Presiding Officer take on board. This could include, for example, spearheading a public awareness campaign with young people where perhaps schools across the country are invited to participate in some kind of debate over a six or 12-month period and the semi-finals perhaps could be held within Parliament, perhaps hosted by our Presiding Officer. The use of a group of people who are going out in different parts of the country—perhaps on a Friday when they go back to the particular areas where they live—could contribute to that process. The holder, the person who embodied what the House as a whole was trying to do—because I see this as a significant role, particularly when we develop our visitor centre for Parliament, and we are able to have young people come in and actually see displays as to what Parliament does—any Presiding Officer of the House of Lords could have a particularly large role in relation to that. I do not think the two things are incompatible.

Q52 Chairman: We have now got on to the question of the role generally of the Speaker, whatever he may be called. Before we leave the first question I think we should express our gratitude to the Lord Chancellor for his explanation of his position in relation to the speakership.

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Lord Falconer of Thoroton: Thank you.

Chairman: In dealing with the role, would it be helpful if we dealt first with the role in the Chamber, and then with the role outside the Chamber?

Lord Marsh: Have we finished with the Lord Chancellorship, because I think that is a key issue and we are in great danger of devaluing both roles unless we get it clear?

Chairman: I thought we had finished with it, but if there is anything more you wanted to ask then please do.

Q53 Lord Marsh: Many years ago I sat under some Lord Chancellors some of whom were very good—Gerald Gardiner was one and Elwyn-Jones and Quintin Hogg—and my experience at that stage, and it may have changed totally, was that they were in the Cabinet as Cabinet Ministers first and foremost, highly political people who saw their jobs, it seemed to me, largely to protect government. I did not have anything against them for that. It does seem to me that we are in danger at the moment if we are not careful where we devalue both the jobs of Speaker and Lord Chancellor with this idea of a Lord Chancellor/Speaker who pops in and does a bit of this and a bit of that. The other thing they did, of course, because they were highly political people (and it may just have been that year's thing) was to advise the Cabinet (which was very important at that stage) on what the feeling was in the House of Lords and whether the Government had a minority of 50:1. To what extent can you say, "I am, as Lord Chancellor, a politician? There are things I have to do which are governed by statute"?

Lord Falconer of Thoroton: I agree with your basic proposition. I very much share your concern that we do not want to end up in a situation where both roles get devalued. That is why I think a clear split between the two is extremely important from both sides of the argument. In terms of the role of what is the role of the Lord Chancellor—he most certainly is a politician. He is selected because he is a supporter of the political party then in power. He has got a variety of policy responsibilities which may, from time to time, involve political controversy; but he has also got a role that transcends politics in the sense that, irrespective of what the Constitutional Reform Act says, he has got a role to protect the judiciary, appoint judges in a way that is entirely objective, and stand up for the rule of law if it is ever threatened. In relation to the independent judiciary and the rule of law, mostly these will be big constitutional issues on which his colleagues are just as well sighted as he; although there is an issue always I think about the extent to which ministers (and it is nothing to do with this Government) will express dismay when they lose in court and they have got to be quite careful about the way they express it. I have to say that appears to

have been a problem which has been with since time began. I think the Lord Chancellor intervened in some respects in that respect but ministers are pretty good at sorting it out. The role is a political role but there is an un-political element in it as well. It is extraordinarily important, I think, that the role be as strong as possible, both for the politics but also for the un-political role as well.

Q54 Lord Amptill: I would love to know the Lord Chancellor's view about his role as our Speaker when, for example, as we were enjoying his presence yesterday things were getting a bit bouncy and lots of peers got to their feet and were reluctant to sit down again. The one person in the Chamber who was forbidden to do anything about it was your good self as Speaker. It is a curiosity we have to face up to when we lay down the parameters of what the new occupant should be allowed to do.

Lord Falconer of Thoroton: I have been watching that for the last two and a half years. I see strongly the merit of self-regulation and that seems to me to be the way we have got to proceed. Self-regulation from time to time is assisted by somebody with authority saying, "I wonder if it should be the Liberal Democrats now". It looks to me from where I sit more obvious that the person who does it should be sitting on the Woolsack than sitting on the Government benches but not, I hasten to add, in a way that gives rulings, but simply moves the thing forward. I think as well the House would be assisted, particularly in the context of self-regulation, with there being some authority figure who is concentrating on the House who is able to say outside the Chamber, "I just wonder if all 21 of you getting to your feet at the same time and bullying the unfortunate Lord Lawson into sitting down was the right way to behave". I think there is some value in that.

Q55 Lord Amptill: Everybody is devoted to self-regulation but, unfortunately, there are moments when somebody may not be inclined—a junior whip, for example—to take on a very senior privy counsellor who has been there for many more years than he has?

Lord Falconer of Thoroton: I strongly agree with that. In the Committee's report you quote two long paragraphs from Lord Williams of Mostyn's evidence to you on a previous occasion in which he made precisely the point that Lord Amptill has just made. The more you have people coming from a whole variety of walks of life into the Lords the more it might be of value to have an authority figure who is able to say, "Let's hear from Lord X or Lady Y" without in any way giving direction but just encouraging them a bit.

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Chairman: Can I suggest that from now on we concentrate first on the role of the Speaker—let us call him that for the moment—in the Chamber. In particular I think we would want to hear from Lady Amos about a phrase which her predecessor used, namely, the “guardian of the Companion”. That particular phrase may need some explanation. When we have exhausted that subject we can go on to the role of the Speaker in the House not just at Question Time; and, finally, the much broader role, which is of great importance, the educational role and the ambassadorial role and so on. If we can try and keep questions in that order I think it would be useful.

Q56 Lord Tordoff: You will not have seen this but there is a letter from Lord Wakeham in which he says, “A presiding officer with a light touch also has great dangers. He will inevitably be held responsible when things go wrong and perfectly understandably will seek to assert himself in such circumstances and the result will again be a lessening and eventual elimination of self-regulation”.

Baroness Amos: From my own experience of having to exercise a light touch within the Chamber, particularly during Question Time, that is not my experience. If I may also comment on the point which was made about the phrase the “guardian of the Companion”, it was a phrase used by Lord Williams of Mostyn in seeking, I think, to sum up the spirit of the House and in seeking to ensure that, in whatever proposals were made with respect to a Presiding Officer, that the principle of self-regulation remained at the heart of those proposals. I think that we have moved on slightly. I have looked very carefully, for example, at some of the speeches which were made when we last discussed this issue in July, and Lord Cope, for example, made the point that using the term “guardian of the Companion” implied that all responsibility for self-regulation would then rest with the Presiding Officer rather than with the whole House. I think if we have now moved on and the “guardian of the Companion” as a phrase was useful at that time but is no longer in summing up the spirit of what the House is seeking to achieve, then I think we should no longer use it and find a different term. What I think is important is that you have a principle of self-regulation, a recognition that everyone has a responsibility for making it happen, but that there are points during the day when some authority needs to be exercised with a light touch. I say “with a light touch” because the House simply will not accept it. I have been challenged in the Chamber; I think I have been able to be clear with the House as to why I have not always, in suggesting the way forward, gone with the “spirit” of the House, because I think that occasionally the spirit of the House is not as fair as it should be—but I have been able to explain that to the House; but my authority would very soon be

undermined if I were to do that on a regular basis. In that sense I do not agree with that comment. I think to be able to continue to exercise authority that authority is given by the House to an individual, and if the House wants to take it away it would take it away very quickly indeed.

Q57 Baroness Miller of Chilthorne Domer: I think in the evidence you were just giving, Lord Falconer, you used a very interesting phrase which I would quite like to come back to, you said the Speaker “would not give rulings”. I think perhaps some of the worry of colleagues throughout the House is that they would become rulings as opposed to suggestions. I thought that definition was very helpful. When you have to arbitrate at Question Time with all sorts of tensions between perhaps an unknown and fairly new backbencher and a very well respected privy counsellor is that the sort of tension the House might not be good at resolving and does perhaps need some suggestion? Could you think of any examples?

Baroness Amos: It entirely depends, and it depends on the nature of a particular question. What I will say to the Committee is that we tend to keep a list of which benches have come in at particular moments so even if three people stand up on one set of benches, if there is someone from another set of benches where those benches have not yet spoken then I would suggest to the House that, for example, “The Crossbenches have not yet had an opportunity”. If all the benches have participated and then three people stand up from the same bench, I will tend to try not to arbitrate, because I think it is somewhat invidious for me to try to arbitrate between three people from the Liberal Democrat benches or three people from the Crossbenches, and hope that a member will give way. If that does not happen then you do get into a position of having to call a named individual. I do try very hard not to call a named individual, but to suggest that it is the Liberal Democrat benches or it is the Crossbenches, but it is not always easy.

Q58 Lord Carter: I would like to ask you a question about Question Time but before doing so could I put to you a point I put to Lord Strathclyde. If the Companion and/or Standing Orders say the House is responsible for its own order, the person on the Woolsack is not able to give a ruling—advice perhaps (and gentle advice) but there is no such thing as a point of order in the House because there is no-one to rule on one. At Question Time there are actually two aspects: one is when there is more than one peer on their feet; and the other one is the time running over. I suggested some time ago, long before the discussion on speakership, that an easy way to deal with the time running over would be through the Clerk. The Clerk of the Parliament watches the clock very carefully and when the time comes if he stands up then that

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should be it; that should be the end of it; and that hands the power to the Clerk. He tries to do it already and then has to sit down in an undignified way. All we need to do, in my view, is to extend Question Time to 32 minutes and give each question eight minutes. When the clock reaches eight then the Clerk gets up; you have to finish supplementaries or ministers' answers and that is it. That would actually leave the Presiding Officer out altogether. The other point on who should speak and indicating the bench rather than the individual, there is a practical point that the Leader, even if the Chief Whip is sitting next to the Leader, cannot see the people behind her, she cannot see the Crossbenchers over her right shoulder. It is easier to see the Chamber from the Woolsack.

Baroness Amos: I totally agree with the point that if we make it absolute clear a Presiding Officer cannot rule then there will be no points of order. I think that that could be very easily dealt with. I also agree that it is extraordinarily difficult sometimes to see the bishops' bench, certainly the benches behind and sometimes the Crossbenches. The best view of the House is from the Woolsack. On the matter of timing, the most straightforward way would be to have 32 minutes, eight minutes per question, but my sense is also that the House does like a degree of flexibility. If there is a question that is controversial, where there are a number of people who are intending to speak and it has to be handled very sensitively and carefully, it is a matter of trying to get the feel and the mood of the House. Yesterday was a very good example where there were still several people wanting to come in on Question 1 but we felt able to stop Question 1 because there was a Question 4 on a very similar point. If, however, there had not been a Question 4 then I think there would have been the possibility to allow Question 1 to run on for another minute or so to enable one more peer to participate. How to manage that degree of flexibility if we moved to very fixed times I think is a balance that the House would have to weigh up.

Q59 Lord Carter: If you do that of course it is hard on the person with the next question because their time is being taken up?

Baroness Amos: I totally accept that and I do try very hard to ensure that questions do not run over too long, but also to look at the balance of questions. Sometimes it is quite easy to sense which questions are going to take time and which are not, but it is not always possible to do in advance; and sometimes the question that looks as if it will run out of steam suddenly gets a new lease of life after a third question when everyone in the Chamber thought it was going to finish and then suddenly there is an interest in it. It is very difficult to manage.

Lord Falconer of Thoroton: One point about the time: remember we tried to go to 40 minutes at one stage. Having sat there now, there is something about the House's attention span which drifts between about minute 25 and minute 30. I am always struck by the fact if there is a particularly interesting question at one, two or three, irrespective of the fact that we are going to have the most scintillating question at Question 4, the drift away starts. Question Time is one of the most interesting bits of what the House does, I think. We basically have discovered, I am sure, that compressing it into 30 minutes works an absolute treat. From time to time we feel we want more, but it is because of that I believe that we should stick with the 30 minutes.

Q60 Lord Freeman: May I press the Leader on this question of a light touch at Question Time. I have two questions and the first one is: would she distinguish between selecting the benches and selecting individuals? In other words, would she see the light touch extending to selecting individuals? Secondly, would she comment on the fact that once the elected Presiding Officer stands and indicates either which side or which peer should speak next, that that is tantamount to a decision; because I think the Lord Chancellor said it would be almost inconceivable that anyone would seek to challenge the Presiding Officer in that circumstance?

Baroness Amos: On the first question in relation to light touch, as I indicated I try to indicate benches rather than individuals, but I do sometimes indicate individuals because the House calls an individual's name, so both things happen. With respect to someone standing up and indicating, that is precisely what I do. I stand up at the Dispatch Box and I indicate that it is the Liberal Democrats, the Crossbenches or the Conservatives or a named individual if there happen to be three or four individuals from the same benches and a particular name is called. I cannot quite see why the fact that that would be from the Woolsack rather than from the front bench would make such a difference.

Q61 Lord Freeman: You indicated you had been challenged in the past. Would you not agree that if the Presiding Officer were to say, "I think it is Lord X's turn", that that would amount effectively to a decision; because I think the Lord Chancellor indicated that it would be inconceivable that someone would seek to challenge the decision of someone sitting on the Woolsack?

Baroness Amos: I have not been challenged at the point at which the decision has been taken and I have relayed that decision to the House—it has been later when the House as a whole has found a way of saying to me "We didn't like you doing that". I have stood up and explained to the House why I did it. It has

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never been at the moment that I have indicated to the House that it should be one way or another.

Q62 Lord Desai: I just want to ask a slightly embarrassing question which you do not have to answer. Are there moments when at Question Time there is a really embarrassing question for the Government running over when it is very tempting to say, “No, let’s move on to the next question”?

Baroness Amos: Of course there is that temptation.

Lord Falconer of Thoroton: It is resisted—always!

Baroness Amos: There are times, because we have a tradition in this House, where you do not necessarily have the responsible minister asking a question and, therefore, they do not have the detailed knowledge where, again, there is a temptation to protect that individual. I do have to say to the Committee that I spend a great deal of my time sitting on the front bench indicating to my colleagues that they should give shorter answers to enable more people within the House to participate. I do take my duties as Leader of the whole House very seriously indeed. Whilst there is a temptation, I think probably what then happens is that the ministers themselves will use the time by giving as full an answer as possible, and I am spending time on the front bench saying, “Shorter answers, please”, to myself as well when I am answering questions.

Lord Trefgarne: I was once answering a question from the front bench and I was making the most terrible hash of it and I said to Lord Whitelaw, “For God’s sake move on”, to which he replied, “Absolutely not. You’re on your own”!

Q63 Lord Higgins: The motion rightly stresses the importance of self-regulation; and concern that it might be undermined is expressed in terms of a cliché about the “thin end of the wedge”. Is it not the case that transferring any responsibility on questions to the Speaker is in fact the thin end of the wedge and you go on rather rapidly to other items and so on, and that is the real danger?

Baroness Amos: I think this very much depends on one’s starting point in relation to looking at this issue. I do sometimes think I am in a slightly peculiar position as someone who is a member of Cabinet, a member of Government, who is seeking to persuade the House of Lords that actually if they went down this route it would give the House a greater independence and a greater authority, so it sometimes appears as if it is a slightly contradictory position to be in. I have every confidence, having sat in this House for the last eight years, that this House would not allow a thin end of the wedge if it did not want it. We have a House where there are extremely experienced individuals as parliamentarians and in their own fields of experience and expertise, and I see this as something which has potential to enhance the

House rather than to take away. But I do think there are those who approach the possibility of change and, in particular, the possibility of change in relation to the ancient title of Lord Chancellor with a great deal of suspicion and, therefore, look at the issue of the House having its own Presiding Officer in a much more suspicious way than I think that I do.

Q64 Lord Higgins: In fact this relies on something of an article of faith. It is about the light touch of the Speaker, and one suspects and certainly one’s experience in the House of Commons, as Lord Freeman was saying, suggests there is no such thing as a “light touch Speaker” because he will be challenged in fact to a far greater extent than the Leader of the House is challenged now. Once you have got the Speaker you have someone to shoot at.

Baroness Amos: I would say two things in relation to that. The first thing is that the House of Commons is very, very different from the House of Lords; and I would say the members of the House of Lords want that difference to be maintained and retained. The second point is that I cannot understand why the House would invest in me as a government minister with authority, that they would not then want someone they had elected to have—because actually it is far easier for the House to remove an elected Presiding Officer if that Presiding Officer did not behave in a certain way. If an elected Presiding Officer lost the confidence of the House it would make it extremely difficult for them to operate.

Lord Falconer of Thoroton: Being in the House, you can see that the House has a palpable mood and a force. The idea that the fact the Presiding Officer from time to time indicates that it should be Lord Higgins rather than Lord Lawson and they should ask the next question is going to lead to the thin end of the wedge with the House meekly accepting the idea of regulation from the Speaker is certainly quite contrary to my feeling of the way that the House operates. It is, I think, a very strong and forceful body that tends to have quite similar views about procedural matters.

Q65 Lord Higgins: In that case you do not need a Presiding Officer?

Lord Falconer of Thoroton: You need somebody to sit on the Woolsack; you need somebody to put the question.

Q66 Lord Higgins: Yes, but that is not the thin end of the wedge.

Lord Falconer of Thoroton: You need somebody to say, “What about Lord Lawson? Give him a chance”.

Chairman: I think we really must move on because we have got a lot more ground to cover. Can we move onto the next stage which is the role of the Speaker outside the Chamber but within the House.

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Q67 Lord Freeman: My question relates to something outside the Chamber but would be the responsibility of the Presiding Officer—private notice questions. Could Baroness Amos tell us what her experience has been and why she believes there might need to be a change?

Baroness Amos: My experience is that a private notice question is put down; the relevant department will then do a reasoning as to whether or not they consider that question to be urgent, and they will set down their reasons for doing so. I will look at that briefing, but I will also consider what happens to be in the press on that particular day, in order to make a decision as to whether or not a question is urgent or not. The main issue for me is whether a question is urgent or not and needs to be addressed by Parliament on that day.

Q68 Lord Freeman: Does Baroness Amos believe that the function should remain with the Leader or pass to the Presiding Officer?

Baroness Amos: I would certainly want to see that function pass to the Presiding Officer. Whilst I feel that I am very clear that I am operating as independently as I can in making decisions about whether or not private notice questions should be taken or not, I am still a member of Government and a member of Cabinet, and those individuals whose questions are turned down may believe that the reason the question has been turned down is to do with my position in the Government rather than my position as Leader of the House. I have never had an individual come to me and say, “I think you turned my question down for the following reasons”. In fact I have never had a challenge in the Chamber with respect to decisions I have made with respect to private notice questions; but I do recognise that that suspicion could be there. I would certainly wish to see those passed over to a Presiding Officer.

Q69 Lord Carter: Do you agree that we have this rather odd situation that if a private notice question is allowed in the House of Commons it is repeated in our House in the form of a statement? The answers in the Commons are short because it is a private notice question and we have a full statement in the House of Lords. Would it not be more sensible if a convention could be established that if a private notice question is allowed in the Commons it is allowed in the House of Lords as a private notice question?

Baroness Amos: I think this is a question for the Procedure Committee. My view is that that is probably a sensible way to proceed, but I think it is a matter for the Procedure Committee and for the House. I think it would be very difficult on issues of private notice questions and statements. Where individuals want to call the Government to account I see that being very much a matter for the Procedure

Committee and the House to decide, although of course it would be important for me to express an opinion.

Q70 Lord Carter: The question of urgency would be met. If the Speaker allowed it in the Commons it is obviously an urgent matter, so it is suitable for a private notice question?

Baroness Amos: Absolutely.

Q71 Bishop of Chelmsford: This is on the wider issues of the relationship to the wider public. Accepting the Lord Chancellor’s argument about the dilemma of his ministerial role to the House—if you have a light touch, minimal power person on the Woolsack who is not a Minister of the Crown and does not hold the historic office of the Lord Chancellor, by what authority does this person represent the House and be seen to have that authority in a public forum? You raised the question of education and representing the House—if we have taken the two key things away from the Speaker, how then is the House going to invest some status in this person for that public role?

Baroness Amos: By electing that individual. The whole process of electing that individual into a Presiding Officer role I think confers that authority. Given that there has not been a lot of time to explore the possible areas that a Presiding Officer might cover, perhaps I should do a note to the Committee setting out the key areas but in no way being prescriptive.

Q72 Chairman: That would be very helpful. Perhaps it would easiest if I put one question regarding title. Any views on that?

Baroness Amos: My personal preference is for “Lord President”. If the Committee, for example, thought “Lord Chairman” I think that would also work. I think “Lord President” works well in terms of the balance between the two Houses, and also the perception in terms of the relationship with the outside world.

Q73 Chairman: Do you have any actual difficulty with “Lord Speaker”, which is the current title?

Baroness Amos: I think with the possibility of confusion between what is happening in our House and what is happening in the House of Commons I would certainly propose to the Committee that we should not use the term “Lord Speaker”.

Q74 Chairman: What about dress; what should he or she wear?

Baroness Amos: I think that is for the Committee or the House to determine, I have no fixed views.

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Q75 Chairman: Accommodation?

Lord Falconer of Thoroton: I think that is a matter for the House to decide. I do not live in the residence. I have used the residence in both jobs. It has been very useful in both jobs.

Q76 Chairman: Method of election to office?

Baroness Amos: Again, the original report proposed an election process and it certainly seemed very sensible to me.

Q77 Chairman: Salary? I think this was the subject matter on which a previous report ran into a certain difficulty.

Baroness Amos: My own view would be that there should be a job description which then went to the Senior Salaries Review Body and they then determined the salary for that post.

Q78 Chairman: Period of office—if he is elected, how long should he be elected for?

Baroness Amos: Again, I am attracted to the proposals in the original report which suggested a five-year term. I would, however, suggest to the Committee that having a five-year term start when there is a new parliament would perhaps not necessarily be the best way to go. Finding some way of staggering that and perhaps having a five-year term renewable again would seem sensible to me.

Q79 Chairman: I am not sure whether you have reached a view yet on whether it would be possible to amalgamate the offices of the Lord Chairman of Committees and the Principal Deputy Chairman, and then have just two offices rather than three? Would that seem the sensible way?

Baroness Amos: My personal view is that there is enough here for three people to do, bearing in mind the points I have made about the wider representational role, the role in relation to visiting parliamentarians, a role outside the Chamber and a role within the Chamber. I will certainly do a note to the Committee which I hope will help the Committee's deliberation. If, for example, the Committee wanted to recommend to the House that there were certain elements of the current Chairman of Committees responsibilities that should go to any Presiding Officer and wanted to use the title of "Lord Chairman", then I see no reason that you could not have a Lord Chairman, a Deputy with responsibilities which are principally around the domestic committees, and a Deputy with European Union responsibilities as we have now.

Q80 Chairman: Lord Strathclyde in his evidence has suggested that there might be a two-stage approach to this; that we might elect a Speaker at the first stage but a Speaker with exactly the same powers as the Lord Chancellor, neither more nor less; then if it is found not to be working or the Leader finds the difficulties too great one might think again after two or three years and give the new Speaker the powers which the present Leader has. Obviously a unanimous view is one which is very desirable?

Baroness Amos: I disagree with Lord Strathclyde on this and we have discussed this on many occasions. I disagree with his view that there should only be two posts. I think Lord Strathclyde explained it very clearly to the Committee. I think the reason Lord Strathclyde would like to see only two posts is that fundamentally he does not really want any kind of change. I think that this also applies with respect to the proposal for a two-stage process. I think an opportunity has been presented to the House, the House has deliberated this on more than one occasion and I think the House is perfectly capable of moving forward now to the next phase.

Q81 Chairman: Lord Falconer, do you wish to add anything?

Lord Falconer of Thoroton: Just on one issue which is the title. From time to time I meet presiding officers of other second chambers. They always associate the phrase "Speaker" with the House of Commons. They understand completely that the House of Lords is something different. It would be easier for them and it would be easier in understanding one's role abroad, I suspect, though I have never gone abroad in the role, if there were two different titles, so I tend to favour "Lord President", which seems good, or "Presiding Officer" or something like that because the outside world would have a better understanding of it. I also think it would avoid quite legitimate sensitivities that the other place has in relation to it, so I think to identify the person as a separate office-holder associated with the House of Lords, it would be better to call them something other than "Lord Speaker". I do not think it matters at the moment because everyone knows the Lord Chancellor does that role, so the term "Lord Speaker" has no carriage, from my point of view, except in the Standing Orders which the world outside never reads.

Q82 Chairman: Thank you both very much indeed for coming. We hope to have a report ready before Christmas.

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Supplementary memorandum by the Leader of the House

POSSIBLE FUNCTIONS OF THE NEW “PRESIDING OFFICER”

Thank you for giving Lord Falconer and me the opportunity to give evidence to you in person on 25 October. I hope the rest of your deliberations go well. During the meeting I promised to submit some thoughts on the role of the new “presiding officer”. (I use this term simply to avoid raising the question of the title!)

I have no wish to be prescriptive, but here are some thoughts on possible elements of the job. None of the four suggestions relating to the Chamber would involve anything new: they would simply involve someone else doing something which is already done.

INSIDE THE CHAMBER

- Take on Speaker’s current functions (to sit on woolsack—for longer than current incumbent is able—and put questions on motions submitted to the House).
- Be permitted to take Chair in Committee of the Whole House.
- Take on limited functions of Leader during Question Time.
- Take on limited functions of Leader/Whips outside question time—eg pointing out if Member is speaking to wrong amendment; or over-runs time limit in a time-limited debate.

OUTSIDE THE CHAMBER

- Decide whether to allow private notice questions [from Leader].
- Determine applications to recall the House [from Lord Chancellor]. Lords Standing Order 17 would need to be amended accordingly, along the lines of Commons Standing Order 13, which provides that the Speaker may arrange for the Commons to be recalled if “it is represented to the Speaker by Her Majesty’s Ministers that the public interest requires” it, and if the Speaker “is satisfied that the public interest does so require”.
- Determine whether *sub judice* rule may be over-ridden [from Leader]
- The “presiding officer” could chair the Procedure and House committees. But the Chairman of Committees should continue to present reports of these committees to the House, and to answer questions on administrative matters (The Chairman of Committees should also maintain his responsibilities in relation to private and hybrid legislation, and continue to act as principal deputy to the “presiding officer”).
- As Chairman of the House Committee, act as a focal point for consultation with the Clerk of the Parliaments and the Management Board on the work of the staff of the House.
- Take on the current functions of the Lord Chancellor in respect of Westminster Hall.
- As recommended in the original Select Committee Report, the “presiding officer” should be appointed a Privy Councillor (para 38). However, the “presiding officer” should not take part in the Royal Commissions at the start of each Parliament and at the end of each Session.
- Play a leading part in welcoming and providing guidance to new Members.
- Take on from Lord Chancellor miscellaneous minor statutory functions as set out in the original Select Committee Report, paragraphs 45 to 47.
- Entertain visiting parliamentarians.

REPRESENTATIONAL

- Represent the House to the people of the United Kingdom and other countries.
- Lead the House’s public education and outreach activities, undertaking public speaking engagements and seminars with schools and other organisations, both at Westminster and elsewhere.
- Represent the House abroad, at conferences of speakers etc (eg annual meeting of EU Speakers).

7 November 2005

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Memorandum by Lord McNally

Liberal Democrat Peers supported the Government's changes, in the Constitutional Reform Act, to the office of Lord Chancellor, as they have long been in favour of a Supreme Court, separate from the House of Lords, with the Lord Chief Justice at the head of the judiciary.

They understand that there is now some urgency in putting in place new arrangements to cope with the situation which could arise in the early part of 2006 when a Lord Chancellor could be appointed who is not a member of the House of Lords.

However, the concept of a Presiding Officer with the traditional attributes of a Speaker is not attractive to most of our Peers. The House sets very high store by its culture of self-regulation, and any dilution of that must be resisted. Even a Presiding Officer with "the lightest of light touches" when it came to order would be taking over the role currently held by the Government whip, a role which many think is vital in preventing too adversarial a tone developing. There is also a strong feeling that Peers themselves should take more responsibility for order to foster the ethos of "the will of the House", rather than leaving it always to the Government whip—ie all being guardians of the Companion. Thus the question whether the "job description" of the Presiding Officer should be "guardian of the Companion" would be unnecessary.

There is a strong case for combining the role of Lord Chairman of Committees with that of Presiding Officer, but only if some of the Chairman's current tasks are given to the Deputy Chairman, with the post of Chairman of the European Union Committee being hived off. Although it is understood that there will have to be salary and possibly pension provision, it was felt important by our Peers that this should be modest. Another important point was that the post should be time-limited. If the two posts are combined, this makes the pitching of the salary etc. easier as the post of Chairman already attracts a good salary. However, even a combined post should be subject to a secret ballot of the whole House.

In order to make clear exactly what powers we believe a Presiding Officer should, and should not, have, the following may be helpful:

Any Presiding Officer should have the power to:

- (a) Decide on Private Notice Questions tabled by Peers, which should be taken out of the hands of the Leader of the House; [These are now called Urgent Questions in the Commons] How this will work in practice will need to be discussed.
- (b) Have a modest role outside the House.

There should be no power to:

- (i) Keep order in the Chamber.
- (ii) Decide which Peer to speak at question time.

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Examination of Witnesses

Witnesses: RT HON LORD MCNALLY, a Member of the House, Leader of the Liberal Democrat Peers, and LORD SHUTT OF GREETLAND, a Member of the House, Liberal Democrat Chief Whip in the House of Lords, examined.

Q83 Chairman: Lord McNally and Lord Shutt, we are very glad to see you. We have only just been handed your note. I am just wondering whether, if you gave us a few moments, we could read it or would you like to start?

Lord McNally: Well, I am going to speak to this note anyway very, very briefly. My Lord Chairman, Lord Shutt is Chief Whip of the Liberal Democrats. The note is a distillation of a discussion on these issues that we had in our group. I am sorry I have not got as many advisers and supporters as the previous witnesses, but we will do our best. The first point to

make is that the Liberal Democrats have throughout supported the process of reform that has necessitated your study. We supported the establishment of the Supreme Court and the knock-on consequences to the role of Lord Chancellor, and we do believe that this is a freestanding decision and we should not wait until circumstances force us to make a decision. It is a decision that stands upon its own merit and we believe that the House of Lords should move quickly to elect by the whole House a Presiding Officer. This was something which was very strong in our group. We are very much wedded to the principles and

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system of self-regulation and, therefore, we are extremely alert to anything that might emerge from your deliberations which will move away from self-regulation to the kind of discipline that the Speaker exercises in the House of Commons and we would urge this Committee to be equally alert. That is why we are a little suspicious of giving any job description, “guardian of the Companion”. We believe that the House as a whole is guardian of the Companion and each and every Member should be a guardian of the Companion and any idea that this was part of a job description for a Presiding Officer might give him or her ideas about the role that would be wrong. The question of how the role would fit in with the existing Lord Chairman of Committees’ role, we think there is an opportunity here to fashion a job description for the Presiding Officer which would take over some of the responsibilities now undertaken by the Lord Chairman, but that would probably require a deputy, and we would leave then the post of Chairman of the European Committee as a freestanding chairmanship. Therefore, just taking the end of the previous evidence, we do see that there are three jobs here, but before the Senior Salary Review staff run off with the idea, we see them, particularly the top job, as ones with a modest salary which would again help keep a sense of proportion about what was requested from the office. We also think that it should be time-limited. One term of perhaps five years would again prevent somebody settling in for a very long innings that would, in the way of these things, accrete power to the individual. Just to give you a flavour of where we see the separation of powers, we do think it would take a burden off the Leader of the House if what, I think we still call, “private notice questions”, and are now called “urgent questions” in the Commons, if that decision was in the hands of the Presiding Officer, not of the Leader of the House. However, we do believe that the present system where the Leader of the House or the Chief Whip or the Government Whip of the day guides the House when it gets in a minor tangle about who should speak next seems to work perfectly well and we would not burden the Presiding Officer with that and we would leave it exactly as it is now. If I may say so, I think Lord Rooker does it admirably, decisively and quickly and the House moves on very quickly after any entanglements. Therefore, we strongly believe that there should be no power to keep order in the Chamber; that is a matter for the House itself of which speaker should be called. We have very much an emphasis on the light touch, a minimal powers role and a belief that if it were done better, it were done quickly.

Q84 Chairman: Lord Shutt, would you like to add anything to that?

Lord Shutt of Greetland: I have got some comments of my own which I would like to put at some point, but I think that is a fair statement of where the group stood in terms of the meeting we had and coming with the group views.

Chairman: Perhaps your comments will come out during the course of the questions. What we would like to do is to ask you first about the role of the Speaker, or whatever we call him, in the Chamber and then in the House outside the Chamber, what there would be for him to do, and then the role of the Speaker in the world at large. So perhaps we could have a few more questions on the points you have already made, guardian of the Companion, light touch and all that.

Q85 Baroness Gould of Potternewton: In a way, I found a little contradiction in the comments because you referred to the lightest possible touch and you then excluded what might be seen perhaps as the lightest possible touch, ie, taking on the responsibility that the Leader does at Question Time, for instance. I wonder if I can just pursue that a little further in terms of the whips because one of the things that it has been suggested and disagreed with as well being supported is that when the whips have to stand up and take on a disciplinary role, it might be seen as politically invidious for them to do that, particularly if they are at the same time involved in that subject area as a minister, having stood up and spoken as a minister on a political basis and then having to stand up and perform some disciplinary role. Do you see that as invidious or do you see that as working perfectly well?

Lord McNally: No, the point I am making, and there is no inconsistency, is that the lightest possible touch is not to give the Presiding Officer that responsibility, and if it works, do not fix it. The point is that if you start giving the Presiding Officer the kind of disciplinary role, and I think that is overstating the case, the role that the whips now play, the natural tendency of the House, and the natural tendency of the person, will be to move nearer and nearer to a Speaker’s role. I see Lord Marsh shaking his head from a sedentary position, but once the person starts interfering and intervening, you are going to have a problem.

Q86 Baroness Gould of Potternewton: You have talked about the lightest touch, but can you give us a definition of what you mean by that if in fact you are not giving any extra functions to the person sitting on the Woolsack?

Lord McNally: Yes, that is the lightest of touch, not giving him any more functions.

Q87 Baroness Gould of Potternewton: Therefore, it is a non-touch in reality, is it not?

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Lord McNally: Well, if it helps the Committee more, where big problems have occurred because the Lord Chancellor, as Presiding Officer, has a zero touch in these matters, in the ten years I have been here I have seen no problem whatsoever on this and I see a lot of problems if you suddenly put somebody on the Woolsack and start telling him or her that they have got a touch, so if it helps the Committee, we want no touch at all.

Q88 Baroness Miller of Chilthorne Domer: Lord Falconer in his evidence gave quite a useful definition of the difference between what the Speaker could do and what the Speaker could not do and his definition was to use the word “rulings”, that he could not make any rulings, whatever we are going to call him, Lord President not Speaker. Therefore, the Lord President, sitting on the Woolsack, could not make any rulings and it would still have to be with the will of the House. If that was a definition that appealed to everybody and bearing in mind that the person would actually be elected by the House, and we would be a foolish House to elect somebody who had natural megalomaniac tendencies anyway, I still cannot see why we should be so nervous, given the election and given these parameters, about moving Question Time to the authority of the Woolsack as opposed to a government minister when, if you were designing it from scratch, you would surely never give it to a government minister.

Lord McNally: Well, I am just looking around the table at members from another place and I can tell you that rulings from the chair can quite often take anything from 40 minutes to an hour and a half to unscramble if that is how the other place decides to play it. I just feel, and I think I am reflecting the view, that if you start giving this person a chairmanship role, then there will be points of order and there will be disputes with the chair, and I am only giving you a gypsy’s warning, but it is a serious one.

Q89 Lord Carter: Just on the first point you made earlier about it being freestanding and timing. Actually this, I think, will solve itself because we have to report in December, so presumably there will be a debate on our report, let’s say, in January and let’s say that the House then decides to go ahead with an election and that will take some time, the end of March anyway—

Lord McNally: Are you telling us the time of the next reshuffle? I know you are very well informed, Lord Carter!

Q90 Lord Carter: That is the point at which the Lord Chancellor no longer needs to be a lawyer and in the House of Lords, so I think the timing will actually work out.

Lord McNally: But I think, if I am right, Lord Strathclyde is offering an even more beguiling alternative—

Q91 Lord Carter: Which is to wait and see.

Lord McNally:—which is, admirable as the present Lord Chancellor is, as you say, just to wait and see. I do not think we should wait and see.

Q92 Lord Carter: On the rulings point, and I made the point to Lord Strathclyde and the Leader of the House, so long as the House is responsible for its own order, there is no such thing as a point of order in our House, there is no one to rule on it. So long the House protects that, there is no point asking the Presiding Officer to give a ruling because he or she cannot give one. I think to move the responsibility which now rests within the House with the government whips to somebody else who could actually see the whole Chamber, and you have the advantage on the Liberal Democrat Front Bench because, apart from the benches behind you, you can see most of the Chamber, but if you have any experience on the Government side, you will know that you cannot see the whole of the Chamber, you cannot see behind you and you cannot see the Crossbenches, so there is a practical point, therefore, so long as they do no more than the whips do now, I think that your fears about the thin end of the wedge are unfounded.

Lord McNally: Well, I do not ask you to weigh it in the balance, apart from this terrible strain which I was never aware of for government chief whips and others. As far as I am concerned, it has worked perfectly well and you have got to balance moving a system which has worked perfectly well to one which, as I say, with a gypsy’s warning, could, would move the focus to that person and I think you would have dangers there. That is all I can say.

Q93 Lord Marsh: I think the reference to the fact that the system has worked well is a perfectly legitimate remark. The idea that it has worked perfectly well, particularly recently, is, in my view, grotesque. To give you just one example, and I ask for your view on this, it is now quite common, particularly on Mondays, for people to stand up, having had the whole weekend to read the papers, with a paper and then read a supplementary question, turning the pages as they go and with people muttering. Now, for a long time since I first came here it only required a junior whip to stand up and everybody would say, “Sit down” if there was any argument. What happens now quite frequently is that you get a sort of bellowing around from all over the place, the clerks cross themselves and sort of look firmly ahead because there is nothing they can do about it and eventually find some soul that they can point to the Minister or whatever, and it happens. On

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a final point, I am now, with the rest of the Committee, going through these issues for the fourth time, so we are familiar with this and I know of no one who has suggested that it should be anything like the House of Commons and I think that everybody is opposed to that.

Lord McNally: Yes, but we all know the law of unforeseen consequences. We will see, but just let me make the point on this. If it is not working perfectly well, the reason it is not working perfectly well is that the Government Whip of the day is not doing it properly. As I mentioned in my evidence, if you watch the way Lord Rooker handles it, the House does obey him because he makes quick, decisive, clearly understood and fair decisions. Rather than go down this slippery slope, it would be far better if the whips did their job and, as I said before, the important thing is instead of passing the idea of guardian of the Companion to the individual on the Woolsack, we all are guardians of the Companion and behave in that way.

Lord Shutt of Greetland: Could I just add something to Lord Marsh's point because he did refer to the officers of the House and so on. Again if you do move in this direction, you could be in the position of having to put a squad of people at the back of the Woolsack, so I think that that in itself would change all sorts of things. Then with the isolated figure on the Woolsack who has the powers that you are suggesting there might be, the next step could well be a squad of people behind him or her.

Lord Marsh: I am suggesting he will not have any powers.

Chairman: We have a few more questions on the role within the Chamber and then we will move on to the many other things we want to ask you about.

Q94 Lord Tordoff: Assuming, and I think the fact is, that we are all pretty well agreed on self-regulation and there is no question there, I think that the use of the word "authority" is a mistake. The only authority is the authority of the House, but can I ask you this: we assume that it is the role of everybody in the House to keep order and to intervene, if necessary, to draw people's attention to that, so why is the only person in the House not entitled to do that the one who sits on the Woolsack?

Lord McNally: Because he is sitting on the Woolsack and I presume in some ways you could say, "Well, why not?", but I go back to the point that if you dress a fellow up like a sheriff, he will start firing his gun. All your members kind of shake their heads from a sedentary position, Lord Lloyd, but I can only bring you the collective wisdom of the Liberal Democrats.

Chairman: We are much enjoying it!

Q95 Lord Amptill: Really what Lord McNally is asking us to do is to elect a chap whose one job will be to stay awake!

Lord McNally: Well, I have observed some people on the Woolsack and that may be quite an important factor. No, of course there is going to be a wider role and I think we are going to move on to that, but in the Chamber I think we move from self-regulation at our peril and when some of you say, "Well, we all believe that", I believe that you are taking steps and if you start giving this speakership role to the occupant of the Woolsack, you would be going into dangerous waters.

Q96 Chairman: Therefore, to summarise, you are in favour of electing a Speaker, call him what you will, to have no more powers than the Lord Chancellor currently has?

Lord McNally: The only one that we would give is the choice of private notice questions which is a highly political decision.

Chairman: Now, let's move on to the role outside the Chamber.

Q97 Lord Trefgarne: I just simply wanted to ask Lord McNally that the duty that he proposes is as he has now said in terms, only to select private notice questions? Elsewhere in his evidence he has said that the salary should be modest, and quite right too for that job.

Lord McNally: You are going to write the report, so you can all shake your heads if you want, but what I am saying is that the role within the Chamber, apart from private notice questions, should be as close as possible to the powers and responsibilities at present taken by the Lord Chancellor. He or she will have other responsibilities, as we have suggested, but within the Chamber we want, if it helps you, a zero responsibility and to leave the responsibility with the House as a whole.

Q98 Chairman: Can we then move on to his role in the House and his role outside. How do you see it?

Lord McNally: Well, I think there would be dangers as well if you left the Lord Chairman of Committees doing his or her responsibilities and left the Presiding Officer with these zero responsibilities within the Chamber. I think that there is a case, therefore, for examining which of the Lord Chairman of Committees' responsibilities could be taken over, and I think it would then give meat to the job that makes sense. The other alternative would be to say that the Lord Chairman of Committees becomes the Presiding Officer,

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although, if we were to do that, I think we would start afresh and I still think the post needs the direct election of the whole House, which is something we would support very strongly.

Q99 Chairman: That view would be two jobs rather than three?

Lord McNally: No. The third point is that at present the Chairman of the European Committee is de facto the Deputy Lord Chairman of Committees. I would keep that post, but as a freestanding third major office, so there would be the Presiding Officer, his or her deputy and the Chairman of the European Committee. I think that is particularly important because, as I understand it, Mr Hoon at the other end is conducting a review of how we look at European legislation which I think would fit with this freestanding role for that chairman.

Q100 Bishop of Chelmsford: Can I ask about a point in your submission which you did not comment on which is point (b) at the bottom. What is a “modest role”? It sounds to me as if we have a post here which is almost internal to the House and has no substantial public implications. What sort of role do you have in mind?

Lord McNally: This is something I think that Baroness Amos has been a particular advocate of, that the House is always complaining that nobody takes any notice of it, nobody understands us, et cetera, and I have heard talk about this role in an educational role, speaking outside at conferences and seminars about how the House works and generally promoting it. I suppose there is also the point that Lord Falconer makes, that there will be opportunities occasionally to visit other parliaments, but again I think we have got to be careful here that the role outside does not take on a grandeur which would be beguiling for the office-holder, but not what the House intends for the post. It would just have to be felt forward in this respect. As I say, having heard Baroness Amos on this, I think there is an educational role that this person could play and a certain amount of representative role perhaps also with the other assemblies that are growing up in the United Kingdom.

Q101 Lord Desai: So this person does nothing in the Chamber and not much outside. There is this great fear of grandeur in the Liberal Democrats’ collective wisdom, but I do not know that there would be scope either in the Chamber or outside to build up this grandeur. I do not know where this fear comes from. Have you seen speakers who are like that?

Lord McNally: Almost all of them get grandeur.

Q102 Lord Desai: Really?

Lord McNally: Absolutely.

Q103 Lord Desai: You have more modest views of grandeur than I have then.

Lord McNally: I very well may have, Lord Desai. I suspect I have, but there you are. You again use this pejorative term that he does nothing in the Chamber. I would emphasise that at the moment the Lord Chancellor does nothing in the Chamber and you do not spend your time saying he does nothing. If you say it is not going to be much of a job, we are saying that if you are going to avoid the accretion of power that would affect the self-regulation of this House, then you have got to watch where the danger points are and the danger point to me starts off in the Chamber. I find this schizophrenia suspicious because you say he has nothing to do and that implies that what you are looking for is to give him things to do in the Chamber, and again I can only repeat that our advice is not to give him things to do in the Chamber because the Chamber is a self-regulatory body that does it very well at the moment and which, if the whips did their job, would even meet with Lord Marsh’s concerns.

Q104 Lord Desai: I am not worried about that. What I am saying is given that the person does nothing very much inside the Chamber, why would you want to give him nothing very much outside the Chamber?

Lord Shutt of Greetland: I would use the term “ambassador for the House”, but that can still be modest.

Q105 Bishop of Chelmsford: If you start using the language of “ambassador of the House”, that is a different sort of thing.

Lord McNally: Well, that is why I would not use it. Let’s not go down that route. If we came along and said, like the Lord Mayor of London where the Lord Mayor of London spends 100 days a year travelling as an ambassador for the City of London, if we came along and suggested that, you would all be lifting your skirts and saying it was outrageous, et cetera, or perhaps you would not, I do not know.

Q106 Lord Desai: No.

Lord McNally: I certainly would. A low salary and a modest role, a minimalist role, is what we are advising. If you are in fact envisaging this person who is going to be on the road for a third of his or her time, I would be a little bit worried about that as well.

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Q107 Chairman: There are a number of other questions which we would just like to go through with you, but I think you have probably answered all of them.

Lord McNally: I cannot see anybody I have not annoyed yet!

Q108 Baroness Gould of Potternewton: Could I move on to some of those questions and ask about the question of the election of this person with this minimal role. In the evidence from Lord Steel of Aikwood, he refers to the Presiding Officer in the Scottish Parliament and the deputy being elected, but I do not know whether you have given any thought to that and whether you feel that he and the deputy should be elected or are you just talking about the principal officer? I assume that you would be looking for an alternative vote-type system, but would you say by secret ballot or by open ballot?

Lord McNally: I think it should be by secret ballot. I defer to Lord Shutt who is more of an expert on electoral systems than I am.

Lord Shutt of Greetland: Obviously you could have a system where ultimately, even if there was a multitude of candidates, you would end up on an exhaustive ballot or the single transferable vote for the one person.

Q109 Lord Tordoff: A single transferable vote for a single person?

Lord Shutt of Greetland: Yes, well, you know what I mean.

Q110 Lord Tordoff: Alternative.

Lord Shutt of Greetland: Yes, that is the right word. The alternative vote would get you to it. If there were ten candidates, they would transfer, and if you have two candidates, then you would have one.

Q111 Baroness Gould of Potternewton: Then to follow that through, you also say that it should be time-limited. Indeed in our recommendation in our first report, we said that the post should not coincide with the start of a new Parliament so that we actually had somebody who was not new at the same time as we had a new Parliament. Do you think that is the right position?

Lord McNally: It is probably sensible. Since we are not yet at the moment subject to the vagaries of the electorate, you could probably have a mid-term point for the election on a term. The main warning there is that what you do not want is somebody who gets settled in the post and has two, three or four terms in the post, I think again partly with this desire to keep the profile of the job.

Lord Higgins: My Lord Chairman, are we not very fortunate in not having constituents who then eventually make the choice between alternative candidates?

Q112 Baroness Miller of Chilthorne Damer: Just on the matter of the election, if you were electing the Lord President and accepting that they would have a deputy, would the runner-up in the election become the deputy or would you have separate elections for the two posts?

Lord Shutt of Greetland: I think that this is sort of beyond our scope. I understand that it is there, but we have come here to talk about the speakership and the election of the Speaker and we have not taken it any further than that and the group has not discussed it any further than that. Again this has to be weighed, I would have thought, because in terms of the interest in the House, I doubt that you would want all these three jobs from one party and, therefore, having established this, you may think that there is another way of looking at the other two jobs, but we have not discussed how we would elect the other two jobs or appoint the other two jobs, we concentrated on the so-called speakership.

Q113 Chairman: Could you tell us what you think about the title?

Lord Shutt of Greetland: I have a firm view on this, quite frankly. I came into the back when the Lord Chancellor was speaking and he said that the word “Speaker” was not one that he favoured because of confusion and so forth. I have to say that words like “Presiding Officer” and “Convener” are sort of miserable names, in my view, and I think that we should be inventive and I hope that we will be inventive. Words like “Woolsack”, “Barry”, “Pugin”, anything like that will do for me and if we cannot be inventive, hold a competition, but I think we should get a name which is a very, very specific name and eventually people get the message that the Woolsack is actually a person, maybe “The Lord Woolsack” or whatever, but I just hope we get something which is very different and very clear.

Lord McNally: I have always thought that “Lord Protector” was one not used for quite some time.

Q114 Bishop of Chelmsford: It may not go down well with the bishops!

Lord McNally: I notice every time I go into the Chamber, there is that little notice that refers to the Lord Speaker and the world does not seem to have stopped turning on its axis because that has been up there for a few years. I am against a title that is too demeaning, but I think the title should do what it says on the tin and make it clear what the role is.

Q115 Chairman: I think we know the answer to this question, but what about dress? What should he or she wear—a gown?

Lord McNally: I think so. Although I may have sounded slightly Cromwellian in my evidence today, I do believe that keeping a difference is important. I think if you look and behave too much like Croydon Council, you end up getting treated like Croydon Council and I think it is important, therefore, to keep a certain

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difference. That is Conservative controlled now, is it not! I would certainly have a gown and I would avoid the silk stockings if at all possible, unless of course—

Q116 Chairman: I think we have probably covered everything. Salary you have mentioned, dress you have mentioned.

Lord McNally: Whatever the minimum wage is at that time!

Q117 Lord Tordoff: Just on the question of salary, you heard what the Leader of the House said, to get the job description and then send it to the Review Board. Do you think that is right?

Lord McNally: Yes, that is sensible.

Q118 Chairman: Well, thank you both very much indeed.

Lord McNally: Thank you for dealing with us so gently!

TUESDAY 1 NOVEMBER 2005

Present	Ampthill, L. Carter, L. Chelmsford, Bp. Desai, L. Freeman, L. Gould of Potternewton, B.	Higgins, L. Lloyd of Berwick, L. (Chairman) Marsh, L. Miller of Chilthorne Domer, B. Tordoff, L. Trefgarne, L.
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Examination of Witness

Witness: LORD WILLIAMSON OF HORTON GCMG CB, a Member of the House, Convenor of the Crossbench Peers, examined.

Q119 Chairman: Lord Williamson, we are very grateful to you for coming this morning to express some views on these difficult questions. We think it might be convenient to deal with the matters in the following order: first of all, the role of the new Speaker in the Chamber, then the role of the Speaker in the House, and finally the role of the Speaker in representing the House to the country at large. I think we have all probably read the speech which you made on 12 July and I am sure you will want to go back over some of what you said then. Firstly, would you like to start us off with a general statement, or shall we start by asking questions?

Lord Williamson of Horton: May I just say one sentence about my relationship with the group of Crossbenchers as a whole and then I am quite ready to talk about the first point, which is the role of the Speaker. This for us is probably the most important point. I want to make clear that among the Crossbenchers there are quite a lot of differences of view; that is also the case no doubt in the political parties. We have encouraged the Crossbenchers to put in their own individual evidence if they want to do so. I should say I did have discussions with the Crossbenchers, quite a lot of them anyway, before I spoke on the last occasion—so I think what I said on 12 July, and I hope what I say today, will chime in with the view of at least quite a lot of the Crossbenchers but of course I do not speak for them all. That is an introductory point.

Q120 Baroness Gould of Potternewton: I have in front of me *Hansard* and in it, supporting self-regulation, you say “it follows that if the House is to elect its own Speaker then his or her role and responsibility must be carefully and strictly defined in order not to trespass on self-regulation”. Perhaps you could just elaborate a little more about how you see that definition working in terms of the role of the Lord Speaker.

Lord Williamson of Horton: Thank you very much. It is for me, and I think for most Crossbenchers, a crucial point; that is to say, how do we define the role of the Speaker in relation to self-regulation? I think it

can be taken as read that the House wants self-regulation as a major part of the way we continue to do our work in the House. It has been covered of course by three committees—those of Lord Aberdare, Lady Hilton and your own report—and they are all graphic and to the point on the continuation of self-regulation. The real question is: if we are going to have a Speaker with a relatively defined role, how do we do that without getting on to the slippery slope which takes us away from self-regulation? I think it is perfectly possible to have a Speaker who has certain defined responsibilities which are coherent with self-regulation. I think the slippery slope can be avoided. There is always a risk, we all know that, but I think it can be avoided. It seems to me that the first point is to look at what interventions are made in the Chamber now; that is to say, what role is taken in the Chamber to ensure that the business operates effectively: and of course it is Question Time when there are two people on their feet and up gets a whip or the Leader and says “It’s the turn of X, Y or X”; and the other occasion is when we have someone over-running their time in a time-limited debate. I myself think that both those roles could be undertaken by a Speaker without setting off on a path which would lead to much more intervention and incoherence with self-regulation. I think that could be done.

Q121 Baroness Gould of Potternewton: Do you see any other role within the Chamber, or that is the definition?

Lord Williamson of Horton: I woke up the other day and thought “What guideline shall I give to this Committee”—that was very pompous, was it not? I thought to myself, what is really important is that there can be no points of order to a Speaker; that for me is the key thing. The Speaker can do certain things which gel with self-regulation, such as helping facilitate the self-regulation of the House; but once you start on something different, like permitting points of order, you change the nature of the office, and that seems to me to be a really important point.

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Q122 Lord Carter: On the point you just made about points of order—and this is a question I have put to all the people who have been kind enough to give evidence—it clearly says that the House is responsible for its own order and the Speaker is not able therefore to rule on order; that would answer the point about points of order. There is no point in a point of order because there is no-one to rule on it. Secondly, you are absolutely right about the definition of the role. If the Companion were to spell out exactly what the Presiding Speaker can and cannot do—in other words only what happens in the Chamber now, which is at Question Time and on time-limited debates—that is all that needs to be said. Therefore you would restrict the Presiding Officer to exactly the role performed now by the Leader of the House and whips.

Lord Williamson of Horton: Very largely that is true. The only point I would make is that there are other separate points which could come up, such as: should the Speaker be able to preside the House when it is in committee in the Chamber? It is a separate question but on your basic point, yes, I agree with you.

Q123 Lord Carter: In our last report we did in fact point out that if the House were in committee for four days in a week (which it could well be), for the Speaker, if he did sit in committee, the only time there would be on the Woolsack would be at Question Time.

Lord Williamson of Horton: I have seen in the evidence given by some other people that they think it is most important we should not go around trying to create a job for the Speaker. That is an important point. I personally would have no difficulty about making it possible for the Speaker to preside the House when it is in committee on the floor of the House. It does not mean to say he has to do it all the time, but it would be possible because sometimes we have very long committee stages and I see a few bills floating about now where I rather foresee that is going to happen soon. We have to be realistic about the time spent in committee on the floor of the House.

Q124 Lord Freeman: Lord Williamson, do you envisage that there would be a challenge that could be contemplated to the Lord Speaker on either the selection of people or over-running of time?

Lord Williamson of Horton: The answer is no, because that would be close to a point of order. I do not think so. I think that the Speaker could say, as the whips do now, “I think it is the turn of X or the turn of Y”, and that is it. Of course the House is self-regulating. If the member who had been given the chance to ask a supplementary sat down then that is it; the Speaker cannot make him stand up again, nor can he move to make someone else stand up. Basically the problem is no challenge.

Q125 Lord Freeman: Therefore, it would be a decision *de facto*?

Lord Williamson of Horton: It is guidance to the House.

Q126 Lord Freeman: It would be a decision, surely?

Lord Williamson of Horton: The members concerned could always override it.

Q127 Lord Freeman: It would be a challenge?

Lord Williamson of Horton: Because we are masters of our fate, if he said “I think it is the turn of the Crossbenchers” and every Crossbencher sat down and a Lib Dem got up then a Lib Dem would have the next supplementary. He had given guidance on it but he had not got the last word.

Q128 Lord Trefgarne: Which rather underlines the point I wanted to make my Lord Chairman, if his view need not be final on the two very narrow matters that Lord Williamson is proposing, it is a pretty modest role of duties for this worthy, is it not? Are we going to find somebody willing to do just those simple things?

Lord Williamson of Horton: It is correct, that is a modest role of duties but it is reasonable to suppose, as in the great majority of cases, the House would take notice of what the Speaker had said. The case arises now, where the Leader of the House can get up and say “It is the turn of the Conservative benches” and sometimes a Conservative is not there, or does not get up or sits down, and the Leader can be overruled by the decision of the members themselves. It does not change that. On the second point, whether we could find someone to do it, that is to be seen, I think is the answer to that.

Q129 Lord Tordoff: Like Lord Williamson I have awakened at three o'clock in the morning thinking “What was that wonderful idea I had”, and then forgotten it! I have remembered something that did come to mind. It seems to me that it is very important it should be written in letters of gold in the rubric that members shall address the House and not the Speaker. I think that makes a big distinction between the self-regulation in this House and having a Commons type of Speaker.

Lord Williamson of Horton: Yes, I agree.

Q130 Bishop of Chelmsford: Representing the Crossbenches and, therefore, not being in the party political side of the House, is there a strong sense that moving the role from the Leader of the House to a Speaker would be a good move, or is there a neutrality in relation to that issue, which has been somewhat debated I think?

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Lord Williamson of Horton: If you ask me for a guess at the views of the Crossbenchers, I think they would be fairly neutral about that. I am not sure if we are coming onto that point my Lord Chairman about the role of the Leader of the House, or not?

Q131 Chairman: No, now is the time. I think it is useful to deal with that now if you can.

Lord Williamson of Horton: The point is that we would have a different situation in which we would have two persons who, in a sense, represented the House—the Speaker and the Leader of the House. Can we differentiate them? I find no difficulty at all myself in that. Some people may, but I do not. I think the Speaker would be the embodiment of the House outside the House, and would be seen as representing the House overall, but of course he or she would not be in the political process. The Leader of course also speaks for the House but is in a quite different position. The Leader is in the political process—we all recognise that; and the value of the Leader to the House is that he or she can present a view about the House to the Government, to the Cabinet and in many other ways. I do not see any difficulty about distinguishing them. Personally I think it would be better if this role of intervening on questions and on time-running were handled by someone other than the Leader. It is one of the few things in the practice of the House which I have found odd. I have found the practice of the House marvellous; I think it is a marvellous place; but the thing I find the oddest is that the Leader has to get up and say “I think it’s the turn of the bishops”; it does seem to me rather odd.

Q132 Lord Higgins: The powers of the Speaker in the House at the moment are virtually non-existent. The changes which are proposed could have taken place even if he had continued, or was about to continue to be appointed. Although there has been a great deal of fuss and some dispute about the interpretation of the motion as far as election is concerned, the reality is that the only real advantage we get from election is that the House could avoid a situation where the Prime Minister appointed someone who was in some sense personally objectionable. Other than that, there has been a huge hoo-ha (or perhaps it is a storm in a teacup, I am not quite sure which) as far as changing the election is concerned. The reality is that it makes no difference at all.

Lord Williamson of Horton: Of course, we could change our practices if we wanted to. We could say “It is not going to be the Leader or one of the whips who does it; it’s going to be the Lord Chancellor from the Woolsack”. We could agree to do that. I think the question does go a bit wider and it is more for you than for me to say whether or not the motion does imply that we are going to have a Speaker anyway. I

am not going to enter into that argument because I have seen the evidence from various people. If indeed it says we are going to have a Speaker than we have to think about the role of the Speaker. That is the way I see it.

Q133 Lord Carter: There is an important point which I do not think we have made enough of, which is that the Presiding Officer or Speaker, whatever, will not be on the Woolsack all day; we have to think about the role for the deputy speakers who have the same limited role. Obviously at Question Time it will almost invariably be the Presiding Officer. There is also the question which we have not mentioned of the behaviour of the House during Statements which normally, on a Wednesday and Thursday, will follow questions; indeed if they are coming fairly early on in the proceedings after Question Time, after the first group of amendments or whatever, the Presiding Officer will presumably stay for that. When I was Chief Whip the procedure (which we do not do now) was that I got the whip to remind the House of what the Companion said about statements, that they should be short questions and not speeches. We do not do that any more, and I think the time when the House does move away from what it should do is during statements. Would you think it would also be the role of the Presiding Officer, particularly if it is a statement which is likely to be pretty exciting, not to intervene once it starts but just to remind the House before the statement is given of what the Companion says?

Lord Williamson of Horton: I would see no objection to that at all, and I would rather favour it because I do actually share the view that we sometimes do not handle very well the way we deal with statements. I only make the point *en passant*. Some of the people who have come out worse from it are the Crossbenchers, because of course the two main parties have in the first part of the discussion already replied to the statement and then we come in, in the second part, the Crossbenchers and all the others. The Crossbenchers do not get a very good run (if I may put it like that) at the Government over statements.

Chairman: Perhaps we could move on to the second question, namely the role of the Speaker in the House generally and not limited to the Chamber.

Q134 Lord Trefgarne: If I could just pick up where I left off. What are the roles that we could perhaps find that you might have in mind for this Lord Speaker outside the Chamber itself, bearing in mind, as I said earlier, the duties inside the Chamber are going to be pretty modest?

Lord Williamson of Horton: I do believe there could be a useful role for the Lord Speaker in the representation of the House outside the Chamber,

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and that is both at home (and I do emphasis *at home*, because we do not do very much on that now) and overseas. I know myself from experience about the meetings of the Speakers of the various parliaments in Europe, in the European Union and elsewhere, and that is quite important. I would like to see quite a reasonable role for the Lord Speaker in public engagements about the work of the House, presenting our role and so on. I think that would be valuable for the House. It is rather remarkable we have such an array of talent in the House and we do not seem to get us recognised as well as we should.

Q135 Lord Trefgarne: May I just follow-up the answer which has been given. I hear it suggested, and you have suggested, that the duties for the Lord Speaker, first and foremost, will be at Question Time and, secondly, possibly during statements and limited to cases of that kind. The other duties outside the House are to be representing the House all around the country and maybe all around the world, but it seems to me the two are rather incompatible. If, first and foremost, he must be on the Woolsack at Question Time, he is going to find it very difficult to shoot off around the world and represent the House at some great conference in America, the Far East or wherever?

Lord Williamson of Horton: I saw that point made in the evidence which has been given to you already. Of course, he cannot be in two places at the same time so there could be, from time to time, a conflict of that kind, but I would not overestimate the importance of that. If, for example, the Speaker were not present on one day or another in Question Time that would not worry me. What I have talked about is his role in Question Time. I feel that, if there was a very important engagement somewhere else which we all thought desirable, the Lord Speaker could be there and not on the Woolsack on that day. He would have to fit it in, I do understand that. He would have to fit it in, but I would not consider it insuperable.

Q136 Baroness Miller of Chilthorne Damer: Could I turn to a different role outside the Chamber which is, with so many new members coming in, perhaps you could give a view on the role that such a person might have in helping new members with their induction process and being a familiar neutral face. Not being a Crossbencher I do know what it is like, but I imagine that he would be particularly appreciated, because they do not have the Whips Office that the parties do.

Lord Williamson of Horton: I would see no difficulty about that. The Speaker, in a sense, represents the House and with new members coming in he could speak to them about various points. I think that would be quite useful. It would relieve the Convenor of some work, because the new Crossbenchers always

ask the Convenor about all sorts of things, I can tell you. Yes, they do a lot. Both could easily take place, because we have to explain what we do for the Crossbenchers from the Convenor's Office. I would not see any difficulty about that. I do not want to over-play that role of the Speaker, but I do not see anything against it.

Q137 Lord Higgins: If the Lord Speaker is abroad are you proposing that the Chairman of Committees would have the same power with regard to Question Time?

Lord Williamson of Horton: Yes, I would expect that.

Q138 Lord Freeman: May I ask your views about responsibilities of the Lord Speaker outside the Chamber but in the House. Should he or she have responsibility for private notice questions; and should the Lord Speaker sit on any of the many committees that exist?

Lord Williamson of Horton: If I may take the second one first, on the committees: it is quite a tricky point. This morning I read through the whole list of committees (see how well I prepare for giving evidence to this Committee!) to see whether there were any which appear to be particularly appropriate to the Lord Speaker. I am not inclined to the view that the Lord Speaker should chair committees. For one thing, it would disturb the structure we have now with the Lord Chairman of Committees. If you look at the committees we have, for example, there are two which might theoretically be given to the Lord Speaker—the Privileges Committee and the Procedure Committee—and they are both chaired by the Lord Chairman now. I personally would not disturb the arrangement we have got on committees, because I do not want any changes to disturb the whole system all the way down; I would not really favour that. Should he decide on private notice questions? I know there are disagreed views on that. I personally would not mind at all if the Lord Speaker were given the responsibility for deciding on private notice questions or urgent questions.

Q139 Baroness Gould of Potternewton: Could we ask (within the House but outside the Chamber) about an educational role. One of the things I know has been discussed is whether this person should actually be doing a lot more in an educational role, particularly with young people and so on. I wondered if we could have your thoughts on that. I asked a similar question of Lord Strathclyde and he came up with what I thought was actually a very good idea (and perhaps I should not say that), and that was that there should be a team of these people who should be taking that sort of responsibility. Do you think that that team then needs a figurehead in the form of the Speaker? How would you see such a thing operating?

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Lord Williamson of Horton: I think it would be a good idea, first of all. We have to be careful we do not go from one extreme to the other—having under-loaded the Speaker we then start over-loading the Speaker. I think in principle that is a good idea, because it is something we are not very good at. We always think we are going to do a bit better about putting across to the public, particularly younger people, what happens in this part of Parliament, and quite frankly I do not think we do it very well, or it is not done very well. There is obviously room for improvement there. I am broadly in favour of that, but the volume of work and the workload would have to be watched quite carefully.

Q140 Lord Desai: I agree that the Lord Speaker should not chair committees—the Lord Chairman should; but in a theoretical sense, if you have a Lord Speaker would he rank above, so that complaints against the Lord Chairman could go to the Lord Speaker?

Lord Williamson of Horton: I am not a specialist on complaints, my Lord.

Q141 Lord Desai: I am that sort of person!

Lord Williamson of Horton: Yes, he would rank above the Lord Chairman. I would hope that business would be conducted without complaints about the behaviour of one or the other. I hope the question would not arise. If you ask about which way they would rank, I think the Lord Speaker would rank above the Lord Chairman.

Q142 Lord Desai: Currently the Lord Chancellor can step aside and become part of the House?

Lord Williamson of Horton: Yes.

Q143 Lord Desai: Do we see the Lord Speaker as not being part of the House at all?

Lord Williamson of Horton: He would not be part of the House, in the sense that the Lord Chancellor is part of the House when he steps to the left or when he sits on the front bench. No, the Lord Speaker would not be there, that is the change basically.

Q144 Lord Tordoff: The change goes a little further than that, if I might interject, and this bears on the question of what committees he should be on. It is my view, and I wonder if you agree, that it would be perfectly okay for him to be on the Procedure Committee but not to chair it or to chair, for instance, the Officers Committee; because he can hardly report to the House from one of the committees, from whatever front-bench. It seems to me that the role of the Chairman of Committees at the moment, where he does actually speak from the Government front-bench, should not necessarily be taken up by the Lord Speaker; and, therefore, I think it would wise

(do you agree) that he should not actually chair any committees?

Lord Williamson of Horton: I am rather chary of disturbing the arrangements in the committees. That is my point. I understand your argument, but I think the committee structure runs very well and, if we are going to make a change which is going to influence the way affairs are carried on in the Chamber, I would myself like to see a certain amount of stability in the way in which the committees operate.

Q145 Chairman: On the last occasion when our previous report was debated there was some concern that we were creating a brand new job, and that it was going to cost money. Suggestions have been made to meet that difficulty by saying “Okay, if we were starting from scratch we would have a Lord Speaker and a Deputy Speaker who would also be Chairman of Committees”; they would be on the House “payroll”; but one could then hive off Lord Grenfell’s present position, which is an onerous one as we all know. Do you see any way in which we might resolve the difficulties in that way?

Lord Williamson of Horton: I have seen evidence of course covering this point. It seems to me that the choice before the House is what I would describe as a “one for one” approach; that is to say, out goes the Lord Chancellor and in comes the Lord Speaker but otherwise things remain broadly as before with some consequential changes but not major changes; or the suggestion that, in some way or another, the Lord Speaker and the Lord Chairman of Committees would be amalgamated and the Deputy would become grander and would have certain other responsibilities. I think that is the choice, and the evidence shows that there are some who want to have one and some who want to have the other. I have tried to concentrate as much as possible on the role of the Speaker, which is for me the most important point. As a matter of organisation, you could do the second but I would slightly prefer the one for one myself but I know a lot of people do not take that view.

Q146 Bishop of Chelmsford: Would you accept with a self-regulated House, in which the House as a whole has responsibility for the Companion, the vast majority of members think that works extremely well, but it is very difficult to sell that outwardly to the wider community, as opposed to the other place where the Speaker clearly has a very public role in the House? Do you think there is an important role without compromising that for a Speaker outwardly to the community, to help communicate how this House works to the wider society?

Lord Williamson of Horton: I think if we have a Lord Speaker outside the House he would be seen in a different way from the way in which the Lord

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Chancellor is seen. The Lord Chancellor is seen as an extremely important person because of his legal role and so on and so forth; whereas the Lord Speaker would be seen as just the embodiment of the House of Lords. He would have a quite different role outside the House and that is very important. I do not think that it would be too difficult to explain to an intelligent class of seven year-olds, like my grandchildren, that this is a part of Parliament where we do have a Speaker who facilitates, keeps business going and has that sort of role, but that the House looks after itself. I think it is certainly possible to explain that and perhaps even find it approved by a class of seven year-olds.

Q147 Lord Marsh: I think one of the things we seem to be enthusiastically in favour of is of a stand-alone role for the Speaker. On the other hand, we do have overhanging us the question of the Lord Chancellor. It does seem to me that they are two totally different issues. I do not know whether you go along with that or not? Personally I do not think it is a good idea to seek to confuse them, but I would rather hear your views.

Lord Williamson of Horton: They are quite different, of course, and it would be quite difficult to explain sometimes why we have decided, if we have so decided, we are not going to have a Lord Chancellor but we are going to have a Lord Speaker. People would say “Why on earth are you doing that?” because they are quite different. In a structure where we have a Lord Speaker who is the embodiment of the House and a Leader who is, as it were, the sounding board in the political process for what we feel, then you have created a new structure and the Lord Chancellor is outside the structure completely. There is a big difference.

Q148 Lord Marsh: We see to be getting bogged-down regularly with this dreadful question of: how much is it going to cost? I do not think the sort of things we are talking about have any significant cost at all to the public. It is just one more appointment, and against the cost of running the House of Lords (which is very well run in that sense) it is very little. Do you think that this is an issue in any way?

Lord Williamson of Horton: No, I do not think so, not a major issue. If we are going to make a really substantive change in the way this House operates and say “We’re going to have a Lord Speaker” when for centuries, or at least for a very long time, we had the Lord Chancellor there, that is a substantive, one-off change and there will be some cost with that. It should be kept in proportion. We are not going to create a giant office of Lord Speaker, I believe. We do not need to do that. It needs some servicing but no more than that. I would expect the total cost would be defensible if we decide to go in this direction.

Q149 Lord Amptill: We have been using the title of “Lord Speaker” which was much liked by this House but not universally; but we are now discovering that the other place is deeply opposed to us calling our Speaker “Lord Speaker”. Do you have any feedback on that?

Lord Williamson of Horton: First of all, I used the phrase the “Lord Speaker” because in your opening remarks my Lord Chairman you did use it yourself and say that we would talk about the “Lord Speaker”, so I did. The one thing I would not like to see is the title “Presiding Officer”. I do think that whatever is done in Scotland is the affair of the Scots, but I do think that it does not go with the dignity and history of the House over a very long period. I do not like that at all. I personally think the “Lord Speaker” is a perfectly reasonable title and I hope that the House of Commons will not resist it. I have not seen other titles that appeal to me too much.

Q150 Lord Amptill: It is not really for the other place to decide on what we should choose to call our Speaker?

Lord Williamson of Horton: Yes.

Q151 Chairman: Do you have a view on precedence between the “Lord Speaker” and “Speaker of the House of Commons”?

Lord Williamson of Horton: I am not sure I should comment on that. If you ask for my view, and I am not sure that this view counts for anything, I would, firstly, have thought that the Speaker of the House of Commons would take precedence if you had a long list of precedence.

Q152 Chairman: What about what he should wear?

Lord Williamson of Horton: I expected you to ask me that and the only thing I can say is that I am not an expert in high fashion! If I have to answer that I would say that he should wear a dress which distinguishes him quite clearly from the other members; that is to say he should have a gown or appropriate dress so that it is quite clear he has a separate role in the House from the ordinary members. That is the only point I wanted to make.

Q153 Chairman: What about accommodation? These are just sweeping-up questions!

Lord Williamson of Horton: I can see that. These are the things I am not too good at! I would have thought it was not unreasonable for the Lord Speaker to have accommodation—not giant accommodation but some accommodation within the House. I think that would be reasonable myself, if it could be arranged in the moves that go with the changes affecting the Lord Chancellor.

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Lord Williamson of Horton GCMG CB

Q154 Baroness Gould of Potternewton: Could I ask about the question of election. Can you tell us how you envisage the vote actually taking place? Would it be by alternative vote, first off the post, or secret ballot or open ballot? How would you envisage this happening?

Lord Williamson of Horton: First of all, I think it should be an election by all the members by secret ballot. Personally I have absolutely no difficulty with the first past the post proposal; I have seen that in your report you have already stated you thought it should be by alternative vote. If that is what the House decides, okay, alternative vote. It does not worry me provided that it is an election in which everybody participates in a secret ballot; I am in favour of that as the only way of handling this.

Q155 Lord Tordoff: Would you not see Crossbenchers as disadvantaged in a first past the post with the power of the whips from the political parties?

Lord Williamson of Horton: I have already thought about that point. That might be said. If the political parties voted en bloc I can see that might be a problem. I am not so sure that is what would actually happen. I am not at all sure about that.

Q156 Chairman: There seems to be a certain agreement!

Lord Williamson of Horton: I think if we came to this and we had an election there would be a quite large measure of agreement from people in different parties that the best candidate was X and they voted for X, and that is why I could support a first past the post system. I repeat, if we want an alternative vote, okay for an alternative vote for me as well.

Q157 Baroness Miller of Chilthorne Domer: Do you see having, say, 25 people to nominate, or self-nomination, or more than 25? If you were able to stand for the position how would you see the nominations arrived at?

Lord Williamson of Horton: Is it a question of whether you would have so many names in order to make yourself eligible to be on the list?

Q158 Baroness Miller of Chilthorne Domer: Exactly.
Lord Williamson of Horton: Yes, you would need a reasonable figure like that of people who recommend Lord or Lady X for this particular post. I think that would be a reasonable approach, yes.

Lord Carter: If there were to be a reasonable number of candidates and the requirement for nominations was quite high, say 20, in fact you would find that over half the House would have expressed a view. It would be much better, if you expect a fairly long list of candidates, to have a comparatively short list of names for nomination; otherwise you have a substantial proportion of the House, in a sense, already declaring itself.

Q159 Chairman: Can I ask you one last question, which you may say is not for you and anyway you do not want to answer. You may have read in Lord Strathclyde's evidence that he at one point was suggesting as a possible way ahead what he called a "two stage process" by which we might elect a Lord Speaker with no more powers at all than the present Lord Chancellor at Question Time (which I think he was primarily concerned with); and then that matter might be considered again perhaps in two or three years' time if it did not work out. Do you wish to make any comment on that possible way ahead?

Lord Williamson of Horton: Of course it is open to the House to decide whether they want to take a decision once and for all, or whether they do want to have a review clause. They could do that perfectly well. For myself I think that if we can agree broadly on the role of the Lord Speaker and some of the other points we have discussed today, I personally would feel we could take a decision that we could rely on. That is my position, but obviously the House could decide to have a review clause if they wanted to.

Chairman: Lord Williamson, thank you very much indeed for your evidence.

TUESDAY 15 NOVEMBER 2005

Present	Amptill, L. Carter, L. Desai, L. Gould of Potternewton, B. Higgins, L.	Lloyd of Berwick, L. (Chairman) Marsh, L. Miller of Chilthorne Domer, B. Tordoff, L. Trefgarne, L.
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Memorandum by Lord Brabazon of Tara

Since I gave evidence to the Select Committee on the Speakership of the House of Lords just over two years ago, there have been a small number of changes and additions to the role of the Chairman of Committees. I thought it might be helpful for the Committee were I to provide a short note supplementary to my original memorandum setting these out.

1. SECURITY

The Chairman of Committees currently has formal responsibility for the security of the Lords part of the Parliamentary Estate. In carrying out this duty, he is assisted by regular briefings from Black Rod, and is advised by the Joint Committee on Security (of which he is not a member). Security proposals which involve expenditure are also approved by the House Committee.

The Chairman of Committee's counterpart in the Commons is the Speaker, and Mr Speaker and I were jointly responsible for appointing the Security Co-ordinator in December last year.

It might therefore be appropriate for this formal responsibility for security to be taken by a Lords Speaker, especially since security has recently become such a high profile issue.

I should add that, as major security initiatives are considered by the House Committee, I think that it would be highly desirable for whoever has responsibility for security to be a member of that Committee.

2. FREEDOM OF INFORMATION ADVISORY PANEL

In December last year, the House agreed to a report by the House Committee to establish a Freedom of Information Advisory Panel. This panel is chaired by the Chairman of Committees, and includes a member from each of the three parties and a Crossbencher.

Under the Freedom of Information Act 2000, the authorised officer of each House is enabled to refuse to disclose information either on the ground of parliamentary privilege or prejudice to the effective conduct of public affairs. In the House of Commons the authorised officer is the Speaker; in the House of Lords the authorised officer is the Clerk of the Parliaments.

The function of the panel is to assist the Clerk of the Parliaments to reflect the wishes of the House in exercising the function of signing certificates to refuse requests for information.

I am very happy to continue to chair this Advisory Panel, which to date has not at all been an onerous task. Given that the Speaker has authority to refuse to disclose information in the Commons, however, it might be desirable for reasons of parity for the Lord Speaker to chair the Advisory Panel in the Lords.

3. ACCOMMODATION STEERING GROUP

In my memorandum of two years ago, I stated that the Accommodation Steering Group had not met for some years. Since then, it has met several times, and given the accommodation which is due to become available on the Millbank island site, it seems likely that it will continue to meet regularly.

This group is effectively an offshoot of the Administration and Works Committee, which I chair, and as such I would not think it particularly appropriate for it to be chaired by a Lord Speaker.

9 November 2005

Examination of Witnesses

Witnesses: LORD BRABAZON OF TARA, a Member of the House, Chairman of Committees, and LORD GRENFELL, a Member of the House, Principal Deputy Chairman of Committees, examined.

Q160 Chairman: Lord Brabazon and Lord Grenfell, first of all we are very grateful to you for coming to give evidence this morning. Lord Brabazon, we have refreshed our memory of the note which you prepared on the last occasion and the evidence which you gave on that occasion, and we have also read your supplementary note, for which we are very grateful. I wonder whether, first, Lord Brabazon, you would like to add anything in general to what you have already said, before we ask you some questions.
Lord Brabazon of Tara: Thank you very much, My Lord Chairman, my Lords. Thank you for inviting me again. It is almost exactly two years ago, in fact, since I last appeared before this Committee: it is two years and a fortnight since I last came. I have put in one or two notes of fairly minor importance to be added to the memorandum I sent to you two years ago. I have no opening statement to make and I am very happy to go straight on into the questions.

Q161 Chairman: Perhaps I could ask Lord Grenfell. I think this is the first time you have appeared before the Committee. We do have a note which was prepared by our clerk as to the main duties of the Principal Deputy Chairman of Committees. We have that in mind but I suspect we will want to know more than is contained in that note, and I shall certainly want to know a bit more. Would you like to make an opening statement?

Lord Grenfell: No. Thank you, My Lord Chairman, and thank you very much for inviting me to come to this Committee. I, like my colleague Lord Brabazon, would like to go straight to questioning, if that is all right with you.

Q162 Chairman: You have, I hope, had copies of the questions.

Lord Brabazon of Tara: Yes.

Lord Grenfell: Yes, thank you.

Q163 Chairman: I would like to start with a question which may not be on that list—that is the way it happens! We have seen the sort of occasion on which Lord Grenfell has to go abroad on what one might call ceremonial duties or to attend speakers' conferences. Lord Mackay, in his evidence to us, said that these occasions were quite frequent; he always enjoyed them. But I do not have in my mind roughly how often either of you have had to go abroad to attend speakers' conferences, whether European speakers' conferences or others. What is the burden of that part of your job?

Lord Brabazon of Tara: From my side, My Lord Chairman, it is very light. I have attended the Commonwealth Parliamentary Association speakers' conference. That happens once every two

years. In Canada, two years ago in January, I attended on behalf of the Lord Chancellor, and in fact there is one coming up this January which the Lord Chancellor is himself going to attend—I gather, as a sort of swansong. This September I spent a very enjoyable but total waste of time at the IPU speakers' conference in New York—which fortunately only happens every five years, but many would argue that every 10 years or even every 20 years would be a better interval. Those are the only two I have done and I know Lord Grenfell does the European one.

Q164 Chairman: Lord Grenfell?

Lord Grenfell: Yes, that is correct. I have in fact been away from Westminster on duties in other European countries on 22 working days over the last 12 months, but only five of those have been representing the Lord Chancellor at either the European speakers' conference or at the Association of European Senates, and a little before that—which is not included in the last 12 months—in the Council of Europe Speakers as well. I think you have been informed—or maybe not, in which case I would share it with you now—that the European Union speakers' conference is an annual event; the Association of European Senates is also annual; the Council of Europe Speakers is biennial. Those are the ones in which I have been involved. So the burden is not very great, but it is nonetheless five working days every 12 months.

Q165 Chairman: When you say you have been abroad on parliamentary business, that has not been, as it were, standing in for the Lord Chancellor?

Lord Grenfell: No.

Q166 Chairman: But to do with your other activities?

Lord Grenfell: That has been as Chairman of the European Union Select Committee.

Q167 Lord Carter: Lord Grenfell, when you go, is it normal for the other assemblies or parliaments or senates or whatever to send their speaker? Or do they send somebody who has an equivalent role to you?

Lord Grenfell: It is an interesting question. Certainly as far as the Association of European Senates is concerned, it is normally the president or speaker of the second chamber who is there. With regard to the Conference of European Union Speakers; the vast majority are the speakers or the presidents of their chambers, and either one, if it is unicameral, or two, if it is bicameral, will come with their clerks and staffs. The Conference of the European Union Speakers tends to be more closely focused on the detail of inter-parliamentary co-operation at the

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European Union level than the others are; that is to say, they do have certain responsibilities at the speakers' conference such as managing the inter-parliamentary information exchange (IPEX), overseeing the work of COSAC, and, of course, more recently, discussing the modalities for making checks on compliance with the subsidiarity principle. There are, therefore certain advantages in having somebody there representing this House who is familiar with all these issues and understands the technicalities of them. The House of Commons normally sends the Chairman of Ways and Means, Sir Alan Haselhurst, to the European speakers' conference—I have never seen the Speaker there—and the Lord Chancellor, since I have been in the Chair of the Select Committee, has sent me on his behalf. Otherwise, they are very largely the speakers and presidents of the chambers who are there.

Q168 Lord Tordoff: I would confirm what Lord Grenfell has just said. There is only one occasion when Speaker Boothroyd went to one of these things, when I was doing these jobs *in seriatim* and a great fuss was made when she did. People obviously felt that the Speaker of the House of Commons was a very important person to have there. Lord Mackay of Clashfern used to go, but that was before my time. Since then, I do not think the Lord Chancellor has been to any, and we are now going back nearly 10 years.

Lord Brabazon of Tara: My Lord Chairman, at the conferences I mentioned, the CPA Conference and the IPU Conference were both attended by the Speaker of the House of Commons in person. I think Lord Tordoff is right: I do not know the last time when the Lord Chancellor has attended one of these.

Q169 Lord Marsh: In your view, do you think there would be the same significant call on a speaker of the House of Lords, as opposed to the House of Commons? I think there is at least some doubt as to whether people would recognise the speaker of the House of Lords—unless there was a specific issue—as the significant person relating to the UK. It is not only that the Speaker of the Commons would take precedence; I think they would find some difficulty in understanding the other end. Or would they? I have no experience of these bicameral—

Lord Brabazon of Tara: Lord Marsh, I do not think that is right. Quite a number of parliaments, Commonwealth parliaments certainly, have bicameral systems and each of those parliaments with bicameral systems tend to send the speaker or whoever from each house. By the way, we are threatened with yet another of these things. There is already a G8 Lower House speakers' conference and we are now threatened with a G8 Upper House speakers' conference. Quite what they will find to talk

about just because they happen all to be members of the G8, I do not know, but that is threatened.

Q170 Chairman: That is likely to be a reality, is it?
Lord Brabazon of Tara: I believe so, but, after representations from us, it probably will be held in conjunction with the Lower House speakers.

Q171 Lord Tordoff: One of the problems we have in representing this place at these meetings is that our colleagues from the Continent are very political and both the Speaker of the Commons and the Lord Speaker are put in a difficult position and one has to explain very often that we are not in a position to comment—as the French tried to get us to do on one occasion—on capital punishment in the United States, for instance. For that reason, it is as well we have someone there to make a disclaimer, as it were, so that we are not being landed with resolutions that are being passed by groups of speakers from other parliaments. In the case of the Dutch second chamber, the speaker there is responsible for advising the Queen as to whom she should call to be the next prime minister. In France, of course, the speaker of the senate is the second in line to the presidency.

Q172 Lord Desai: For the Inter-Parliamentary Union meetings very often the speaker of the chamber leads the delegation. We have always refrained from that, and that also causes problems, because we say, "Our delegation cannot be guaranteed to be permanent; it changes every time, and the Speaker will not come."

Lord Brabazon of Tara: Lord Desai, I confirm that when I went to the New York IPU speakers' conference, Mr Speaker Martin and I both had to declare in our speeches fairly early on that we would not be able to support any resolutions because we effectively had no mandate from our Houses or our Parliament to sign up for anything. I did find, as Lord Tordoff has said, that if you take a group of speakers you will find that all of them probably have slightly different roles, some much more important than others.

Q173 Lord Carter: Is the implication that it would add to the status of the House if our presiding officer (let us use that term for the moment) were to attend the majority of these conferences?

Lord Grenfell: Perhaps I may give a brief answer to that, Lord Carter. Once it is known, if it happens, that there is an elected Lord Speaker, you will see the demands on his time from the international community expanding, because you finally have somebody who other parliaments will identify as the embodiment of the House of Lords—which I think is the way that Lord Williamson of Horton put it in his evidence. I think they would be saying, "Ah! At last!

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The House of Lords has a proper speaker, so he had better be at the following meetings because that is where we will expect to see him or her.” I think that in itself would probably enhance the dignity of the House but of course it will add to the burden laid upon the shoulders of the Lord Speaker.

Q174 Lord Marsh: Would it not be slightly incongruous, from what I hear, to have an apolitical speaker among people who would find that quite unusual, in the sense of: “What’s he doing there anyhow, if he cannot speak?”

Lord Grenfell: I think they are fairly used to that already. Certainly as far as I am concerned, both in the Association of Senates and in the Conference of the European Union Speakers they know very well that I am not going to sign up to a resolution calling on the Ukraine to be given instant membership in the European Union. They know very well that the United Kingdom representatives at these conferences can go only so far and not further.

Q175 Chairman: It will be our task, I suppose, to advise whether it would be a good thing that we should have somebody acting as Lord Speaker on an increasing number of occasions, as you have described. Is that something on which either of you would be able or willing to express a view?

Lord Brabazon of Tara: There might be more of these occasions, do you mean, My Lord Chairman?

Q176 Chairman: Yes. I understood from Lord Grenfell that he thought, as soon as we had a Lord Speaker, the demand for his attendance on these sorts of occasions would increase. I am wondering whether it is your view that that would be a good thing for the House. Or are you neutral on that?

Lord Grenfell: My position is that you will need to look to see what the effect of him or her not being there is going to be. There are occasions on which you have to think of a visit by myself or the Speaker or the Lord Chancellor or anybody in terms of “What value is it going to be to us?” You have to think, on the other hand “If we are there, what contribution can we really make to help move the business along?” And, finally, and I think very importantly “What is the effect of our not being there? Will they take decisions to which we are not party—which could be embarrassing for us—and what does it do to the general perception of the Upper House of the mother of parliaments if they simply are not there?” That is the way I look at it.

Chairman: I think we can leave that aspect of it there, if we may. Thank you very much. What about other questions.

Q177 Lord Trefgarne: I am concerned about the burdens of this duty on whoever it is we now assign them to. If we are talking of a presiding officer who is to be here every day for Question Time, for example, how often is he not going to be here at Question Time and not attending to his duties because he is attending one or other of these apparently increasing conferences to which you have referred?

Lord Grenfell: Probably seven or eight days a year, if you exclude COSAC meetings, which are not attended by Speakers or their Deputies.

Lord Brabazon of Tara: On my side, the IPU one was held in the recess, and, as I have said, it is only every five years or so. The CPA every two years, probably in early January, when there is a question whether the House would be sitting or not. If it was sitting at the time, three or four days.

Q178 Lord Tordoff: And the COSAC meetings are at weekends, are they not?

Lord Grenfell: Yes, they are.

Q179 Lord Higgins: Re-reading your evidence two years ago, one is struck by the extent to which it does seem to have been quite a shift in opinion, not least because the previous committee was working on the assumption that the role of Lord Chancellor would be abolished. I suppose there are now probably three possible ways we could move forward. One would be simply for the House to elect the Lord Chancellor as speaker, which would in fact solve the problem of title, the problem of pay, the problem of a guardian of the *Companion* and so on. He could simply continue as the present Lord Chancellor is doing, although I think he was rather worried his Private Secretary was rushing back and forth across Parliament Square. Leaving that possibility on one side, there would seem to be either the idea that this is at the moment a minimal job in many ways—I think you in your earlier evidence said as much—so the question is: Do you then add other things on to it?—with the possible danger that that undermines self-regulation, the thin end of the wedge and all of that argument. The alternative—and I think this is reflected in the questions which the Committee clerk produced—is whether one can somehow, for want of a better expression, “piggy-back” the present tasks of the Lord Chancellor in the House on to the role of the Lord Chairman; then move some of your present responsibilities on to your deputy (who then becomes your deputy); and perhaps have a third post because of the important role which Lord Grenfell plays in terms of the European side of things. Do you have any views on which of these are preferable? Is it better to make the job bigger or is it better to piggy-back it on to existing structures?

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Lord Brabazon of Tara: At the moment, as your Lordships will probably be aware, the role of the Lord Chancellor is fairly minimal in the House. It is half an hour at Question Time three of the four days a week. I, as Lord Chairman, open the House on Thursdays—every Thursday normally—and therefore sit on the Woolsack for Question Time as well as after that. I also—on average, perhaps once a fortnight, when the Lord Chancellor is away on another weekday on his ministerial duties elsewhere—have to open the House on those days, even to the extent that I have been there in my robes to do an introduction on a few occasions. So there would be absolutely no difficulty, as far as my role as Lord Chairman would be, to do that every day if that is what were required of one. It all depends what other jobs you are going to give a speaker to do, but, as far as that is concerned, it would be no difficulty at all for the Lord Chairman to take over opening the House each day and sitting there for Question Time. As it is, I have to sit beside the Lord Chancellor during Question Time, just in case, as sometimes happens, he has to go halfway through Question Time to go on to the front bench to be at the despatch box.

Q180 Lord Higgins: Am I right in thinking that you are saying that one could in fact simply change the title, whatever that title may be, and you could fulfil that function without necessarily unloading more than a small number or any perhaps of your existing duties.

Lord Brabazon of Tara: On the second part, if that was all it entailed, I would not have to unload any of my other duties—and I certainly would not want to unload them on Lord Grenfell, who I know is busy enough as it is in his role as Chairman of the European Union Committee.

Q181 Baroness Gould of Potternewton: Taking away the minimal duties within the Chamber, what about the other duties that the Lord Chancellor performs outside the Chamber? Continuing to do your job and not giving extra responsibilities to Lord Grenfell, would you be able to take those on board?

Lord Brabazon of Tara: We have already discussed the representation of the House at the conferences, which I presume would be shared between Lord Grenfell on the European side and whoever is Lord Chairman of Committees on the worldwide side. There are a number of other proposals put forward obviously for what a Lord Speaker might do. I do not think the Lord Chairman would necessarily be able to undertake all that number of tasks, because it is quite a busy job as it is at the moment. You mentioned representation outside the Chamber, the present roles of the Lord Chancellor. They are fairly

small in terms of what he does at the moment as speaker of this House. I am not sure what they are.

Q182 Baroness Gould of Potternewton: In your supplementary note which we have received you identify two areas, the first one being security and the other one the Freedom of Information Advisory Panel. Just taking the security job, which you suggest might well be something that is taken over by a Lord Speaker, how much time does that sort of job take? Do you see that growing?

Lord Brabazon of Tara: It has grown. That is why I put in a supplementary note from two years ago, because it has grown hugely in the last two years. The other thing is the Speaker is responsible for that in the House of Commons, so it would make sense to have both speakers involved. We are advised by the Joint Committee on Security which is now made public—it did not used to be announced who was on it or anything—but now it has gone into the public domain, and it does take quite a good deal of time. Black Rod has executive responsibility for it down here and not many days go by without me having a word with him and he having a word with me about something or other.

Q183 Lord Carter: The House has already accepted the principle on the motion in July of electing this presiding officer, or even if the two jobs were to be merged in some way. I think Lord Strathclyde in the debate said that he could see no objection to the Lord Chairman being elected. So, first of all, there is that motion which would have to be reversed if we were not going to elect the presiding officer. But could I come back to this point, which has caused a lot of interest, of the presiding officer (if I may use that term of the moment) doing from the Woolsack what the Leader and the Whips do now but no more than that. If it were very clearly laid down in the *Companion*, that, first of all, the House was responsible for its own order—and therefore is no such thing as a point of order—and also that all the presiding officer can do at Question Time—and we all know what that means—is, perhaps on a statement, perhaps to remind people before a statement that the interventions should be questions (that sort of thing which is now done by the Leader and the Whip) and no more than that—if that prescription or restriction were spelt out very, very clearly in the *Companion*, would you see that as being the thin end of the wedge? *Lord Brabazon of Tara:* This is the thin end of the wedge argument. I personally, Lord Carter, would be content to do what you have said—I am talking personally now—and do what the Government front bench does at Question Time—although, having said that, I think it would be right that you should only call the party, never the individual peer, and it would be up to the party to decide which of their peers they

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favoured. In the old days—not so often now—the House used to call out themselves who they wanted to hear from. That does not seem to happen so much nowadays and I think it is rather a pity that it does not. I know, Lord Carter, when you were Government Chief Whip you used to remind the House at the beginning of statements what the rules of procedure were. That seems to have fallen away now. That is a pity too. It would be perfectly possible—and, if I may, I am going to use the term “speaker” whatever you decide eventually the person will be called—for the speaker to do that. The other thing I did feel rather strongly about the other day is that it should be possible for the person on the Woolsack to call the attention of the House to our rules and procedure in the *Companion*. There was an incident only last week on the Racial and Religious Hatred Bill where the first amendment was a probing amendment by somebody from the Government benches. It was for the convenience of the House that the Minister, Lady Scotland, should reply or should make a speech immediately after the amendment was moved, and so she did. She said when she made the speech that she was doing so for the convenience of the House. Everybody after then started getting up, saying, “Before the noble Minister sits down . . .” so she was bouncing up and down like a top, until Lord Mackay of Clashfern then reminded the House of what the order was. I was dying to get up and just read the paragraph from the *Companion* to say it was quite in order for the Minister to speak for the convenience of the House early and then for the debate to take place and then for the Minister to reply again. I was dying to do that. For those sorts of things, where you merely read out a paragraph from the *Companion* just to remind the House, it would be a good thing.

Lord Grenfell: I would like to refer back to one of the concerns expressed by Lord Higgins because I think it is relevant to this question, and that is whether a Lord Speaker with not a lot to do in the Chamber might be tempted to other things that he or she might do in the Chamber. It is the old slippery slope argument. I feel very, very strongly indeed that if the functions, duties, responsibilities of the Lord Speaker are very, very clearly and strictly codified, then that acts as a bar to that kind of expansion of function. In a properly self-regulating House, the House will see that the line is nowhere crossed. That is the beauty of a self-regulating House. On the other question which has just been addressed on the limitation of the functions of the speaker, I have a very clear view in my own mind of this. The Lord on the Woolsack has a brief, which is known to the front benches. It is a very clear brief, prepared by the clerks, and that is, as it were, the road map which you use to ensure that you get through the business in an orderly way that does not offend the conventions of the House or its

regulations or the *Companion*. The function of the Lord on the Woolsack is precisely to see that that road map is followed, and when it looks as if the vehicle is going off the road for some reason or other, to try to get it back on again. That is not a disciplinary function; that is simply keeping the business moving. I do not myself have any problems with the Lord on the Woolsack or the Lord Speaker being given the ability to get the vehicle back on the road, provided it is simply that and not a matter of saying, “You are speaking too long” or whatever it may be. This is not it. It is to make sure that that very, very carefully prepared brief that has been given, together with the groupings, proceeds in an orderly fashion. As long as it is confined to that, I do not see that we have a slippery slope problem.

Q184 Lord Marsh: I think the rules on this are quite clear and most people observe them most of the time. The danger is, as it has just been pointed out, that it used to be inevitable that whoever was on the front bench as even a junior whip, people would sit down. We have lost that on the way and problem is that nobody has authority just to say, “That is not how we do business.” I am wondering, to some extent, if you take the deputy speakers—we have a number of them sitting on the Woolsack—some of them—and this is not a criticism of them because it is a job that nobody else would want, I think—are much better than others and are more knowledgeable and are firmer and so forth. Would there be any benefit, whoever is the new speaker, if he or she had, say, three of these people who had the specific role, rated differently, of reporting to the speaker—and in my view were paid, because that always helps—and that they would then be fielded when there was an issue taking place, like the one on the Racial and Religious Hatred Bill, which was quite clearly a major issue. They would then sit on there and they would be recognised as the person who did not challenge somebody or anything, but they simply got up and said, “I am sorry about this, but this is really not what the *Companion* says. Will you sit down.” At that stage, in my view, you will go back to what happened when I first came here, where everybody in the Chamber would be saying, “Sit down. Sit down” and he would sit down. I do not know whether you see any benefit or disbenefits in that.

Lord Brabazon of Tara: I am not sure whether it is very much a question of saying, “It is not in the *Companion*, so sit down”. The person on the Woolsack’s job is to say, “It is not in the interests of how we are going to get business done.”

Q185 Lord Marsh: I am suggesting that there are three which are different from that and you have this special relationship.

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Lord Brabazon of Tara: You are moving on to another question, if we are going to discuss the role of the deputies at this point.

Chairman: Yes. We shall come back to that, if we may.

Q186 Lord Desai: When you have to deputise for the Lord Chancellor, who is not there, how do you handle things if you have to answer questions as the Lord Chairman? Do you step aside and speak?

Lord Brabazon of Tara: I have to find a deputy to take over from me whilst I go to the Despatch Box to answer the question. It happens fairly infrequently but it has happened.

Lord Trefgarne: My Lord Chairman, I would like to begin by saying that I do not agree with Lord Grenfell and others who may have expressed a similar view. I think there is a very serious slippery slope risk, as it has been described. I simply do not believe that anyone worth his salt appointed to sit on the Woolsack and do the wholly prescribed and limited task that is suggested is going to do that. I think that, as time passes, more and more powers, by tradition and by practice, will be assigned, or be assumed at least, by this character and that wholly undermines therefore the principle of self-regulation to which we all apparently and I certainly seem to be adhering. I am deeply troubled by the proposition that somehow we can prescribe or circumscribe the duties of whoever it is who is going to sit on the Woolsack to just doing what the Leader might do at Question Time. That was the original proposition. Now we hear that he or she must make some great pronouncement prior to the delivery of a statement to remind us of the rules. So even here in this Committee we have added to the duties of this worthy from time to time. But that is a view, My Lord Chairman, and I do not need to labour that any further—not today, anyway! I would like to go on to the question of the other deputies who serve the Lord Chairman, those in addition, of course, to the Principal Deputy Chairman Lord Grenfell. May I ask a question about that?

Chairman: I am just wondering whether we ought to finish the relationship between the two officers we are discussing at the moment and come back to the whole question of deputies a little later. I think Lady Miller wanted to say something or to ask a question.

Q187 Baroness Miller of Chilthorne Domer: Thank you. This Committee has been very keen on the idea that self-regulation absolutely will continue, so I am surprised to hear Lord Trefgarne make the statement that he has. At the same time—and perhaps you could give us your opinion on this—the House has become less good at self-regulating. How would you see getting the House back to a position where it was more capable of self-regulation? I agree with Lord

Marsh that it needs to get back to a position, but I do not like the idea of having these placed people around who might be able to do that because I feel that would be a slippery slope by another means, if you like. I am interested in getting the House back to being capable of self-regulation, as I think we would all like it. I am wondering what you think about how we could do that.

Lord Brabazon of Tara: Lady Miller, I have a good deal of sympathy with your view. As I said two years ago, whilst the House apparently wished to be self-regulating, the way it was behaving at that time was not very encouraging in that direction. I suggested there should be more intervention by senior members of the House, privy councillors and others, just to remind other Members when they are straying off our procedures. As I said earlier, at Question Time, for example, people should call for who they want to hear next and make sure it goes across the House. But that does not seem to happen so much. There are various other occasions when people stray off the procedures. I have noticed, for example, recently that there have been more interruptions by backbench peers, new ones in particular, during the Minister's opening speech of second readings of Bills. Instead of having to put their name down to speak, these people ask a question in the middle of the Minister's speech—which is a House of Commons' procedure, I know. They get the answer and then they push off afterwards. Our way is that if you want to intervene at second reading you put your name down to speak and you make a speech, and there is no danger of not being called by the Speaker because your name is on the list. You are going to get to be able to speak. That is the sort of thing which senior Members of the House should bring people up on.

Lord Grenfell: A sort of maxim for me, I suppose, is that self-regulation works best when the maximum number of Members of the House understand and have digested the *Companion*. I think that part of the problem or one of the reasons why self-regulation is a bit in the doldrums at the moment is that far too few people in the House have read the *Companion* and understand it. Perhaps I might, My Lord Chairman, very quickly answer one point made by Lord Trefgarne, because I think it is important. It seems to me that there is concern about there being a slippery slope suddenly becoming part of the landscape when a Lord Speaker is appointed makes me ask the question “Was there a slippery slope before?” If in fact the theory is that it is the appointment or election of the Lord Speaker that will create the slippery slope, I do not see much evidence that in the past the Lord Chancellor or anybody else was accruing greater and greater authority or wanting more and more power in the Chamber. Why should it change just because we have a Lord Speaker? That is my feeling.

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Q188 Baroness Gould of Potternewton: I would like to follow the point. I love the expression “keeping business moving” because I think that clarifies the position. At the moment the deputy speakers do on occasion have to read things out, like pre-emption or if amendments are similar and therefore all the wording gets changed. Are you saying that what you are suggesting is just an extension of what we already do? Because we do already have that ability to do that. My second point is in the questions: Do you see the Lord Speaker chairing a committee in the House, or do you think this should be still a role for the Chair of Committees and Deputies?

Lord Brabazon of Tara: Could I answer the first question. Gradually, yes, a little bit more. It would be a little bit more reading out—what is in the *Companion*, for example, in the case that I gave, which is just a very slight extension of what we already have to do as Deputy Chairman, particularly when the House is in Committee. This happens more in Grand Committee than it does on the floor of the House, because in Grand Committee you are closer really to the proceedings and people expect it a bit more. On the second point, I believe whoever it is should chair a committee of the whole House. Today, for example, and tomorrow, we are going straight into Committee after Question Time and I think we are staying in Committee all day except for a couple of bits of business in the dinner hour. Therefore, unless the speaker is able to take the chair of a Committee of the whole House, he or she would have very little to do for the next two days in fact. I made that point two years ago, but an additional point I would make now is that I assume whoever becomes speaker would wish to be in the House on major occasions. For example, on the instance of the Racial and Religious Hatred Bill, at Committee Stage, when there was a massive vote, whoever was speaker would surely want to be—and should be—in the Chamber during these momentous House of Lords occasions.

Q189 Baroness Gould of Potternewton: At the moment, the Lord Chancellor often comes and takes over from whoever is sitting on the Woolsack—

Lord Brabazon of Tara: Just for the vote.

Q190 Baroness Gould of Potternewton: Just for the vote. Should that continue?

Lord Brabazon of Tara: I would have thought it would be up to whoever was speaker. If you knew there was going to be a very large vote taking place, I would expect him or her to have been there. If there were to be a speaker, I would expect the person to be there in the Chamber more often anyway than the Lord Chancellor is at the moment, and, as I say, would expect them to be there for major occasions. If it were to be just a fairly minor vote, if I may put it that way, if he or she were available he might come in.

I would not have thought there was any necessity for it actually. One of the reasons the Lord Chancellor comes down is because he is going to vote himself, whereas the new speaker would not be voting himself.

Q191 Chairman: I think we probably ought to move on now to the next series of questions. To summarise to this point, you are envisaging, as I understand it, two roles, one of whom would be called the Lord Speaker (let him be called that for the moment) who would act, as you say, on all major occasions, but you would also have a deputy speaker (who could also be called Chairman of Committees, if you wanted) and each could sit in Committees of the whole House and there would be no problem on that side. The only problem I now see, which was raised during the debates, is that we would be creating a third paid role. This was something which caused anxiety. It is true, of course, that the Lord Chancellor is paid, but that is a slightly different question. I am wondering if Lord Grenfell could tell us a bit more about his role, because you are effectively only paid as Principal Deputy Chairman because of the work that the European Union Committee does. Is there some way in which that could be, as it were, treated separately, so we are not seen as creating a new role?

Lord Grenfell: The fiction is that one is paid a rather nice salary for being Principal Deputy Chairman of Committees, but in fact all the work is in the European Union Committee. I manage usually to do one and a half hours a week on Woolsack and that really is quite a chunk of time out of my programme.

Q192 Chairman: I am sorry to interrupt, but if we had a speaker and a deputy speaker, obviously you, as Chairman of the European Union Committee, would not be acting in that capacity as a deputy speaker.

Lord Grenfell: No, I do not think that the Chairman of the European Union Select Committee should be in that position because it would be quite difficult to schedule his time if it has to include being a full-time deputy to the Lord Speaker. So I think it should be separate.

Chairman: Is there something to be said, therefore, for looking at the salary which you get as Chairman of the European Union Committee in the light of other work which falls on other Chairmen of busy committees. Do you follow?

Q193 Lord Trefgarne: In other words, give some of it away.

Lord Grenfell: I do not want to try to get into deep water here, because this is rather a personal issue obviously.

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Q194 Chairman: I am not suggesting—
Lord Grenfell: But, looking at it objectively, the function of the European Union Select Committee Chairman is a very onerous job.

Q195 Chairman: Yes, I appreciate that.
Lord Grenfell: You have the Select Committee, seven sub-Committees, 77 Members of the House sitting on those sub-Committees, with the enlargement of the European Union more meetings, more interlocutors to deal with. It is a very, very full-time job, from normally 9.30 until six or seven in the evening, four or five days a week. It is quite a lot of work. I think that if you want to attract people to that job—

Q196 Chairman: They have to be paid.
Lord Grenfell:—they have to be paid.

Q197 Chairman: I am not suggesting you should not be paid.
Lord Grenfell: No.

Q198 Chairman: I am wondering whether your pay should be looked at in the light of the work that other chairmen of committees do—do you follow?—rather than as being paid as Principal Deputy Chairman of Committees.
Lord Grenfell: Yes, I have no difficulty in it being reviewed in that way. I am wondering whether there are any other committee chairmen who in fact do have to put in as many hours, so obviously you have to look at it on a scale. But, yes, I think there is absolutely no harm at all in reviewing that.

Q199 Lord Trefgarne: I would like to support that. The role of the Principal Deputy Chairman of Committees in his capacity as Chairman of the European Union Committee is crucial. It is one of the few ways in which we can keep the European Commission to account, and, my word, we ought to pay him more, not less.
Lord Grenfell: Thank you.
Chairman: I do not think you are disagreeing with the question I put.

Q200 Lord Trefgarne: You were going to pay him less. You were going to dish out the money.
Lord Brabazon of Tara: There are advantages in having the Chairman of the European Union Committee also as Principal Deputy Chairman of Committees, as things stand at the moment. When I was doing the job that I had before this one, I once had to chair one of the domestic committees—because Lord Tordoff was Chairman of Committees then and he was absent on parliamentary business, I cannot remember exactly why. I do not think it has ever happened since. It is very unusual, but it is always useful to have somebody who can stand in as

a deputy chairman, because where else otherwise you would get a chairman from. Normally you can move the date of the committee meeting of course until the person is available. There was also the very, very sad occasion when Lord Mackay of Ardbrecknish died in the chair and Lord Tordoff—and he will be able to say better than I—had to take on the role of Chairman of Committees for some weeks in addition to his role. As far as sitting on the Woolsack is concerned, for the Principal Deputy Chairman it would be as simple as anything—and I will do it right now—to take Lord Grenfell off the rota. At the moment on the list of deputy chairmen we have the Government Chief Whip and the Opposition Chief Whip, who are there just in case there is an emergency, particularly perhaps late at night. Neither of them, in my remembrance, has actually sat—I do not know whether Lord Carter ever did when he was in that position—certainly not for the last two or three years. So it would be quite easy—and I will do it right now—to put Lord Grenfell in the same position as those two.

Lord Grenfell: I knew it was worth coming to this Committee!

Chairman: I think that leads us on to the questions of deputies generally.

Q201 Lord Tordoff: I have an associated question really to this whole area. Assuming that one can begin to see the muddle where there is a speaker who is also Chairman of Committees—that is to say Committees of the whole House—and a freestanding Chairman of the European Union Committee, and in between them possibly a deputy speaker, what does Lord Brabazon think about the position in those circumstances of chairing domestic committees (for instance, Administration and Works, Procedure—the whole range of things which he presently chairs) and reporting to the House on those committees. Would it not be difficult for someone in that position to report to the House? Might it not be better to have the “Deputy Speaker” chairing those domestic committees but the speaker as a member of those committees?

Lord Brabazon of Tara: That is a very difficult question. If the speaker were to be a member of the committee but not chairing it, that would be quite difficult. It would also be difficult for him or her to chair those committees, I think, because, as Lord Tordoff says, at the moment it is up to me as Chairman of the Committees to answer on the floor of the House those questions and reports of those committees—and, as your Lordships will know, those can get quite controversial at times. It would not be, in my view anyway, in the dignity of the new speaker that he should have to get up and answer questions on the drains, smoking policy and things like that, all sorts of things which have turned out to

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be pretty controversial. I do not mind, I am quite prepared to take the flak, but I do not think it would be right for the speaker to do that.

Q202 Lord Tordoff: The Lord Chancellor is at the moment a member of a number of committees *ex officio*.

Lord Brabazon of Tara: He is a member of the Procedure Committee. He certainly has not attended in my time. He is not a member of any others, I do not think.

Q203 Lord Trefgarne: The Offices Committee.

Lord Brabazon of Tara: The Offices Committee no longer exists.

Q204 Chairman: Bring yourself up to date! I think we had better move on now to discuss the question of deputies, how many we need and whether, as has been suggested, some of them should be in the nature of professional deputies rather than amateur deputies.

Lord Brabazon of Tara: If I could put the thing into context. Under the present arrangements, there are about 22 active deputies—or 21 now!—not including the Government Chief Whip and the Opposition Chief Whip. There are on an average week around 27 one-and-a-half hour slots to be filled. Most deputies only get one slot per week. Some—who I can see sitting around here—are very good at volunteering and get more than one. Very seldom do people get more than one or two slots in a week. Obviously that is the way things work at the moment. The more power that you load on to the deputy, even if it is to intervene at Question Time and that sort of thing, you would end up having to have a more professional—and I have to be careful here because I am in the presence of no fewer than four deputy speakers on this Committee—but I think everybody is agreed that, the more the person has to do, you would probably want to reduce the number of them—to having a smaller, semi-professional/professional arrangement, with perhaps, as they have in the House of Commons, a panel of chairmen who deal with the Select Committees in Westminster Hall, I believe. As things stand at the moment, there is no need to make any changes.

Q205 Lord Carter: I think it was perhaps a slip of the tongue, but the deputy speakers would not be intervening at Question Time, it would either be the Speaker, or, on the rare occasions when the Speaker is not there, the Principal Deputy Speaker.

Lord Brabazon of Tara: Yes.

Q206 Lord Carter: It would be rare indeed for the two of them to be unavailable.

Lord Brabazon of Tara: Lord Carter, you are right, of course it would be rare that the deputies would be there for Question Time. They might be there for a statement, though.

Q207 Lord Carter: For a statement, sure.

Lord Brabazon of Tara: Although, as we have said before, one would expect the Speaker to come down.

Q208 Lord Carter: Exactly.

Lord Brabazon of Tara: But sometimes we have had statements at six o'clock in the evening. But, anyway, if there was more to do, there would have to be more training.

Q209 Lord Carter: On the number of slots, I think in the previous report we were anticipating that the speaker would have at least two one-and-a-half hour stints—three hours out of the seven-hour day, or whatever it is—so in fact the requirement for deputy speakers, if you kept the number of about the same, would be about the same, would it not?

Lord Brabazon of Tara: No, I think you would want to reduce the number of deputies.

Q210 Lord Carter: Does the 27 include grand committees?

Lord Brabazon of Tara: Yes, it does. It does go up sometimes. When we are really busy, it can go up to 30. But do not forget that many deputy speakers would actually like to do more rather than less. They volunteer because they want to do two or three or four slots a week even. Because we can only allocate them one or one or two, they are not happy.

Q211 Lord Trefgarne: How are these deputy chairmen selected? I seem to recall an occasion some years ago, when I rather think Lord Tordoff was the Chairman of Committees and he decided that one of their number was no longer appropriate, that there was a terrible kerfuffle. Is there much turnover on this list or do they tend to hang about?

Lord Brabazon of Tara: They tend to hang about.

Q212 Lord Trefgarne: Is that a good thing or a bad thing.

Lord Brabazon of Tara: Well, it depends if you want to let more people in the House take part in this—and I have a list of people who would like to become deputies but I cannot offer them the job at the moment because there simply is not space for it.

Q213 Lord Trefgarne: Is there a retiring age?

Lord Brabazon of Tara: There is no retiring age. Perhaps those who have been there quite a long time should more readily consider that it was time to hand over to somebody else.

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Q214 Lord Trefgarne: Perhaps you should have a competence check. Lord Tordoff clearly did.

Lord Brabazon of Tara: I do not want to get involved in Lord Tordoff's situation. Lord Trefgarne, as you say, it caused a great deal of hoo-ha and I have managed to avoid that—probably by being wet and not having sacked anybody who was incompetent. But I do not have any incompetent ones at the moment.

Lord Tordoff: For the record, I did not sack anybody; I just did not put their name on the following year's list. It was not just one person, it was two; one of whom said, "Yes, you are quite right, I'm not happy doing it anyway, so I'm quite willing to be left off." The other one made a hell of a noise!

Q215 Baroness Miller of Chilthorne Domer: If we were electing the Lord Speaker for a fixed term, do you think it would be one answer that this role of deputy speakers could be for a fixed term, possibly renewable?

Lord Brabazon of Tara: I would not like it to be for a fixed term unless it was renewable, because if you have somebody who is good at the job you want to keep them.

Q216 Baroness Miller of Chilthorne Domer: But it would give you an out if they were not.

Lord Brabazon of Tara: Yes, I am always slightly worried about terms which are renewable, because if you do not renew the person it is a pretty big snub and you feel obliged therefore to renew people.

Q217 Baroness Miller of Chilthorne Domer: Just to finish off that, if we were electing the Lord Speaker for a fixed term, then would there not be some imbalance perhaps in the fact that then the deputies all could go on for as long as—

Lord Brabazon of Tara: In theory there would be an imbalance, but "Would it matter?" is the question. If they were doing the job they do at the moment, would it matter?

Q218 Baroness Miller of Chilthorne Domer: Your opinion is that it would not matter?

Lord Brabazon of Tara: In my opinion it would not matter.

Lord Grenfell: I think it would be a great mistake to change the Lord Speaker and the Principal Deputy both at the same time.

Baroness Gould of Potternewton: Lord Brabazon used the word "professional" and was worried that some of us might take offence. Not at all.

Chairman: It was me who used the word "professional".

Q219 Baroness Gould of Potternewton: If there is to be any expanded role then I think it is very important that the deputies are given proper training and also looking at—and I would ask your advice on this—as to how they work with the clerks and the relationship between the deputies and the clerks. I have always found the clerks immensely helpful, I have to say, but I do think we ought to have some sort of dialogue about the whole way that this would work if the job were changed.

Lord Brabazon of Tara: Yes, I think that is fair. I could arrange that now if people wanted to have more seminars with the clerks for deputies—internal only, of course. But, as I have said, if we were to give more time to deputies, then you would want to see a more professional paid role, like you have in the House of Commons really, where I understand there are four, the Speaker, the Chairman of Ways and Means and two deputies.

Q220 Lord Carter: I think there is now a salary for the Chairman's Panel. Is it £10,000 a year or something they get?

Lord Brabazon of Tara: Is that the Chairman's Panel or the Chairmen of Select Committees? It is certainly Select Committees.

Q221 Lord Carter: There is a panel or something to which they have agreed to pay more money,

Lord Brabazon of Tara: I leave it to your Lordships whether you would want to go down that road or not.

Q222 Lord Higgins: My Lord Chairman, could I pick up a very important point made by Lord Grenfell, who said: "Why is there going to be a slippery slope now if there was not before? I think the answer must surely be that there are those, for example the Leader of the House, who are trying to shift responsibilities on to the speaker. There are those who say the speaker ought to be the guardian of the *Companion*, so we are already being pushed on to the edge of that slope.

Lord Grenfell: I thought these were being rigorously resisted. I think we have dropped the expression "guardian of the *Companion*". I think that the very little that has been proposed in the way of a transfer from the Leader of the House to the person on the Woolsack could hardly be called a slope. It may be a very, very gentle incline—and not a slippery one at that.

Chairman: Thank you very much, both of you, for coming to help us. It has been very valuable.

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Letter from Lord Brabazon of Tara to the Chairman

Thank you for inviting me to give evidence to the Committee today. Following that meeting, there are two further points which I would like to draw to the Committee's attention, one relating to private legislation, and the other to the possibility of a Speaker chairing domestic committees.

PRIVATE LEGISLATION

It was mentioned in the evidence session that it would be inappropriate for a Lords Speaker to answer written and oral questions on the administration of the House, or to move motions to agree the reports of domestic Committees.

One area which was not discussed, however, which I also consider to be inappropriate for a Speaker, was the Chairman of Committees' role in relation to private and hybrid legislation.

In this role, the Chairman of Committees moves the various stages of private legislation in the House, and chairs committees which consider such matters as compliance with standing orders and the locus of petitioners. He is also the sole member of Unopposed Bill Committees, which, advised by the Chairman of Committees' counsel, consider (and may amend) the clauses of all unopposed private bills.

These activities involve the supervision of bills which have the potential to be controversial (such as bills to ban smoking, and the cross-rail bill), which a Speaker may not wish to become involved in. Private bill work can also be time-consuming. Its timetabling is not necessarily compatible with the other work of the House, and it might at times interfere with the Speaker's primary duties. A deputy would in any case be needed to move the stages of legislation in the House. I am also not sure that it would be appropriate for a Speaker to have sole responsibility for amending bills, even if this only relates to uncontroversial clauses of private bills.

It is perhaps also worth noting that, in the Commons, the equivalent person who carries out these functions is the Chairman of Ways and Means, not the Speaker.

DOMESTIC COMMITTEES

As I stated in evidence in 2003, I consider that it would be possible for a Speaker to be the titular Chairman of the House Committee. Even if the Speaker were only titular Chairman, however, I would still have some concerns about his becoming embroiled in domestic controversies. He would also need a deputy to move the motions relating to domestic committee reports in the House.

For similar reasons, I do not think that a Speaker should chair the Administration and Works Committee, whose work relates to "nuts and bolts" matters. These matters are also not, perhaps, in keeping with the dignity of a Speaker.

I also have some concerns with a Speaker chairing the Procedure Committee. This would suggest that the Speaker had a key role in the development of procedure, whereas it seems clear that the majority of the House are strongly in favour of self-regulation, with a Speaker simply carrying out the wishes of the House. The Procedure Committee might also feel inhibited from reviewing the Speaker's role if the Speaker were the Chairman. I would be content, however, for a Speaker to be a member of the Procedure Committee, as he would undoubtedly have experience and advice to offer on the practicalities of new proposals.

I have no particular view on whether a Speaker should chair the Committee for Privileges (which I currently chair). This Committee meets only rarely, and in recent years its most important function has been its sub-committee on Lords' interests, which has in any case been chaired by a retired Law Lord.

I am copying this letter to Lord Grenfell.

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Written Evidence

Memorandum submitted by the Rt Hon Lord Weatherill DL and the Rt Hon Baroness Boothroyd OM

Baroness Boothroyd and I have first-hand knowledge and experience of the Speakership in the House of Commons (I was Speaker from 1983–1992 and Lady Boothroyd from 1992–2000) and we are both concerned that the Speaker of the House of Lords should be known as *The Lord Speaker* and not The Lord Chancellor or any other contrived title.

The reason for this is that when we represented the House of Commons on State occasions (eg the Loyal Addresses in Westminster Hall) the Lord Chancellor (as Speaker of the House of Lords) spoke first and was followed by the Speaker of the elected House of Commons. This was also the case when we undertook overseas visits or attended Commonwealth, European Union or IPU Conferences.

We are both agreed that in future, the Speakers of the elected House of Commons should always take precedence over the Speaker of the unelected House of Lords.

When the House of Lords debated this before the Summer Recess I set out my reasons in a brief intervention which I enclose (*Hansard*, House of Lords, 12 July Cols. 1013–4). We therefore strongly recommend to your Committee that since our Standing Orders and *The Companion* already make frequent reference to “The Lord Speaker” there is no reason to change that honourable and longstanding title for our Lord Chancellor’s successor on the Woolsack. Furthermore, we do not believe that this might lead to challenges to the Lord Speaker—as is too frequently the case in the Commons. The reason for this is that in the Commons the Speaker decides who speaks and to a large extent what Members speak about, since the selection of Amendments at Report or the granting of Emergency debates etc are his/her responsibility. This is not the case in the House of Lords and we are both agreed that *Self Regulation* should be maintained and practised in our House.

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