

HOUSE OF COMMONS

oral evidence

taken before the

POLITICAL AND CONSTITUTIONAL REFORM COMMITTEE

Constitutional implications of the Cabinet Manual

Thursday 13 January 2011

Professor Robert Hazell, Professor Iain McLean and Lord Peter Hennessey

Members present:

Mr Graham Allen (Chair)

Mr Christopher Chope

Sheila Gilmore

Simon Hart

Tristram Hunt

Mrs Eleanor Laing

Mr Andrew Turner

Stephen Williams

Examination of Witnesses

Witnesses: **Professor Robert Hazell**, the Constitution Unit, UCL, **Professor Iain McLean**, Official Fellow in Politics, University of Oxford, and **Lord Hennessey**, Attlee Professor of Contemporary British History, Queen Mary, University of London, gave evidence

Q1 [Chair](#) : Welcome. This is one of the areas where things seem to have moved on non-glacially in the British constitution. So I don't know whether our three witnesses are breathless because of the hectic pace of movement on the *Cabinet Manual* or because we have shuffled them in rather quickly. But, gentlemen, welcome today. I am very pleased that you can be here. We're extremely interested to get your take on the *Cabinet Manual*. I think all of you-in some shape or form-were involved or consulted as this went through the process. Am I correct in that?

Lord Hennessy: A little bit.

Q2 [Chair](#) : Would you like to say something to kick us off? You're at liberty to make some opening remarks, if you would like, Peter.

Lord Hennessy: Just a few sentences.

Chair: Yes, of course, please do.

Lord Hennessy: My first big thought is that it's not a written constitution in embryo, it's the Executive's operating manual; a prime piece of photo reconnaissance of what the old historians, Robinson and Gallagher, used to call the official mind. It is significant, and it is a very considerable step forward. It is revealing of those moving parts of the constitution and associated procedures that the Executive currently think impinge upon their work, though in my judgement, certain key elements are missing, for example-and we will probably want to come on to that, Chairman-what the Salisbury/Addison Convention of 1945 means when it touches coalition, which it never has until last May. Another one is the precise definition of money bills: again, current.

It's a bit of a kitchen sink of a document, but then we have a bit of a kitchen sink of a constitution, and it's the usual mixture of statute, custom and practice, and making it up as you go along, aligned as closely as you can to previous precedents. It is an Executive document; they own it, but they are not the sole owners of the constitution, on which it touches on so many points. They cannot be, and they should not be.

The *Manual* may be in for a bit of a bumpy ride, not least with you-although it is perhaps impertinent for me to say that-because that always tends to happen with what George Dangerfield called, "Our great ghost of a constitution". People attempt to reduce it to what he called, "The narrow and corruptible flesh of a code", although this is a manual, not a code.

It is never easy for the Brits to write things down. We have this kind of aversion to it. So it is a very significant step: it's the beginning of a rolling conversation, not least between the Executive and your Committee, but more widely than that. When we are long gone or on our Zimmers, our PhD students will regard this particular political season as of very considerable significance, not least because of this. Although, I have to admit that-outside this room-there are not very many people absolutely riveted by it. It has not been received with the hosannas of a grateful nation, but it is received with a hosanna of gratitude from me, if nobody else.

[Chair](#) : Thank you. Robert, would you like to make some opening remarks?

Professor Hazell: I also strongly welcome the publication of the *Cabinet Manual*, something that we called for just over a year ago. I think it proved its worth significantly, in terms of the early draft chapter published in February about elections and Government formation, and how valuable that was, when in May we did have a hung Parliament and it was very important for there to be wider public and media understanding of what happens in that event. But even without that, there was a very strong case for having a *Cabinet Manual* that drew together all the guidance for Ministers and the Cabinet, because-as our submission shows in the appendix, where we analyse all the previously existing guidance-it is seriously fragmented, patchy and in places very hard to find. So the *Cabinet Manual* is a huge step forward, simply in terms of pulling all that together and making it much more accessible. So, although the Committee may have criticisms, possibly in terms of parts of the content of the manual, I hope you too will strongly welcome its publication in principle.

[Chair](#) : Iain?

Professor McLean: Yes, thank you. I can save some time because, on the points that Peter and Robert have already made, I simply concur. I think it's excellent. In fact I submitted two pieces of written evidence, because I'd sent a little pedantic note to the Cabinet Office before I received your kind invitation and then I have submitted written evidence to you.

The points that I would highlight out of that are, first of all, the gain in transparency compared with the situation, which I have written about, in which a person calling himself "Senex" wrote to *The Times* to say what the constitution required, but part of it the public was not allowed to know. That was as recently as 1950. This situation is vastly better; I entirely agree with Robert and Peter.

On some pedantic levels the document could do with some improvement. I noticed a couple of instances of what seemed to me to be circularity, of which the more serious is the use of the word "sovereign" in two contexts, which seem to me to be incompatible. That was in my first memo. The substantive points I want to highlight from my written evidence are two: one is about paragraph 59 of the document, which states, "The sovereign retains reserved powers to dismiss the Prime Minister or make a personal choice of successor". That's the part of that sentence that concerns me. In my second lot of evidence I quoted a letter from Prime Minister Asquith to King George V in 1913, when George V was being pressured by the Opposition, military officers and an eminent law professor to dismiss the Government. Prime Minister Asquith wrote three wonderful letters, one of which I quote in part, pointing out that the power mentioned in paragraph 59 was last used by William IV, whom Asquith very much in-your-face to the King called "one of the least wise of your predecessors". A power that has not been used since 1834, and then by one of the "least wise" of monarchs, I would prefer to see it stated that it is in desuetude. That is the main substantive point in my evidence.

The second one is in paragraph 15 of my submission to you, where I draw attention to paragraph 78, "The Prime Minister's responsibilities include recommending a number of appointments to the sovereign, including high-ranking members of the Church of England". I feel it would be helpful if your Committee could bring out into the open the position of the present Government on that point, since the previous Government in the July 2007 Green Paper said that it was withdrawing from those appointments. I'm not aware of any statement from the present Government either way, and I think that is a constitutionally important issue. Thank you.

[Chair](#) : Thank you, Iain.

Lord Hennessy: On that last point, Chairman, could I mention that I had a little sniff on that, and I think the present Prime Minister is carrying on the Gordon Brown position of being the "postman" for the Church of England's wishes to the monarch. I have not had this in print, but I agree with Iain that it is important; it doesn't look central to everybody but I think that the quite significant change-not disestablishment, but quite significant-has carried on into this Administration.

[Chair](#) : I would normally try to dive in at this moment but I know Sheila is very pushed for time, and I think she should come in first.

Q3 [Sheila Gilmore](#): My apologies. I am going to have to leave for a question in the House. It would be helpful if you could let us know, to your knowledge, what kind of consultation took place in arriving at this stage. But subsequent to this, what is the purpose of a consultation process if this is simply a manual expressing what is, and is there a potential here that, in going through a consultation process, we begin to move the constitution on? I agree, it's not necessarily firing up the

masses, but people expect a consultation process to produce change, but if this is a snapshot of what is, where is the logic in that?

Professor McLean: If I may, I'll comment on the second part of the question and leave my colleagues to comment on the first. What is the point of a consultation on what is? I think the point is that it's not always clear what is, and Members may know the famous statement of Sidney Low, almost 100 years ago, "We live under a system of unwritten understandings. Unfortunately, the understandings are not always understood". So I welcome this consultation, even if only to establish a consensus among those who study the matter as to what the constitution is.

Lord Hennessy: A lot of this is convention. I haven't totted it up, but the bulk of it is, I think. Conventions only endure if the parties to them still think there is vitality in them. You can't overturn statutes without primary legislation, as you know better than I do, but conventions can decay and if consent is withdrawn they effectively have gone. Parliament is crucial to the vast swathe of all this, so I think the consultation with Parliament alone will be significant.

Also, I think it is in the Cabinet Secretary's introduction-I don't think he quite used the word "validated", Robert will correct me-he wanted this to be the basis of a kind of agreement to the players in the constitutional trade to see if we could all sign up to it. Indeed, it is a pioneering thing, because that is what I meant by "photo reconnaissance". We actually have a sequence of snapshots now, which we have never had before, and if consent isn't forthcoming and genuine disagreement is there, or another way of looking at it, or "You have forgotten this" or "This should be stronger; this is unclear", I'd be very surprised if it wasn't taken on board, which is why I think by British standards it is a remarkable constitutional conversation. Because until now, since the late 1940s-since the year I came into this world, I think-there has been a thing called the *Precedent Book*, which has only been declassified up until the mid-1950s.

Q4 [Chair](#) : Are you saying the two things were related, Peter?

Lord Hennessy: I think there is a lot of overlap with the *Precedent Book*; I have not seen the current one.

[Chair](#) : No, your coming into the world.

Lord Hennessy: Yes, indeed. I was a precocious boy, but not quite that precocious.

But that has been there and it has been updated. I think it takes the form of thematic chapters: the sensitive bit, the particular instances, the rows, the scandals, the difficult bits, and also things like, I think, although I'm not sure, how you form a War Cabinet, what the menu of choice is there, whether it is a Cabinet Committee or not and all the rest of it.

In fact, Chair, if you will allow me, I think it would be a wonderful thing if you asked for the current *Precedent Book* to be declassified, as much of it as possible, so we can actually set it alongside this, but until now the *Precedent Book* has been a very private operation. This is a step-change from all that. It isn't the *Precedent Book*; it goes much wider than that, but if we had the two together I think that would be a great service.

Q5 [Chair](#) : I will ask the Clerk to draft a letter for me to send to the Cabinet Secretary to see whether we can declassify the *Precedent Book*.

Peter, you talk about conventions between parties only existing as long as they don't decay. The consents that are evident from the parties are within the Executive here, though. That is the problem. The consents are not consents given legitimacy by coming from separate institutions. This is an internal manual within the Executive, so it is understandings inside the machine rather than things that are in the public domain, the parliamentary domain or even the judicial domain.

Lord Hennessy: But a lot of it is their view of what the conventions are that affect Parliament: the formation of Government and so on.

[Chair](#) : The Executive's view of that, yes.

Lord Hennessy: Absolutely, and that is what I mean by if Parliament says, "We don't recognise this picture", and also, "If this picture is incomplete, this might be the way to finish it off", I think it gives you great salience. To put it bluntly, Chair, the Cabinet Office has to carry you on this, full stop.

Q6 [Chair](#) : If Parliament wishes to do this in future, that is true. It has not been true in the past that the conventions you are talking about have involved Parliament and parliamentary consent.

Lord Hennessy: Although Salisbury/Addison, which I began with, does. That is a very important one and it is very live again, and it hasn't been looked at properly since the Joint Select Committee of 2006 and I think it needs to be. That is really central to everybody's business, and that's not up to them. In fact, it was a two-party thing, wasn't it? It was an Executive thing but it was essentially a two-party deal in specific circumstances, and there are other examples of that. I think that is just the most vivid at the moment.

Professor Hazell: Two things, if I may. You asked about the purpose of consultation. I think it is to try to give the new *Cabinet Manual* instant legitimacy and authority. The model we know this, because Sir Gus O'Donnell has made no secret of it-is the New Zealand *Cabinet Manual*, which has been in existence for about 30 years, and that began in a much more low-key and gradual way. It was originally called *the Cabinet Office Manual* and it was primarily a guide to the officials in the New Zealand Cabinet Office. It's now in its fifth edition, and because it has been going for 30 years and has been adopted by successive Governments of different political persuasions, and in each new Parliament, at the first meeting of the new Cabinet, they are asked by the Cabinet Secretary whether they want to adopt the *Cabinet Manual* or whether they want to make any changes to it, it has been significantly revised over the years, so it has acquired a huge patina of authority.

We start from a different place, and I quite understand why the Cabinet Office wants to try to acquire that instant authority for the British *Cabinet Manual*, and I think that is in large part why they are going through this extensive consultation. In New Zealand, the *Cabinet Manual* has never been the subject of scrutiny by a Parliamentary Committee. It is simply a product of the Executive. But I applaud the Cabinet Office for submitting their drafts, first for scrutiny by the Justice Committee in February and now this Committee, and while it remains a document of the Executive, and they don't require parliamentary consent for this manual, I am sure they will take the views of the Committee very seriously.

Briefly, in terms of the extent to which it tries to record the conventions as they are, it does break new ground in one important respect, but one which I strongly applaud and in part we urged upon them. That is in developing a stronger understanding of what I have called the caretaker convention, namely the restrictions that a Government should observe on its own decisions, not simply during an election period but immediately after an election if no party can immediately clearly command

the confidence of the new House of Commons; and in a third context if, mid-term, a Government is defeated on a matter of confidence and there is then briefly, clearly, no Government that can command confidence. In those three contexts, we have argued the caretaker convention should kick in and that is accepted in terms of the substance in this draft.

Q7 [Mrs Laing](#): May I ask a very general question, not about the content of the *Cabinet Manual* but about the way in which its standing as an important document, as an element of the constitution-I think we are all agreed that it is in some way an element of the constitution-develops? It is clear that it has to be approved by the Cabinet; should it also have to be approved formally by Parliament?

Professor Hazell: I have just given my answer to that and I repeat it: I don't think it does need to be formally approved by Parliament. This is ultimately a document of the Executive. It has submitted it for public consultation and for scrutiny by a parliamentary Committee, but at the end of the day it is the Executive's document.

Lord Hennessy: It is not like a constitutional statute that can't come into existence without it. It's one of those peculiar hybrids we go in for: the twilight zone that is now full of codes and now a manual, which is some ways, cumulatively, is our surrogate for a written constitution. A great deal has happened over the last 20 years, when you tot it up, since John Major declassified questions of procedure for Ministers-now the *Ministerial Code*-in 1992, and Parliament has become more and more involved in each of these.

The British constitution, or a good chunk of it, has moved from fragments of documents-*Precedent Book* equivalent-to the front of a code and then into the face of a Bill, an Act of Parliament. This is yet another one of those hybrids. It's not like the *Ministerial Code* or the *Civil Service Code*. This is sui generis in many ways, but it's in the twilight zone. One of the mysteries of the British constitution, which keeps the three of us in business and adds a little poetry and magic to our otherwise routine, academic lives, is trying to work out which bit has which status and how it relates to the rest. So it is a magical mystery tour, Mrs Laing, as much as anything else.

Q8 [Mrs Laing](#): I entirely agree with you about the magical mystery tour. I personally have always argued that our Constitution is the stronger for being unwritten and a magical mystery tour, and therefore flexible and so on. The Chairman and I might disagree on this, but that is what we are looking at over a very long period here, looking at the thing more widely. I am very concerned about Professor Hazell's answer in this respect: that this document-although it's in draft-when it becomes a manual approved by the Cabinet, it is not just a memo between Ministers suggesting how things ought to be done; it is not just the Secretary of State telling his junior Ministers that this is what he wants to see. It does become part of the constitution, does it not? It does become part of the constitution.

Lord Hennessy agrees that it becomes part of the constitution. Professor Hazell says that, although it is part of the constitution, it is a clue to how things ought to be operated and therefore doesn't have to be approved by Parliament. So then I will throw it to Professor McLean, who hasn't yet given his answer; he may put the answer differently. How does this affect parliamentary sovereignty?

This sets down rules-not in stone but on paper, which is important-that previously had been in the ether and on the magical mystery tour that Lord Hennessy mentions. If it is to be written down, approved and acted on for ever more, should it not be approved by our sovereign Parliament?

Professor McLean: I am sympathetic with that. I am less keen on mystery than Peter is and, if it is at all helpful, at the end of my written evidence I suggested that it would be desirable to produce a more hierarchical document that began with the statutes, included this code and, because there are so many cross-references to the *Ministerial Code* in the *Civil Service Code*, I think it would be good if there was one master document that included all of them. Unlike Robert, I would be very happy to see Parliament sign off or not sign off on the amalgamated document, but its status, if it came to anything difficult, for instance if it came to judicial procedures, for instance, then it has to be clear what is statute and what is not.

Lord Hennessy: When questions of procedures for Ministers was declassified, the then Cabinet Secretary Robin Butler at a seminar-and he gave me permission to mention this later-was asked by one of one of the students, "Could this just be changed by the new Prime Minister?" He said, "Yes, it could, except for those bits that relate to statute". I can't remember the exact words he used, but it was proper dealings with Parliament and rule of law and all of that.

Again, *Questions of Procedure for Ministers*, in its day, was a great breakthrough and it became the norm or touchstone against which the press, MPs and Peers tested out bits of behaviour. Kenneth Pickthorn, long ago now in 1960 in the House of Commons, famously said, "Procedure is all the constitution that poor Britain has". So I think what is accepted procedure in here really matters, if it is accepted. Indeed, in terms of judicial review, I remember a High Court judge saying to me, albeit privately because they can't really talk in public, when *Questions of Procedure* was declassified-because that was a Cabinet paper with a 30-year delay on it until 1992; it's amazing to look back-that he thought it could be justiciable, in the sense of whether, in a judicial review case, due process as laid out in *Questions of Procedure for Ministers* had been followed. That applies even more to this; so willy-nilly, if they become the norm, if they become, roughly speaking, the accepted way things should be-for example, I suspect, although one shouldn't anticipate, that the Chilcot inquiry may well have something to say about Tony Blair's War Cabinet being a ministerial group, not a proper Cabinet Committee because, as this makes plain, Cabinet Committees have special status; they are different.

All these nit-picking things, again-which the country does not thrive on, like us, Mrs Laing-I think are absolutely crucial to our system.

Professor Hazell: May I add two things? One, New Zealand's *Cabinet Manual* requires no parliamentary approval and has never been scrutinised by any parliamentary Committee. The second is a point that the Chairman might sympathise with, since he often talks about the need for separation of powers, and under separation of powers it is open to each branch of Government to develop its own procedures, and they don't necessarily require the approval of either of the other branches of government. This is the Executive setting out an important manual about the procedures that it says it will be guided by. Future Governments are not necessarily bound by this first edition of the manual but if, as I hope, it continues to exist and to be used, then each successive Government will be asked whether it wants to follow the manual or whether it wants to make any changes.

[Chair :](#) I would say, Robert, that means we have the bad things of the separation of powers but not the good things of separation of powers, but we would probably be best not to go there.

[Mrs Laing:](#) I was going to say just the opposite-but then that is why we're a Committee-that actually, Professor Hazell's elucidation there about where the separation of powers comes into this, I think helps our understanding of this potential document. It possibly is a good argument, but if it is an operating manual for one branch, the Executive, then it is in some ways no business of the

legislature. That's a very good point to have made, thank you. I think I have taken enough time on that one.

Q9 [Simon Hart](#): There is only one add-on to Eleanor's comments, which is about whether you felt that the consultees in the process hitherto have been the right consultees, leaving aside whether it should be approved by Parliament or not. There is always a list of so-called stakeholders, to use the horrible phrase, in any consultation. Do you think that list is as complete as it should be at this stage? Indeed, is there a list?

Lord Hennessy: I don't think we know who they all are. The bit I helped with a little bit was the formation of Government in hung Parliament circumstances. To answer the previous question, it started off with a Ditchley conference in November 2009 on transitions, and the Ditchley Foundation brought people in from America, Australia and all over the place, and we had a syndicate that Robert chaired. I can say this because it's in the director's report, and you can also see from that who was there, although not what they said. We looked at this for quite a long time, and there were anxieties about what had happened when Harper in Canada had asked the Governor General to prorogue when he was in the manure for-I forget what-money, I think. There is always the fear that the Queen will be drawn into politics, which is the number one no-no, which I accept.

Out of that syndicate discussion there was a sort of recommendation-although Ditchley doesn't do that-that this should be looked at. Then Gordon Brown had given Gus O'Donnell permission to start work on a manual. Then, over a sandwich lunch, we were consulted about this. I don't want to be funny about it, but it is a funny country where, over a 90-minute lunch and rather indifferent sandwiches, you try and fix, as best you can, these tacit understandings of Sidney Low's so that they are made more explicit.

Indeed, I think that was all to the good, because Robert and I had to impersonate the British constitution for five days in television studios after the election, and it would have been very difficult for us to have said what the constitutional understandings were if we hadn't had that bit of paper in our hands; the first bit that was made public from this to the Justice Committee, although it has been modified now. I think you would agree with that, Robert,. We would have been quite hard-pressed to do that. So it was a very good piece of anticipation. Although the change that has been made is really quite important to the draft that the Justice Committee had on a little scrap of paper that we were waving in front of the cameras, but I'm sure you will want to come back to that. That was the bit that I helped with. Robert may have helped with rather more of it than I did. Robert is the expert on caretaker conventions.

Q10 [Simon Hart](#): Sorry to interrupt, but that was in the construction of the document. What I am talking about is the extent to which the finished product, as much as the draft one is a finished product, is consulted on and commented upon, and whether the list is long enough and wide enough, and whether there are areas of even local government or devolved government, who should be more closely involved in the process. I don't know the answer to that. I'll come back to that.

But you've just raised another important point about the five days, about which there has been countless scrutiny and analysis since. Do you think that this now, in whatever form it finally emerges, will mean that next time this happens you will have a peaceful five days because nobody will be interested in what your view is because it's all down here? Isn't that a good thing, because it will take the drama and crisis out of the situation, which is presumably exactly what we don't want when we're trying to make some pretty important decisions over the governance of the country? The last thing we want to feel is that there is a media clock ticking and that the whole thing is some great kind of political drama. It should be a perfectly straightforward political process, not a

political crisis, which is how it slightly came across in the five days after this election, and my question is very simple: does this solve that problem or not?

Lord Hennessy: It will syringe a lot of the heat out of it, I hope, if "syringe" is the right verb for heat; it probably isn't. But it won't entirely, because-well, you know you have fought constituencies-people are exhausted. They're anxious. Some people are going to see the chance of carrying on serving the Queen as a Minister, snatched away. Some, if it goes the other way are never going to have the chance of serving the Queen as a Minister. There are all sorts of personal problems involved and, with the 24-hour media and electronic news gathering being what it is, the camera is on everybody; people can say all sorts of things about what they think the constitution is because, again, I shouldn't think many MPs will be going around their constituencies with this.

The big difference between last May and the last hung circumstance of February/March 1974 was electronic news gathering. It was done in a remarkable way over that rather dicey weekend, as the Queen's then Private Secretary, Martin Charteris, called it, but this time we had five days, and people won't necessarily sign up to this. I can't remember exactly what Nick Clegg said in the run-up to the election but it was to the effect that, "There is some dusty document produced by the Cabinet Office that suggests this, that and the other, but we'll see what the British people say". I should think it will be different next time, but it will never take out the complete uncertainty.

Indeed, there is probably a debate to be had, is there not, about the new formulation of the hung circumstance, which now makes it explicit in this version that the duty of the Prime Minister of the day is to stay there until a name can be given to the Queen that will command the confidence of the House of Commons. Whereas it was implicit-I think Robert would agree-in the draft that went to the Justice Select Committee, it is explicit in here, paragraph 50, and I think that's a very significant change. Indeed it should help, but I don't think it will be de-dramatised if there is a next time.

Q11 [Chair](#) : Peter, you put this in your usual charming way but I think there is a very strong whiff of illegitimacy about the whole process here. The public are not involved because they don't talk about it down at the "Dog and Duck", MPs don't carry the draft *Cabinet Manual* around in their constituencies, but we do need a few sensible people to hold the show together in these moments of crisis, and they can be equipped with sheets of paper and can go out there and be on television, or whatever, and pronounce. Shouldn't this all be the property of the people, in a modern democracy?

Lord Hennessy: The argument has always been-this is me being explanatory rather than advocating, I think-that it only holds, all of this, whatever is put to the Queen, if the Queen's Speech can be presented and got through, and confidence votes, if they subsequently come, are won. So the ultimate validator of all this is Parliament. In 1974-it was always a dialling an 0865 number then-they rang up Jack Wheeler-Bennett in Oxford who said, if I remember, "No Parliament can long survive on a diet of dissolutions". This was the question of whether there would be another quick election, or if Ted Heath hung on if he could have another dissolution, or whatever. It was made quite plain to Ted Heath that he couldn't; he'd had his election. I think Robert Blake was consulted, and of course that wasn't known about at the time; the telephone calls to Oxford. This time it was an advance anyway-in your terms, Chairman-in that the Justice Select Committee had seen a bit of paper, and also the Cabinet Secretary had told them who had helped out a little bit on this. We were made public in a way that the Oxford lot weren't in 1974.

But I know that doesn't meet your concern. Perhaps the best way of meeting your concern is to take the Scottish model and have an affirmative vote in the House of Commons as soon as you are sworn in, of that name. Maybe that is the best that can be done. But of course, Parliament doesn't exist,

does it, when the hung circumstance is upon us with the exit poll or by 3.00am on the Friday morning, usually, and you're not there; you're not in existence.

[Chair](#) : Only in the ether, as an Electoral College that actually doesn't convene.

Lord Hennessy: Yes.

Q12 Chair: But you're right, yes. So we await a crisis, probably two or three years down the line, when we will get a chance to say yes or no as to whether the Government should survive. Again, it's perhaps unsatisfactory that there is that length of time between those events.

Lord Hennessy: Yes. There was a suggestion the Speaker should be the one who would get involved in all of this, but of course the Speaker, he or she, doesn't exist either at that point. You're not there. We are without you for a while. Not for long; but we are at that crucial moment without you.

Q13 Chair : It is not an issue that the Executive wishes to take up and resolve to ensure that Parliament is in being and can be an active player in this situation. In the circumstances we saw in May, the Executive as a beast was quite happy to see that Members of Parliament weren't really involved at all in that.

Lord Hennessy: To be fair to them, in advance they had told you what the drill would be that they were operating upon-the constitutional drill-insofar as you can actually predict these circumstances. I'm not here as Gus O'Donnell's front-man but they could say, and I would say if I was the Cabinet Secretary, "In advance, we have taken you into our confidence about the assumptions, the tacit understandings"-to use Sidney Low's phrase-"and the procedures, insofar as they are foreseeable in every contingency", because "hung" is a variety of degrees.

[Chair](#) : But didn't say, "One of the difficulties here is that Parliament will not exist and therefore we would propose the following to ensure that Parliament is consulted." Since it has just been elected by millions and millions of people, it should have at least as much of a say as the media or honoured gentlemen with pieces of paper.

Professor Hazell: One thing to Simon Hart's question about public consultation: in terms of this draft document, the whole *Cabinet Manual*, first published in December, as I understand it, is now subject to public consultation of the general public; a 12-week consultation exercise of the usual kind, and anyone can write in with comments about the *Cabinet Manual*, such as your constituents. And if this Committee has suggestions of interest groups or organisations who should be specifically asked for comments, I am sure the Cabinet Office would be delighted to have such suggestions.

On the process immediately after an election, if no single party has won an overall majority, I'm afraid I think it's unrealistic to propose that Parliament should immediately meet to try to work out who can command confidence before there have been negotiations between the political parties. I would only remind this Committee that it was a Committee of this House, in the last Parliament, that proposed that 12 days should elapse after the election before Parliament first met, and that suggestion was followed. It was an important proposal because there were so many new Members of the new Parliament who needed induction and training.

Q14 Mr Turner : Who was that, then?

Professor Hazell: It was the Modernisation Committee.

Mr Turner: Thank you.

Q15 [Mrs Laing](#): I will not follow up on the idea that someone has just been elected to represent 50,000 people but they can't actually start their job until they have been trained by someone. Absurd, absurd. If that came from a Committee, it's up to me to challenge that Committee at some point.

May I come back to what Professor Hazell said a few minutes ago about the separation of powers point? I have had a couple of minutes to think over what Professor Hazell said, which was bothering me, and I realise why. Although we have the three pillars of the separation of powers, let me ask you: from where does the Executive derive its authority?

Professor Hazell: Ultimately, in terms of its political authority, the Executive derives that from commanding the confidence of Parliament, and in particular the House of Commons. In terms of the Executive's legal authority, it derives that from being appointed by the sovereign as Head of State: that's our constitution. I can illustrate that, if you like, by reference to the caretaker convention operating after an election, and before it's clear who can command confidence in the new Parliament. We all know there was a lapse of five days after the election before it became clear who the new Government might be. During that period, quite properly, Gordon Brown remained in office as the incumbent Prime Minister. He certainly had the right to do that—indeed he had the right to meet the new Parliament to test whether he could still command confidence—but, I would argue, he had a duty to remain in office as the incumbent Prime Minister because we must always have a Government. In old Tory language, the Queen must never be without responsible advisers, and the Queen's business must be carried on. But in those five days the Government had legal authority to govern, because it was still the Government, but it had only limited political authority because it hadn't yet been able to demonstrate who could command the confidence of the new Parliament.

Q16 [Mrs Laing](#): Indeed, and I accept all that you say on that; that is a helpful setting out of the situation. Thank you. But in your previous answer, Professor Hazell, you said that this document was an operating manual for the Executive, but those who acted upon this in 2010 during the five days that we've been talking about were not only the Executive who continued in office, Gordon Brown and his Ministers—which is quite right—they were, I have to use the names of people because it's relevant, let us say, Oliver Letwin, Danny Alexander, for example, neither of whom were Her Majesty's Ministers, nor ever had been.

Can I put it to you this way? This manual would not only be the operating rules for an Executive, but was in fact acted upon by people who were not the Executive, who were not Her Majesty's Ministers, and that therefore your argument about the separation of powers, which I accept as such, doesn't hold water and this ought to be a document that is approved by Parliament. Because it can't have the authority as being an operating manual for an Executive if it is used by people who are not the Executive. They are the potential Executive, but they are not the Executive and, therefore, from where do they derive authority to use this?

Professor Hazell: You have reminded me of another respect in which the *Cabinet Manual* breaks new ground, and again it's something we strongly supported and encouraged, and that is in relation to the support that the Civil Service may now provide to political parties immediately after an election if no single party has won an overall majority, and one or more parties are negotiating with each other to see whether they can command confidence. The person I expected you to name was not Oliver Letwin or Danny Alexander but Sir Gus O'Donnell, as Cabinet Secretary, because it was

he who said to the political parties, "If you want, in your negotiations, we can provide support. We can provide accommodation, food and water and, if you want, we are on hand to offer factual advice". Now we know, from the books that have been written, that that second offer was rejected by the political parties, but we also know that they did accept the offer of accommodation, and indeed chose to conduct their negotiations in 70 Whitehall. In fact, there were three possible places where they could have negotiated: Admiralty House being a second and, I think, this building, or certainly part of the parliamentary estate, being the third. It was the choice of the political parties where they chose to negotiate. They could have rejected that too and gone off to negotiate in a hotel.

Q17 [Chair](#) : Were they offered Number 10, Downing Street, Robert?

Professor Hazell: Not so far as I know, but that would have been a strange offer to make because, as I have said, the incumbent Prime Minister remained in office in 10 Downing Street; the Labour Party was offered exactly the same support as the other political parties if it were part of the negotiations but, in this respect, there was a Chinese wall—quite properly—and the Labour Party was treated, for this purpose, simply as one potential or actual negotiating party, just like the other parties.

[Chair](#) : Professor McLean, forgive me, I forgot to bring you back in. I do hope you have not lost the thread.

Professor McLean: No, I hope not, because I do share some of the unease that I detect behind the questions of both of the Members who spoke last.

In relation to the public consultation, as raised by Simon Hart, in the preparation of the document I came in at a later stage than my two colleagues. The only country house I was invited to was Wilton Park, by which time the document was beginning to gel. I don't think that meetings in country houses are really an adequate form of consultation. Robert is right of course that anybody may currently play the game, but I would prefer if there had been some more proactive effort on the part of the Cabinet Office on that point. So I share the unease that I think lay behind Mr Hart's question.

As to Mrs Laing's question, again, I share some of the unease I think that I hear behind that question, because it's not purely an Executive document, or at any rate it involves at a minimum the relationship of the Executive with many other bodies; there may only be a few people who care about some of them, but I think it touches quite centrally on the position of the two established churches in the United Kingdom, which affect two of the four countries of the UK, and the personal position of the Monarch and her advisers, which is obviously central to the constitution. So I am quite sympathetic with the calls for parliamentary scrutiny of this document.

Q18 [Mrs Laing](#): That is a comforting answer, thank you. I just continue to be concerned, and perhaps Professor Hazell and Lord Hennessy can also give some reassurance because they've thought this through many times. This is a good idea, this *Cabinet Manual*. It is good that the magical mystery tour should have a guide to it, but is it not the case that once this becomes an approved document by the Cabinet, it will become an entrenched part of our constitution, just as much as any of the rule books that you have all been referring to will? I am prepared to accept that if it was simply an operating document, as Professor Hazell has repeatedly said the one used in New Zealand is, if it was simply a document to guide the Cabinet and the Executive in its everyday dealings, that would be fine, but is it not far more than that, because it goes to the heart of the formation of Government, and that is not done by the Executive; it is done by people who are

elected to Parliament and, therefore, Parliament ought to have a role in giving this document authority?

[Chair :](#) A quick reply to that please. I think we covered that a little earlier.

Lord Hennessy: I must say, I think only Parliament can give this the validation that it needs and is going to be acceptable all round. "Entrenchment" is a tricky word in the British constitution so we don't entrench things, really. Statutes can be repealed and all the rest of it, and we are very wary of motions of entrenchment. But if it becomes part of the warp and the woof of everyday business it gives it a great salience; in practical terms it becomes very important. So I'm not in any way diminishing it, but I think "entrenching" is probably too strong a verb for me.

Professor Hazell: I strongly support parliamentary scrutiny of the new manual. That's not the same as saying that the new manual requires parliamentary approval, or that Parliament has a veto, and I don't think that you do. In terms of whether it might become entrenched, I am not sure quite what you might mean by that. If you mean inflexible, then I have to say-looking at the New Zealand model-that is very far from being the case. It's now in its fifth edition. It has been significantly revised over the years. In the last two editions whole new chapters have been inserted, and the New Zealand manual really is on all fours with the British proposed manual and the chapter headings are almost identical. We have taken the New Zealand model, so that the New Zealand manual has a very important chapter about elections and Government formation and quite a lot of the draft manual, in terms of that chapter, is borrowed from the New Zealand manual.

Chair: Professor McLean.

Professor McLean: Really, I have nothing to add to my previous answer.

Q19 [Chair :](#) We were talking about manuals, and we've had quite a discussion over 40 minutes or so as if it were nitty-gritty and as if it was to do entirely with the Executive. This process was started in this country by the previous Prime Minister on very clear grounds different from the ones being put to us by the witnesses today. He said, "There is a wider issue-the question of a written constitution-an issue on which I hope all parties can work together in a spirit of partnership and patriotism. I can announce today that I have asked the Cabinet Secretary to lead work to consolidate the existing unwritten, piecemeal conventions that govern much of the way central government operates under our existing constitution, into a single written document". Now, that was the beginning of this process.

Professor Hazell: Could you remind us of the date of that?

[Chair :](#) That was 2 February 2010, at the IPPR. Really it seems to me we are putting our own interpretations on this and, perhaps, if not rewriting history, leaving aside the origins of this drive to create a *Cabinet Manual* and to pull together the existing bits of the unwritten constitution.

Lord Hennessy: This isn't it. If Gordon Brown was still Prime Minister, I don't think this would be fulfilling what he set out, would it? It is an important building block. I mean this isn't "we hold these truths to be self-evident" time for the UK. If anybody opened a document with that they'd be offered counselling at the very least, wouldn't they? It's not that. I agree with you, Chairman, that the political weather system, the ecology in which this is being produced, is very different. As far as we know, the current Prime Minister has no plans for a written constitution. A great deal more is being shifted into statutory form, as we speak. There's an enormous rush of constitutional legislation, as there was after 1997. But in this country the way we tend to look at constitutional

settlements is to see what has happened and then try and produce a retrospective argument or a few threads that link it.

After 1997, the Cabinet Office suggested that there should be a White Paper saying how all those changes linked together-human rights, devolution, freedom of information, Lords reform-what a new constitutional settlement would look like and which part related to what, and there is no sign that we're going to get that with this rush, but this isn't it.

Q20 Chair: But, Peter, people are entitled to change their view. Prime Ministers are not bound by previous Prime Ministers under previous Parliaments, but clearly the origin of this, the drive to do this from the then Prime Minister, was very different from what you are implying to the Committee: it's a little bit of a car manual on how the gearbox works and the rest of it.

Lord Hennessy: A bit more than that.

Chair: This is somebody who was the Prime Minister saying, "I'm talking to you ultimately about the destination, not just what's on the speedometer or how the handbrake works". Professor McLean.

Professor McLean: Yes, well I agree with that interpretation. I happened to be at that IPPR meeting and that's my understanding of what the then Prime Minister proposed. Of course he was leaving it very late in his term, but it's clear that he did propose a procedure similar to what the Chairman has just outlined as a matter of record.

Lord Hennessy: But this isn't destination, Chairman.

Chair: No, indeed.

Professor Hazell: None of us can know this for certain, but my own impression is that the original initiative and desire to create a *Cabinet Manual* was that of the Cabinet Secretary, Sir Gus O'Donnell. Quite properly, he needed the authorisation of the then Prime Minister and he sought it. We have long known that the Prime Minister, Gordon Brown, had a very strong interest in a written constitution. He declared that within a week of his becoming Prime Minister in the summer of 2007, and it continued to be his strong interest and desire.

I have to say, I think it's slightly ludicrous to announce in February 2010, when he could only have been three months away from the next general election, that we might make serious steps towards that destination in the last three months of the last Parliament. But I think, in effect, there were two slightly different agendas in play. The previous Prime Minister had a much wider and bigger agenda, which he gave voice to in saying that he had authorised work on the *Cabinet Manual*.

Q21 Mr Turner: My question is about caretakers. Between the election and the handing over of control to David Cameron something was done over in Europe, which seems to me to have broken the convention not to do something so substantial. We know that there was a discussion between the current Chancellor of the Exchequer and the previous Chancellor of the Exchequer, but the current Chancellor of the Exchequer said these things are matters for the previous Chancellor. But it seems to me so clear that it could not be done and yet it has happened, and I am very concerned about who was responsible for making this decision, which was just a decision by the previous Chancellor. Am I making myself clear?

Professor Hazell: Yes, to give this a bit more context, I assume you're referring to the meeting of European Finance Ministers?

Mr Turner: Yes.

Professor Hazell: The emergency meeting that took place on Saturday, 8 May, two days after the election. It was to discuss a very important issue, namely the extension of the bailout package for Eurozone countries. It was clearly important for the UK to be represented at that meeting and we did still have a Government, a Government led by Gordon Brown, and we were represented by the then Chancellor of the Exchequer, Alistair Darling. So far as I understand it, he did-as the caretaker convention would require-consult his opposite numbers, George Osborne and Vince Cable, about the negotiating line that he proposed to take.

Where I'm afraid I can't take it any further is in being able to say to you what was said in those conversations, but I have been told-and forgive me, this is second-hand-that the current Chancellor, George Osborne, has since said that he didn't, himself, necessarily agree with the UK line but he fully recognised the authority and right of Alistair Darling in those negotiations to pursue it.

Q22 Chair: We now have a letter from the Chancellor, which I'm sure Andrew is in possession of, which gives the current Chancellor's view on that.

Lord Hennessy: What could have happened, but didn't, is the model of Potsdam in 1945 when Winston Churchill took Mr Attlee with him to Potsdam, and to Stalin's amazement the British electorate turned Churchill out-Stalin was completely breathtaken by this-and Mr Attlee returned in his own right as Prime Minister. There was a precedent, which I don't suppose would have fitted this because it has nothing like the same gravity, important as it is, as the post-war conference in Berlin, but that's what you could do if you go under the usual British system of, "How has it been done in the past? Let's tweak it a bit". But they didn't.

Q23 Mr Turner: You are saying that it is right for the previous Chancellor to take some action, so long as that action is either approved or at least not opposed by the new Chancellor. What I had understood the position to be was: he doesn't take a position because it is too significant a step, and that is a matter that this document should make clear.

Chair: Is there a role for the *Cabinet Manual* in the issue that Andrew is making?

Mr Turner: It seems to me to be absolutely the opposite.

Lord Hennessy: It is a good point, absolutely.

Chair: Professor McLean, any comment?

Professor McLean: I don't think I have anything to add to what Robert said essentially. I mean, on the day in question Alistair Darling was not the previous Chancellor. He was the current Chancellor, albeit by that time in the caretaker Government. I don't think it would have been practical for the UK Government to sit on its hands and say, "We don't have a line on this matter", so I agree with Robert that what Chancellor Darling did was the right thing to do in the circumstances.

Lord Hennessy: There are certain timetables don't await a British general election outcome. The one I've written about, which is not terribly cheering, is the letters the Prime Minister has to sign,

the new one, on retaliation from beyond the grave if we're destroyed by a nuclear attack; the so-called "last resort letters", and the Trident submarine patrol pattern doesn't bear any relationship to the British General Election. In 1997 Tony Blair-if my information is correct-was quite worried because for quite a long time John Major's letters for the end of the world were out there on the boat, not his. But that's just another example; not that that should be in the *Cabinet Manual* because that wouldn't fit there, would it? But there are lots of things: important country though we still are, the world does not hold its breath until we've formed a new Government, does it?

Q24 Mr Turner: No, and that is reasonable. The trouble is it doesn't seem to be recognised in this. This is more mechanistic without pointing out that actually life is different.

Professor Hazell: I think it will be very rare that we have such a hard case, but it is a useful dramatic case illustrating again, I think, the difference between a Government with legal authority to govern and political authority. What the caretaker convention says, in essence, is that a Government that doesn't command the confidence of the House of Commons should be very restrained in any decisions that it makes; it should try not to embark on any new policy; it shouldn't enter into any major contracts or make any new public appointments, and where it is forced to do one of those things ideally it should try to do so on a temporary or some kind of deferred or transitional basis.

Forgive me, I don't know enough about that European Finance Ministers' meeting to know whether any of those were, in any sense, a real possibility. But let us assume that it wasn't and the UK Government had to be there and to make a hard decision, and it certainly had the legal authority to make that hard decision, which I think the current Chancellor recognises even if he doesn't agree with the decision that was made.

Q25 Mr Turner: I think the point was that taking a decision in Europe, that's fine. The problem is whether that position could have been reversed after the new Government took responsibility. It seems to me that there was nothing wrong with the Government doing that, but that decision having been taken, and taken in the terms in which it was, it was impossible to reverse the decision. This is very significant for those of us who are worried about Europe. Perhaps not very interesting to most people, but to me very interesting. Why did those three days not only make a difference about when they took the decision, but also it was no longer possible for us to reverse that decision?

Professor McLean: May I quickly say, this it seems to me is a feature of the fact that the UK Government is a member of many international bodies-not only the European Union but many others-so the situation that Mr Turner describes potentially is happening all the time; that a Government commits the UK to a line of action in an international body, which it may be difficult for a later Government of a different complexion to unscramble. So I don't see anything constitutionally unique about the case that we're mentioning except the very question of the timing that we've discussed.

Q26 Stephen Williams: I just want to go back to more general questions, particularly about the scope of the manual. I think it was Professor Hennessy who said it was a summary of the official mind, as it currently exists; do you think it's a complete summary of the current collection of official minds as you understand them, or are there things that are in there that surprised you, or are there any omissions, which all three of you may wish to comment on, that should be in there? I think Professor Hennessy mentioned, in particular, the Salisbury Convention and Money Bills.

Lord Hennessy: I don't think it is complete. I think there is probably too much description of international organisations and our relations and so on. It could be trimmed with great effect at that end.

There are other things that should be there, which are very much on their mind. One of the great changes, again since the early 1990s, is in the intelligence world. The 1994 the Intelligence Services Act setting up a statutory basis for two of the intelligence agencies, which didn't have them until then-MI5 already had its, but the other two didn't-and also the oversight system. That is a very big constitutional change and it has to do with operations, and there are lots of inquiries going on that relate to it in different ways. Now it's silent on that and that should certainly be there.

Also I think, and I briefly touched on this, war in Parliament should be in there. It is interesting that war is in the examples in the Cabinet chapter of what Cabinet should discuss, and it is a great relief to see it there, but the convention, which I don't think has taken the form of a resolution here-it still rests on convention-that Parliament will be properly consulted with a substantive motion if there is time is crucial for an open society-

Chair: We were promised that but it never happened.

Lord Hennessy: It never happened, and that should certainly be in there. It is a very comprehensive document on one level but of course it isn't complete and we all have different versions, different views of what is central to this and what isn't. But I think there would probably be a consensus on those: the intelligence world, its oversight and its statutory control, plus the question of war.

The Cabinet section is fascinating because Whitehall is almost entirely peopled by herbivores who get very uneasy with command premierships. They much prefer proper procedure and collective Cabinet discussion that means something, and indeed we have that again. You might say the coalition has forced it upon the Prime Minister, although the new Prime Minister said he wanted to do it anyway. But the Cabinet section is pure classic old Whitehall. It is a herbivores' charter for a collective system of government and being an old herbivore myself, Mr Williams, I applaud it entirely.

Q27 Stephen Williams: Do you think it makes it harder or it would make it harder for this Prime Minister or subsequent Prime Ministers therefore to go back to sofa government, which one of his predecessors-

Lord Hennessy: No, because on the questions of procedure for Ministers, the opening paragraphs were that Cabinet is-the same wording-the apex of the collective system of government, and all serious matters where there is disagreements or big public interests have got to be treated there; meaning Cabinet or its committees. Can you imagine with Mrs Thatcher at her height, some brave Cabinet Minister who has just been done over, picking up questions of procedure to say, "Perhaps you should read this before you bring the discussion to an end", or Tony Blair in his pomp having the ministerial code waved at him. It's not like that, is it? I'm glad it's there but in many ways-to use that terrible word-it is aspirational, because it's very easy for a command Prime Minister, as long as he or she can get away with it, if a Cabinet is overwhelmed or verging on the supine, to operate a command system.

Q28 Chair: If it's there and it's in the *Cabinet Manual*, and if the *Cabinet Manual* is endorsed and legitimised by Parliament, then brave souls may appear. In fact, we all may know the rule book, and so some of us who are not in the Cabinet may put our hands up in Parliament and say, "Sorry, we don't think the Prime Minister can, for example, go to war in Iraq without a resolution of this

House", or go to war anywhere without consent or consulting with the House. None of these things exist at the moment. If we were to know some of the internal rules we might-some of us, who have no positions of authority-be able to raise questions. I think that is the key thing that this could give us.

Lord Hennessy: More and more the tenor of the discussion seems to be there is a lot in it for Parliament and for you, isn't there? It is not for me to draw conclusions from this, but it may be the Executive's document but there are rich pickings for Parliament, aren't there? That is what I would think.

Q29 Chair: Can I just put Stephen's question to the other two witnesses because I thought that was very helpful. That was a useful annex of additions for the Committee, Peter. Perhaps Robert and Iain, are there things missing that you would like to bring to our attention because we will obviously be part of this consultation process?

Stephen Williams: There were two parts to the question-or things in here that surprised them.

Chair: Or ones that surprise you, but, from my point of view, the ones that it might be helpful for this Committee to raise in this consultation period.

Professor Hazell: Thank you for the invitation. I can reply very briefly: I have nothing to add in terms of omissions to what Peter Hennessy has said. There is nothing in it that surprises me. I applaud almost all of its content and the manual in general. Going back to the discussion you've just had about how it tightens up a little bit how Cabinet and Cabinet committees should properly be operated, there is a paragraph-forgive me, I can't immediately find it-which sets out half a dozen or so issues, which classically should require the attention of full Cabinet. Thank you. Peter has kindly found it for me. It is paragraph 150. That is the kind of thing that if a future Prime Minister decided he didn't want to have much discussion in full Cabinet about these things, then arguably he would want to amend that paragraph in subsequent editions and that would be an explicit amendment and that could be a matter of comment or criticism in Parliament. So to that extent, yes, this is-as Iain McLean has been saying-very important as a much more transparent exercise but also, to some extent, it does give Parliament some levers if future Governments choose to conduct themselves differently.

Chair: Iain, omissions or surprises?

Professor McLean: No particular surprises. I agree with Peter's list of additions, a couple of which I suggested in my written evidence. I will just draw attention to one of the paragraphs that I found slightly troubling, which is number 56. In paragraph 20 of my written evidence I pointed out that 56 says, "If a Government is defeated on a motion of confidence in the House of Commons the Prime Minister is expected to tender the Government's resignation, unless circumstances allow him or her to opt instead to request a solution". Now that, it seems to me, stops where it's getting interesting and is also-in relation to an earlier conversation with some of your colleagues-not a purely Executive matter. Perhaps it is not at all an Executive matter. I would like to know what those circumstances are. I don't know what the Cabinet Secretary has in mind at this point.

Chair: Eleanor had a particular point. Now, Stephen, I'm still with you, but just to follow up on that, Eleanor.

Q30 Mrs Laing: This also follows from what Professor McLean has just said about this not being a purely Executive document. I am still concerned-and these are genuine questions, I am not trying to

put any line-about the standing and the authority of this document. I continue to be concerned about whether it is just an operating manual or whether it is something of far greater standing. You referred a moment ago to paragraph 150, which is very interesting and suggests matters that would normally be considered by Cabinet. Professor Hazell said a moment ago that this might be a matter of comment or criticism in Parliament, and I'm sure that that is correct. If that is the case, if this manual-and let's take, for example, paragraph 150-can be a matter of comment or criticism in Parliament, if it ought to be acted upon by Ministers, if Members of Parliament are free to hold to account Ministers, and therefore the Executive, by means of what is written, let us say, in paragraph 150, and it can therefore be acted upon, is it also subject to judicial review?

Professor Hazell: The answer I think is: almost certainly not. It makes it very clear in the introduction-and, forgive me, I can't immediately give you the reference-that it is certainly not intended to be justiciable. I would be very surprised indeed if the courts found that they had jurisdiction in relation to any kind of dispute about whether, for example, a Minister had or had not acted in accordance with the guidance in the *Cabinet Manual*. They would, I would expect, say, "There is a different forum in which Ministers can be held to account. It is a political forum, it is called Parliament, and it is not for us, the courts, to intrude".

Lord Hennessy: There is a prior problem with Cabinet discussions because it is exempt from the Freedom of Information Act and the test case, the first time the Information Commissioner won in the Tribunal and was overruled by a Minister, Jack Straw, at the last minute, was the Iraq Cabinet minutes, just in March 2003. You only know what has been discussed at Cabinet if the newspapers leak it, apart from-and the constitutional status of this is interesting-I think the Prime Minister's official spokesmen still produce on their website the lobby briefings, what the lobby has been told, and occasionally you're told that this went through Cabinet with not a dissenting voice, and so on. But knowing what the Cabinet or Cabinet Committee discussions were is really rather a first order question here, even if it is on big stuff, and this is big stuff, the seven issues listed here; so how on earth does Parliament know? It has always been the problem for Parliament, hasn't it, in terms of the Executive in its confidential mode, and there is a need for Executive confidentiality; a time limited way very often, but how on earth do you know?

I remember in the endless debates we had about whether the Blair Cabinet was utterly supine on the road to war, I would go occasionally on the wireless and a Cabinet Minister who was present-and now retired-would say, "Well, I was there and you weren't", to which there is no answer. It is very difficult, isn't it; and including for MPs, just as difficult as it is for me in a way.

Chair: Iain, did you have a comment?

Professor McLean: The reference I think that Robert was looking for is page 3, third sentence, "It-that is this manual-is not intended to have any legal effect".

Q31 Chair: Indeed, although it may be if you are, like I am, a legislative dwarf, being beaten up by an 800 lb executive gorilla in a dark alley and the person who comes to rescue you is wearing tights and a blonde wig, you don't question his sartorial elegance you just say, "Well, I'm glad there is somebody there looking after me if I can't look after myself". But there we go.

Mrs Laing: But, Chairman, we now have three learned opinions that this is not justiciable, that's pretty good.

Lord Hennessy: Although I did say earlier on, that I think judicial review could treat this as what the normal expectations of proper process are. I think that is a limited version of justiciable, I have to say, but it could be significant none the less.

Chair: Stephen, you were very kind to let us dive in. There were some very important things that arose from your question.

Stephen Williams: I was going to ask what you asked anyway.

Chair: About the gorilla?

Q32 Stephen Williams: No, not about the gorilla. But whether, if Parliament endorsed this manual, it would then give it more authority and would enable us, as parliamentarians, to wave it in the Chamber. Coming back to paragraph 150, which is useful, would our panel consider that the word "considered" has the same meaning as "decided" by Cabinet, because the question of no dissenting voices, which was referred to by Professor Hennessy, there is no provision here for the Cabinet to vote or for votes to be recorded. Do you think it would be an improvement if it was made clear that Cabinet decides things rather than considers?

Lord Hennessy: It doesn't vote, or very rarely. Voices are counted and all the rest of it, and it is not like some systems where the Prime Minister spokesman after a Cabinet does all of that. But "considered" is an interesting verb. They are very carefully drafted.

Q33 Stephen Williams: Yes, I assumed the language has been carefully selected, Chairman, I just wondered whether that word had been very carefully selected.

Lord Hennessy: There is always an understanding in a War Cabinet circumstance, for example, that you might have to have the War Cabinet and the Prime Minister in the inner group, in effect, doing something for speed reasons. That is an extreme case and hopefully it won't arise again, but I am sure that word is carefully thought through.

Q34 Stephen Williams: The reason I asked about whether there were any surprises, obviously I haven't spent 30 or 40 years in academic life studying our constitution, but there was one thing in here that did surprise me, because I'd never heard of it before, and that is the Carltona principle from a 1943 case about ministerial accountability. We can all think of examples where either a Minister does resign, or certainly people call on him or her to resign, because effectively an operational mistake has been made, probably by a civil servant, whereas the Carltona principle seems to say that a lot of decisions are made by officials and the Minister can't be expected to be responsible for every decision. I just wonder whether that, now that it is in here, gives more protection to Ministers, which most people would expect was common sense; that they can't be expected to know everything, yet often in difficult circumstances we and the media expect them to know everything?

Lord Hennessy: Well, Carltona has been so long an established part of the way things are, I think—that's warp and woof, and has been for a long time. Again it is significant that it is in here, but it doesn't change anything.

Stephen Williams: Well, I had never heard of it before and the Chairman, who has been here rather longer than me, has never heard of it.

Professor Hazell: The importance of the Carltona principle, as I understand it, is that that case decided that officials have no authority or standing separate from that of their Minister. So any decision made by an immigration officer at the UK border is, in effect, a decision made in the name and using the authority of the Immigration Minister. I don't think it has any impact on ministerial resignations.

Q35 Stephen Williams: The second question I was going to ask, Chairman, was devised from the introduction where Gus O'Donnell says that, "The manual will be updated and a new copy will be published at the beginning of each new Parliament". What it doesn't make clear is how it will be updated, how often it will be updated, and if it's updated during the course of a Parliament-which it may well be-whether Parliament should be told about each updating and not have to wait until May 2015 to get a new copy. Do you have any views on that?

Lord Hennessy: Well, several of the big constitutional Bills going through, if and when they get Royal Assent, will immediately change this.

Stephen Williams: There is no undertaking to publish an amended copy, though, until the start of the next Parliament.

Lord Hennessy: Does it not say it is going to be changed on the website or am I mis-remembering?

Professor Hazell: I think the manual does recognise in some important footnotes-especially the chapter on elections and Government formation-that, for example, the paragraph, which Iain McLean referred to about mid-term dissolution, would be dramatically affected if the Fixed-term Parliaments Bill becomes law because it removes any discretion in the Monarch to deny a dissolution. Under that Bill, dissolution would become entirely a matter for Parliament. So I would certainly expect that chapter to be substantially revised if those Bills become law.

Q36 Stephen Williams: I expect, Chairman, we would know, because we will have passed the legislation, if it requires amendment because of a decision Parliament has made. What Members of Parliament will not necessarily know is whether an operational change has been made to the manual because the Prime Minister or the Deputy Prime Minister has deemed that it shall be so. What I am asking is: should the House of Commons be told about each change to the manual rather than wait until 2015, which, from what I can see, is the only commitment in this document?

Professor McLean: I would say that-as well as the Fixed-term Parliaments Bill that Robert has just mentioned-a change would certainly be mandated if this Parliament enacts any substantially elected Upper House. Because then, in the section dealing with circumstances in which there are appeals to the Monarch to get involved-I think everybody around this room thinks the Monarch should under no circumstances get involved-that raises the spectre, as I briefly mentioned in my notes, of what happened in Australia in 1975, when I think the authority of the Monarchy was seriously damaged by the actions of the Governor General. That was brought about by a deadlock of the sort that is familiar in all countries that have two elected chambers elected by different methods and, therefore, having different partisan majorities. Therefore, I think, as and when any elected Upper House comes into existence, there must be a serious rewrite of the section. Indeed at the moment there is almost no section dealing with deadlocks between the Houses and what it is right for the Executive and for the Monarch to do in those circumstances.

Q37 Chair: I think there are two levels here. One is when legislative changes that we have approved alter the working of the manual, then there will be automatic changes, but it would be nice to see how those changes are interpreted and impact upon the manual. Secondly, to maintain the

legitimacy of this document, Parliament should be involved in a consultation on what should change in the manual and have the ability to initiate or to enter a dialogue with the Executive. That would seem to me to maintain the legitimacy of the document, rather than just hopefully having some researcher who has nothing better to do than check the Cabinet Office website every day for a change in the *Cabinet Manual*.

Lord Hennessy: Could you not, Chairman, do an annual audit; it might not take very long if nothing much has happened on the condition of it?

Chair: That is a very helpful suggestion. That may be something that we can put to Sir Gus O'Donnell when he comes to us on the next occasion.

Q38 Tristram Hunt: On page 26 of the manual, footnote 8 says, "In 2010 the leader of the Liberal Democrat party expressed a view that 'whichever party has won the most votes and the most seats, if not an absolute majority, has the first right to seek to govern, either on its own or by reaching out to other parties'". What does that footnote mean?

Lord Hennessy: He chaired the Cabinet Committee that endorsed it, so I have a suspicion that he wanted his view to come in in that. I don't know. That was one of the things that slightly bothered me, whether we were going to have to impersonate the constitution even if it wasn't hung. David Cameron said something-not quite this-but they both commented on it, and it seemed to me that it gave the impression, maybe wrongly, that they hadn't signed up to the draft chapter in here on Government formation or the Justice Select Committee's report, and that did worry me.

I noticed that too, but he did chair the Home Affairs Cabinet Committee. Another thing that emerged from that Home Affairs Committee, which I don't think is in here, I think the phrase was: "They were allergic to the use of the word 'caretaker'". I mean they didn't leave it entirely unchanged. It would be quite interesting to know how much work they did on it, but that bit of Cleggery is very interesting as a footnote. It rather stands out, doesn't it?

Tristram Hunt: Its very presence seems to indicate a sort of pushing of an agenda, which is not necessarily in the main body of it.

Lord Hennessy: Maybe he is proud of it, who knows.

Professor Hazell: I don't think it should be there, and in my comments to the Cabinet Office I argued earlier that it should be struck out. It is not a constitutional principle. The constitutional principle in any newly elected Parliament is that that person who can command the confidence of the House of Commons shall be appointed as Prime Minister, and, as we saw in May of last year, it is up to the political parties to negotiate to try to work out who can command confidence in the new House. But there are no set rules and I don't think there can be, or should be, about how those negotiations should be initiated or by whom. There could be Parliaments in which a majority, or a working Government, which can command confidence, might be established, for example, between the second and third largest party. So, I don't think that footnote should be part of the manual.

Professor McLean: I agree with that. I think the operative rule is the rule in paragraph 46. I agree with my colleagues that the footnote in 48 is distracting and it's simply the statement of a particular political leader or political party at a particular time, who we may say had an interest in making a particular statement. Other party leaders at other times may take a different view.

Q39 Tristram Hunt: I quite agree. Two more questions: first of all, maybe to Iain first. Do you see an interesting direction of travel in terms of the position of the Monarch and the *Cabinet Manual*? You have raised the issue of the appointments process with regards to the Prime Minister and Sovereign in terms of bishops. Do you see a limitation on the power of the Sovereign within this? I just want to unpick whether your analysis points to any underlying trends within it?

Professor McLean: The withdrawal from appointing bishops was, of course, a decision of the Prime Minister, not of the Monarch, so I don't infer anything from that. That is in any case subject to inquiries, which you might make of the present Prime Minister. I was rather trying to say that it is in the interests of all sides to prevent-this has been said for centuries-the Monarch from getting involved in partisan politics. Once again, to revert to what Mr Asquith said in 1913, Monarchs have had strong personalities. His letter, as I have suggested, has a very heavy subtext telling George V's secretaries, one of whom had served under Queen Victoria, that Queen Victoria came pretty damn close to repeating the mistakes, as Asquith saw it, made by William IV in 1834.

Those mistakes, I would argue, were then repeated by Sir John Kerr in Australia in 1975, and if there is a direction of travel here I guess it is towards Monarchs and their advisers becoming more and more sensitive to the great potential dangers in those situations.

Q40 Tristram Hunt: The other question was: do we have similar models for this in terms of, I suppose, principally, Scotland and Northern Ireland in terms of devolved Administrations there in terms of manuals?

Professor Hazell: Yes, in the appendix to our written submission to this Committee we set out some comparative tables showing the executive guidance available in Australia, Canada, New Zealand, the UK, and-from memory-Scotland. Scotland, as I understand it, is now interested in reviewing its own suite of executive guidance, and possibly considering whether it could usefully be brought together in a compendium like the *Cabinet Manual*. I believe there is some interest in Canada as well.

The key point where there is clearly potentially a strong similarity-and you may or may not be referring to this-is the restriction on the power of dissolution. But in half answer to your previous question about the direction of travel in relation to relations between the Monarch and Cabinet, I would say two things: one, clearly there is a very powerful direction of travel in terms of much greater transparency. The constitutional conventions that we have been discussing were-as Iain has been quite rightly reminding us-not always clearly understood and were regarded as semi-secret. Now they are out in the open and up for public discussion.

Secondly, if the Fixed-term Parliaments Bill goes through in its present form that will remove altogether the prerogative power of dissolution from the Monarch, and that is a very important reserve power: the power to grant a dissolution or, in exceptional circumstances, to refuse a dissolution. So that would be a big change too.

Q41 Tristram Hunt: One final thought on fixed-term Parliaments. Some of us take the view that five years is slightly too long for a fixed-term Parliament, and the unwritten tradition, the unwritten convention, is for four-year Parliaments. If this manual is updated and it says, "We have fixed-term Parliaments of five years", and this document continues and lasts on-as it probably will-then the five years becomes part of the warp and weft and becomes part of the constitution, part of the settled order. Some of us regard that as a constitutional innovation, which doesn't have the support of many people. Does this document then become at risk of codifying and, de facto, supporting constitutional innovations by the present Government, which might be a rather partisan, sort of fix-

this-Parliament agenda, but the nature of this document gives it a legitimacy that some of us think it might not have?

Lord Hennessy: Statute always trumps this in terms of legitimacy. So if it is a statute it trumps everything: it trumps the royal prerogative; it trumps any manual; it trumps any code, and this will always have to reflect the statute. I agree with you, the natural rhythm is, roughly speaking, four years, just as our rate of growth, whatever Governments do, seems to be, roughly speaking, 2.7% since the war. There are certain rhythms that countries acquire, and that is one of them. I know we are not here to discuss that but I have slight anxieties about five being on the face of an Act of Parliament because there is a danger of the fag-end year. They are never normally happy if Governments hang on to the fifth year, which they usually only do if they are under severe duress. They never bring radiance to the electorate or the country or to policy making, do they?

Chair: Because of the uncertainty, whereas a five-year Parliament or a four-year Parliament gives you certainty at the end of the period. You know when the election is going to be. I'm sorry we're going back to the previous debate.

Q42 Tristram Hunt: It is the language that is important, isn't it? That statute declares X.

Lord Hennessy: Statute trumps all.

Tristram Hunt: Yes, statute trumps all, but the language in which this manual is updated and described, if it becomes part of the collection of documents that form our written and unwritten constitution-the actual editing of this document-is rather important, I think.

Lord Hennessy: Yes, because it will be the first port of call when something comes up that we need to talk about; absolutely.

Q43 Chair: Presumably, even if statute has changed this, if there is a means of review within Parliament there could be a body of people within Parliament who say, "We need to have a look at clause A, line B", or whatever it is, "Let's have some discussions around that". This could evolve because Parliament feels that evolution could take place rather than, in a sense, statute law, which we could argue has been imposed by the Executives to date. It could be a longer running parliamentary interest that has a means of expression that can constantly revisit some of these things that many of us perhaps feel are not appropriate in a document like this.

Lord Hennessy: There was an example of that in the 1990s, after the Scott inquiry into arms to Iraq, there was an accountability resolution passed in the House of Commons, wasn't there? I don't think that is in here actually. Is it? It hasn't impinged on the Velcro of my fading memory. But if it isn't it should be. That is another one to add to the list because that was very important. It was the one constitutional change that emerged after the Scott inquiry. The only constitutional change after the Westland crisis-I remember the great John Griffith wandering down the Committee corridor over the road saying, "The British constitution is what happens. All these years I've been looking at it". And the one constitutional change then was that Permanent Secretaries had car phones installed, because the Permanent Secretary of the DTI was on the way to the Civil Service College and couldn't be consulted by the press officer, Colette Bowe, because he liked a bit of peace in his car. So the one constitutional change that Westland gave us was car phones, just a sort of footnote on history.

Q44 Mr Chope: Can I ask about some of the specifics, particularly in chapter 2. I'm looking at paragraph 60, about the pre-election contact with Opposition parties. It starts off using the

expression, "At an appropriate time towards the end of any Parliament". Surely if this manual is going to be of any use, that should be spelt out specifically, particularly if we are in the context of a Prime Minister who has said that the next general election is going to be on the first Thursday in May 2015. If this manual is going to be of use to people, surely it should spell out at what stage during this Parliament, consistent with the Prime Minister's pledge, the Opposition parties will be able to establish their pre-election contact, and does not the fact that it doesn't spell that out breed an atmosphere of cynicism?

Can I link that question with what I see as a whole lot of rather vague references. Paragraph 63 says, "As soon as an election is called, certain restrictions on government activity apply", with a further reference to paragraph 68. But in paragraph 67 it says that, "governments are expected to observe discretion in initiating any new action of a continuing or long-term character in the run-up to an election". But again it doesn't specify what they mean by a "run-up". Surely, if this manual is going to be of any use, that needs to be spelled out in more defined terms.

Again, paragraph 68 refers to "When an election is called". We can almost say now that the Prime Minister has already called the election for May 2015, but that obviously doesn't mean that Government activity has to be restricted in the way set out in paragraph 68, and so on. Throughout the manual it seems there's an interchange between words like "could" and "should" and "must" and "may". There is no means of enforcing anything that is not contained nor set out accurately in the manual. We are told now that we can only discuss this during this three-month consultation period. The manual itself refers to the EU Bill, and if that is passed into law it will alter the situation. We have the EU Bill, which will get Royal Assent this year as will the Fixed-term Parliaments Bill and the Bill limiting the number of MPs. Wouldn't it make more sense for this manual to be updated to reflect all those major pieces of legislation and then be subject to consultation? Rather than what seems to be happening now, which is that they are going to rush through the consultation before any of those Bills are on the Statute Book, and then we'll be able to argue: well, we have a closed book now, and what we were hoping for, which was more guidance, more specifics about the run-up to the next general election, that will not be subject to parliamentary and public access, in the way that it would be if this whole exercise was postponed for, say, six months.

Professor McLean: I don't see a huge problem here. Already at paragraph 58 it says, "This paragraph will be substantially affected if Parliament agrees the proposals in the Fixed-term Parliaments Bill". That comment quite obviously applies to all the paragraphs that Mr Chope has also highlighted. If the Bill is carried, the Cabinet Office is promising to rewrite the manual and there would then be, presumably, another round of consultation, another opportunity for this Committee to have a look.

Some of the matters that Mr Chope has raised don't trouble me terribly much. With regard to the phrase, "As soon as an election is called", there is a statutory definition of what calling an election constitutes, so I don't think there is any ambiguity in that one. Should the Fixed-term Parliaments Bill fail, I agree it might be a good idea to revisit these to get more precision on some of those points.

Professor Hazell: I would only add on your first point about the date, which might trigger pre-election contacts with the Opposition parties, that that whole issue was the subject of an excellent report published by the Institute for Government, whose main author was Peter Riddell, together with Catherine Haddon. That report recommended that pre-election contacts should be initiated round about 18 months out from the end of the Parliament. They were writing that in pre-fixed-term Parliament context, and they thought 18 months was a safe period to choose, so that if an election were called after four years there would still have been six months of pre-election contacts.

Clearly if we do have fixed-term Parliaments we will know the date of the next election. It would then be much easier to specify a time period for the initiation of those contacts.

Q45 Mr Chope: Sorry for interrupting you, but we do already know the date of the next election because the Prime Minister has told us. So we don't need the Fixed-term Parliaments Bill to go through for this manual to be consistent with what the Prime Minister has already told Parliament.

Professor Hazell: As you may be aware, two of the Bills that you mentioned are now in the House of Lords, where I understand they are encountering serious difficulties. Peter may be able to tell us more about that. The EU Bill has been the subject of very powerful criticism from a Committee of this House. I don't think we can necessarily anticipate that all three Bills will receive Royal Assent this year. We shall see.

If and when they do receive Royal Assent then it shouldn't be a difficult task to revise and update the manual in order to reflect the new law. I wouldn't myself expect that then necessarily to require a further round of consultation because the manual will simply be reflecting what Parliament has willed, and Parliament, as Peter has said, and legislation trump the manual.

Lord Hennessy: I am a great supporter of the Riddle/Haddon suggestion of an 18-month starting gun. I think that would be very sensible. But on your big point, Mr Chope, about their trying to get it through and all settled while there are still so many moving parts, that is in your own hands. You can reopen this question any time you want, Chairman, can't you?

Chair: Technically.

Lord Hennessy: Yes. I don't want to preach, but that is what Parliament is there for, isn't it? No question is beyond your remit.

Chair: I'm sure a strong independent Parliament would have no problem in meeting your request on that. One with whipped majorities may find a little more difficulty. Chris, do you want to come back?

Q46 Mr Chope: I was just saying, I thought we had quite a lot of reluctance from the powers that be to get this manual published in the way it has been. We have it published now and there does not seem to be any reason why the short period for public consultation should be limited to three months. It wouldn't matter if this manual wasn't put to bed until December.

Lord Hennessy: I don't think there was reluctance. I think Gus O'Donnell was very keen for Ministers to take it; that was the impression we got.

Q47 Mr Chope: I wasn't suggesting that Gus O'Donnell was reluctant. I was suggesting that the Ministers were reluctant.

Professor Hazell: I think it may simply have been the pressure of the business. This Government has a very big agenda and they felt there were more important things they needed to get on with first.

Chair: As I said in my very opening remarks, it felt a little slow, I think, Chris, because we had people here and we were keen to get this moving. But for it to be in the public domain within a year is record-breaking speed probably from a Whitehall perspective, and I think we are very grateful for the fact that it is now in the public domain. It gives us a chance to nudge things forward a little bit.

Q48 Mr Chope: On that, I think it was Professor Hazell was saying he might not expect any more consultation if these Bills get Royal Assent, but to give a specific example, if we have 600 MPs, rather than 650-odd, then should we change the number of Ministers? That was a matter of statute, but something which could be fairly and squarely within the *Cabinet Manual*, would be limiting the number of Parliamentary Private Secretaries, so that the size of the Executive's influence within the House of Commons is restricted or made pro-rata with the reduced numbers. Surely that would be an issue, which would be legitimately one that there should be consultation on if that Bill gets into statutory form.

Professor Hazell: On the specific about whether the Government is willing to reduce the size of the Ministry if the House of Commons is reduced to 600 MPs, my understanding is the Government said, I think, during the passage of that Bill through this House, that they were not willing to make the reduction through that Bill, but they said that they did propose to make a reduction-I can't remember the words-in due course, but words to that effect. Clearly again, it is a matter for Parliament and this House to hold the Government to that undertaking.

Q49 Mr Chope: That doesn't deal with the point about Parliamentary Private Secretaries. It is not a matter of statute. That would surely be something that would, in a full manual, be set out in the manual with guidance as to how many Parliamentary Private Secretaries there should be?

Professor Hazell: I stand to be corrected by my colleagues, but I don't think Parliamentary Private Secretaries are recognised anywhere in statute. I think it is essentially a bit of patronage for the Prime Minister. These are unpaid positions, and it's a matter of self-restraint or sometimes lack of it, which seems to determine the number of PPSs under any Government. I don't think there is much the manual can say about it.

Q50 Mr Chope: It does say something about it already, doesn't it?

Professor Hazell: It recognises their existence.

Lord Hennessy: The continence argument always comes up with special advisers too-the temptation to appoint more than some would think were necessary or desirable. But that is a continence question. It is not a statutory question, is it, as Robert was saying?

Professor McLean: It seems to me that those two cases are different since special advisers interact with civil servants in more-

Lord Hennessy: They are temporary civil servants too. They are Crown servants, aren't they?

Professor McLean: I was going to say in more central ways than do PPSs.

Lord Hennessy: Yes, exactly.

Professor McLean: My inclination would be that PPSs are not an Executive matter and the regulation of them is not for this document.

Chair: Well, if there is indeed some form of review or, as Lord Hennessy suggested, annual audit by Parliament of the *Cabinet Manual*, then there will be an opportunity-I don't know whether it would be for the whole House or whether it could be for this Committee-but there could be an opportunity, and probably a tightly regulated opportunity, which may find favour with the Executive to regulate the amount of change suggested by Parliament. But there could be a mechanism by which people

could raise issues in Parliament, from a parliamentary perspective, related to things that are found in the *Cabinet Manual*. That may be something that will assist it in its legitimacy and may assist Parliament in progressing particular ideas. There is no guarantee of that but that could be one of the ways forward, and that will no doubt be one of the things that we explore with Sir Gus O'Donnell when he comes before us.

A number of very helpful things have emerged from the evidence this morning, not least those areas where further work may be necessary: omissions, accidental I am sure, in the document that the Committee may wish to highlight, and a lot of very thoughtful perceptive ideas from our witnesses. I think we have been very fortunate this morning. I thank Lord Hennessy, Professor Hazell and Professor McLean for their time and attendance this morning. Be assured we will take your views further and you are, of course, at liberty-now you have interacted with the Committee-to drop us further notes if you feel it appropriate. Thank you, gentlemen, so much for coming.