HOUSE OF LORDS

HOUSE OF COMMONS

MINUTES OF EVIDENCE

TAKEN BEFORE

JOINT COMMITTEE ON THE DRAFT CONSTITUTIONAL RENEWAL BILL

DRAFT CONSTITUTIONAL RENEWAL BILL

TUESDAY 20 MAY 2008

MR TIMOTHY DUTTON QC and MR ANDREW HOLROYD OBE

MS FRANCES GIBB and MR JOSHUA ROZENBERG

Evidence heard in Public Questions 88 - 140

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Oral Evidence

Taken before the Joint Committee on the Draft Constitutional Renewal Bill

on Tuesday 20 May 2008

Members present:

Michael Jabez Foster, in the Chair

Armstrong of Ilminster, L	Martin Linton
Campbell of Alloway, L	Ian Lucas
Hart of Chilton, L	Fiona Mactaggart
Morgan, L	Sir George Young
Norton of Louth, L	
Plant of Highfield, L	
Tyler, L	
Williamson of Horton, L	

Witnesses: **Mr Timothy Dutton QC**, Chairman, Bar Council, and **Mr Andrew Holroyd OBE**, President, Law Society, gave evidence.

Chairman: Mr Dutton and Mr Holroyd, may we thank you very much for joining us this afternoon to answer the Committee's questions on issues relating to judicial appointments. Before we start can I make a note for the record that Members have declared interests relevant to this inquiry and they are available today and on the Committee's website. I believe there may be at least one other declaration of interest.

Lord Hart of Chilton: Not only am I a solicitor, my wife is a solicitor and she is also a recorder.

Q88 Chairman: That is noted. Thank you very much. I wonder if I can ask you both if you could give an opinion as to whether we should be looking at this at all just three years after the judicial appointments process was re-born by the 2005 Act. Would you like to start, Mr Dutton?

Mr Dutton: First of all, can I say thank you very much for the invitation given to us. I am here with, behind me, Ingrid Simler QC who is Chair of our Equality and Diversity Committee and she has done a lot of work on judicial appointments within that committee. We are cautious about a process of change to the Judicial Appointments Commission so soon after the Constitutional Reform Act 2005. There can indeed be changes made to the processes of application so as to ensure that one has talent coming from a diversion pool, satisfying the merit test in the Act itself and ensuring that the pool of potential applicants is sufficiently diverse, but we do not think wholesale reform of the process is required. We welcome an independent appointments process and we want to work with the JAC and with the Ministry to ensure that that process works well.

Mr Holroyd: Thank you very much indeed for the invitation. So far as the Law Society is concerned, we argued long and hard for the setting up of the Judicial Appointments Commission and we are very pleased that it has been established. Nevertheless, even though it has only been in existence for two years, we do actually feel that there are some criticisms of the constitutional setup; in particular, the fact that the process is still not independent from government influence and intervention. We feel that what is proposed in this Bill does take us a long way down that road and, therefore, it is important from a constitutional point of view but also from the point of view of ensuring the judicial process is independent and is seen to be independent from government intervention.

Q89 Lord Williamson of Horton: I wanted to ask a slightly leading question to which I am sure you are accustomed in your professional role. I want to ask specifically about whether the role of the Prime Minister and the Lord Chancellor should be changed and how the appointments process should be held to account. Is there a case for giving the Lord Chancellor power to set targets or issue directions through the Judicial Appointments

Commission? The leading element is the indication that these proposals were not in the original consultation document.

Mr Dutton: We agree that the Prime Minister's role in appointing to what would be the Supreme Court should go. It was largely a simply confirming role. The second and third parts of your question are really driving at the meat of the topic. We think the power to set targets is something which needs to be approached with caution. What is important is that there should not be the setting of quotas for judicial appointments. Performance targets can indeed be set for a body, for example, a target to complete an appointments process, the circuit judge competitions, within so many months, but the setting up of a target, if it were to be adopted, must never actually interfere with the process of appointment, nor must it be perceived to be doing so. We think that a perception of any form of interference in an appointments process through the use of targets would indeed be a serious problem in just the same way as any form of the use of quotas would be. As to directions, that is subject more or less to the same answer. Again, one can use directions in order to ensure that processes are appropriate. Can I give you a simple example? There is a concern afoot as to whether or not the pool of applicants for the judiciary is drawn from a sufficient cross-section of society, ie whether there are any black minority or ethnic applications or enough women applications It is possible to ask the JAC to have targets to do that. Having said all of that, we believe that the JAC is attempting to do this and that providing it is doing so and it is held suitably accountable there would be no need to go down the target-setting process about which we are cautious.

Mr Holroyd: I think it follows from my answer to do with the separation of powers that you know where the Law Society is coming from on this issue. We welcome the removal of the Prime Minister from the process. We would say that an independent Judicial Appointments Commission has been set up and that Commission should be left to get on with its work. It

should not be subject to second-guessing by Government, neither the Prime Minister nor the Lord Chancellor. We believe that the JAC has been set up to be independent and should be seen to be independent. If any targets are set externally or criteria are set externally other than those which are of a very broad nature then we believe you start to interfere with that independence and we should be very cautious about doing so. If the pool of candidates is not sufficient then that is clearly a matter for the Judicial Appointments Commission itself, to ensure they make every effort so that anybody who is eligible to apply does apply for the post and that those who wish to apply are not artificially excluded in some way.

Q90 Chairman: Does Government not have a responsibility, one way or another, to ensure that it happens?

Mr Holroyd: There are a number of checks and balances proposed. Firstly, we have the proposed stakeholder panel which will be there to make points of that sort. Secondly, there has to be an annual report to Parliament. Thirdly, we would be in favour of some parliamentary scrutiny of the processes of the Judicial Appointments Commission and would see the Ministry of Justice having precisely that role, to have scrutiny of the process issues and the kind of problems that we have been discussing.

Q91 Lord Armstrong of Ilminster: Both of the witnesses said that they welcomed the removal of the Prime Minister from the appointments process. I cannot remember any occasion when the Prime Minister sought to overrule the Lord Chancellor, but I can remember cases where the Prime Minister queried or asked what he thought to be appropriate - not for frivolous reasons but for good reasons - questions about an appointment. Are you sure that we should do without that additional filter?

Mr Dutton: We feel there is no need for that additional filter, the prime ministerial filter, given the Judicial Appointments Commission setup and given the setup which would apply

for Supreme Court appointments, which is really what we are talking about. We did not feel it necessary to have prime ministerial involvement.

Mr Holroyd: The circumstances that you are talking about were prior to the setting up of the Judicial Appointments Commission. The process that we have set up there should be robust enough to ensure that the kind of problems that might have been there under the old system do not occur in future.

Q92 Lord Armstrong of Ilminster: In the White Paper the Government floats the idea that Parliament should be given a greater role in scrutinising the appointments process. They talk about an annual joint meeting of the Commons Justice Committee and the Lords Constitution Committee while ruling out the possibility of confirmation hearings for individual judges. What are your views about this idea for increased parliamentary scrutiny of the process?

Mr Dutton: First of all, we welcome there not being confirmation hearings. I know that on an earlier occasion we have met and I have given that view of the Bar Council. We thought confirmation hearings would be problematic, to put it mildly. We consider, as the Chairman indicated in an earlier question, that scrutiny is appropriate, but we would not see it as inappropriate if there was scrutiny through a parliamentary committee twice a year. The second limb of the question asked about a Judicial Appointments and Conduct Ombudsman, which again we would not see as inappropriate.

Mr Holroyd: I think we would broadly agree with that line. We would certainly not want any risk of political influence entering into the process and confirmation hearings in our view would lead us down that route and would be very undesirable indeed. As I have indicated already, we would see parliamentary scrutiny as the appropriate form of scrutiny of process rather than scrutiny by a government minister.

Q93 Lord Hart of Chilton: You will have seen that the draft Bill gives the Lord Chancellor a range of new powers in addition to the directions that we have been talking about. Two of the powers are the setting of non-statutory eligibility criteria and being able to remove judicial officers from the Schedule 14 list, subject to certain checks. What are your views on those?

Mr Holroyd: You probably will be able to guess my views from what I have already said, my Lord. The Law Society thinks it is undesirable that the Lord Chancellor should have any influence. We would say that if you have set up a Judicial Appointments Commission then one must have confidence in that process. If there were circumstances in which certain appointments could be bypassed from the Judicial Appointments Commission we would find that very worrying indeed. Already there have been some concerns about the appointment of Deputy High Court judges, for example. An extension of those kinds of informal arrangements, which would somehow bypass the Commission that Parliament has set up, we would find wholly undesirable. We also think it is for the Judicial Appointments Commission to set the criteria in accordance with the 2005 Act. We think that that is sufficient. If extra statutory criteria are applied, for example, such that nobody should be appointed without paid judicial experience that would provide an artificial barrier for many. I am thinking, for example, of senior partners of our major City firms who might be retiring in their early 50s, who might seek a career in the judiciary following that, but who would clearly have had major roles in their firm and have found it very difficult to make time for a part-time appointment prior to retirement. We would see such additional statutory requirements perhaps as setting barriers to the precise wide pool that we were talking about before.

Q94 Lord Hart of Chilton: So you think they would erode confidence in the Judicial Appointments Commission as well as being wrong in principle?

Mr Holroyd: Indeed.

Mr Dutton: Our answer differs slightly from that. On the Schedule 14 criteria, we would not see a problem with that removal. So far as the Lord Chancellor setting eligibility criteria, we would have said yes to paragraph 138 of the White Paper, which I think sets out the point there. Can I give two examples of problems which eligibility criteria might overcome, albeit they do not have to be set by the Lord Chancellor? Within the CPS, for example, there are people working from a diverse pool who would wish to have a career in the Judicial Office or within the Government's legal advice likewise. Our answer is qualified in this way. If there were a power to set criteria, it must not ever be seen to be interfering with the independence of the Judicial Appointments Commission. That is the qualification which we would place on it.

Q95 Ian Lucas: Mr Holroyd, I should mention first of all that I am a solicitor. Are you content with the current proportion of solicitors who are appointed to the judiciary of the applications that are made?

Mr Holroyd: It would have been good if there had been more. I think we have to recognise that the judicial appointments process set up by the Judicial Appointments Commission is, as we have said, quite young; it has only been going for a short period of time. What we have had in the last recorder round, for example, which is still in process, is a large number of solicitors applying to be recorders. We have had an objective aptitude test. We would hope that going forward we would see the percentage of solicitors appointed increase as a result of the clear and transparent processes now put in place by the Judicial Appointments Commission.

Q96 Ian Lucas: I asked the question because I was very struck by the table I have in front of me, which is the aggregate table for selections for the period 1 April 2007 to 31 March 2008, which shows that 50 per cent of applicants were solicitors. Of the applicants who were

short-listed, that figure immediately went down to 40 per cent and selections made went down to 32 per cent and despite there only being 30 per cent of applicants who were barristers, 39 per cent of the appointments made to the judiciary were barristers again. Have you any explanation for that?

Mr Holroyd: I do not have any explanation for it. What we would hope is that we will see those figures change moving forward and we would see a higher percentage of solicitors being appointed. This clearly is something that we will need to keep a very close eye on going forward and it is something that I would see the stakeholder panel seeking clear assurances on to ensure there are no unwitting bias elements in the process of selection.

Q97 Ian Lucas: Should you not be accountable to ensure that, for example, more solicitors are appointed to the judiciary in due course?

Mr Holroyd: I think diversity of the judiciary should be an issue in relation to a proper balance between the different elements of the profession who apply, assuming they are of the same experience and background.

Lord Campbell of Alloway: Diversity is all very well as long as it safeguards quality. Of the two, the quality is far more important than the diversity. You have got to get your Orders right on this. I think where we have gone wrong is we have got our Orders upside down. Of course, I am an old silk, I have been out of practice for a long time, but having been at the Bar and served in all courts, from the Coroner's Court to the appellate court here, you realise that not all judges are really totally suitable to sit because just now and then you find somebody has slipped through the net who really should not be there at all, but this is going to happen in any system. You will get far more fish through that net if you allow the public, who have no concept of what the qualities of judicial efforts are --- It is not just a question of intelligence. I will not mention any names, but there are some highly intelligent judges that I have appeared before who were extremely bad judges because they made up their minds before

they came into court and they would not listen. I do not think this goes on as much today as it did in my early days but it still goes on. How on earth are the members of the public, who have no experience at all as to the type of qualities that are demanded of the judiciary, to have an influence of power as to appointment? How and why? Is it a vote winner? Is it a political gesture? Is it equality to everybody at all times everywhere? I do not know. If it is any of those, it will not do to retain the quality of our judiciary. Would you agree that there is a distinction between, in any event, the initial appointment of a judge and the elevation of office because the elevation of office can only be supported by those who know about his performance in court, not by targets?

Q98 Chairman: I think perhaps we should administer a caution before you answer that! Please do so if you wish.

Mr Dutton: The statutory criterion in the Constitutional Reform Act is merit and merit is the single criterion having regard to diversity. It is a common misconception that having a diversity requirement in some way dilutes merit. It is a misconception which must be dispelled. The point about having a diverse pool merely means that you have an abundance of talent, no matter where it comes from, from which you can choose. It is very important that we dispel the view that a requirement that the judiciary be diverse in any way dilutes merit. A proper appointments process having regard to diversity never dilutes merit, in fact it increases it. The second point I wish to make is the one about how the public can have confidence. It is essential in a democracy which abides by the rule of law that the public has confidence in the judicial process and that is in judicial decision-making, that it has confidence in the decisions which come from courts or juries directed by judges. The measure of success of the Judicial Appointments Commission and of those involved in the process will come from the quality of judicial decision-making in the years to come. At the Bar we have every reason to believe that if we encourage all of our members, from a wide

diverse background, to pursue their careers vigorously they will become, along with our colleagues from the solicitors' side of the profession, the strong judges of the future. That maintains confidence in the system. It is ultimately much more than a vote winner. If you do not have a strong independent judicial system I am afraid society as a whole suffers immeasurably. The third point I want to make, which was the tail end of the question, relates to elevation to judicial office. The answer is that experience can no doubt form part of the competency criterion for anybody seeking elevation, for example, from the High Court to the Court of Appeal or from the County Court to the High Court. There is no reason at all to suppose that those qualities will not be taken into account under the processes going forward.

Mr Holroyd: I have very little to add to that except to say that merit is to do with the ability of being a good judge. That includes a lot of qualities now which are not merely to do with advocacy, they are to do with issues to do with case management and other qualities which are required of judges today and those are elements of experience that can be gained in any part of the legal profession. Elevation also, from district judge level onwards, which perhaps is something surprising, you would have expected to have been more of a career route than perhaps it has been.

Q99 Lord Plant of Highfield: I would like to ask you about the key principles that are supposed to guide the appointments process. As you know, in Part 2, Schedule 3 of the draft Bill these are identified in the following way: that the process should be fair, transparent, efficient, flexible, proportionate and effective. In the responses to the consultation other principles were also suggested, accountability, flexibility, proportionality, security of tenure, skill, diligence, understanding, impartiality and integrity. Do you think that the draft Bill has identified the most appropriate key principles since there are these others that have emerged through the consultation? Do they have the right kind of standing in the draft legislation or should the key principles of the process be made statutory?

Mr Holroyd: We believe that those principles are about right and we would not wish them to become statutory.

Q100 Lord Plant of Highfield: Could you just say why not?

Mr Holroyd: I think it is the reason that I have stated before, that these criteria are set out and they are a matter for the Judicial Appointments Commission. Again, if they are statutory then they could skew the process in the way that I was saying before.

Mr Dutton: We would not argue with the process, fair, transparent, proportionate, effective, because that is looking at the process of appointment. The other issues which have come up in consultation, such as security of tenure and independence, are requirements of an independent judiciary and are a *sine qua non* of an independent judiciary and we would agree with them. As we understand it, these principles are statutory principles for process and cannot in any way detract from the other two I have picked on, security of tenure and independence, which are givens for judicial appointments.

Mr Holroyd: Indeed. I would adopt that.

Q101 Chairman: We were going to ask about the Judicial Appointments Commission panel and whether it replaces the need for two professional commissioners. Do you have a view about that?

Mr Dutton: We would not want to see the two commissioners being replaced. We think that the constitution of the JAC with its 15 members is appropriate and, therefore, having a Judicial Appointments Commission panel as a replacement for the two commissioners we think would be inappropriate. That said, can I add to the answer because there are - I am not sure if the Committee is aware - groups working with the JAC. There is a liaison group with the professions, this is a diversity forum on which the professions are represented, in our case by Rabindra Singh QC, and there is a steering research group which works with the JAC

looking at research and statistics. I would like to make sure that you and your colleagues know that those arrangements are already in place with the JAC.

Mr Holroyd: As far as the Law Society is concerned, we think that the composition of the Commission is right, it should be left as it is and unchanged going forward. There are these internal groups, but the difference we see for the Judicial Appointments Commission panel is that it is an additional check from the stakeholder point of view of the performance of the Judicial Appointments Commission. We would say that that is appropriate having regard to our view on the separation of powers that I mentioned at the beginning.

Q102 Chairman: The draft Bill suggests that there is a purpose in reducing bureaucracy within the appointments process. Do you think it is travelling in the right direction or is there a case for allowing the Lord Chancellor to delegate any of his functions to improve efficiency?

Mr Holroyd: We would say no. Obviously the Judicial Appointments Commission is early in its day. There were some criticisms initially about the length of the process. That was partly to do with the extent to which the Lord Chancellor's Department had some of the issues to be looked at on their desk. Having the involvement of the Lord Chancellor is inevitably going to take additional time in the process. As to the issue of how long appointments take and how efficient the judicial appointments are in their operations, we would like to see some improvements there, but we do believe that they should be given time to move on with that. It is not for the Lord to Chancellor to be able to delegate because that again implies his involvement in the process.

Mr Dutton: Medical inquiries will now be handed over to the MoJ, which is welcomed by both of us because it will improve the process. The problem with the process has been one of delay. Steps are being made to improve that. We doubt that removing the Lord Chancellor's current check on appointments would in fact make much difference in terms of delay. It may

slightly improve the process of appointment after you have been told that you have an appointment but it is unlikely to alter things. So far as bureaucracy is concerned, we consider that the critical feature of this is for potential applicants for judicial appointments to know that once they have made an application it will be dealt with quickly, fairly and efficiently and that when an appointment is made it is made at a defined point in time. There have been problems in this process and as a result it is possible that some meritorious applicants have not applied for judicial appointments because they are concerned about inefficiencies in the process and whatever happens - and we do not believe this is a legislative point, we think it is a process point - those inefficiencies need to be removed. We do not think it is part of the legislative process, we think it is a functional process.

Q103 Lord Hart of Chilton: Are there any specific problems with the appointments process that are not resolved by the draft Bill? What lacuna have you spotted?

Mr Dutton: There are problems on the ground which we are receiving at the Bar Council with some of the competitions going on. For example, there are circuit competitions going on at the moment where applications are dealt with in confidence for obvious reasons but the exam is held in a room of 25 people. The result of that is that the profession at large may hear of applications and confidentiality is lost. We have heard of problems on the recorder competitions in the examination process in the north and north-east, which are problems of the managing of the process. They are very significant because the effect of such process problems can be, as I have said already, to discourage talented people from applying for fear that confidentiality is lost if they do not get the post or, indeed if they do, pending the application going through and that these can be discouragements for people of talent to apply. None of the points I have just made or any other examples that come through the process are to do with legislation, they are to do with the managing of the process and the need for efficiency and fairness within it.

Mr Holroyd: I do not think I have very much to add except that I think I have got much less complaint about the recorder process than Mr Dutton did from his members. I am not sure whether that indicates anything.

Q104 Chairman: Does that simply mean you have fewer applicants there to complain?

Mr Holroyd: No, I think there were more solicitor applicants, but it was fairly evenly balanced.

Q105 Lord Tyler: Can I ask Mr Dutton whether he feels those very important practical difficulties are being properly addressed by the present regime and if there are ways in which they might be improved by the way in which the draft Bill is now intending to deal with these issues?

Mr Dutton: We are addressing them with the present regime, yes. It is too early to say - because the circuit competition I have just mentioned is an ongoing one - whether they have been resolved but I certainly hope they will. The professions speak with the JAC on a regular basis. On the second part of your question, this goes back to the giving of directions and targets, one can be sceptical of the use of targets and directions, particularly when one wants to make sure an appointments process is independent, but there is something to be said for ensuring, whether it be by means of a Lord Chancellor's direction or whether it is simply by means of better conduct of the process, that competitions are conducted swiftly and fairly. It is absolutely critical for success of the system and we do have concerns about this at the moment.

Mr Holroyd: I would very much echo that response. To be fair to the JAC, they have responded to issues at speed of appointment and have set much tighter timetables for the latest rounds than they had at the beginning, which has been very much welcomed. As we have said, it is a body which has only been set up relatively recently. There are issues that arise,

but I think we would say we have found the JAC generally responsive to the concerns that the profession has raised and, therefore, we see this as work in progress and not something that needs to be tackled by changes in the legislation.

Q106 Chairman: Thank you very much indeed for joining us this afternoon. Before you leave, it is always an advantage when we have experts such as you to ask if you have any specific drafting changes that you feel should be made to Part 2 of Schedule 3 or indeed the Bill more generally. If you have, we would be most grateful if you could send us those suggestions. It helps do our homework for us and it also enables us to be more precise about the changes you think would be helpful.

Mr Dutton: Thank you very much. I think we would welcome the opportunity to write to you.

Mr Holroyd: We will do the same.

Witnesses: **Ms Frances Gibb**, Legal Editor, *The Times*, and **Mr Joshua Rozenberg**, Legal Editor, *Daily Telegraph*, gave evidence.

Q107 Chairman: May I thank you for coming this afternoon to give evidence to the Committee. It is a bit like having a look at the exam paper before coming into the room having you sitting listening to our previous witnesses because I suspect much of what we will ask will be the same sort of issues but obviously from your perspective. Do you feel that it is just too early to reform the judicial appointments process so shortly after the Constitutional Reform Act 2005?

Mr Rozenberg: I personally do not think it is too early. I take Tim Dutton's point that Parliament should not be looking for a wholesale reform of the structure of judicial appointments, but I think there was a general acceptance that the system was over-engineered. It clearly ran into various procedural problems, some the Commission say they have managed to deal with administratively, although possibly by bending the provisions of the statute, but it seems entirely sensible to take the parliamentary opportunity provided the Government does not use that opportunity to put in things which are not desirable.

Ms Gibb: I agree, I do not think there should be a wholesale change at all. I think it is far too soon to look at the work of the Commission and decide that change is needed. It has not been given a chance to bed down. If there are changes to be made, and I think there are some changes, they do not need legislation. Based on everything I have heard, they are procedural things, bureaucratic points that do not require Parliament to intervene.

Q108 Chairman: Are there specific changes? You say procedural matters. Do you have any that you want to highlight?

Mr Rozenberg: Yes. The Commission has recognised that the system that applied to the first competition for High Court judges was structurally unsound, that was to create a pool of

people who were eligible for appointment and then appoint them as vacancies became available. The problem there was that the careers were blighted of those who were kept waiting and who have not been appointed at all. They have managed to find ways, using the existing legislation, to conduct the current High Court competition for the right number of posts and that means that, although people will still have to wait for an appointment for up to a year, they do know that within that year the appointment will come.

Ms Gibb: I would make a similar point, it is just the time factor, the fact it takes up to nine months on average. There is a very lengthy process of consultation at the beginning and then a long delay once the names have gone to the minister. They are looking at all those points and they can address them without legislation.

Q109 Lord Williamson of Horton: I am on the specific point about whether the role of the Prime Minister and the Lord Chancellor should be changed and how the process should be held to account. I have one specific question which I think you heard me say earlier is a rather leading question. Is there a case for giving the Lord Chancellor power to set targets or issue directions to the Judicial Appointments Commission? I am particularly conscious of the fact that this was not covered in the original consultation document. It sprung into life in the White Paper and has now sprung to life again over the questioning of it. Would you like to comment on this question of targets or directions?

Ms Gibb: I did not hear the previous speakers. On targets, I think you have to distinguish between targets that are to do with the performance as a commission and procedures and timeliness, that kind of thing, and targets that are to do with quotas of women or ethnic minority judges. While the former may have some merit in making sure that the commission performs well and is timely, as in any other body in the public sector, I think that targets would be dangerous as far as any group of judges is concerned. You would then get the Commission being judged a failure if it did not meet its targets and if it did fulfil its targets

you would get an even worse suggestion, which is that people had been appointed just to meet targets.

Mr Rozenberg: I agree entirely with that. Perhaps I could talk about requirements, which may be slightly different from targets and that may or may not be your question or it may be a related question. It is one thing to set the requirement, for example, that a judge sitting in north Wales should be able to speak Welsh, that is obviously fine, but there seems to be some feeling that it should no longer be a requirement that in order to sit full time as a High Court judge one should no longer have to sit part time. There is a suggestion both from the Judicial Appointments Commission, from the Lord Chancellor and from the "Governance of Britain" paper that that requirement of at least two years fee paid experience may not be necessary. I personally think that that experience is necessary. I disagree with Andrew Holroyd. I can see why he argues that somebody who has been the senior partner in a firm of solicitors and has not had the opportunity to sit part time should not be held to have to sit part time for two years in order to become a judge, but I would say that that is an important requirement and I think that that solicitor should either find the time to sit part time or should have to wait a couple of years during which he or she sits part time. If the proposal is to dispense with some requirements that I would regard as quite important then I would not want to give the Lord Chancellor that power to dispense with those requirements.

Q110 Lord Armstrong of Ilminster: The White Paper floats the idea that Parliament should be given a greater role in scrutinising the appointments process through an annual joint meeting of the Commons Justice Committee and the Lords Constitution Committee for instance and the Judicial Appointments and Conduct Ombudsman has stated that his office is well placed to scrutinise the appointments process. Do you think there should be greater scrutiny by Parliament of the appointments process?

Mr Rozenberg: I think that you in Parliament have the advantage over us as journalists in that you can ask questions and be pretty sure of getting the answers. When we have spoken to the Judicial Appointments Commission we have not necessarily got the information that we have requested and yet we have found that when you ask for it as a Select Committee then you have received it. I think there is some merit to this. I think it should not go too far. It should not in any way detract from the independence of the Commission, but, yes, I would have thought the opportunity to take evidence from the Commission once a year would be desirable.

Ms Gibb: I agree. I think the Commission should be accountable through the Justice Secretary to Parliament but chiefly in respect of its procedures and overall policies rather than obviously individual appointments, numbers appointed, that kind of thing. I think there has to be a distinction made.

Q111 Lord Armstrong of Ilminster: You would not like to see confirmation hearings in Parliament?

Ms Gibb: Absolutely not. As far as I understand it there has been almost universal opposition to that. Even post-appointment hearings, I cannot really see the merit of them at all. I think both of those proposals raise the spectre of politicising the judiciary, which would be undesirable.

Mr Rozenberg: As a journalist I would love to see them but I think they would be entirely undesirable!

Q112 Chairman: Is it not better that they question then rather than after they have made their decisions? Parliament frequently feels constrained at commenting on judgments by judges all over the place. Would it not be better to know they have got the right people in the first place?

Mr Rozenberg: What if you found they had not? They have got security of tenure. It is perfectly all right for people to say that a particular judge should resign, I have said that myself, but I am not entirely sure that a Select Committee should be calling for the resignation of a judge.

Ms Gibb: I remember Lord Bingham's comment on this very point and he said, "What questions would be asked of the appointed judge? They can't always be asked about their politics or their views on any issue that they may have to judge. What are we going to be asked, do they like pussycats or something like that?"

Q113 Lord Armstrong of Ilminster: The US Senate conducts such confirmation hearings. Why should it be that that is appropriate there and not here?

Mr Rozenberg: Because the judges, particularly of the Supreme Court in the United States, have greater powers than it is intended that the judges of our Supreme Court and the other courts will have.

Q114 Lord Armstrong of Ilminster: It is not because there is a largely political element in the appointment of members of the Supreme Court in Washington?

Ms Gibb: That is right, there is, but that is for the reason that Joshua said, that they have the power to strike down statutes, which our judges will not have even in the new Supreme Court.

Q115 Lord Campbell of Alloway: Could I ask if targets are to be set? I am not quite sure what targets means in this context. I suppose one of the targets for a parking attendant is the number of cars you put your tickets on. I find it a very difficult concept to apply, the appointment of a judge. I am old and perhaps out-of-date but I find it very difficult. The trouble is, we have not got a Lord Chancellor. Do not pretend because there is a name called Lord Chancellor that he is a Lord Chancellor or has the competence or the experience or the

authority to do what he did in the past, which is to appoint the judiciary? What are you going to do? You have got somebody called the Lord Chancellor who has not got the experience or the means at his disposal. How are we going to help him in this new order? Would either of you consider that he should have the assistance of either the Lord Chief Justice, who does know what is going on in the courts, or one of the Appeal Court judges appointed by him, or a High Court judge, or somebody who lives in the profession and knows something about what goes on? What is your reaction to this? Do you think this is a worrying situation, as it appears to me, or is it all perfectly straightforward?

Ms Gibb: My personal view is that the logic of having set up the Judicial Appointments Commission is that the Lord Chancellor should have a very, very limited role in appointments. I do not think he should have a role at all, but if he is going to have any role, say with the senior appointments, I think it should just be consultative and that the job should be done by the Judicial Appointments Commission in conjunction with the senior judiciary in the way that is set up under the Act. It makes no sense for the Lord Chancellor to continue to have a proactive role which is not in line with the greater separation that the Act was designed to achieve.

Mr Rozenberg: I agree with that. There probably does need to be some check and balance on the Judicial Appointments Commission if, for example, it adopts approaches and policies that the public might disagree with. I can see some residual role for the Lord Chancellor, but the whole structure that has been set up since the Lord Chancellor ceased to be head of the judiciary has required him to work very closely with the Lord Chief Justice and concur on many matters. To take the broader point that you raise, my Lord, it all depends on who the Lord Chancellor is. We have a Lord Chancellor who is legally qualified, who is senior in terms of service in the Cabinet and whom the judges respect and work with, but under the new system there is no guarantee that the next Lord Chancellor, from whichever political

party, will not be a young politician with several career moves ahead of him/her who might take a different approach.

Q116 Lord Campbell of Alloway: And not a lawyer.

Mr Rozenberg: And not a lawyer.

Q117 Lord Campbell of Alloway: I quite agree with your reaction. Checks and balances only come into place on elevation, not on the original appointment. What I am concerned with is the original appointment where there is no room for checks and balances other than what existed in the past and what you and I are discussing is the future. Is that right?

Mr Rozenberg: I think you are right to draw attention to some of the structural problems. To take one practical example, the most recent appointments to the High Court Bench were delegated to a panel of three members of the Judicial Appointments Commission, two of whom were lay people and one of whom was a judge. Lady Prashar, who chairs the Commission, sat on the panel, together with a lay person, a woman, and Lord Justice Auld. The current arrangements for selecting this year's crop of High Court judges are in the hands of five people. Lady Prashar is not one of them. All of them have links with the law to the extent that one is a lay magistrate and the others of legal backgrounds or legal qualifications. There must be some reason why the Commission has changed the panel that it has appointed. Maybe it thought that having a panel with a lay majority and only one judge was not best placed to judge the judicial skills to which you allude.

Q118 Chairman: Can I come back to Frances Gibb. You mentioned that you would prefer the Lord Chancellor should be out of the equation altogether in terms of judicial appointments, which is somewhat further than the Government is currently proposing,

although I think you have the Law Society on side on that. What makes you say that? What is it that inhibits, you think, the Lord Chancellor to have any role in this?

Ms Gibb: I cannot see the logic of keeping the Executive involved in the appointment of, say, the small number of the most powerful senior judiciary, particularly when you think that those judges are the ones that are going to be ruling on cases involving government, or are likely to be, and I think that the way things are going and the way that we are trying to separate out the Executive and the judiciary more clearly is an argument in favour of reducing the role of the Lord Chancellor so far as possible. If it is felt that, because of his responsibilities overall for the justice system, and so on, that he should have some role, I would keep it that he is responsible for the Judicial Appointments Commission's processes, and so on, at most a consultative role on the senior judiciary in the way that the Lord Chief Justice, conversely, is consulted on the appointment of the Chief Executive of the Legal Services Board, the regulator for the legal profession, so that they have a role in that sense, they have a say, but not a veto. I think more power should be devolved there or handed over to the Lord Chief Justice. He should be the check and the balance, I think, ultimately, on the senior appointments.

Q119 Chairman: You are saying that the appointment process should be delegated to the Lord Chief Justice.

Ms Gibb: I think it chiefly should be, in conjunction with the Judicial Appointments Commission.

Q120 Chairman: Do either of you know any jurisdiction where there has been this separation of the Executive from the judiciary to such a degree that almost anarchy reigns in that the parliamentary process has no part?

Mr Rozenberg: No.

Ms Gibb: No.

Q121 Chairman: So we would be moving beyond---

Ms Gibb: I do not think it is unprecedented. In one of judicial appointments documents there is a table at the back showing what different countries do, and it is not unheard of. Italy, Sweden and places do not have any executive involvement. As I say, I am not saying completely eliminate the Executive, but make the role consultative, make it an over-arching accountability role for the way that the Judicial Appointments Commission runs and for policy.

Q122 Lord Campbell of Alloway: Do you know any other jurisdiction which has an unwritten constitution anything akin to ours?

Mr Rozenberg: Israel, I think, to some extent.

Q123 Lord Campbell of Alloway: Israel?

Mr Rozenberg: Yes.

Q124 Lord Norton of Louth: Israel and New Zealand.

Mr Rozenberg: Lord Norton says New Zealand.

Lord Campbell of Alloway: Thank you very much.

Q125 Ian Lucas: With the introduction of the Human Rights Act, although judges now cannot declare laws on the constitution, they have a more political role because of the passing of that Act. It is interesting that you are now proposing less political control. Are those two issues related in your mind? Does the passing of the Human Rights Act influence your decision that the Government should have less of a role in appointments?

Ms Gibb: I think to the extent that the Act prompted more socially sensitive, politically sensitive issues to come before the judiciary, yes, I think it is all the more important, and this is partly behind, I think as well, the setting up of the Supreme Court; that there is that separation.

Mr Rozenberg: I think the two do not necessarily go together. It was the Government's idea to put judicial appointments on to an independent footing. I suppose it was inevitable. The fact that we are talking about it now and there are proposals to amend it shows that it was not entirely successful, but, as the Lord Chancellor says, it is too late to back now. I agree with Frances, the more discretion, the more power you give the judges, the more important it is for governments not to be able to interfere in who those judges are.

Q126 Ian Lucas: But what is interesting is that that is the complete opposite of the United States' system, where they do have explicit authority to overrule laws and they are politically appointed.

Mr Rozenberg: Yes. The question is which is desirable? I will happily give you my views on that, but that is perhaps not what you are asking.

Q127 Lord Hart of Chilton: I want to ask you two questions, but one very small one, because you touched on it really. If the Lord Chancellor were to move himself away from some of the appointments, do you think it is appropriate to strike the balance to say that he only has connection with the most senior appointments and has nothing to do with the junior appointments. Is that the appropriate balance?

Ms Gibb: Yes.

Q128 Lord Hart of Chilton: You are tending to go that way, Frances, are you?

Ms Gibb: I think so. I think you can make a case for that, that if he is to have any involvement at all, I think the level has been set High Court and above for the reasons I have mentioned before; that the numbers are smaller; that the cases are likely to be most significant in some respects - touching on government I mean - so, yes.

Mr Rozenberg: Yes, that is right, and also because High Court judges and above have greater security of tenure than the lower judges. You could say that the Lord Chancellor need have a say only in the most senior judges, by which I am thinking of the Lord Chief Justice and somebody who might become Lord Chief Justice next time round or the time after that, because the Lord Chancellor has to work very closely with the Lord Chief Justice under our system and it is arguable that the system is not going to work if the two individuals do not get on properly.

Q129 Fiona Mactaggart: I think, if I have read you right, both of you have said that the Judicial Appointments Commission should be given some time to fix any mistakes it might have made. I am summarising rather brutally, I suspect. What do you think are the mistakes it has made?

Mr Rozenberg: It was set up too quickly; it started work too quickly; as I said earlier, it was over engineered - this is not the Commission but the structure with which it had to operate - and it made the structural mistake of appointing a pool of people to the most senior appointments, thus blighting the careers of those who were selected and not selected. I am repeating myself. Those were fundamental problems. There were the other practical problems about medical appointments which led to delays of two months, we were told, in appointments being made, and so on. So there were some structural problems which they seem to be working through.

Ms Gibb: I would like to add that I think the Judicial Appointments Commission is in an impossible situation. It has come under fire from all quarters from those who had great

expectations that diversity would be improved overnight, and then, of course, anxiety and suspicion, if you like, from more traditional quarters who do not see the point of it and who think that it is going to let diversity get in the way of merit. So it has had a very, very difficult tightrope to walk, and I think the problems Joshua has outlined - the structural problems, the bureaucracy and one thing and another - have not helped at all. Now, if they get that sorted out, I think it should be given a bit of a chance to see if it can be made to work.

Q130 Fiona Mactaggart: My impression is that, not only that diversity has not been proved over night, it seems to have gone backwards.

Mr Rozenberg: The figures do suggest that, yes, in terms of the number of women and people from the ethnic minorities. The question you then have to ask is whether that was the aim of the Commission, whether that was what the Commission was told to do and whether it, therefore, failed in that aim. I do not think that was what the Commission was told to do. As Tim Dutton made clear just now, the aim was to select on merit. They had to have regard to the need to encourage diversity in the pool available for appointment, and they have done various outreach activities to try to achieve that, but I do not think that you can say that they have failed purely because the number of people from the ethnic minorities and women has apparently gone down in the year that they have been operating.

Ms Gibb: I think it is right, as Tim Dutton said, that people will have been quite substantially put off by the delays and the fact they were kept waiting - your career is on hold for a year and the original problem about not knowing, even if you were selected, whether you would ultimately get a job - but I think, and probably this point has been made, you have to look beyond the appointments commission and ask, even if you have removed all those barriers or improved the selection procedure, why people do not want to apply for these jobs. I think actually a lot of judicial jobs are not particularly attractive. It is not very attractive to be a

High Court judge and have to go out for six weeks on circuit, particularly if you have got a family. I think people actually do not want the jobs half the time.

Q131 Fiona Mactaggart: The issue does not seem to be applications. One of the good things about the Judicial Appointments Commission is that we now have numbers for the number of people who apply and the number of people who are appointed, not something that has ever existed before, so there is much more transparency than previously. My colleague, Ian Lucas, highlighted earlier the fact that there seemed to be a bias towards barristers within the system, who were only 30 per cent of initial applicants but ended up being 39 per cent of those appointed, and that, combined with the lack of progress, let us put it that way, in terms of ethnic minorities, women and so on, suggests that the Judicial Appointments Commission is still replicating the "people like us" phenomenon that has caused quite a bit of anxiety about whether our judiciary works if it just represents the people like us who have always been there.

Mr Rozenberg: You could say that, or you could say they are just appointing the best people for the job as they see it. If the best people for the job happen to be white, middle-class men who are barristers, then that is no reason for not appointing them.

Q132 Fiona Mactaggart: I am not saying that there should be an institutionalised bias against such a character, what I am suggesting is that there seems to be an institutionalised bias in favour of them and that the existence of the Judicial Appointments Commission, which many people thought would begin to overcome that, does not seem to have done that. Is there anything additional that we could do in order to overcome that if we believe, in the words of Baroness Hale, that a more diverse judiciary matters not only to the administration of justice but also to the public perception of the justice system?

Ms Gibb: I just caught the end of Andrew Holroyd, and I do not think he seemed unhappy about the number of solicitor appointments, particularly at the lower levels. I think one of the points they touched on also, as did Joshua at the beginning, was the requirement for doing part-time work. I think that does actually present a big barrier to solicitors being able to take those jobs. I think they need to look beyond the selection procedures to the requirements, the eligibility criteria. Maybe it is right, or may be it is not, to have part-time work as a stepping stone, but it is a barrier.

Mr Rozenberg: The other thing that they are looking at is appointing judges from within the CPS. The CPS is a very large employer of lawyers, with a very good proportion of women and ethnic minorities, but if you are going to say that people who are going to become criminal judges, even circuit judges or High Court judges, need to sit part-time, as I think you should, then you run into difficulties because it is considered that prosecutors should not sit part-time as judges. The Judicial Appointments Commission wants to change that; I personally have misgivings about that; but once you make it easier for people who are not mainstream white, middle-class, male barristers to apply for judicial appointments, then you run into these practical problems. I am all for diversity, I am all for reaching out, I am all for helping people to understand that these jobs are available to them, and so on, provided we keep to the principle in the statute, which is that merit should be the only test.

Q133 Fiona Mactaggart: Do you think that that on its own is going to produce a more representative judiciary?

Mr Rozenberg: Merit on its own being the only test is not going to, and it is right that the Judicial Appointments Commission is looking at other versions of what I keep referring to as outreach and looking to encourage people to apply in the way that I understand it is. It, above all, is very conscious of this, but, as Lady Justice Hallett says, you have got to fish in the available pool.

Q134 Fiona Mactaggart: So you would oppose any part of this Bill at which we are looking at the moment creating a duty, or responsibility, or a target, or anything which was designed to produce a more diverse judiciary?

Ms Gibb: Yes. I would oppose that in principle. I do not think, in any case, that should be part of legislation. If the Justice Secretary wants to set that as an aspirational policy, that is one thing, but I personally do not think it is right. In any event, he has set the overall policy and the duty to promote diversity and I think that is probably as far as it should go. I do not think you should be looking at targets, numbers or anything like that.

Mr Rozenberg: I agree. Any perception in the public's eye that people are being appointed because they tick a box or because they are in a minority is demeaning to them, it is damaging to people who have made it in the past without such targets or assistance, or whatever it may be, and it is damaging the public confidence in the judiciary.

Fiona Mactaggart: I think the history of targets and quotas in Parliament suggests that that is actually not the case. I bet there are very few people who could name those members of Parliament who were selected from women-only shortlists, but thank you.

Q135 Lord Norton of Louth: On the point about the Lord Chancellor and the powers that the Bill proposes to confer, they include stipulating eligibility criteria on a statutory basis, but also the power to remove appointments under Schedule 14. Do you have views on that? The previous witness did not seem to see that as a problem, but the Lords' Constitution Committee is warning it is a Henry VIII provision to be able to do that. Do you have any views on that?

Ms Gibb: Simply, I think, on the eligibility criteria, it really should be a matter for the Judicial Appointments Commission and the Lord Chief Justice to decide between them. It should be a joint effort. That is my view on that. The removing of jobs out of the appointments process so that you can fast-track the filling of jobs seems to me to undermine the whole purpose of setting up the Judicial Appointments Commission. If you are going to

do that, I think it would be undermining to public confidence in the Commission and defeat the whole object of the exercise.

Mr Rozenberg: I can see a certain advantage in the Lord Chief Justice being able to move people sideways without the need for it to go through the Judicial Appointments Commission process. We know perfectly well that the system of a tap on the shoulder encouraged people to apply and in some way embarrass people to accept appointments and that these people are not applying now and not taking it now and not becoming judges, but that system has gone and if that is what is proposed I would be against it.

Q136 Chairman: One of the purposes of the Bill is to reduce bureaucracy. Do you think the draft Bill goes far enough from the appointments point of view, particularly the decision such as Lord Chancellor being entitled to delegate some of his responsibilities to others?

Mr Rozenberg: I think there has been a problem in the past over the bureaucratic structures in the system. I could not point to chapter and verse, but particularly the business about medical appointments, papers going back and forth between the Commission and the Ministry, and so on. I am not aware that the Lord Chancellor has complained that he has had too much work to do and that he cannot delegate it to officials. Certainly the Lord Chief Justice is required to do a very great deal, and if he could not delegate it, it would be quite worrying. It would be desirable if it was entirely clear which decisions should be taken by the Lord Chancellor or the Lord Chief Justice personally and which can be delegated to more junior ministers and more junior judges respectively. In terms of the bureaucracy, I see that the Government has taken the opportunity to put certain things into the Bill which, it says, are implicit and it wants to see on the face of the Bill, for example, a new section 89(a) in paragraph 24 of Schedule 3: reconsideration of the decision not to select. The Lord Chancellor may require the Commission to reconsider a decision that the selection process has not identified candidates of sufficient merit for it to make a selection. It says in the notes

to that that this is the situation anyway. Then one asks, well why are they putting it in the face of the legislation? There must be some reason. Is this because they want to pressurise the Commission to accept a second-best candidate? I think one has to look quite closely at all the detail in this Bill and ask how much of it is necessary and whether there is any ulterior motive that may not be entirely obvious from the face of the Bill and the explanatory notes.

Q137 Chairman: Are you actually saying that, because of the lack of formality, the transparency disappears and, in consequence, we may get the wrong decisions?

Mr Rozenberg: I would not go that far. I am in favour of transparency, I am in favour of things being spelled out, but I just wonder whether in spelling things out the opportunity is being taken to make a subtle change to the existing situation.

Ms Gibb: I think if the Lord Chancellor was to retain a role, which I personally think should just be a formal approval role, on the appointments, he should actually do that himself and it should not be devolved to officials or junior ministers, because he has the statutory responsibility to ensure the independence of the judiciary, and so on. I just think it should rest with him. As Joshua said, I have not heard that it is an onerous requirement.

Q138 Lord Campbell of Alloway: I want to ask a short question, if I may, on the question of application. Surely the detail matters and you have to draw a line. You cannot apply, even today, to be a member of the appellate committee of the appellate court of the High Court. I do not know whether today you can apply to be a county court judge or a district judge - in my day you could apply to be a county court judge - but there has to be a line drawn and you cannot, because you believe we are in a new transparent society, accept the position that people can just apply to become a judge and, because they apply, their application has to be entertained. You have to draw a line. Do you agree with this or do you think that anybody can apply to be a member of the appellate committee of, not this House, the House of Lords?

Ms Gibb: When the job is advertised the requirements for the job are set out, and I think anybody who fulfils those requirements in terms of judicial experience, if it would be for a Court of Appeal judge, why should they not apply? It does not mean their application will be entertained - of course not - but why should they not apply?

Mr Rozenberg: I think the way it works for the higher appointments is that everybody who is eligible is deemed to have applied unless they say they do not want their name to be considered. Obviously, when you get to appointments to the Court of Appeal, they tend to be drawn from the High Court and, as far as I know, every High Court judge, except those who express their intention to retire, is assumed to apply, and even more so when you get to the House of Lords. I do not think that is a problem, but in answer to your question, yes, if people meet the statutory criteria for judicial appointment, then they should be entitled to apply.

Q139 Lord Plant of Highfield: I wonder if I could take you back for a moment to some of the responses to Fiona Mactaggart's questions, because I have been puzzling about this. I wonder if you could say a bit more about what you mean by merit; that merit should be the ultimate criterion? What is merit in a judicial sort of context? If you took a rather different but not wholly dissimilar kind of situation, if you were sitting on an appointments panel in a hospital to appoint a consultant, you might be faced with someone who is demonstrably the best clinical scientist, as it were, but lacks almost all skills in terms of communication, empathy, bedside manner, call it what you will, and yet those skills are absolutely essential to being a good doctor, and a lot of those skills have to be exercised in relation to people from different backgrounds, different circumstances, ethnic minorities, different genders, and so forth, that you are dealing with. If you are a man and you are dealing with female medical conditions, or the other way round, there is a whole lot of sensitivities to do with communication, with the effective exercise of your vocation as a doctor that brings these

other aspects of the skill range into play along with the clinical science, as it were. Does any of this have a role to play in determining the merit of a judge and, if so, can we really draw the rather sharp distinction I thought you both wanted to draw between merit must out, as it were, and be sharply distinguished from issues about diversity and targets and so forth?

Mr Rozenberg: Yes, the Judicial Appointments Commission drew up as one of its first tasks, I recall, criteria for judicial appointment and how it was going to judge merit. I cannot summarise it from memory, but my recollection is that it seemed entirely sound and sensible, and I have not heard any suggestion that it needs to be changed. If you want my view as to the most important criterion, it is good judgment, but all the other attributes to which you implicitly referred I think are included in the Commission's criteria, and nothing I said is intended to detract from that. When I say "merit", I mean what the Commission regards as merit.

Ms Gibb: That is right. There are several points. I have not got them in front of me, but they did spend some time defining it and reach a yardstick that they are going to use. All I would like to say is that I do not think it is quite right to say that we are saying merit trumps diversity, although it may do. I completely endorse what Tim Dutton said; that diversity does not mean a dilution of merit; it can mean a strengthening of it. There is merit in diversity and a diverse judiciary does not mean a less high standard one.

Mr Rozenberg: I agree.

Q140 Lord Hart of Chilton: Do you think that there are any specific issues that you want to draw our attention to that have been missed altogether - I am sure, in your case, Joshua, there must be - things that have been overlooked by the Bill?

Mr Rozenberg: None immediately spring to mind, but I might take the invitation the Chairman gave to the previous witnesses to write in or write publicly if I spot any.

Ms Gibb: No, not really. I have covered it. It is not really for the Bill. It was just to bear in mind the wider picture and perhaps barriers and disincentives in some of the jobs themselves and the lifestyle that they involve.

Mr Rozenberg: I am worried that in the past the Commission have not attracted enough good candidates, particularly for jobs in the Commercial Court. I think they have more or less accepted that that is a problem, but by a certain amount of nifty footwork they have now got some quite good people, and have appointed them recently, and we are told that they have got good applicants under the present system. So long as they are getting the people and so long as they are reasonably open with you, the parliamentarians, and us, the press, on behalf of the public, then we should give them a fair wind.

Chairman: Thank you very much indeed, and thank you very much for coming to give evidence. Of course, if there is anything that comes to your mind afterwards, please do write in. We would be grateful for that. Before we finish the public session, I failed to mention at the beginning of this particular session that members have declared interests relevant to the inquiry, including an additional declaration from Lord Hart earlier in the session. They are available today and on the Committee's website. Thank you very much for coming.