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Witnesses: Lord Steel of Aikwood and Lord Morgan

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Members present

Baroness Jay of Paddington (Chairman)
 Lord Crickhowell
 Lord Cullen of Whitekirk
 Baroness Falkner of Margravine
 Lord Hart of Chilton
 Lord Irvine of Lairg
 Lord Lang of Monkton
 Lord Lexden

Examination of Witnesses

Lord Steel of Aikwood, Leader of the Liberal Party 1976–88, Liberal Chief Whip 1970–76, and **Lord Morgan**, author and historian

Q30 The Chairman: Good morning, Lord Steel and Lord Morgan. Thank you very much for coming and for agreeing to discuss the areas which we have indicated we want to explore. I am sure that you will have specific points you want to make. There is a broad range of constitutional questions that the committee is concerned with. We would like to focus on some major points, one of which is the possibility of a looser arrangement for government than a formal coalition within the British system when there is a hung Parliament. The second is the question, which has historical as well as current interest, of the position of a minor party or a second partner in a coalition. Then there is the question of parliamentary endorsement of any arrangements that are made, whether formal or informal. Finally, Lord Steel, we would be very grateful if you were able to reflect on the situation in Scotland when you had a coalition government and whether there are any points we should look at in the context of the Westminster Parliament. We have been interested in the somewhat sanguine academic evidence that we have had from some of our witnesses about the infinite flexibility of the British constitution and therefore a lack of concern that people have about anything which is done provided that it is done by an elected politician. I

reflect my own view in saying that some of those things in which one is either experienced or brought up to believe in about British government seem to be perfectly malleable to any political decision which happens to be useful at the current time. Perhaps I may begin by asking you both whether you think that there have been major departures from constitutional practice and constitutional convention in the formation and running of coalition government. One is referring particularly to the current one, but there are many historical examples which you, Lord Morgan, have illustrated very helpfully. Lord Steel, perhaps you could begin.

Lord Steel of Aikwood: I think the historian should talk about those examples.

The Chairman: Indeed. I defer.

Lord Morgan: This is a different kind of coalition from many that we have had. The one that I have written about at some, perhaps excessive, length was the coalition of 1918–22. That was with the fragment of a party—half the Liberal party roughly—and the consequence was that its future was always unstable. Indeed, from about mid-1920 onwards, the coalition was simply drifting with no particular purpose other than the rather important purpose of keeping Lloyd George as Prime Minister—but no other particular policy. This one is two entire parties operating under a fixed-term Parliament and they are going to be there, for sure, until May 2015. Having said that, and perhaps I could elaborate on this later, I think in some ways, extraordinary though it was, the coalition of 1918 was a more orthodox and properly formed coalition despite its very bad reputation, whereas this one seems quite unusual and I am not sure that the constitution is capable at the moment of coping with it.

The Chairman: That is the point we would be very grateful for you to expand on, and please do so now—about the constitution being able to cope with the present situation.

Lord Morgan: It seems that that the coalition was not elected. It went before Parliament not on the basis of an agreed manifesto. In 1918, divided though they were, the coalition

Liberals and the Unionists, or Conservatives, had one manifesto. The people knew for whom they were voting. My recollection is that about a million and a half people voted for the coalition Liberals whereas nobody actually voted for the Liberal Democrats or, for that matter, the Conservatives to be in this coalition. So there is an absence of a mandate, an absence of a manifesto, and consequences, which I am sure we will look at, for collective responsibility. That seems to me, frankly, bizarre under the present circumstances.

The Chairman: We shall certainly return to collective responsibility. I think that Lord Lexden wants to come in.

Lord Lexden: In 1918 there was a joint manifesto of Bonar Law and Lloyd George. One is rather impressed by the fullness of it. This is a more detailed manifesto than the electorate had been accustomed to receiving before the First World War, yet it is impressive in the way it is infused with Liberal principles; for example, self-government for Ireland, the replacement of the House of Lords, an elected second chamber and land nationalisation. It is quite a full manifesto and it relates very directly to the legitimacy point.

Lord Morgan: It is a full manifesto and, as you imply, Lord Lexden, it is a very Liberal manifesto. It was written by a famous Liberal historian, HAL Fisher, who knew how to write—or knew how to write history at least. It presented a clear picture to the country. In my opinion, despite its later ill-repute, the coalition operated largely on the basis of that. If you look at what it did about Ireland, about social reconstruction and, to an extent, about foreign affairs, you will see that, to a degree, it was faithful to its original mandate.

Lord Steel of Aikwood: If I can pick up on what Lord Morgan was saying about this coalition not having a previous agreement: it is true that nobody voted for it and nobody expected it, but it would have been irresponsible of the political parties in the situation following the previous election had they not got together to attempt to form a stable government given the financial situation of the country. Whether that stable government should be a coalition

or a parliamentary agreement is something that we might come on to later, but it seemed to me that the most significant early move of the coalition was the decision to have a fixed-term Parliament. That provided the cement for the coalition to ensure that it would last even though there was no previous agreement. That remains a very significant move.

Q31 The Chairman: The point that you raise, Lord Steel, about alternative parliamentary arrangements is something that we are very interested in. As you mentioned, this was a way that it was thought in 2010 that stability would be achieved, whereas the argument about the parliamentary arrangement is usually that it is not stable. What is your reflection, historically, on that and on the alternative?

Lord Steel of Aikwood: I think that it could have been stable. You could argue that an agreement for confidence and supply, as it is called, could have been stable if it had been allied to the fixed term. If the two had gone together—I do not know whether there was any discussion of that; I was not party to these discussions—I see no reason why that could not have been an acceptable alternative.

Lord Morgan: It seems to me that the fixed-term Parliament means that a coalition for which nobody voted is now almost impossible to remove. I accept totally Lord Steel's authoritative judgment on whether this was the only political solution, but the question whether it is compatible with our constitutional arrangements and tradition is quite different.

The Chairman: Lord Steel, given that the situation in the 1970s was pretty unstable economically, do you feel on reflection that that arrangement would have been more successful had it been formal coalition.

Lord Steel of Aikwood: I think that the situation was quite different on two grounds. First, we were in the middle of a Parliament; it was not immediately after an election. It was a mid-term issue where the Government had gradually lost their parliamentary majority, so there was only the fag end of a Parliament left in which to consider what to do. The other

difference between then and now was that I led a very small party compared with the Liberal Democrats today—I cannot remember how many MPs we had; I think that it was about a dozen. A full-blown coalition would have been a bit lop-sided, to put it mildly, just to support a parliamentary majority. So the arrangement that we came to in the 1970s was, I think, the right and proper one at the time.

The Chairman: Do you think that it fitted more comfortably—given that there were different historical facts about it—with the constitutional conventions?

Lord Steel of Aikwood: Yes, I think it did, because it provided the Government with the assurance of parliamentary solidity for the remainder of the Parliament—initially, it was for 18 months—to enable them to deal with another financial crisis.

Lord Morgan: That is absolutely right; I agree with Lord Steel. It introduced a period of stability, although the question was stability for how long. When I had the privilege of writing your father's biography, *Lady Jay*, I discussed this with Jim and asked him, as so many people did, why there was not a general election in September/October 1978. He told me that he had gone through, in his way, the electoral statistics and concluded that they were likely to produce a continuation of the minority government situation that he had had for the previous 18 months. He did not want a re-run of that; he would almost have preferred to be defeated than have a re-run. That suggests that, in the end, his impression of it was not favourable, although I hasten to say that his impression of Lord Steel was extremely high. He writes with great warmth about him in his book and he spoke in very similar terms in our conversations.

Lord Steel of Aikwood: I had a similar conversation with him some time after, when he came on holiday to Scotland after he had retired. He gave exactly the same answer to me as he gave to you, to which my response was, "Well, what was wrong with that? We were doing quite well."

Lord Lexden: Perhaps I may ask Lord Steel whether he feels that the pact of 1977–78 might have benefited from fuller preparation. I think that you have been quoted as saying fairly recently that little discussion took place after the October 1974 election as to what might happen if the circumstances of 1977 arose and that the party as a whole had not brought its collective mind to bear on this. You have got the support of the parliamentary party. Do you think that in circumstances where a pact might seem the best course in future there should be wider consideration within the party than took place at that time?

Lord Steel of Aikwood: You are probably making a good point. There was no advance discussion. The situation loomed because of the motion of no confidence that the Leader of the Opposition had put down for the following week, so we had only a weekend in which to decide what to do. My mind goes back to the earlier episode, after the February election in 1974, when Ted Heath made overtures to my predecessor in the Liberal party. I was Chief Whip at the time; we were a very small group. I remember the discussion that we had after the election in room J below, where the parliamentary Liberal party met. There was general agreement that there was no way that we could vote for or support the Prime Minister because he had gone to the country on the issue of who governed Britain and lost; and, anyway, even added together, we did not make a majority. For all these reasons, we were not going to accept his overtures. I remember very clearly Jo Grimond, who was the former party leader, saying at that meeting, “But let us not get carried away with the immediate discussion. There has got to be a serious discussion in the party about what the circumstances would be in which, if this happened again, you would be prepared to support a government.” He was absolutely right. It was because of his declaration on that issue that I continued to keep an open mind on the subject.

Q32 Lord Crickhowell: I was very interested in Lord Morgan’s initial statement about the fact that the 1918 coalition had a mandate and a manifesto and so on, yet on reading

your very interesting paper, Lord Morgan—I always enjoy reading your history—I was struck by what a different world it was from the current world. There may have been a manifesto, but it was concocted in smoke-filled rooms by people with no connection with the party in the country. You comment that there was no effective grass-roots organisation. You say that the Liberals in the coalition were a relatively frail reed. They had no clear membership—the links with their departed brethren who followed Asquith remained important—and it was a pretty rough and ready process that had led to it. Although there may have been a mandate, it seems to me that the crucial difference is that the world has fundamentally changed in that now we are dealing with parties in the country, with a press that takes a totally different role, and with openness about events. The constitutional situation now is totally different, and it is very difficult to draw any conclusions from these interesting historical past events.

Lord Morgan: I do not think it is a totally different world. In December 1918, it was a world in enormous flux. The First World War had transformed British politics, and there was an element of fluidity. One consequence of that was that a lot of the debate took place not in Parliament but in the newspapers. The role of the press, and, I may say, the role of spinners and special advisers, was certainly around in that time. You are entirely correct in implying—

Lord Crickhowell: And lobbyists?

Lord Morgan: Oh, yes, plenty of them, and rather more dishonest even than now. In 1918, it was a coalition created at the centre. It had no grass-roots foundation, particularly on the Liberal side, in the way that the coupon, the arrangement of the seats, in 1918 was conducted. So there was a basic artificiality.

I will make one other general point, if I may. The great weakness of the British constitution is its secrecy. It operates in a closed atmosphere. We do not have a written, codified constitution, which I know would take ages to produce but which I have always supported

for a variety of reasons. The secrecy surrounding the 1918 constitution, and for that matter the 1931 constitution, which we have not discussed yet, seriously discredited it. In my opinion, the secrecy with which this coalition came into being in a few days, discussed by just a handful of politicians with nobody knowing the outcome, has helped further to discredit politics. It is a reason, although not the only reason, for the cynicism and lack of confidence that people have in the political system.

Q33 Baroness Falkner of Margravine: Lord Morgan, can I ask you to elaborate a little on what you said about the current coalition coming about as a consequence of conversations between a handful of politicians? What do you mean by that, and do you therefore consider that the Liberal Democrats convening a party conference to approve the coalition to be redundant?

Lord Morgan: The people did not approve it, whatever the Liberal conference approved. I feel that we had a thing called the general election, in which people made a series of promises to the electorate, and it was followed by a secret conclave and uncertainty as to which way the Liberal Democrats were likely to go. The degree of popular ratification either in the country or in Parliament was zero.

Baroness Falkner of Margravine: Can I come back on that, because last week we had evidence from academic experts who reminded us that the British constitution, in its mandate, operates in two parts? The public vote for representative Members of Parliament, from which emerges the Prime Minister. In 2010, certainly from what we know of the Liberal Democrats, the parliamentary party, including surprisingly the party in the House of Lords, was consulted extensively, I believe, on four or five occasions. So in terms of the constitution and the mandate that the voters give, the mandate was given to MPs, who then translated it into a mandate to form a government. I understand that that happened on the Conservative side as well, although perhaps not as extensively as Conservative MPs might

have wanted. So both the Prime Minister and the Deputy Prime Minister emerged out of a representative democratic process.

Lord Morgan: I take that point, but I think that it illustrates how the division is accentuated between the popular will being expressed and popular sovereignty being enforced and the politicians reaching a decision. It is the kind of thing that has led to the discrediting of party politics in, for example, Italy. I was in Italy in 2011 and hardly anyone was celebrating the 150th anniversary of the King of Italy, because he just seemed limited to them, and in their case—they are not here—a corrupt political class was making the decisions in private and turning up in the end with people such as Craxi, who led the Italian socialists in government for years, even though he had less than 10% of the votes. Therefore, nobody was cheering in Italy and I would be very sad if we approached that situation here. I think it is possible—we will no doubt discuss this—to have some kind of parliamentary ratification as well, which we did not have this time.

The Chairman: We will certainly come on to that. I know that Lord Lang wants to come in, but did you have any comment that you wanted to add to that exchange, Lord Steel?

Lord Steel of Aikwood: I am not sure that I agree with Lord Morgan about parliamentary endorsement, because, as Baroness Falkner was suggesting, once the two parties had come to an agreement, they automatically had a parliamentary majority. I am not quite sure what other endorsement was required.

The Chairman: We might come on to the suggestion that has been made by some about having, for example, an investiture vote.

Q34 Lord Lang of Monkton: I can understand why, towards the end of a five-year term, a pact of the kind entered into in 1977 by the Liberal party and the Labour Government makes sense for survival, but looking to the future and a possible hung Parliament, where do

our witnesses consider that a confidence and supply agreement might fit into the scheme of things? What considerations would come into play? Do you think it is a viable option?

Lord Steel of Aikwood: One consideration is the relative strength of the two parties. As I indicated earlier, if the third party, the balancing party, has a substantial number of Members of Parliament—60-odd, which they have now—that is a very different situation from the one in which they have only a dozen or 10. I do not think that in that situation a coalition should automatically be thought to be better than confidence and supply. That is a major consideration.

The other would be the state of the country at the time. Are they, as happened both in the 1970s and last time, a government who are grappling with a serious financial situation, or are they not? If they are not, the confidence and supply becomes easier, I would have thought.

Lord Morgan: I agree with Lord Steel pretty much on that. The problem with confidence and supply arrangements is, first, how long they would last. Were they just session by session? I think that was why Lord Callaghan of Cardiff in the end became dissatisfied with the circumstances of 1977–78, even though they brought unquestioned benefits, including in the economy.

The other question is: what is the substance of them? The only guarantee of that would be making it as clear and as publicly available as possible. Private, covert arrangements, and there are a variety of them, are unsatisfactory for our democracy and a major reason why there are so many criticisms of our system from a variety of pressure groups at the present time.

The Chairman: I know that Lord Irvine wants to come in, but can I ask a supplementary question to that point, Lord Morgan? With the Fixed-term Parliaments Act 2011, which makes a considerable difference, you could presumably have a stable confidence and supply arrangement that lasted for a Parliament, if that was agreeable?

Lord Morgan: I would prefer that to what we have now.

The Chairman: You are nodding too, Lord Steel.

Lord Steel of Aikwood: I am nodding because I come back to the point that the 1977–78 arrangement was past the mid-term point of a Parliament. If there had been an election in the autumn of 1978, as we all expected, and if Mr Callaghan’s advice was correct that we come back with another hung Parliament, we would have been negotiating for a full Parliament, which would have been quite different. I do not think we would have done it on a session to session basis.

Lord Lang of Monkton: Would you have gone for a confidence and supply arrangement at that stage, or would you have insisted on full coalition, given the numbers that you had?

Lord Steel of Aikwood: I do not know. I had a very brief conversation with the Prime Minister when we ended the pact about what might happen in future. At that stage, we did not rule out a coalition, but, again, numbers would have come into it.

Lord Lang of Monkton: It would presumably ease the collective responsibility point and therefore leave the minority party free to be critical of government policies in a way that of course is unthinkable at present.

Q35 Lord Irvine of Lairg: I wonder whether the exchanges between our witnesses disclose a fundamental disagreement between them, but that the courtesy of the exchanges has been such as not to bring it to light.

Lord Steel of Aikwood: We are not a coalition.

Lord Irvine of Lairg: I appreciate that, and I hope that after this group of questions you will definitely be seen not to be. As another politician in a different context said, it is a waste of time for sailors to complain about the weather at sea because the weather at sea is what it is. The current coalition partners faced a particular situation, and when they decided to make their coalition agreement, Lord Steel said—I have sympathy with the proposition;

indeed, I agree with it—that it was unavoidable and in the national interest. Do you agree with that, Lord Morgan? Surely it is unsurprising that the coalition agreement that follows between parties of a particular size does not naturally yield itself to the constitutional conventions that arise in the context of one-party government.

Lord Morgan: I think it matters in part what sort of continuity there is between pre-election politics and post-election politics. What we have is a response to the particular situation of a so-called hung Parliament that was not anticipated. I think that it should be clear. I do not think that the circumstances in which the present Government came into office were clear, and that is a major reason for the disenchantment with politics.

Lord Irvine of Lairg: I do not quite understand that, because the two parties—the Liberal Democrat party and the Conservative party—were faced with a particular situation after the outcome of the election was known. I do not see how it would have been realistic to expect them to have anticipated that particular set of circumstances. Therefore, what point is there in saying that it would have been better if that had been anticipated?

Lord Morgan: No, it could not have been anticipated; it is a matter of how you respond to it, I think.

Lord Irvine of Lairg: Well, quite. Do you agree with Lord Steel that the response to it was responsible and, indeed, almost unavoidable?

Lord Morgan: I think that politically it was unavoidable. I think that constitutionally—that is the remit of this committee—the nature of its authority is extremely questionable.

They formed a coalition, and that, it seems to me, was inherent and inevitable in the circumstances. The question is what the coalition was about, what it was for, what its purposes were.

Lord Irvine of Lairg: You could read the coalition agreement and that would tell you.

Lord Morgan: After that—I imagine we will get on to collective responsibility shortly—what the coalition is about and what its nature is have been interpreted totally differently, even this week by Mr Clegg. It is one thing having the form of a coalition; it is another thing having some sense of unity of conception of policy and unity in the implementation of policy, when the circumstances arise in which people see ministers apparently having agreed in Cabinet to, let us say, free schools and then the Deputy Prime Minister says, “Well we keep our options open on this and we have the gravest doubts about it.” I think that the man on the Clapham omnibus would say, “Where are we?”

Lord Irvine of Lairg: With your permission, Lord Chairman, I invite Lord Steel to comment on that.

Lord Steel of Aikwood: If I cast my mind back to the situation in the 1970s, if the Prime Minister had gone to the country in autumn 1978, as we expected, I was expecting to run an election campaign focusing on the role that we had had as a small party and asking for more members in order to increase that influence in the following Parliament—not excluding a full coalition but certainly looking to a whole-Parliament agreement. That opportunity was slightly lost by the fact that an election did not take place then. But that would have satisfied the point you are making, Lord Irvine. It would have been openly canvassed during the election campaign. That did not happen at the last election, which is Lord Morgan’s point. As I recall, there was little discussion of what might happen if nobody had a majority. It was not a major feature of the election. That was the problem that Lord Morgan seized on. As to the present situation, where ministers appear sometimes to contradict what is government policy, this comes back to the chairman's original point. The constitutional arrangements are uncertain. You have a diminution of collective responsibility, in my view, at present. Maybe that is inevitable in a coalition.

The Chairman: Could we momentarily park the collective responsibility question, which I know Lord Crickhowell wants to come on to? On Lord Morgan's general point about openness, Lord Cullen had another point about ways of establishing clearly who was governing.

Q36 Lord Cullen of Whitekirk: I think this was touched on briefly earlier. Some of our witnesses suggested that to counter criticism that voters cannot vote for a coalition, future coalition agreements should be voted on at the start of a new Parliament as the programme for the entirety of that Parliament and possibly subject to amendment by the House of Commons at that stage. I invite each of you to comment on that. Do you think it useful or relevant and what might the implications be?

Lord Morgan: I agree with that proposal. I teach a seminar with Dr Andrew Blick, who has sent you written evidence. I have read it and broadly speaking I agree with it. It seems to give some kind of proper constitutional basis and a public one—it is recorded in *Hansard* and so forth. Incidentally, there was a problem with the arrangement that Lord Steel negotiated with Lord Callaghan, although I think it worked excellently—as a supporter of devolution, I think it had a positive effect on that. But it was an arrangement that was very difficult to approach. The ministerial committee was not subject to scrutiny in Parliament. Michael Foot said that it was an inter-party matter and not an internal government matter. I looked in vain, perhaps not surprisingly, in Michael Foot's papers for the minutes of that meeting. Again, more openness in democracy, which is more conspicuous in other countries, notably the United States, is here lacking in our arrangements.

Lord Steel of Aikwood: I am not certain about this. Lord Cullen's suggestion is that after the coalition was formed there should have been some kind of parliamentary vote. But in effect that happens, because the minute the coalition is formed various things come forward

and the Queen's Speech is produced. What difference would a resolution saying, "We support the coalition" make? I am not clear that it would make all that big a difference.

The Chairman: There is also the question about a so-called investiture vote.

Lord Cullen of Whitekirk: If the difficulty is that the electorate had not had a chance to express a view, you do not move down that road because it is still a view taken by the elected representatives.

Lord Steel of Aikwood: But who else could take it? That is what the elected representatives do.

Lord Cullen of Whitekirk: That is what I am suggesting.

Q37 Lord Irvine of Lairg: The contrary to what Lord Cullen has stated is surely this: a coalition agreement represents the maximum on which the two parties who constitute the soi-disant coalition can agree. Parliament is not a party to this coalition agreement. If Parliament voted that it should be amended in some respect, surely that is not real-world politics. In very difficult political circumstances—and there was a financial dimension of course, as Lord Steel said—it could make confusion worse confounded.

Lord Morgan: I am really putting to that to Lord Steel.

Lord Steel of Aikwood: I agree. A problem could arise if the MPs in the minor party got so unhappy about something that was being done in the name of the coalition that they revolted against the Government. But that is a little difficult now with fixed-term Parliaments.

Lord Hart of Chilton: Even if the programme was approved, the individual measures would still have to progress. Simply because you had approved them in one session would not mean that as the individual measures came forward that would bind anyone, so I am not certain where it would take you.

Lord Steel of Aikwood: You say that it is binding, but if you take the example of the House of Lords Reform Bill—

Lord Hart of Chilton: No, I am saying that it would not be binding. Parliament would have approved the coalition agreement but individual measures in that agreement would then have to come forward and anything could happen. You could not say, “Aha, you’ve all approved this, so how can you go back on that?” I am not certain how the approval of the coalition agreement would take you further forward.

Lord Steel of Aikwood: I agree with Lord Hart. If you look at the example of the House of Lords Reform Bill, it was part of the coalition agreement. It fell apart in the House of Commons not through the vote of the minority party but that of the majority party. But the rest of the agreement goes on.

The Chairman: Did you want to come back, Lord Cullen? There seems to be disagreement between members of the committee rather than between the witnesses.

Lord Cullen of Whitekirk: I want to make it clear that I do not disagree with what has been said by Lord Irvine or Lord Hart: I am simply putting up the arguments to see what is said.

The Chairman: Let us then move on to the question of collective responsibility, which Lord Steel has just touched on.

Q38 Lord Crickhowell: Lord Morgan, you have twice been critical of what has happened on collective responsibility since this Parliament began, which is a view that I share. As a former Cabinet minister bound by collective responsibility, I find a situation where you can have the Prime Minister and Deputy Prime Minister making separate statements and some of the other things that have happened very peculiar. I understand the desire of members particularly of the minority party to make clear their general political stance in statements. That arises probably because, as you say in your article, Younger’s role in 1922 indicates the

organic link between protest in the country and disaffection at the centre. Clearly, members of the coalition will be trying the whole time to keep their supporters onside. You quoted with favour Dr Andrew Blick's evidence to us and you will therefore recall that he argued that formal breaches of collective responsibility should be exceptional. They should be agreed by Cabinet as a whole. They should be used in issues of first-order importance. They should be clearly time-limited and ministers should register their positions with the Prime Minister. They should be exceptional and announced in advance and everyone should know what they are. We would not then have had the remarkable situation which followed the House of Lords Reform Bill, to which Lord Steel referred, when the Deputy Prime Minister suddenly said that the consequence was that a piece of important legislation on constituency boundaries that had already passed through both Houses of Parliament was not going to come into effect. That was a total breach of any known understanding of collective responsibility. Where do we go from here? What would you add? Do you agree with Dr Blick?

Lord Morgan: I agree totally with Dr Blick on that. The *Ministerial Code* supposedly allows for occasional dissent—even the name “dissent” can produce problems. If I may go back to 1931–32, the Liberal ministers were allowed to agree to differ on free trade. But that meant that the whole economic policy of the National Government, particularly towards what was then what was then called the Empire, was hobbled for 12 months. It was a problem long before they finally got out. What we now appear to have under the *Ministerial Code* as laid down by Mr Cameron—a code that is not known to the general public, which is again one of the features of the exceptional secrecy of our extremely bad arrangements—is that it can be broken almost at will. Issue after issue arises. There is a question of specific measures such as the decision on free schools. There is also a wider question: what does the coalition stand for? What, for example, is its policy on Europe? I speak, as I know Lord Steel is, as a strong

pro-European. The coalition's position on Europe seems to me to be shrouded in total obscurity. Half the Government spend their time criticising the EU and looking forward to reducing or removing its arrangements, starting with security and human rights matters. The other half say that it is tremendously important for our country. In that case, on broad issues of fundamental strategy—whatever you think about the EU it is immensely important for our country—the man on the omnibus simply does not know what the Government's policy is. That is replicated on issue after issue in specific cases. I thought the decision about constituency boundaries was extraordinary and constitutionally quite improper. The arrangement made was between the rearrangement of constituency boundaries and AV. That was it within the Act. That was what we all spoke about 11.00 at night because it had not been discussed in the House of Commons. AV was the link; it was not Lords reform, which was a completely separate issue. It was a spurious excuse and a terrible way to run a wheel stall.

Q39 Lord Crickhowell: May I ask one supplementary before we hear from Lord Steel? You refer to the *Cabinet Manual*. This committee has reported and recommended improvements to the *Cabinet Manual* and I hope we have done something to publicise it. We will almost certainly want to refer to the *Cabinet Manual* and make some suggestions on this point in our report. Do you think that the *Cabinet Manual* could play a more important role in this constitutional matter if it was publicised and given more authority than perhaps it has had?

Lord Morgan: It is the best arrangement that we have at the moment and yes, I do think that.

The Chairman: Lord Steel, do you want to make a general comment about Lord Crickhowell's original question?

Lord Steel of Aikwood: When you have two parties in government, there may well be divisions. I think the man on the Clapham omnibus is perfectly capable of understanding that the two parties do not necessarily agree on everything. The opportunity to listen to them and decide what they are going to do about it comes at the next election when they will set out their stalls. In the meantime, the coalition has the prime objective of recovering the financial situation of the country. Anything else is a plus.

Baroness Falkner of Margravine: This question is to Lord Morgan. One can leave aside the constituency boundaries issue as a single issue, but you used other examples such as free schools where there was disagreement within the Liberal Democrats. The Minister of State—

Lord Morgan: That makes it worse.

Baroness Falkner of Margravine: It may make it worse, but I am trying to work out from your description of events whether this is normal even in a majority government or whether this plurality of views is unique to a coalition. I take you back, Lord Morgan, if one wanted an example from a Conservative Government, to the Westland affair, or more recently, under Blair and Brown there were manifold disagreements, not least among Cabinet members over the Iraq war. Do you really see this as unique and applicable only to coalition government or would you accept, as several people have pointed out, that disagreement can happen within majority governments as vocally as we have seen in coalitions—perhaps not as frequently, but they have happened and have been very significant?

Lord Morgan: I totally agree: you have a plurality of views within a government. You had Jim Callaghan presiding at one time over Roy Jenkins and Tony Benn.

Baroness Falkner of Margravine: Indeed—the break-up of the Labour party over Europe, because you mentioned Europe, and the formation of the SDP.

Lord Morgan: Yes, there are plenty of examples in the Labour party. I nevertheless think that there is a fundamental distinction between politicians who disagree widely and who may hate each other, as Blair and Brown appear to have done, but are within the same tabernacle and broad church going to the country under the same manifesto, and a different party with a different manifesto which in part—as over famously over tuition fees—it contradicts when in office. That seems to be different in character. I do not think, with respect, that ordinary citizens understand that. They say, “What is government policy not merely at Westminster level but at the local level?” They are confused. It has worked rather better, I think. I think that the Plaid Cymru and Labour coalition in Wales worked quite well for one very good reason: there was virtually no difference in principle between them. It was a very effective period of government, but maybe there was a consensual atmosphere within Wales. I do not think that applies in Scotland because the Scottish Nationalists are at odds with everyone else.

The Chairman: May I press you on the point which has been raised by Lady Falkner's question, which was the constitutional issue with intra-party policy disagreements? Where does the constitutional issue arise in terms of the collective responsibility of Cabinet, particularly vis-a-vis Parliament? We have talked on previous occasions about the European referendum in 1975 where there were clear, basic, fundamental differences within the Government, but there were agreements about collective responsibility towards Parliament and externally. Do you feel that that is a relevant constitutional line?

Lord Morgan: Yes, I think that 1975 is a very good analogy. The agreement to differ laid down by Harold Wilson said that ministers should not broadly campaign against the Government. They could take a specific difference of view and that caused problems, I agree. But at the present time we have significant members of the Government, including their

Deputy Prime Minister, campaigning against their own policy on issue after issue. I do not think that is reputable.

Lord Crickhowell: For the record, since Westland has been mentioned, it led to rather an important resignation. That is the difference in Cabinet government. If you part company, you resign. You do not continue as a member of the administration.

Lord Morgan: Yes, people used to in the good old days.

Lord Steel of Aikwood: You could not expect a Liberal Democrat minister to resign simply because they took a different view on some aspect of policy.

The Chairman: The question is why not, if you are part of a collective government.

Lord Steel of Aikwood: Yes but collective responsibility has to be tempered by the fact that there are two parties in government. That is my point. I do not think that it can operate in exactly the same way as a single-party government.

The Chairman: But then we come back to the question: at what point does collective responsibility cease to be relevant as far as our constitutional conventions are understood?

Lord Steel of Aikwood: It is less important in a coalition. People have to accept that there will be differences, but the basic purpose of the coalition continues. That is the point that I keep making. I keep making it to members of my own party as well. We have armies of people—Baroness Falkner may or may not agree with this—who spend their time sending us messages. Nowadays, we are supposed to tweet to tell people what wonderful things the Liberal Democrats are doing in government and the great gains that we are making as against the Conservatives on this, that and the next. It is frankly a little absurd. I think that the coalition should stick to its main purpose and everything else is a bonus.

Lord Lang of Monkton: Surely the distinguishing feature is whether or not the convention is breached by agreement. To breach it by agreement—whether on a specific issue or on a

more general position—is reasonable and defensible. To breach it unilaterally is, to use Lord Morgan's word, intolerable.

Lord Steel of Aikwood: That is a fair point.

Lord Lang of Monkton: Do you agree?

Lord Steel of Aikwood: Yes.

Lord Lang of Monkton: Thank you.

The Chairman: I know that time is passing. We want to cover two other important issues. First, how the House of Lords is affected.

Q40 Lord Lexden: I wonder whether you believe that the House of Lords should conduct itself differently under a coalition government. An extended version of the Salisbury–Addison convention provides that the Government's legislation should not be overturned, although a process of revision or amendment can be a large and very time-consuming affair. Should the House of Lords seek a more assertive role under a coalition government? One or two of our experts suggested that might be appropriate. At the very least, one or two of them suggest that the basis on which the House of Lords operates at the moment might be revisited, and a committee should be established to examine the existing conventions. What are your views?

Lord Morgan: I have some sympathy with that. I do not think that the House of Commons is challenging the Government very effectively, partly for the constitutional reasons that we discussed. The passing of time has an effect. I think that pro-coalition peers in the Lords have somewhat sharpened up their acts. They are more inclined to call each other “my noble friend” than at the beginning. One of the problems, and I speak now as a Labour peer and not an historian, is that we are a minority and to defeat the coalition we need the support of a lot of Crossbenchers who, frankly, broadly do not turn up. Attendance is extremely poor on the Crossbenches. Many of them are experts on a particular topic and they do not

intervene on partisan matters. If you are a famous doctor, architect or lawyer, you come to debates on that subject. There is not therefore the same possible, stable opposition as there was before. I am sympathetic to the view that the Lords should be more probing and forceful.

Lord Steel of Aikwood: I think that we should be a bit careful. Because we are not an elected House, I do not think that we can be too forceful in opposing what the Government are doing. As far as the convention is concerned, I suppose that the Salisbury–Addison convention applies to both manifestos. Since the coalition did not have a manifesto, as we discussed earlier, it must apply to both manifestos.

Lord Irvine of Lairg: Does that mean the common parts of the two manifestos? In other words, you have to look at each manifesto and see if each is, in substance, promising legislation in a particular sense.

Lord Steel of Aikwood: I do not know of any case that has arisen where that has been debated. I do not recall any event.

Lord Irvine of Lairg: But would that not make sense? Since the Salisbury–Addison convention applies to the manifesto of a single party, which has won an outright victory in the general election, if we are going to extend that doctrine by analogy to a coalition government, it should be to those parts of the manifestos of each party that have a common purpose that is evident from the face of the manifestos. One can then say, “We coalition have the benefit of the Salisbury convention.” If you agree with that, does that not mean in contemporary politics that it would be wise for parties that anticipate that they may be in a situation where they wish to form a coalition to construct their manifestos accordingly around common legislative policies?

Lord Steel of Aikwood: I have been involved in constructing manifestos. The thought of trying to construct it in concert with other parties would be very difficult.

Lord Irvine of Lairg: The fact that it is difficult does not mean that it cannot be done, especially if we are in a new era of coalition politics.

Lord Steel of Aikwood: I suppose that what you are saying is that in constructing a manifesto, people should have an eye on other people's manifestos. But they cannot until they are published. You are putting forward a very difficult proposition.

Lord Irvine of Lairg: You could have a conversation with your likely coalition party about it in advance of drafting a manifesto.

Lord Steel of Aikwood: That presupposes that the minority party has a fixed view as to who they would leap into bed with after the election, which I do not think is the case.

Lord Hart of Chilton: Going back to Lord Irvine's first question, if there is not an overlap, the principle should not apply.

Lord Steel of Aikwood: I suppose that is right.

The Chairman: Lord Morgan, do you have a view?

Lord Morgan: I agree.

Q41 The Chairman: May we turn to the Scottish situation and your experience there, Lord Steel? As always, we are encouraged by some of our academic witnesses to look at experience in other jurisdictions. Obviously, Scotland is a near-at-hand example of where coalition government has been practised.

Lord Steel of Aikwood: At the start of the Scottish Parliament you had a Lib/Lab coalition for two successive parliaments. The situation that brought that about was quite different from the one here for two reasons. One was the electoral system. The country as a whole was conditioned to the fact that it was likely, after an election, that more than one party would be required to form a government. That was the nature of the beast. That is quite different from what happens here. Secondly, you had a situation where the Parliament came into being very quickly after Mr Blair's Government were formed and on the back of the

constitutional convention in which the Labour and Liberal parties had worked very closely together. You had these two factors that pre-informed the existence of the coalition, which is entirely different from what has happened down here. I was in the chair of the Parliament and so politically neutral, but it has to be said that the coalition worked extremely well for those two Parliaments, but with those two backgrounds.

The Chairman: You are saying that that was on the basis of a different electoral system, but also on the clarity of the presuppositions about what would happen.

Lord Steel of Aikwood: Exactly.

Lord Lang of Monkton: I am very pleased to hear Lord Steel say that, because the fact that it is a proportional representation Parliament fundamentally changes the situation. However, there may be aspects of procedure and practice within the Scottish Parliament that might be of advantage to us in preparing a report relating to the possibility of future coalitions. I would be interested to hear your thoughts on that.

Lord Steel of Aikwood: Yes, there was one thought that I had. Things were changed as a result of the experience of the first coalition. That was the standing orders. I am sorry that I cannot remember the detail, but the time allowed to form a coalition was very short in the first instance and we managed to get that changed to face up to the reality that coalition was likely to be the norm. The time allowed between the election and the meeting of the Parliament was extended and that was an important feature. In fact, I would say that here at Westminster one of the problems was that the gap between polling day and the first meeting of Parliament was too short.

The Chairman: That, again, was about understandings and expectations, not least from the media rather than any constitutional convention.

Lord Morgan: I do not know about Scotland, but I expect that the possibility of coalitions is assisted by the broad tendency of devolution to strengthen the movement for nationalist

independence sentiment in Scotland and for the Scottish Nationalists therefore to be on their own. In Wales it has had a different effect. On balance, the movement for Welsh independence is close to zero and therefore coalitions are easier.

Lord Lexden: Could Lord Steel comment on the success with which the coalition governments in Scotland practised collective responsibility?

Lord Steel of Aikwood: They did not totally. I do not recall any episode during the two parliaments when we had the coalition where there was any public dispute between ministers of the kind that we have seen here at Westminster. To pick up on what Lord Morgan said, I do not think that one should draw a broad parallel between Wales and Scotland of that kind. We are going now into party politics, but the reason the Scottish Nationalists won an overall majority was more to do with the weakness of the other parties than any move for independence among the electorate.

Lord Lang of Monkton: The devolved institutions do not have responsibility for the really major national issues and therefore it is less likely for there to be broad disagreement within the coalition. Also, they are born into a coalition world. The present situation is anomalous—unfortunate but anomalous.

Lord Steel of Aikwood: I agree with that.

Lord Morgan: It is worth noting nevertheless that, as Lord Steel said, these successful Scottish Governments covered the whole range of Scottish policy-making. We were talking earlier about coalition manifestos. Broadly speaking, they do not apply to Scotland. The great bulk of policy on health, education, transport, housing and so forth is solely for the Scottish people.

Q42 Baroness Falkner of Margravine: I want to take Lord Steel away from the Scottish experience. Rather than having a full coalition do you believe that, in the smaller party, in today's world, MPs would consent to a confidence and supply arrangement? In

other words, would they consent to co-operating with the majority party and keeping it in government if they were not going to be full members of the government? Lord Donoughue said of the Lib–Lab pact that the parliamentary majority of the Labour party was such that they conceded virtually nothing to the Liberals. Do you think in future that the parliamentary party of the Liberal Democrats would agree to a confidence and supply arrangement if they were going to get virtually nothing, in Lord Donoughue's words?

Lord Steel of Aikwood: I have argued with Lord Donoughue about this before. He misses the point that the 1970 arrangement was limited to rescuing the financial situation. We were not looking for items beyond that. There were minor things such as help for small businesses and a few other things like that, but that was not the purpose; the purpose was to provide the stability to deal with the demands of the IMF and recovery of the financial situation. If you are asking whether in future a parliamentary party of quite difficult people, as we know them to be, would agree to a confidence and supply agreement if they were not going to get jobs, I cannot answer that because you would have to ask them. There is the risk that if they are not actually in government then the arrangement is fragile. That has to be accepted as true. But I do not think I can answer the question on their behalf.

Q43 The Chairman: You have certainly answered a large number of questions and we are very grateful. I am aware that we suggested to you that we would be keeping you for about an hour and that hour is up. I do not know whether any member of the committee has anything particular to ask that has not been covered. Do Lord Morgan or Lord Steel feel that there are points that they were anxious to make that they have not been able to do?

Lord Morgan: Thank you. It has been very enjoyable.

The Chairman: Is there is anything further that you are dying to say that we have not covered?

Lord Morgan: On the last point, I wonder whether the arrangements of this coalition would be a marker for smaller parties in future and that they would not settle for less, but that is a matter of opinion.

Lord Steel of Aikwood: To repeat something I said earlier, and this is in answer to Lady Falkner as well, a great deal depends on how many MPs we are talking about. Are we talking about a dozen, 50 or 60? There is a fundamental difference there.

The Chairman: Do you think that the fundamental difference between the potential for supply and confidence or for full coalition depends on numbers?

Lord Steel of Aikwood: Yes.

The Chairman: That is very interesting.

Lord Steel of Aikwood: If you have 50 or 60, you might as well form a coalition.

The Chairman: Thank you both very much. It has been a very interesting and helpful session and we are grateful for your time.