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Witness: Rt Hon. David Laws MP

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Members present

Baroness Jay of Paddington (chairman)
Lord Crickhowell
Baroness Falkner of Margravine
Lord Hart of Chilton
Lord Irvine of Lairg
Lord Lang of Monkton
Lord Lester of Herne Hill
Lord Lexden
Lord Powell of Bayswater

Examination of Witness

Rt Hon. David Laws MP, Minister of State at the Cabinet Office and Department for Education, and member of Liberal Democrat negotiations team after the 2010 general election

Q44 The Chairman: Good morning, Mr Laws. Thank you very much for coming. We are broadcasting on BBC Parliament this morning. I am assuming that you did not want to make an opening statement. Is that correct?

Mr Laws: Not unless you want me to say anything, chairman.

The Chairman: May we leave it at that. If we have not covered ground that you wanted to cover by the end of the proceedings, we can ask you if you want to add anything at that point, rather than doing it now.

Perhaps we could look back to 2010, and ask whether there was a possibility from the Liberal Democrat point of view that there was going to be a coalition arrangement or some form of joint parliamentary and political government after the possibility of a hung Parliament. Were there any manifesto commitments, for example, that you felt were above or below the line in potential negotiations? We have looked at the confidence and supply arrangement in the 1970s, and we heard from Lord Steel of Aikwood last week that he felt that many of the questions about financial stability, which were in the coalition agreement in

2010, could have been covered by a similar type of confidence and supply agreement this time around.

Mr Laws: Thank you for inviting me to give evidence to your committee today. Yes, we did do some preparation for the possibility of a hung Parliament in 2010, not a long time in advance of the general election. My recollection was that it started in earnest in the early months of 2010. Nick Clegg set up two groups, one to look at the process of putting together a coalition agreement, what type of agreement that might be, where there might be policy problems. He also put together another small group of people to look at some of the mechanics of coalition government and to work with senior civil servants, so that there was a clear expectation on both sides of what would happen if there was a hung Parliament.

We did not draft our manifesto with that possibility in mind. We put in it what were the key Liberal Democrat policies, which we had debated and discussed over the previous couple of years. We certainly thought that one possible outcome of any talks in a hung Parliament was our not being able to have a full governing coalition and perhaps having some sort of confidence and supply arrangement. We drafted various documents, including for the possibility of a confidence and supply arrangement.

Q45 The Chairman: In the end, I think you said in your book, and I believe this has been reported elsewhere, that was not seen as sufficient to achieve the kind of stability that you wanted. I am interested in your reaction to the fact that Lord Steel, who operated a confidence and supply agreement in the 1970s, when the financial and economic situation was pretty desperate, seemed to think it would have been sufficient.

Mr Laws: There were some differences of view among the team. Nick asked to do this work before the general election about whether confidence and supply would be a reasonable arrangement, but it was only after the general election, when we got into talks with the other parties, that the group of us who were negotiating and our wider

parliamentary party formed the view that a confidence and supply arrangement would be very much second or third best, for two reasons.

One was that this was quite a difficult time economically, as everyone recalls, and we wanted to make sure that there was a government with a strong mandate and the ability to sort out the public finances and get the economy back to growth. Also, there was a view in our party that confidence and supply might be the worst possible combination for a third party, in that it would give us a lot of responsibility for the Government without an awful lot of influence. Whatever was agreed on day one, in terms of the confidence and supply arrangement and the key policies that would become part of that—I published in the volume that you mentioned the draft confidence and supply agreement that the Conservatives put to us during those talks—the feeling was that, whatever was contained in that document, once a government gets up and running there are decisions that you have to take every day about new policy and responding to developments. Whatever, therefore, you put in a confidence and supply arrangement would not give you any leverage over all those ongoing decisions. The clear message that we got from our colleagues in the parliamentary party was that, whatever the result and whichever party we were in coalition with, they wanted it to be a full coalition and not just a confidence and supply arrangement.

The Chairman: I think we will return—I know members are interested in this—to the question of the potential and actual leverage of a third party/second party in a coalition, in the way you have described it. Perhaps we could pursue a little the constitutional principles around the formation of the Government.

Q46 Lord Lang of Monkton: I am interested in the fixed-term Parliaments legislation. One can understand the force majeure of the economic circumstances made it desirable to have a five-year Parliament, but how did this feature in the discussions that you had? Was it essentially a Liberal-promoted proposition resisted by Conservatives, the other way round,

or was it jointly reached? What other factors do you think it brings into play in the overall operation of the constitution?

Mr Laws: I think it was, in both sets of talks, probably about the least controversial of the proposals for political reform. Obviously getting agreement on things like Lords reform and changing the voting system was highly controversial, particularly in some of the talks. Having a fixed-term Parliament was something that not only we were in favour of; I think the Labour party also was, and it seemed to me from the talks that the Conservative party did not regard that as constitutionally objectionable. There was also an understanding that if a coalition government was to be stable and both partners in it were to have confidence in each other over time, particularly with the very big economic rebuilding task that we had to do, a fixed-term Parliament would complement that, because it would give both sides assurance that this was an enterprise that was going to last the period of time and one side would not suddenly pull the rug from under the other after a short period.

Lord Lang of Monkton: Does it not undermine the fundamental principle that a government should remain in power as long as they command a majority in the House of Commons? Thereafter, an alternative should be sought, which might involve a general election. Does it not disenfranchise the electorate to some extent, which might be stuck with a paralysed government after a coalition fails?

Mr Laws: The electorate, as far as any of us who had produced this hung Parliament could judge, would probably most have wanted the parties to work together to form a stable arrangement, particularly at a time of such economic crisis, and to deliver in government. We were well aware that if we could not form a coalition or some kind of stable relationship that would last, we could face another general election. I am not sure that the public would have particularly welcomed that in close succession to the previous general election, because I suspect they would have had a similar view about the three political

parties. We felt it was incumbent on us to try to put an arrangement in place that allowed us to work together, unless there was a very clear view in Parliament that the Government could not go on. We wanted to build in an assumption that the Government would continue, rather than create uncertainty about how long they could last for.

Lord Lexden: I have two supplementary questions, if I may. Why five years, rather than four, four having been part of the original Tory proposals under the confidence and supply arrangement put to you? Secondly, why legislation? Why was a binding declaration or a binding motion not deemed sufficient? A huge amount of time was taken to pass the Fixed-term Parliaments Bill through both Houses and, as far as I am concerned as an old-fashioned Tory, it is not a desirable piece of legislation.

Mr Laws: On the four year/five year issue, that was simply what came out of the talks. You could make the argument for either. I cannot remember whether our formal position was four years as a party, but obviously we were coming out of a situation where Parliaments could be as long as five years. I suppose if you ask any politician, right after a general election, whether they want a longer or a shorter Parliament, that may have an influence, but it was not a great issue of principle; it was a pragmatic conclusion to go for the existing length of a Parliament. It made sense, given that there was an agreement on both sides, for the long term to put it in legislation in a clear and decisive way.

Lord Lester of Herne Hill: As an old-fashioned Liberal Democrat, am I not right in thinking that other countries, in their written constitutions, provide expressly for fixed-term Parliaments, as this is a way of achieving legal certainty?

Mr Laws: Yes, you are absolutely right.

Q47 Lord Crickhowell: In the coalition agreement, there were five areas where the parties agreed to adopt different positions, which takes one to the question of collective responsibility, which we have taken a lot of evidence on. I do not think any of us have much

difficulty in understanding that there were certain things where different positions or even, in order to keep the parties behind happy, different views would from time to time be expressed. What has surprised many of us was the occasions when the rules we have always understood about collective responsibility have been completely put aside. We have had the Prime Minister and the Deputy Prime Minister making different statements and, perhaps most crucially, the occasion when, after the failure of Lords reform, the legislation on the rearrangement of boundaries, which had gone through both Houses of Parliament, was put aside just like that.

A number of our witnesses have suggested that breaches of the principle of collective responsibility should be unusual and that there should be rules about how they are introduced. They should usually be based on collective Cabinet decisions, they should be announced in advance, and it should be clearly understood what the rules are, if we are not to have a situation where the whole system of collective responsibility goes by the board, which seems to have happened. Some of us lived with that system. We quite often had profound disagreements even within parties. Nonetheless, we lived in the Cabinet I served in on the basis that, if we parted company or disagreed, we resigned. Would you comment on whether this is a satisfactory position or whether there should be some rules or conventions about how we follow the principle in future?

Mr Laws: The principle of collective responsibility is still taken incredibly seriously, and I say that as somebody who has recently been to the House of Commons chamber to defend part of a government policy that happens not to be that of my party, and then been criticised a few days later when my party leader drew attention to what party policy is, in a perfectly right and proper way, for defending the coalition's position. We take this very seriously, but there are two observations, qualifications—call it what you wish—about how this operates in a coalition government.

The first, which to some extent is true in a one-party government but is more complex in a coalition government, is that you can only really have collective responsibility if there is collective agreement. In a one-party government, that might mean the Prime Minister ultimately taking a decision, even if some Cabinet colleagues are concerned, but in a minority. In a coalition, it really does mean that there is an expectation, on all the big decisions, that those will have been agreed at a senior level. There are very good and effective mechanisms, some formal, some informal, for making those agreements. If one party—and I suppose it is more likely to be the smaller of the two parties—feels that it has not been part of a collective agreement, then collective responsibility is difficult to operate in the same way.

Secondly, there is an assumption that, where parties make agreements, particularly in the coalition agreement but also in other ways, if one side of the coalition then diverts from those agreements, that can have consequences for other areas of agreement. That is what we saw in the Lords versus the boundaries issue, although technically we have postponed the review on boundaries into the next Parliament rather than cancelled the legislation altogether. Of course, we never had a timescale on the boundary review in the original coalition agreement.

Q48 Lord Crickhowell: Although the understanding in the coalition agreement was that Lords reform was linked to another policy area, not the abandonment of the boundaries. This was legislation that had passed both Houses after very extensive deliberation and it was overturned simply, quite suddenly, on the decision of the Deputy Prime Minister.

Mr Laws: First, the legislation will still come through in the next Parliament. What we are talking about is the timing of it. Yes, there was a disagreement. It is also true that these things were discussed in the same context in the coalition talks. I do not think either coalition party would say that the other can simply walk away from serious commitments

made during the coalition talks without there being consequences. I would fully expect that if we agreed to some major policy positions with the Conservative party, or the Labour party in a future coalition, in coalition talks, and then three months or a year into the Parliament we thought, “Oh, we no longer want to hold to those commitments; we will just dump them”, I would expect that to have consequences for the willingness of the other coalition party to abide by the pledges they have made. Broken promises in coalitions have consequences on both sides. That may be uncomfortable, but I think most people would see that as reasonable.

Lord Crickhowell: Would you agree that very frequent breaches of collective responsibility also have consequences? They are not likely to inspire great confidence in the electorate. Therefore, some rules, perhaps in the *Cabinet Manual*, about the basic principles on which they operate might be good for the constitution.

Mr Laws: Yes, and I think that those rules are there in the latest version of the *Cabinet Manual*, which was issued in 2011. These things are slightly different when you have a coalition government, because previously there was an assumption that collective responsibility meant there was a single-party government; they have a position and all ministers have to stick to that or leave the government. That assumes that it is quite easy and straightforward in a single-party government, which it generally is but, I admit, not always, to come to a single position.

What is more tricky in a coalition is if you expect collective responsibility and you do not have collective agreement on the position. If the Prime Minister simply announced some new policy tomorrow of great importance without consulting our side of the coalition, I do not think we would simply say, “Now, there is collective responsibility. Whatever the Prime Minister said yesterday we must agree to.” We would say, “We would really like to have heard about that and discussed it beforehand.” In fairness to the Prime Minister, he and his

senior colleagues are pretty assiduous in making sure that there is a good degree of consultation before major announcements. They have put in place this quad mechanism—two Liberal Democrats, two Conservatives—which is a serious way of making the coalition work and which gives us, as the smaller party, a lot of ability to debate, discuss and agree these sensitive issues in a way that we might not have expected prior to the formation of the coalition. We need to recognise that that is a good mechanism.

Lord Lang of Monkton: You stress the importance of collective agreement before collective responsibility could apply. It puts in mind a situation where a policy has had collective agreement, has been spoken in support of by both parties of the coalition at the despatch box and is then departed from. That, I would have thought, was a breach of collective responsibility. Last week, a question was put to Lord Steel of Aikwood about collective responsibility: that a breach would be acceptable if agreement to depart from it on the specific issue was reached by both sides, but a unilateral breach of collective responsibility would be deplorable. He agreed with that. Do you?

Mr Laws: I am not sure. Are you referring to the Lords versus boundaries issue?

Lord Lang of Monkton: No, I am referring to the generality.

Q49 The Chairman: We are trying to look at the constitutional principles, if there are any, around this.

Mr Laws: My principles would be, first, the need to have collective agreement before collective responsibility; second, if, for example, the Liberal Democrat party, to put it the other way round, tore up two or three major parts of the coalition agreement that we signed in May 2010, and then the Conservative party said, “Frankly, the three things that were really important to you we have changed our mind on, because you have not followed your side of the agreement”, I would say bluntly to my colleagues, in private, that that was the price we paid for going back on part of our agreement. That is important in a coalition

government: you have to reach a collective agreement at the beginning and through the process. When you have a collective process of agreement that is respected, collective responsibility flows from that.

Lord Lang of Monkton: That does not answer my question, but I know Lord Lester wants to come in.

Q50 The Chairman: It comes back to the question that Lord Lang put to you earlier, which is that there would be consequences, although you did not elaborate on the consequences, except that other people might exhibit the same kind of bad faith, if you want to call it that, about other agreements. Of course, in a non-fixed-term Parliament, you could have the disintegration of the government because they would no longer command the collective enjoyment of the majority in the House. As Lord Lang put to you earlier, that in a sense has now been put beyond the pale, so you can have these apparent fundamental differences, which do not lead to collective responsibility, without there really being any consequences.

Mr Laws: Up to a point. If both sides lose confidence beyond a certain point, and particularly if the House as a whole wants to have a general election, it can do so. Personally, in respect of the disagreements that we have had in the coalition so far, the most serious of which has been the dispute over Lords reform and boundaries, I do not believe that if we did not have a fixed-term Parliament we would have had a general election. Both party leaders, however irritated they may sometimes be about things that they feel they could have been consulted on better or agreements that have not been made, are strongly committed to the coalition. I believe the things that unite the coalition, particularly over sorting out the economy, are more important than divisions. Both senior leaders have been framed by leading this coalition. I do not think that either of them would have wanted to bail out after

any of these disagreements if they had not had a fixed-term Parliament. I do not think it would have made any difference.

Lord Lester of Herne Hill: Your answers are making me think more clearly about the difference between a constitutional principle and politics. I think what you are saying is that constitutional principles are all very well but that when you are dealing with disagreements within a coalition it is the political consequences for the coalition, and ultimately the electorate, which really matter, rather than the formulation of formal constitutional principles or rules. Am I misunderstanding it?

Mr Laws: That is broadly right. I am saying that, when you have a single-party government, there is an assumption that however they make their minds up, a decision will be made that will usually be the decision that the Prime Minister wants. There is an assumption in a single-party government that everybody will fall into line and if they do not want to fall in line they can leave the government.

In a coalition, you cannot expect either side to adopt that collective sense of responsibility about all the difficult decisions unless there is a process to secure agreement, not just at the beginning of the coalition but throughout the coalition, over major policy areas—not every bit of minutiae. The second thing is that it has consequences if any party to the coalition decided not to honour the pledges it has made, because it is not realistic to assume that the other side will just say, “However often you break parts of the coalition agreement or anything else we have agreed recently, we will just plough on innocently, implementing all the things we agreed.” That would not be a sensible assumption for any party to make about the behaviour of another and I do not think it would be a sensible way for any party to behave.

Q51 Lord Lester of Herne Hill: This committee is concerned about constitutional principles, but ought we to be thinking about the difference between whatever constitutional

principles should apply and what lawyers would call “rules”? Take co-decision as an example. The coalition agreement says that there should be co-decision on ministers’ appointments, special advisers and so on. It does not say anything about senior civil service appointments, for example. I cannot imagine a constitutional principle that says that in a coalition there must be joint agreement, co-decision, about senior civil servants’ appointments, but I can imagine that the coalition agreement says, “We agree that there will be co-decision in the following way about such and such.” I am trying to find a distinction between necessary rule-making, which is really between the partners, and something up there called constitutional principle. I am trying to see what is up there that is over and above the agreement between the parties and the political consequences. I do not know whether you can help me on that, but maybe it is a lawyer’s preoccupation.

Mr Laws: I do not know whether I can or not. I have to be honest and say that I look at this from a pragmatic party-in-power basis. One of the benefits of your committee, with all the resources and experience you have, is that you will probably be able to think more ably than I will about what constitutional implications there are and how much we need to accept that in a coalition government these things will operate in a slightly different way, or how much we should seek formally to acknowledge and codify those things and reflect them in the *Cabinet Manual*.

Some assumptions on this issue that you are raising are particularly relevant to single-party governments, but they work in a slightly different way in coalitions. I leave it to you to reflect on whether you think that there is such a gap between the two positions that these things need to be codified more formally, or whether what I am describing is a sensible way in which these principles should be applied in a coalition government. It feels more like the latter to me, but there may be wider conclusions to draw, which you will want to do in your inquiry.

The Chairman: I think you have hit on the nub of this inquiry; that is precisely what we are attempting to define: whether the understandings, conventions or rules, or however Lord Lester has described it, become irrelevant if you have a coalition government; whether you can, in a typical British muddling-through manner, to use a cliché, just do the pragmatic thing that you have described, or whether that is transgressing some basic principles.

Mr Laws: I would not want to imply in any way that this more pragmatic approach meant that we should not take the principles of collective responsibility very seriously. They are taken very seriously. It is what you have to do before you can assume that that collective responsibility is fully engaged.

The Chairman: We are reassured to hear you say that, because some of our witnesses have suggested that this so flexible that frankly it has gone by the board.

Q52 Baroness Falkner of Margravine: Some of our witnesses have also suggested, like you, that pragmatic coalition government entails some give, a bit of elasticity. It is pointed out that the immediately previous Government, the Blair/Brown years, and all the evidence of lack of speaking from the same hymn sheet, reminds the public whether a government are delivering broadly on what they are supposed to deliver on or not. Ultimately the test will come from the public in a general election.

Could I take you, Mr Laws, to the formation of the Government and the issue of how ministerial appointments were ascertained and divided up? What thought was given to breadth versus depth, which has been mentioned—in other words, having several Liberal Democrats or Conservatives in one department, rather than scattering them more widely across government? Can I take you, in the second part of that question, to the coalition agreement for stability and reform of 21 May 2010, which clearly set out the steps to be taken to go through appointments? I remind you that in the recent reshuffle, it appears from what we have read in the media that certain appointments were made—I think it was the

Home Office—without the consent or knowledge of the Home Secretary, and likewise one or two other appointments. To what extent do you think it is important to stay with the coalition agreement for stability and reform and work those processes through diligently, rather than springing surprises on ministers?

Mr Laws: On ministerial appointments at the beginning of the coalition, all that was discussed between Nick Clegg and the Prime Minister, I suspect, very late in the process of forming the coalition. As long ago as the first Scottish Parliament coalition in 1999, where a number of colleagues had taken advice from other countries about how coalition-forming was best done, we had taken the clear view that you should not talk about the apportionment of jobs while you were trying to get the policy agreement, particularly if it affected people who were on the negotiating committee. Their view might be tainted by which party was offering them the plumiest job. We did not discuss in any way in the negotiations, with either the Labour party or the Conservatives, how ministerial jobs would be allocated. All that was done by Nick Clegg and possibly Danny Alexander, probably 24 hours before the coalition was put together, and in the case of the junior ministerial jobs it was the day of the formation of the coalition.

I do not know how much consideration was given to the possibility of putting a lot of Lib Dem ministers in one department. I think we had decided that it would be more sensible to make sure we had representation across the Government. We did not want to have full responsibility for only two or three areas. Personally, I think that is the right thing, in that it is risky to colonise bits of a government and to be very detached from other areas. If we had been detached from major departments such as the Treasury, there would have been much more risk of the coalition parties parting company, because we would not have felt fully involved.

As far as the reshuffles since the election are concerned, they followed the usual protocols about the extent to which the Prime Minister has to consult other colleagues. I do not know whether and how secretaries of state were consulted in the recent reshuffle, but I imagine there are precedents for Prime Ministers parachuting in new junior ministers without detailed discussions with secretaries of state. If it happened in the recent reshuffle, I doubt it was the first time ever.

Lord Lexden: Could I return for a moment to disagreement and collective responsibility? Why has greater use not been made of the Cabinet's Coalition Committee, set up specifically, as I understand it, to overcome disagreement and thus help maintain collective responsibility more effectively and diligently? This body has hardly ever met.

Mr Laws: It has been displaced by two things. One is that, whereas we might have assumed at the beginning of the coalition that we would need a very formal mechanism to reach agreements, the reality is that quite a lot of things are agreed bilaterally, sometimes formally, sometimes by more informal arrangements between the Prime Minister, the Deputy Prime Minister, the Chief Secretary and others, sometimes Oliver Letwin and me. Relationships and sense of trust at the top of the coalition have been much better than might have been expected, given that we did not know how a coalition would work.

The second thing is that I do not think we anticipated that there would be this quad mechanism when the coalition was formed, which in some ways operates almost as an inner Cabinet of two Liberal Democrats and two Conservatives, and sorts out many of the thorniest issues; it discusses autumn statements, budgets and so forth. Those mechanisms—formal, informal, bilateral and quad—have displaced the need for a more clunky, heavy-handed committee to meet. You probably know better than I do, but I think that committee has met incredibly rarely, because there are better ways of sorting out problems.

Q53 Lord Crickhowell: In response to Baroness Falkner's question, you dealt with appointments. I am interested in dismissals. This is one of the areas where the authority of the Prime Minister in a normal government has been greatly altered. I believe on one occasion, replacing a minister, Clem Attlee simply said, "Not up to it", when asked why he had got rid of that person. If there is a failure of competence, the Prime Minister has less freedom than in the past simply to say, "Not up to it. You're going". Is the same level of agreement likely if the Prime Minister wants to get rid of a minister? Does that not put enormous pressure on the Deputy Prime Minister—say the Prime Minister wanted to get rid of someone—who may feel he has to defend his own appointment, recommendation or his own party? Is this a potential area of difficulty?

Mr Laws: I suppose it might be. I am not aware that it has been. So far, it works on both sides on the basis of both party leaders—the Prime Minister and the Deputy Prime Minister—consulting each other and discussing all appointments, so that there are no surprises. I am not aware of a situation where either has sought to interfere in or displace ministers in a way that goes beyond the arrangement that they have to agree these things between them.

I believe that the process of making some of these things more difficult by requiring agreement between the Prime Minister and Deputy Prime Minister is probably quite healthy and means that the tendency to keep reshuffling governments and ministers at high speeds is impeded in a way that probably benefits the public. That is a side effect of coalition government, rather than something we have built into the structure of it.

Lord Lester of Herne Hill: My experience in government is antique, because it is a long time since I worked with Roy Jenkins in the Home Office in the mid-1970s, but in a single-party government there was a great problem about access to information and informed decision-taking for Cabinet ministers who did not have a proper brief outside their

departmental responsibility. For example, Roy Jenkins would have no Home Office brief about devolution or labour law or matters of that kind. It may have changed, but that was certainly true in the mid-1970s.

When one is dealing with the coalition, co-decision on some issues is important. I wonder whether, with the benefit of your experience, you think it would be better to have closer agreement on co-decision on, say, the appointment of senior civil servants or the use of prerogative powers—war making, treaty signing and so on—and access to background information before decisions are taken, so that the junior partner can really be involved in the decision-taking process.

Mr Laws: Some of those things work extremely well, perhaps for the collective benefit of the Government; there are others where they do not always work so well. I think, although obviously I do not have any experience prior to this Government, that the Cabinet committee system, if anything, works better than it might have done in a single-party government, because Nick Clegg chairs, for example, the Home Affairs Committee. The write-around process is very real, where ministers often challenge proposals that are made from other departments. The Home Affairs Committee has real and genuine debates about issues, which sometimes are along coalition lines but sometimes are not. There is greater expectation of debate in some of these areas than might be the case with single-party governments, and there are other major policy debates that are had through the quad process that give more scrutiny to things like the budget and the autumn statement than probably would have happened under some previous governments, albeit for only the members of the quad and not more widely.

The challenge is that departments are set up generally to function as pyramids, where the status of the secretary of state is very different from that of the junior ministers. Therefore, where we do not have, as the smaller party, the secretary of state in a department, we have

to work hard to make sure we are across not just the areas that our junior ministers are responsible for but everything that is going on in the department and that we are able to anticipate coalition problems and issues before they arise or before a policy decision has been taken. Sometimes that works quite well and sometimes it works less well. It depends sometimes on the ministers in question; it depends upon the adviser present and how much advisers can help ministers to spot issues and controversies that are coming up. In that area, departments are not automatically set up to operate in a coalitionising way, if I can use that word.

Lord Lester of Herne Hill: In future, do you think, in the light of what you have just said, that the junior partner should bargain harder for more real co-decision and information sharing?

Mr Laws: There might be some advantage in codifying more clearly in coalition governments: the rights of the junior party, access to information, the way in which junior ministers might be involved in decision-making within departments where the departmental head is not in the same party, and the extent of adviser support. At the moment many of our junior ministers rely on often very good advisers, but advisers who are pooled across departments and are usually advisers to the Deputy Prime Minister, working for him rather than for the junior ministers, which is sometimes a strength and sometimes may be a weakness. It would be possible to formalise best practice more effectively in coalition governments. At the moment, we are amending in a rather British way the previous single-party arrangements, sometimes quite effectively but sometimes less effectively.

The Chairman: Lord Lester has helpfully taken us into looking at what may become a more regular pattern—we are told by the pollsters and so on that there is a potential for further hung Parliaments—and what you have learnt from the formation and operation of the present Government. I think Lord Hart wanted to pursue this.

Q54 Lord Hart of Chilton: It cannot have escaped anyone's attention that there may be a replication of the voting intention of people in 2015. I am curious to know, having learnt from your experience so far, what steps you are taking to prepare yourself for next time round.

Mr Laws: We have not started any of that work yet, because it is too far from the next general election, to put it bluntly. I would not be surprised if we started earlier than we did last time, which was only a few months beforehand, but given that there is still whatever it is—18 months—until the next general election, it is a little early to start fantasising about what the outcome might be. We might have a hung Parliament, but my party has practised at expecting hung Parliaments for a number of decades and sometimes they do not come along as frequently as you would wish for.

Lord Hart of Chilton: Would that possibility affect your drafting of a manifesto?

Mr Laws: No. Ultimately, the job of all the parties is to give people a clear choice. It would be very sad if all the parties wrote down their policies and then thought, "Oh my goodness, we'll never get agreement on these things", and ended up with a convergent process where the public did not get a choice between different visions for the future. We will write our manifesto on the basis of the policies that we believe in.

Of course, all the parties will have to reflect carefully on the way in which they communicate what they can deliver during the election campaign, on the basis that they will have to think, if they are in a coalition, about which of these things they could definitely deliver and what the consequences would be of making a statement during the election campaign about something that might be tricky afterwards. All the parties will probably write their manifestos based upon what they believe in. They then need to think carefully about communicating their positions throughout an election campaign, particularly if they think a hung Parliament is more likely than not.

Lord Hart of Chilton: What lessons do you think have been learnt as to the processes by which consideration is given to coalition formation?

Mr Laws: Do you mean by the parties themselves?

Lord Hart of Chilton: Yes. I am looking at it from your point of view.

Mr Laws: We had an enormous amount of scrutiny of our process within our party as to whether we had made the right decision. We had this triple-lock process that had been put in place, in the event that there might be a coalition with another party, which required us to consult the parliamentary party and our federal executive, and potentially to have a vote of party members. There is not really a lot more scrutiny that you can have than that. Other parties may want more formalised mechanisms to agree, rather than outsourcing it completely to their leaderships.

Last time, we were quite lucky in that the coalition was formed quite quickly and the pressures there were, partly because we had the difficult economic circumstances, so there was a lot of pressure to get on with things. We had a hung Parliament where we had some leverage, because although a coalition with the Labour party was really quite tricky, given the numbers, there were arguably two potential outcomes that gave us some leverage. All these things led to relatively speedy decision-making compared to coalition-forming in other countries, and therefore we did not have the situation where the Prime Minister had resigned and left the country for a long period of time with no government.

In the future, we should not assume that things will be quite as straightforward. We should not assume that the parties will resolve their differences quite as quickly. Because we have had one coalition, parties will be inclined to insist on making sure that there is a lot of scrutiny and that they feel happy with it. We almost came to a situation in 2010, as you know, where the country was left for a while without a clear new government, when Gordon Brown decided to resign as Prime Minister. It almost overlapped the new

Government and the old one enough that the country did not notice. It is possible in future that we might need to formalise a bit more the rules about how governments come and go, so that we avoid the risk that we could easily have had if we and the Conservatives had taken a lot longer to negotiate our coalition agreement, or indeed if our party had decided to veto it. There could have been a difficult situation where the country would have been left without a government. We should not take that risk for granted. We need to reflect on what is expected from ingoing and outgoing governments next time.

Lord Hart of Chilton: Do you have views about how that should be?

Mr Laws: I personally think that it should be even clearer than it was last time. We knew last time that there was a very clear expectation that the parties would come up with a proper arrangement to give the country a government, make decisions among themselves and not involve the Palace in difficult decisions about how the parties interacted. There was a sort of expectation that the Prime Minister would stay in place until that process was largely finished, but your committee and others could arguably look at precisely how those rules operate and work out whether there needs to be a stronger presumption that the Prime Minister, whatever media pressures there are—particularly if the Prime Minister is seen as having lost the election—has to stay there until we know whether a government have or have not been formed. I can see an argument for that, because it could have been a less tidy process if a few of these things that I mentioned had happened.

Lord Hart of Chilton: Do you think that, once reached, a coalition agreement should be approved by Parliament?

Mr Laws: It implicitly is through the Queen's Speech. That is my view. That effectively acts as a mechanism for Parliament to decide whether they agree the coalition agreement and the programme that the government have.

Q55 Lord Powell of Bayswater: We are curious as to why you decided not to take up the offer of civil service support during the coalition negotiations. From your book, one gets the impression that it was partly the experience in Scotland, where apparently Liberals felt that the civil service was under Labour influence. They regarded Labour as the bosses. That could not really have been the reason in Westminster, because the Conservatives had been out of power for 13 years, so you were on an even basis in that way. In hindsight, do you think it would have been better to involve the civil service and would you do so in future, given the greater complexities you have talked about?

Mr Laws: We do not have a party view on this, but I can tell you my view on it. My view is that we had a lot of very professional high-quality civil service support, in the sense that if we wanted to have questions answered about policy or costing details, we had all that to hand, straight outside the door, in a very professional way, as you would expect from our civil service.

The question that parties had to answer, both Labour and the Liberal Democrats, and the Liberal Democrats and Conservatives—because we were both offered this by the Cabinet Secretary—was whether we wanted civil servants in the room discussing how we put together our two different manifestos. Personally, I do not think that was either necessary or likely to facilitate a good, open and honest discussion. Sometimes, when two parties sit down after fighting a general election and discuss thorny policy issues, it can be better to do so in a more informal way than where people feel that there are formal minutes being taken and that it is a much more formalised process.

This was not the main reason why we did not have civil servants in the room in 2010. From Scotland there is also a slight risk, where you have two parties with such a different strength of numbers of Members of Parliament or Members of the Scottish Parliament, if you are the smaller party, that the civil service will see in effect that the people who are most likely to

be in government and at a senior level in government are from the larger party. While the civil service is always very professional in our country, there is potentially an imbalance of influence between the smaller party and the larger party, which could be an issue. The main reason why we did not have the civil servants in the room this time is that we did not really feel that it would be conducive to putting two political manifestos together, but we had full and very professional support when we needed it.

Lord Powell of Bayswater: If you are after the next election negotiating a similar coalition between the two same parties, would that still apply? You would have had five years' experience of working with the civil service, which is reasonably unembarassable about what politicians say to each other in coalition negotiations or even in Cabinet.

Mr Laws: I would stick with our previous mechanism. I do not know whether last time we invited feedback on the drafts as we were going along. I genuinely cannot remember whether we did or not. It would not surprise me to know that the civil servants knew what was in our drafts, because that is the job of civil servants: to know everything.

Lord Powell of Bayswater: Perhaps the NSA told them.

Mr Laws: I would want to ensure that we gave civil servants the opportunity to say, "Have you thought whether it is possible to introduce these 18 bills within the first six months? Have you thought about the practical issues to do with this, that and the other? If you had been in government last time, you would have realised that we tried this and there were these particular problems." That sort of input is quite useful, but when politicians are hammering out political agreements and trying to pull their manifestos together, sometimes they want to be able to speak in an open and blunt way. That argues for not formally having civil servants in the room, but that is only my opinion. Colleagues on the other side of the coalition may have a different view. Even some of my colleagues in the negotiation might have a different view.

Lord Powell of Bayswater: Would it be useful to have a coalition negotiation handbook that covered all the technical issues? I am not talking about the policy, but simply the sorts of issues you have just mentioned: have you considered this, that and the other, the timing of legislation and all these issues? There is a checklist.

Mr Laws: This is a matter for the Cabinet Secretary rather than me, but it might be useful at some stage to have set out for the various parties that might be involved in this what the options are for involvement and what advice they can get. As you know, we were offered at one stage input from the Governor of the Bank of England, which we did not take up. I cannot remember whether it the security services offered as well, but it might be useful to parties in coalition talks to understand the different forms of civil service involvement and support, which might not just be in the room or outside but, “Do you want us to look at the drafts and give you useful feedback? Do you wish to see the Governor of the Bank of England separately or together to discuss things?” It could be useful for people to be clear about what the options are.

Q56 The Chairman: Following on from Lord Powell, you have talked a couple of times about planning, if we can call it that, and possibly formalising and codifying various points. Lord Powell has invited you to comment on the possibility of a handbook. You spoke as though the general election in 2015 was a long way away, but in terms of codifying, formalising and putting matters of this kind into some transparent form, which could be understood by potential participants in a coalition agreement, it is not very long. Do you know from the ministerial perspective if the Cabinet Office is looking at these matters?

Mr Laws: I genuinely do not know. I do not believe any ministers are. It would be for the Cabinet Secretary to decide how he wanted the civil service to prepare for this.

The Chairman: Beyond the civil service point, which what Lord Powell was raising, you have mentioned formalising and codifying some other things, such as the recognition that the

Prime Minister who is in Downing Street should be entitled to stay there, even if he has lost the election, until there is a clear agreement about who is forming the next government.

Mr Laws: I am not aware that there is any political discussion of these things. Since there might, in certain circumstances, be a political interest in the rules being set in one way rather than another, ministers would be cautious about getting involved in that and would look, first, for debate to be stimulated in this place, as you are already doing. Also, on some of the narrower issues, we would probably look to the Cabinet Secretary to decide what he thought might be best practice, not perhaps on some of the issues about when and where the Prime Minister should leave, but on things about what offer might be made to political parties to facilitate talks.

Q57 The Chairman: It seems that there is some sort of breakdown with the understanding that you have that the civil service should not be involved in these negotiations because, as you said, you may need to have tough discussions about relevant and relative manifesto commitments; but the civil service, in the form of the Cabinet Secretary, should be the person to identify the rules by which these discussions should take place.

Mr Laws: Where the rules are fairly dry and practical about what support would be offered by the civil service to parties in coalition, it is right that that should be led on by the Cabinet Secretary and the civil service rather than by politicians. On other issues, such as whether it is appropriate to codify more clearly the assumptions made during a hung Parliament about what the Prime Minister of the day will do, that might be something for wider debate, but I do not believe there is such a debate at the moment. If committees such as yours felt that there were weaknesses in the existing system, that might be something that the ministers who are responsible would want to look at carefully.

The Chairman: You have used the words “potential to formalise or codify” some of these general issues. It seems to me, therefore, that it is important that this should be considered by the politicians, as well as by the permanent civil servants.

Mr Laws: I am sure that if your committee says we should do that, the right minister—

The Chairman: I wish we had that authority.

Mr Laws: It would not be me, because I do not lead on these constitutional issues, but I am sure that the ministers responsible would look very closely at the recommendations.

The Chairman: Thank you very much. Does any member of the committee want to pursue any points? Did you have anything further you wanted to say, Mr Laws, or were there things we have not covered that you were anxious to get on the record?

Mr Laws: No. I think that you have covered all of the points that I was expecting you to want to raise.

The Chairman: Thank you very much for your time. It has been very valuable.