

**INTERJECTIONS MADE IN THE HEALTH AND SOCIAL
CARE BILL COMMITTEE STAGE (DAY 9) WEDNESDAY, 30
NOVEMBER 2011**

Amendment 150B

Moved by Baroness Bakewell

150B: Clause 20, page 21, line 39, at end insert-

"() how effectively the NHS services meet the needs of the older population"

Lord Owen (Crossbench)

My Lords, I had not expected to speak but I thought that the case put forward by the noble Baroness, Lady Bakewell, was extremely convincing, particularly this issue that age is not an illness but a reality, and above all a numerical reality.

Listening to the arguments, I would put just one other thought. Commissioners can sometimes be listened to and effective in government. This largely depends on the structure of government, and in particular probably either the personality of the Prime Minister or the person who is leading on health. We used to have Health and Social Security under one Secretary of State, which the noble Lord will remember very well, since he was Barbara Castle's private secretary. He may remember too that a decision was taken in 1974 to make a Minister for the Disabled. It was scoffed at by many people within government, but there is very little doubt, looking back at the record of having successive junior Ministers responsible for disablement, that there has been a formidable achievement both in legislative activity and in activity across the board. The former Prime Minister, John Major, was at one time a junior Minister for disablement, and in fact in many ways he won his political spurs in that position.

It is a constant reminder to the Cabinet sub-committees that deal with issues like this that there is a voice there that speaks up and represents it and that is close to the source of power and decision-making. A commissioner often does not have either that

access or that power. There is very little doubt that we hear and see all these problems of the aged, or that these problems are increasing. Incidentally, I think that the amendment is well worth while on its merits in relation to a National Health Service commission, but that is, as everybody has admitted, only one, relatively small issue.

There is a much deeper political issue which the present politicians are not able to grapple with. If we look at the response to the old people's heating allowance, there is a growing feeling among a substantial number of people who do not need this money that, if we are going to be serious about grappling with the problem of the aged, we have to be serious about the whole question of the now very considerable cumulative sum that is pushed to elderly people purely and simply because of their age. I enjoy my free travel pass greatly and am wholly in favour of it, but I do not need it. In fact, I ought to be walking more frequently rather than taking the Underground or the bus. I think that we need to have a fresh look at this. The initiative on these issues will probably come from the body politic. It would be much easier to persuade people that the time has come to be more selective on some of these issues if it were ensured that the money saved was earmarked, for a while, specifically for projects for the elderly.

I would not want to endorse the proposition of a commissioner at this stage. I would be more attracted to the idea of a junior Minister for the elderly who is in government and can attend the housing, welfare, health, social care and all the other Cabinet sub-committees where the really crucial decisions are taken in terms of legislation and, often, finance.

Amendment 153

Moved by Baroness Williams of Crosby

153: Clause 20, page 23, line 34, leave out from "failing" to ", and" in line 35 and insert "to exercise its functions in a way that the Secretary of State considers to be in the best interest of the National Health Service"

Lord Owen (Crossbench)

My Lords, I have followed with great interest the career of the

noble Lord who has just spoken. He has now reached great eminence in his profession, and he has succinctly explained exactly what this Bill needs. This is by far the most important amendment that we have had before us. I welcome both of its parameters. It would be a terrible failure if we did not pass such a Bill. It is inconceivable that a person could even call himself Secretary of State for Health and not have this power. It would be impossible for him to stand before the House of Commons, where he is most likely to be holding that great office, and be unable to say if he felt that there had been a failure to carry out the responsibilities with which he is charged. How could he hold the office? It would effectively be a resignation issue on an important matter if he did not have that power and was not able to exercise it, and not to give him that power is effectively to strip the Secretary of State of his substance and his standing. This amendment is therefore utterly crucial. I personally think the wording is correct.

I would just like to deal with this word "significant". Until a few weeks ago I would have queried whether or not the word "significant" would be adequate. However, if you look at the legislation that this House has already examined in great detail and which has now been passed into law, namely the European Union Act 2011, which was given very close scrutiny, there is an issue-I think it is in Article 48-that I suspect we will be debating quite soon. This allows the Government, in circumstances in which they think a change has been made to the EU legislation that is not significant, to give up having a referendum. It has already been indicated to the rest of the eurozone countries that there are some circumstances under which the British Government would consider a eurozone amendment predominantly the concern of the eurozone and not significant, and therefore it would be able to be passed with unanimity and not need a referendum in the UK. So this word "significant" has already been crawled over with a great deal of care by a large number of people, not least the Eurosceptic element within the Conservative Party.

It has also been made clear that that would be subject to judicial review, which might be another safeguard that you would have to see. I think it is implicit in the wording-the noble Lord would know the legal consequences better than I-but I personally could live with the "significant" because there is an important issue here that

if decentralisation is to be effective, there must not be micromanagement. I looked at putting down an amendment using the word "micromanagement" and then I came to the conclusion that micromanagement is in the eye of the beholder; it is not really a word that we could carry through in legislation. I think the combination of wording that the noble Baroness has used is the correct one: you have got the right to intervene but it is qualified by the fact it has to be significant, and it might be that that significance could be challenged. I very much hope that, having given it due thought, the Government will rise today to tell us that it is going to be accepted. If they do not do so, I hope it is pushed to a Division, whether that is now in Committee or on Report is up to the noble Baroness, Lady Williams, whose judgment I always accept-almost always.