

## **INTERJECTIONS MADE BY LORD OWEN DURING THE COMMITTEE STAGE (DAY 1) OF THE HEALTH AND SOCIAL CARE BILL, HOUSE OF LORDS, 25 OCTOBER 2011**

**Lord Owen:** My Lords, I support the proposed new clause. It is not perfect, but that is not the issue. What we are really debating is whether we want, at the start of this legislation, something that talks about the principles and values of the National Health Service? It will not be easy to find the right words. The noble and learned Lord, Lord Mackay of Clashfern, drew attention to some very fine words in the original NHS Act, and they might well find their place. It is not a preamble, but it has the spirit of a preamble behind it. It is very necessary.

Let me explain one thing. People know that I was a doctor, a medical scientist, and also a Minister of Health. But it is not so well known that I was for 15 years on the board of Abbott Laboratories—one of the largest healthcare companies in the world—and there will be many occasions in Committee when I will be dealing with conflicts of loyalties because I am still a shareholder. I just wish to state that.

It is also important to realise that I am not opposed to the market. Indeed, at very early stages in 1985, I was the advocate of the internal market. I must say I am ashamed of that advocacy now. So often the work that was done on an internal market is used to justify the external market that is the basic fundamental underpinning of this Bill, which I am afraid will become an Act.

Ten years old is a very impressionable age. My father, in 1948, said to our family that this was a day of freedom for him. He had voted Labour in 1945. He had been a general practitioner through the 1930s in the Welsh valleys, and he had never got used to charging patients. This was the day when he no longer had to charge patients. But he always said with a rueful smile that there were a few exceptions. One was the Gypsy encampment, which considered that a consultation had taken place only if silver had crossed the palm.

We all know there is a market and there always has been. People have talked about the independence of general practitioners, which has been fiercely fought for. But the interesting thing about this National Health Service legislation is that it was not only a Labour Government achievement. When I was on the Labour Benches I used to proudly claim it as a Labour achievement. Then when I worked with the Liberals and the alliance, I used to claim it was Beveridge. The truth of the matter is that if there are two outstanding people who can claim paternity to the spirit and values and principles of the NHS, they are Beveridge and Bevan.

There is a great wish in this country, wherever people are situated in the political colour frame, to keep some of these values in whatever happens to this NHS. I happen to agree with the noble Lord who spoke that this is a disastrous Bill. It will unutterably change the principles of the National Health Service, and I shall reflect that argument. I have not done so to date because I have tried to see a mechanism whereby the Bill can be discussed. Others will, with perfectly genuine motives, consider it an achievement and the right direction for the NHS, but I think that we ought to be able to agree on the values. I hope that, whatever happens to this amendment in a vote, we will not lose the basic spirit of trying to find a form of words that will underpin these principles and values. They are very important.

I want to stress another thing. People forget the market value of having a substantial National Health Service, and I think that it is being fragmented with wilful disregard. I cannot understand how the Treasury has accepted the disbandment of the procurement policies of the National Health Service, which have ensured far more value for money in the British National Health Service than in any other national health service of whatever form or dimension around the world. Fifteen years in an American healthcare company and being married to an American, who is also a British citizen, make me very well aware of the deficiencies and problems of the healthcare system in the United States, and I do not want to see it come here. We will therefore have to look at some of the strengths of the National Health Service.

I have lost any hope of convincing the government or Liberal

Democrat Benches about the substance of the Bill. It is going to go through. That is unfortunate but that is the reality. However, I hope that we will be able to focus on some of the issues relating to a market, where great damage is being done. How do you challenge a massive American healthcare company if you are a disaggregated part of the structure-a single foundation hospital or a single commissioning group? Do you seriously think that a major healthcare company, whether it is in Switzerland, Germany, the United States or even here in the UK, is going to listen to us? Are we seriously going to dismantle this structure?

When I was Minister of Health, I was also the sponsoring Minister for the industry. This Government, like the Government beforehand, are very keen to build on the biomedical companies in this country, as well as the two large pharmaceutical companies, GlaxoSmithKline and AstraZeneca, and quite rightly so. They are important, modern, scientific industries, and we have something to contribute to the world in these areas. However, part of the reason we have been able to build up these industries is that the direction of healthcare policy has been able to understand, work with and partnership the industry. Only a few days ago, an extraordinary announcement was made about the malarial vaccine being developed by GSK in partnership with the Bill and Melinda Gates Foundation, amply financially supported by Buffett and his millions. I ask the Committee to consider carefully that, within the values and principles of a health service which is predominantly free, there are also great strengths in the purchasing power of a whole country. I hope that we will do that.

Apart from the good sport in quoting the Liberal Democrat conference in relation to subsection (2) of the proposed new clause-we are not all innocents here-I think that all the issues in the clause are important. I should be only too happy to see it amended, because none of these things can be considered on first go to contain all the right elements. However, underlying it is a principle: are we trying to maintain some of the principles and values of the health service that we have had since 1948 or are we hell-bent on destroying it and replacing it with market principles at each and every turn?

This is not an internal market. It is an external market. If we do not, in this House, start to dismantle some aspects of it and see some merits in the structure of the health service as it currently is-economic merits, benefits of having the strength to use your market power as a large purchaser-then, in my view, we will not only destroy the National Health Service, but we will make health care in this country a great deal more expensive than it currently is. You have only to look at the percentage of GDP which the United States spends on overall healthcare and the return it gets, and then compare that with this country, to realise that we have a jewel which we are in great danger of throwing away.

### Other interjections by Lord Owen during the course of the debate

**Lord Warner:** I am sorry to interrupt the Minister's flow, but he has been interrupted, so I thought I would ask my question now. The Minister has given us quite a lot of assurances about what the government amendment would cover, but I put to him a particular issue that came up-not that long ago, in 2006-when there was a major national row about the number of specialist training places. A large number of doctors and would-be doctors marched on London to complain about that system. It was absolutely clear that the only person who could deal with that issue in any satisfactory way, for both the professions and the public, was the Secretary of State. Is the Minister absolutely confident that the government amendment would enable the Secretary of State to act in such circumstances?

**Earl Howe:** The Secretary of State could act if Health Education England was failing in its functions. Our vision is that we will be giving functions to Health Education England to oversee a national system. If it does its job properly, then the situation the noble Lord describes would, one hopes, be handled in a satisfactory way. If it fails in its functions, then, yes, of course it would be the duty of the Secretary of State to step in and oversee the process.

**Lord Owen:** This is a crucial question. The word failure is extreme. A lot of us worry that waiting for failure would be too

late. We want to see an intervention capacity when the Secretary of State has anxieties or doubts about what it is doing and that he has a position to represent this Parliament-or any Parliament - on the issue.

**Earl Howe:** I know that is the noble Lord's concern and of course I understand it. However, it is the policy of the Government to confer functions where they best sit. If the Secretary of State were to intervene at any whiff of trouble, it would run counter to that vision. I believe that there will be ample scope in the next set of amendments to talk about this very subject; but it is very important to understand that we have quite deliberately taken the view that functions, duties and responsibilities should sit with individual bodies and that the Secretary of State should be there to ensure, to the public and Parliament, that those bodies fulfil their duties and functions correctly.

I suggest that we defer the particular issue raised by the noble Lord, Lord Owen-about the degree of system failure that has to occur before the Secretary of State intervenes-to the next set of amendments. The amendment we are dealing with now has to do with the ultimate accountability of the Secretary of State for the education and training system-which I am saying to the Committee is there in our amendment.

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**Lord Owen:** My Lords, this has been a fascinating debate and it has certainly taken the arguments further. I do not think that anybody expects that we will vote tonight, and I think that we will come back to this at Report.

There are merits in both of the cases put forward. In some respects-we can argue about the word "ultimate"-the idea of responsibility of Parliament has merit. It also tallies with the expression used by the noble Lord, Lord Newton. When people realise what the chairman of this largest quango thinks he will do, there will be uproar. Unfortunately, we have not yet been able to read those things-we know about them through reports, but we have not yet read them. It is very clear that the chairman-designate takes the view that he is given the money,

he is given the mandate—a three-year mandate which is of course subject to change—and he then decides. It is pretty clear that some people think that that is a very good idea. I think that the noble Lord, Lord Warner is pretty close to that position.

**Lord Warner:** I cannot resist responding to that. I do not accept that position. I was trying to say that what the putative chairman is saying seems to be in conflict with what is provided for in the legislation, which requires the Secretary of State to produce a mandate before the start of each financial year. That is a very clear marching orders provision in the hands of the Secretary of State.

**8.45 pm**

**Lord Owen:** When we look at what has been said, we will have a better idea. As the Bill unfolds in all its complexity, we are all part of the education process. We saw that in the earlier debate about education. It is not satisfactory for Parliament to rest powers against the wording of the legislation; that is why we worry about words. Words matter here; we cannot get away from that. That is why I come back to the provisions in the admitted interventions—"failure", "emergency"—which are extreme words, and are deliberately designed to be. We have to look at that. We will not come to a view on the Secretary of State's powers until we have finished Committee, looked at the whole Bill and have a feeling for what is to be changed by the Government. We will then come back to it. Personally, I hope that the Select Committee on the Constitution itself comes back to have a look at this. The committee has some very distinguished members. I would like to reserve judgment. The noble and learned Lord, Lord Mackay, who was one of our most distinguished Lord Chancellors, has made a very valuable contribution. Some of his explanations may even be of use in future law courts. I certainly stand by the amendment produced by the noble Baroness, Lady Williams, because it is tried and trusted, but I have made it clear that I would not object to wording put into this Bill at an appropriate stage which states that the Secretary of State is not micromanaging the National Health Service. Unfortunately, there is a public perception that comes to the Secretary of State for every damn thing under-I

think I have made myself clear. We do not want that to happen and we know that it should not happen. We mouth the words of a decentralised health service without being willing to admit that there are limits to what people can be held accountable for. However, I do not think that failure and emergency are the parameters. They have to be lowered if we are going to make sense of this.