



Procedure Committee

Oral evidence: [English votes for English laws Standing Orders](#), HC 410

Wednesday 9 September 2015

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Members present: Mr Charles Walker (Chair); Edward Argar; Nic Dakin; Patricia Gibson; Patrick Grady; Simon Hoare; Sir Edward Leigh; Ian C Lucas; Mr Alan Mak; Mr David Nuttall.

Questions 70-156

Witnesses: **Pete Wishart MP**, SNP Shadow Leader of the House, **Angela Eagle MP**, Shadow Leader of the House, **Rt Hon. Chris Grayling MP**, Leader of the House of Commons, and **David Cook CB**, Office of the Parliamentary Counsel, gave evidence

Examination of Witness

Witness: **Pete Wishart MP**, SNP Shadow Leader of the House

Chair: Pete, thank you for coming.

Pete Wishart: It's a pleasure.

Chair: I should draw the Committee's attention to the fact that you and I started our parliamentary careers on the Scottish Select Committee together, and haven't we done well as a result? Do you want to make an opening statement or shall we just get on with it? What do you feel you would like to do? It's up to you.

Pete Wishart: I think we'll probably cover most of the stuff in your questions. If there is anything we feel that we have missed out, I'll take the opportunity to refer back to that.

Chair: Okay. We are aware that your Committee is undertaking its own investigation. You also met with Sir William McKay yesterday.

Pete Wishart: Yes.

Q70 Mr Mak: The SNP and the Scottish Government have both indicated their concern at the Government's proposals for English votes for English laws. What are the principal concerns that Members of your party have about the effects of the proposals on their work at Westminster?

Pete Wishart: I think that it would be fair to categorise them as many, abundant and manifest. We observe, almost dispassionately, what is happening in terms of English votes for English laws. I know that applies to us as Scottish Members of Parliament. What we cannot understand in the way that the Government have chosen to proceed with these particular plans is why they are doing this. Is this all worth while?

We are 59 Members of Parliament out of 650. English Members of Parliament will always get their way when it comes to legislation. I cannot recall any piece of legislation that was determined by Scottish Members of Parliament—where we made a difference in terms of anything that was delivered. I think there were maybe two instances during the Blair years. Other than that, I cannot think of any other example.

In order to try to achieve what seems to be more a political ideal, we're going to politicise the Speaker of the House of Commons and set the Speaker's Office possibly in conflict with a vast swathe of Members of Parliament. In the case of your Committee, Chair, we are going to have another piece of legislative scrutiny added to Bills and legislation. We are going to change the Standing Orders of the House. We are going to invoke some huge and significant constitutional change. As a Scottish Member of Parliament, in terms of the Scottish National Party, we are thinking, "Is all of this worth it?" There is no consensus in the House, as some have observed. We have got the Conservative Government prepared to drive through this new plan to change the Standing Orders, and it is opposed by every other single party in the House. It is almost impossible to think that you could proceed on something that is so significant, so dramatic and of such huge constitutional significance without consensus in the House. Lastly on the Scottish National Party's view on this, we very much hope that the Leader of the House will review his consideration of other and better ways to do this. It seems like using the most massive sledgehammer to smash the tiniest of nuts.

Q71 Edward Argar: Pete, you have been typically clear and forthright in your views on this, particularly in setting out your call for these proposals,

were they to go ahead, to be brought forward in primary legislation rather than by changing the Standing Orders of the House. I think—I know you will correct me if I misquote you—that one of the reasons why you set that out is to facilitate greater scrutiny through the legislative process. Why do you regard it as inappropriate for this House to change its procedures in this instance through Standing Orders?

Pete Wishart: I think it was our very good friend the hon. Member for North East Somerset, Jacob Rees-Mogg, who said that Scotland got a devolved Parliament and England is getting a Standing Order. That seems to be the way that this has been proceeded with and progressed.

The debate about legislation versus Standing Orders has largely gone now. I took evidence from several constitutionalists yesterday in the Scottish Affairs Committee, and the clear view was that it was going to be through Standing Orders. They foresaw a number of difficulties, problems and issues if it was to be introduced by legislation, most notably—I do not need to tell anybody in this Committee about this—the challenge that would possibly be in order from the courts if there was a problem or difficulty with some of the legislation. The problem with proceeding with legislation is that there has been absolutely no scrutiny whatsoever.

I am really pleased, Chair, that your Committee has taken this up. I have seen some of the witness evidence that has been given to you thus far, and we have secured a number of equally compelling bits of evidence from witnesses that we have asked for, so at least there is a degree of scrutiny now afforded to this. The difficulty with Standing Orders in the way that the Government had intended the plans was that this was to be delivered within 100 days to meet a Conservative party manifesto commitment. There would be no opportunity for, or possibility of, scrutiny. It was to be subject to one day's debate. Thankfully the Leader of the House reconsidered that when he amended the provisional Standing Orders and came back to the House, and we have been given the opportunity of two days on the Floor to consider this before a vote.

I do not know where we are—perhaps you know better than I do, Chair—when it comes to how the Leader of the House is seeking to progress the change to the Standing Orders. No date is set for that. Our big hope is that there will be a total review of this, and that we will have the opportunity to scrutinise it properly. I know that there was a suggestion from the House of Lords to put this to a Joint Committee of both the House of Commons and the House of Lords to look at it properly and make sure that Parliament does its job of

looking at these proposals sensibly. It is not something that will find favour with me, given my views on the House of Lords, but there must be something that we can do to further exercise scrutiny on huge plans that have massive, significant constitutional implications for the way we do business in the House, and which have a massive implication for Scottish Members of Parliament when it comes to our representational rights in this House and our ability to look after our constituents.

Edward Argar: Thank you. You have been typically clear on that.

Q72 Simon Hoare: There is, to my mind, a conflict between your answer to the first question and your answer to the second. Your answer to the first question, and I summarise, seemed to suggest that as a matter of principle you disagreed with this idea of English votes on English laws, and you, slightly cavalierly, dismissed the instances where Scottish votes carried a law with an impact on England because that happened on only two occasions, and therefore it did not really seem to matter terribly much, to your mind. Your answer to the second question was about the procedure, the scrutiny and the delivery of the proposals. I am, however, probably right to say, am I not, that irrespective of which mechanism the Government takes to deliver this, the SNP will always be against the principle of it? What I fail to understand—because if there is one thing the SNP is, it is a democratic party with a deep understanding of the function of democracy—is why it thinks it correct or justifiable for legislation that governs Scotland to be delivered by Scottish parliamentarians in a Scottish Parliament, but not to have a concomitant level of respect for matters relating to England and/or England and Wales being delivered by English and/or English and Welsh MPs.

Pete Wishart: That is a perfectly fair question. Let me try to answer it in terms of how we see and observe the way this is happening in Parliament now. For years and years—certainly in my almost 15 years as a Member of Parliament, and since the creation of the Scottish Parliament—we have taken a view that we will not interest ourselves in England-only legislation. I was the Chief Whip of our group, and every week we would get the provisional business of the House and have a look at it, and we looked for the Scottish interest. If there was no Scottish interest, we would generally leave the legislation alone and not vote on it. That was a view we took and it seemed to work quite well for us. I think it was respected throughout the House that the Scottish National party would not take an interest in England-only legislation.

What has emerged since then is a particular plan, and it is a plan that we have great difficulty with because of what it means for the representational rights of Scottish Members of Parliament in this House, which is to make us second class. Some Members of the House will have full access and full rights in this House, then there will be other Members of this House—Scottish Members, Welsh Members and Northern Irish Members—who will almost have full rights but will be excluded from certain sections of legislation. That is not right, as far as I am concerned.

I am happy to work with anybody in the House—whether that is the Leader of the House, this Committee or anybody else—to try to find a solution to what I sense is a very real and strong concern and a sense of grievance among English Members. I recognise that, and I saw that during the general election campaign. It was reiterated to me time and time again that this was the predominant issue on the doorstep.

I accept that there is a problem, an issue, but this is not the way to solve it; this actually makes matters worse. It creates an absurd mess, but I think there are possible solutions. I quite liked some of the things that were in the McKay commission. I thought the idea of invoking an English Grand Committee, for example, was possibly a solution that could meet this. We have a Scottish Grand Committee, which could form legislation within this House. Why are we not looking at a solution such as that? This idea that an English Parliament, or what would effectively be an English Parliament, could just assume the rights of this House, with English Members of Parliament becoming quasi-English Parliament Members within the confines of the unitary Parliament of Great Britain and Northern Ireland, I find an absurd suggestion, and I think it will lead to many, many difficulties down the road.

Q73 Patrick Grady: Simon's question touched on a question we wanted to draw out a little bit more. Why should it be that Scottish MPs can vote on Bills that apply to England or England and Wales-only, on subjects where the Scottish Parliament can already legislate, so our constituents are having laws passed on their behalf on a whole suite of devolved matters? Maybe you could draw out a little bit of what you were saying on that, Pete.

Pete Wishart: We live in an asymmetric United Kingdom. We have different Parliaments and Assemblies throughout the different nations of the United Kingdom. The only place that does not have any Assembly or Parliament is England. That is what has created

the perceived difficulty, and that is what I think English votes for English laws is attempting to address and to ensure is managed more effectively. There is always what we call “spillover”—things we decide in the Scottish Parliament that may have a consequential impact on the rest of the United Kingdom. There are decisions taken here that obviously have an impact on Scotland. Because we are in this situation, all sorts of difficulties emerge that we are all in the process of trying to manage and find some sort of solution to.

There is one very elegant solution—I have said this in Second Reading debates, and again and again when I am asked about this—which is that we have our Parliament, the English have their Parliament, the Welsh and Northern Irish have theirs, and we come together in the unitary UK Parliament of Great Britain and Northern Ireland to discuss and debate the reserved issues—the foreign affairs, the defence, the multilateral relationship and all these things. It is the only way to do it without the spillover consequences that are always going to be there.

To try to solve English votes for English laws, the Leader of the House has created an utter mess when it comes to some of these issues and difficulties. There are always going to be outstanding issues. There are always going to be problems and things that are untidily kept with an asymmetric UK without trying to address the real issue of the English Parliament. I see no way that this could be effectively managed within the asymmetric situation that we have throughout the United Kingdom.

The Chair may have some solution or idea and this fine Committee might be able to come up with some way forward, but what is in front of us just now does not do that or achieve that. It does not work for, I think, the vast majority of the Opposition parties and seems to be creating more problems than it is trying to solve.

Q74 Sir Edward Leigh: Where you have a point is that when the Scottish Parliament votes on, for example, health or education, as I understand it that does not affect England in any way, but when we pass Bills that on the face of it have nothing to do with Scotland—dealing with, say, health and education—because of Barnett, we could pass a Bill that reduces our overall spending and so reduces your spending.

Pete Wishart: That is exactly it.

Sir Edward Leigh: Unfortunately, this Committee cannot debate Barnett as such. My view is that it is a very old-fashioned way of doing it and that

there should be a needs-based formula—but anyway, we have to live with the world we have. Would it make this more acceptable—I know you will never absolutely accept it—if we could somehow strip away any Barnett consequential from this England-only legislation? For instance, the Speaker would have the power to say, “I think there is a risk that this could have Barnett consequential.” The effects for Scotland need not be on the face of the Bill. It may be that we are privatising parts of the NHS, which may reduce its spending—you can see my point.

Pete Wishart: Absolutely.

Sir Edward Leigh: Would that make it a bit more acceptable to you?

Pete Wishart: I think that the Barnett consequential issue is the one that defines the difficulties that we have with the proposed plans for English votes for English laws. The McKay Commission wrestled with this thing, and it came across the hard rock of Barnett consequential. Yes, it would make a difference. You are absolutely right in proposing that, not as a solution, but as a way of easing some of the pain and difficulties.

The Leader of the House tried to clarify that with his redrafted Standing Orders when he came back. He included the things about Estimates of departmental spending and how departmental budgets would be affected by English votes for English laws, but that totally missed out the point that you are making, Sir Edward, about such things as tuition fees and the privatisation of healthcare. Down the line and down the stream, as less public money goes in and more private money comes in, the Barnett consequential issues for Scotland become substantial. I know that the Scottish Government gave you some detailed evidence about their concerns on that.

This is a real, live concern. The UK Parliament is responsible for all UK spending. I know we have significant new powers when it comes to taxation, but the pot is still gathered by the UK Parliament, so Barnett consequential will always be a feature and an issue, given the spillover and the knock-on effects for our ability to look after our population.

Q75 Sir Edward Leigh: So it would take a bit of the sting away, as far as you are concerned, if we can find a way forward around this problem.

Pete Wishart: It would resolve some of the difficulties, although it does not resolve some of the other issues that we have, such as the “second class-ness” of Scottish Members of Parliament.

Sir Edward Leigh: I understand that.

Pete Wishart: If there was a way—I know that the McKay Commission spent a long time looking at how to resolve some of the Barnett consequential issues and did not find any satisfactory answer in response to that.

Q76 Ian C. Lucas: On the point about second-class MPs, I have written to the Leader of the House asking him, in non-devolved areas for Wales and Scotland, to give the same veto rights to MPs from Wales and Scotland as he is going to give to English MPs, and he has refused. What is your reaction to that?

Pete Wishart: In public evidence I secured in the Scottish Affairs Committee, the Law Society of Scotland came up with several pieces of legislation that were Scotland-only determined and decided in the House of Commons. This is an issue that Scottish Members have, and I know that Welsh Members have it too, because I have been listening to some of the things that have been raised in Welsh Adjournment debates.

English votes for English laws seems to be an imperative for this House to address, but Scottish votes for Scottish laws and Welsh votes for Welsh laws do not seem to matter or be part of any of the House's considerations. We have the Scotland Bill in front of the House right now: 97% of Scottish Members of Parliament voted in favour of amendments to the Scotland Bill that were supported by every single party in the Scottish Parliament and agreed by the Scottish Government, but those amendments were rejected in this House on the back of English Members of Parliament. There is a sense that if English votes for English laws is such an imperative and something that has to be solved and determined, what about Scottish votes for Scottish laws and Welsh votes for Welsh laws when it comes to legislation in this House? That has never featured as any sort of interest or issue. When I raise it in the House, I can almost feel the scorn coming across from my colleagues opposite—you know, "You have your own Parliament. How dare you raise these issues in this particular House?" There seems to be a double standard when it comes to these things and how they are assessed.

Q77 Patricia Gibson: Turning our attention now to the Speaker, would you expect or favour the Speaker being open to receiving representations before he certifies legislation as being England-only, or England and

Wales-only; and do you think that SNP shadow Ministers would consider making such representations to the Speaker regarding certification?

Pete Wishart: I think the Speaker has an impossible job to do when it comes to English votes for English laws. I know that this Committee has spoken to Speaker's Counsel and you have heard some of the real concerns that Speaker's Counsel has about the Speaker being placed into this invidious political situation, where he will have to make a political call that may exclude you, me and Patrick from participating in certain sections of legislation.

If it is to be Speaker certification, the Speaker would have to consult far and wide to make this decision. It is a very important decision about the representation rights of certain MPs. Again, the Scottish Government in their submission, which I know you have looked at, have said that Scottish Ministers should be consulted fully before any certification is made, and that the Presiding Officer of the Scottish Parliament should also be further consulted before any certification is made.

If this was to proceed, not only should that consultation be wide and varied and far and inclusive when it comes to the devolved Assemblies and legislatures, but the Speaker would really have to give reasons about why he was certifying legislation. I don't think it would be good enough just to say, "It's behind closed doors. I've made my ruling," as he does with selection of amendments and on money resolutions. I think the Speaker would have to come forward to the House and explain why I was to be denied the opportunity to fully represent my constituents in a piece of legislation that I felt impacted on them. It would not be enough just to say behind the closed doors that just because it is Speaker certification, it cannot be revealed.

I would rather the Speaker were not involved in this at all. I get the sense that he is very uneasy about being placed into this role. I cannot think of any other Speaker in any other legislature anywhere in Europe who has been drawn into the political process in such a way—a compromising way that could possibly put him in conflict with so many MPs who represent the nations of the UK.

Q78 Simon Hoare: I will just go back. Say we end up with a procedure whereby it is the Speaker who makes the certification. You talk about the need to make it public. Is a way of dealing with that to have it as a written judgment, not open for oral questioning from the Floor of the House or through any other mechanism, but so that Members could see

it? Is that some sort of halfway house? I appreciate that it does not deal entirely with those who have concerns about politicising the Speaker, for want of a better phrase, but it would allow them to see the working, without being able to question it.

Pete Wishart: I think that would be helpful, but I don't think it solves the entire issue. If a certification is made and it is challenged, there must be some sort of appeals process, so that Scottish Members or the devolved Assemblies, legislatures and Parliaments get an opportunity to challenge the certification. But I could see that that would be helpful in trying to manage the way forward.

My real fear in all this—I look around this table and I see several keen constitutionalists when it comes to some of these issues—is that it could end up in the courts, and it could be subject to some sort of judicial review. I know that we are taking the courts out of the process by us Standing Orders as opposed to legislation, but if people are just so unhappy with a certification being made that feels like it is against the representation rights and issues of MPs, we could end up in a particularly damaging and pretty awful place when it comes to all this. That is my fear. If we are approaching this through conflict and imposition, and we are not approaching it with a degree of consensus and agreement, we could end up in some pretty bad places with all of this. And I just hope that—

Chair: That is an important point, Pete, if it is approached through conflict. There is no guarantee—there is perhaps the possibility, but there is no likelihood—that there will always be conflict attached to this, and we have to accept that as well. As politicians we are very good at looking at the glass half full, but I would just add the caveat that I hope, whatever recommendations we come up with as a Committee, they are designed to avoid conflict and promote people working together.

Q79 Mr Nuttall: If I heard correctly a few moments ago, you mentioned the possibility of having an appeal from the Speaker. Did I hear correctly that you said that there must be some appeals mechanism? Who on earth could be above the Speaker of the House of Commons? Where would that go? How does that work?

Pete Wishart: What I am trying to suggest and propose is that, if the Speaker is to be placed in this situation where he has to make a political call about involving or not involving certain Members of Parliament, there has to be an agreed process that we can all be confident in that leaves the Speaker as a neutral arbiter. A written

judgment about his decision. An opportunity to say to the Speaker, "You may have got something wrong here"—this is what I mean by an appeal—"and you may not have considered this piece of evidence. Can we invite you to have a look at this again?" There is no higher arbiter than the Speaker and I accept that, but I think we must be able to be in a position to say to the Speaker, "You might just have got this wrong in terms of your certification, and we invite you to have a look at this once again."

Q80 Mr Nuttall: So essentially your definition of an appeal is simply to ask for reconsideration by the Speaker.

Pete Wishart: Yes. This is one of the difficulties that we have got when we come through all this. Because this has been rushed through with such haste, we are scrambling to find a way that deals with all of this, because of some of the real difficulties and absurdities and some of the side effects and impacts of all this. We are trying to find a way that would retain the neutrality of the Speaker and to make sure that he is a consensual figure when it comes to all this. I am suggesting this as a possible way that might just get the Speaker off this invidious political hook that the Government seems intent to impose on him.

Q81 Chair: But do you accept that the Speaker gets excellent advice from senior Clerks, who are experts in the process of legislation and parliamentary procedure? So there is only a limited risk—I am not saying there is not a risk, but there is really only a limited risk that he will make an error of judgment in this area.

Pete Wishart: I expect that is the case. I do not know, because we have never had the Speaker in this position before. Everything the Speaker decides and rules and anything that comes out of his office is accepted, and it is accepted because generally, normally, he is dealing with things that we all have confidence in him to do. We do not possibly—I say possibly—have confidence in him to decide this, because what this does is impact upon certain Members of Parliament; it may influence and impact on our ability to look after our constituents.

What the Government is doing is potentially—I use that word "potentially"—putting the Speaker into conflict with Members of Parliament in this House. That is not a good place to be, and if that is going to be the case, what I am saying to you, Chair, and to Mr Nuttall and others who have asked this, is that we have to try to

find a way which de-escalates this. Having further conversations with the Scottish Government, devolved Assemblies and Presiding Officers might help to shape up a bigger sense of consensus in certification. I would rather that he was not in that position, but if he is—if the Government is intent to politicise our Speaker—then I think we need as wide and varied and big a range of advice as he can possibly secure.

Q82 Sir Edward Leigh: Obviously you know that since time immemorial, the Speaker has never given reasons for his decisions—this is a counter-argument—and there is a very good reason for that. If he was to give reasons for his decisions, of course, then people would start arguing with those reasons. So there is no easy way out of this.

Pete Wishart: Exactly. And this is why we are suggesting that this should not happen. We have all had confidence in the Speaker. I cannot remember—maybe you remember more than me, Sir Edward, with your history in the House—where there has been a real challenge to a Speaker’s ruling and judgment, but what this does is put him in the centre stage of politics where he is asked to do something that no other Speaker in any other legislature in western Europe is being asked to do, which is effectively to exclude part of that legislative assembly from parts of legislation that might impact on their constituents.

Q83 Nic Dakin: Do you have any sympathy with the argument that it should not be the Speaker who does this, but the Leader of the House?

Pete Wishart: I have absolutely no confidence in that whatsoever. I think that would be a dreadful solution. This particular Leader of the House is particularly partisan and political. Imagine him making the ruling on some of these issues. It would be even worse. Thank goodness, we have got the Speaker. We know the Speaker’s concerns with all this, but let’s not put it in the hands of a politician. We would get into some really difficult areas then.

Q84 Chair: A final question, Pete. It is not for the Government to introduce new Standing Orders; it is for the House. Do you think that there should be a sunset clause attached to whatever is taken on board by the House, if indeed the House does accept the Government’s proposition?

Pete Wishart: My understanding is that that is part of the plans of the Government—that there would a one-year look at this and it would be assessed at the end of it. I know that differs from a sunset clause. It is not a proposition that I particularly find attractive, because we will be subject to these particular changes for that year. It may debar my ability properly to represent my constituents. So it is not a solution that I think is particularly attractive.

I think the way to do this is that, if the Government are intent on pursuing this for political rationale and reasons, we have to find a way to scrutinise it properly. It is good that we have got your Committee, Chair, and my Committee having a look at this just now, but I think we have to try as much as possible to involve Members of the House a bit more in all of this, and give it the proper scrutiny it requires. Because what it has done, even in the limited debates that we have had in the House and our respective Committees, is throw up so many difficulties and particular issues that I feel are going to come back and really hurt this House.

Q85 Simon Hoare: Briefly, you just said that effectively your anxiety is being unable to represent your constituents. This is not meant to be a trick question; it might just be a naive one. Why would anybody's constituents have a concern or an interest in the passing and progress of legislation that did not apply to them? You could extrapolate that to absolutely anything.

My constituents may very well have interest in the provision of Scottish education, but I have no right to represent their interests in this place because we have devolved it. There are countless other issues. What is it that makes, in your judgment, the Scottish electorate perceive it as being legitimate to have an interest and a voice in things that do not affect them?

Pete Wishart: This is the difficulty we get into with the certification. If something is made as an England-only piece of legislation—I will give the example of tuition fees, which Sir Edward touched on—I would suspect that the Higher Education Bill 2007 would have been certified as England-only. I am pretty certain that would have been the case, as it was about higher education funding. If that was put in front of the Speaker's panel, or whatever, it would be certified as England-only, but it had massive implications for my constituents, massive. What that would have done to downstream funding would have been to deprive Scottish higher education of the Barnett consequential, and my constituents

whose children were using higher education facilities in Scotland would be impacted by that.

That is what I mean about the way that we have asymmetric devolution throughout the UK just now. It throws up the very real difficulty of downstream Barnett consequential from issues and decisions taken in the House. When I talk about looking after the interests of my constituents, I demand the right to be at the table where decisions are taken that might deprive my higher education institutions of the necessary funding that they need in order to pursue their agendas.

Chair: Pete, thank you very much for coming to the Committee and for being open, honest and robust in answering the questions. I am sure we will be seeing you, no matter what happens today, at a future date.

Examination of Witness

Witness: **Angela Eagle MP**, Shadow Leader of the House, gave evidence.

Chair: Welcome, shadow Leader. Thank you for joining us today. Would you like to make an opening statement? If so, it is entirely open to you to do so. If not, we can just move along into the questions.

Ms Angela Eagle: Chair, I think I set out my and my party's views on these proposals in some detail in the two debates we had prior to the recess. I do not propose to go over all of that again. It is important that I answer the Committee's questions and queries, so let's just get on with it.

Q86 Mr Nuttall: To start with, for the benefit of the Committee, what practical difficulties do you envisage if these proposals were introduced and became Standing Orders of the House?

Ms Eagle: There are some practical difficulties with the process and progress of legislation in the complexity that is introduced with the added stage. There are issues of timing, particularly between Report stage and Third Reading. There are issues about definition.

Q87 Mr Nuttall: When you say there are issues of timing, do you mean it would be longer?

Ms Eagle: It would be longer. It might cause logjams.

Q88 Mr Nuttall: That would be a problem for the Government.

Ms Eagle: It would be a problem for this House as well as for the Government. I was just about to say, we have already seen an increasing trend—I am not making a party political point, because this happened in a Government that I was a member of and has continued to happen—of Bills arriving only half-cooked to this House and Bills that are not properly drafted. We have seen increasing numbers of huge piles of Government amendments during the stages of Bills, which takes away the chance for Oppositions to get their amendments heard. Report stage is an important part of that process. Third Reading has kind of shrivelled over the years that I have been in the House.

There is an issue of timing and how you work it out—the complexities of where Bills may go—which is partially caused by the scope of these suggestions. The McKay Commission was looking at whole Bills. This Commission looked at parts of Bills. Depending on how Bills are then drafted, you could have little bits of Bills all over the place being subject to these quite complex arrangements. You could have amendments suddenly, depending on scope, coming in and making it harder. You can get into great difficulty because of the sheer scope of this legislation.

As we have a veto rather than a voice, the consequences of what the Speaker does in defining what is England-only become much more dramatic. Therefore, people are more likely to argue with them. There are some really huge issues that have not been properly thought through. They may have been thought through by a Government that I thought was acting in a very partisan way by producing proposals that went so much further than McKay, pulling them out of a hat in the way that they did and then trying to force them through quickly. The way to do things that have to be as subtle as what is being tried with English votes for English laws is by consensus. It is not by proceeding in the way that the Government so far have proceeded. I am glad that this Committee is taking a look at this issue.

Q89 Mr Nuttall: Given that these proposals to change the Standing Orders specifically do not apply to private Member's Bills—

Ms Eagle: I think that is the least of the problems.

Mr Nuttall: Let me finish the question, if I may, shadow Leader. As they do not apply to private Member's Bills, do you feel that, at least in theory, there could be a risk that a private Member's Bill going down one set of procedures could reach a conclusion containing different legislative proposals from one that proceeded under these proposals? You could actually have two Acts of Parliament going through two separate procedures with different statutory outcomes.

Ms Eagle: It is potentially possible. I presume that the Government of the day would get somebody to shout, "Object," at the appropriate moment on a Friday to prevent that from happening.

Mr Nuttall: It is a bit more complicated than that.

Ms Eagle: But you are making an important point about scope. The point that this not only applies to parts of Bills, but to statutory instruments, administrative statutory instruments, commencement orders, and a range of issues including the Finance Bill, makes it far more wide-ranging than anybody had expected.

The consensus that was attempted to be reached was non-existent. In my case, the Leader of the House asked me to see him the day before the statement that he made announcing these proposals. I was due to see him at quarter past 3. I ended up seeing him at half-past 6 that evening, only to be confronted with something that was far more wide-ranging and difficult in its application than I had expected—completely different from the McKay proposals and going more aggressively for a veto, not a voice, creating a double majority, which had not been talked about in that way, and completely rejecting the much more subtle and interesting McKay proposal, which was for a statement of principle that could evolve into a convention. It was a red rag to a bull, and I just do not think that is the way to try to deal with these delicate issues.

Q90 Nic Dakin: You have already talked, Angela, about the problem of time, particularly between Report and Third Reading. Do you think additional time would need to be built into the legislative programme to deal with that?

Ms Eagle: I think it would have to be. It is inevitable that Bills would take longer to get through. In due course, people representing Scottish and Welsh constituencies would be twiddling their thumbs, while English Members would be much more busy. I think we would then start, once we are talking about territorial representation being the be-all and end-all for rights in the House,

wondering whether a Minister who represented a Scottish or Welsh seat could ever be in a Department that was dealing with England-only matters.

The implications of this are huge, and I do not think we have had nearly enough debate about how this would proceed. If we had gone for the McKay proposals, which were very sensible and pragmatic, we would have been able to try to go forward with the consensus. Because this has been blasted open in a very partisan way, I think we are in a very different situation.

Q91 Nic Dakin: Can you see any other likely impact on timings at this point?

Ms Eagle: There are impacts on timing, simply because the Speaker is now going to have to do a range of things to decide whether Bills are England-only or Wales and England-only. He is going to have to decide that with bits of Bills, as well as Bills themselves. We are going to have to decide it with Executive orders and statutory instruments, and I think everything is going to slow down. There will be contention around those definitions of the sort that we do not usually have with money resolutions, because it is a fairly open-and-shut case whether a money resolution is acceptable or not and a Bill is a money Bill. This is so much to do with a range of political issues in every area that it is bound to be more contentious, and it will hold things up.

Q92 Patricia Gibson: This is the same question I put to Pete Wishart: would you expect the Speaker to be, or favour him being, open to receiving representations before certificating legislation as England or England and Wales-only? Would you expect shadow Ministers to consider making such representations to the Speaker regarding certification?

Ms Eagle: The definition of this range of legislation and the potential exclusion of Welsh and Scottish Members would make it more contentious. The Speaker would probably need—it would be up to him, but he would probably need—to ensure that he felt he was taking the House with him, with good legal advice. I don't think there is anything wrong with trying to reach consensus, but in the end it is the Speaker who has to make this decision. We have never challenged Speakers' decisions on definitions of Bills. This is so wide-ranging and potentially so controversial that I agree with the assessment that it would put the Speaker in a much more contentious situation. He would have to then decide how to respond

to the House's feelings and try to reassure the House that he was not being political.

Q93 Simon Hoare: It may be that you and Mr Wishart are right and this is the biggest dog's breakfast ever, which is going to run into huge confusion and we will all be running round chasing our tails. It may be that that is not the case and it works out pretty well. In any event, what are your views as to whether we should give it a trial run and whether we should time-limit it via either a sunset clause or trialling the arrangements on specified Bills? I accept it is a big change. It may have all those hurdles; it may have none of them in the practical application.

Ms Eagle: I think there are some hurdles that are obvious to see now: the scope of it and the fact that it extends to Finance Bills. We would see some of the problems that it would cause particularly acutely at a time when there was a Government that did not have a majority in England. We know that happens rarely, but when it does happen it is often at a time when things are finely balanced politically. These changes to Standing Orders allow legislative gridlock, and they allow a group of legislators who are from England to stop a Bill in its tracks and get rid of it in a context where they are not actually responsible for a Government programme, which would prevent a Government fulfilling its programme. So I think that is quite serious.

In terms of the police grant and the local government grant, if you had a group of English MPs who could stop the distribution of funding until it was skewed in a different way, presumably to help them, I think that is an unprecedented situation in our system. But that is even more the case in relation to the collection of income tax and the Finance Bill, because it is 25% of Government revenue. If I may say so, you are being slightly complacent about some of the potential implications of the veto process and the scope of this change.

On your question to me about whether it should be piloted, I would prefer changes to Standing Orders that are more modest than this to be piloted. In fact, the House usually does pilot changes to Standing Orders. It will do them for a year or two and then have a debate about whether they have worked and decide whether to proceed with them. But to have these presented in the way they were over the summer—pulled out of a hat—in a much more radical fashion than anybody had expected, ignoring the McKay Commission and riding roughshod over perfectly reasonable worries, is entirely the wrong way to go about doing quite delicate

constitutional change via the House's Standing Orders. I am glad that there has been a pause. We need a longer pause. If we cannot get a longer pause, we certainly need to pilot some of these things. A sunset clause is an interesting idea, but we are used to doing pilots with our Standing Orders and that would probably be the preferable way to go about it.

Q94 Simon Hoare: Can I clarify one thing? Would we be right to assume that, given the choice between doing this via primary legislation or via the Standing Orders of the House, if it is to be done you would prefer the latter, because it is much easier for the House and subsequent Parliaments to amend its Standing Orders to suit the circumstances, rather than to try to either repeal or change primary legislation?

Ms Eagle: Primary legislation is the way to create an English Parliament. It is not the way to try to incubate an English Parliament within a Union Parliament, which is the rather peculiar situation that we have ended up with here. The incubation is far more radical because of the veto, the double majority and the scope. Clearly, Standing Orders are a way to do things, but if you are going to do things via Standing Orders, I would respectfully suggest that Government ought to try to bring people from other parties with them and not just pull something out of a hat and say, "That's it", and "We're doing it in a day", which is the situation that we were in in the summer.

Q95 Chair: Well, I hope that this Committee can build consensus and can convey the concerns from across the House. The Government have an appreciation of those concerns. I am of the view, shadow Leader—you have been in politics longer than I have—that we cannot give every single party to this discussion what they want. Hopefully, we will find a way forward that is acceptable to the majority.

Ms Eagle: Chairman, this Committee does fantastic work in that area, and you yourself are well known as a builder of consensus where you can find it. Might I suggest you also look at the way in which the House analyses and scrutinises supply? This is an important part of the issues here.

Chair: Have you got our room bugged, shadow Leader? We had this discussion before our witnesses arrived. If nothing else, our next inquiry will be into Estimates and supply.

Ms Eagle: Our Estimates and supply process is absurd. The tweak that the Government made to reassure our Welsh and Scottish colleagues that they were part of a Union Parliament because they could have an opinion on supply is a joke until we make significant changes to how Estimates and supply are scrutinised by this Parliament. I gave a speech about it a couple of years ago, and if you get on to doing that, I am more than happy to submit it to you. It is an issue that has become very germane, and now we have this.

Chair: It is. I think I can speak for the Committee in saying that the full force of the Committee's intellect will be focused on that very subject, very soon. I hope that provides you with reassurance.

Ms Eagle: Good. I am very pleased to hear that.

Chair: And there is a lot of intellect in this horseshoe.

We have got the shadow Leader for 10 more minutes.

Q96 Patrick Grady: Pete Wishart referred to past experiences of the Scottish and Welsh Grand Committees and a potential role for an English Grand Committee as a vehicle that could address some of what the Government wants to address under English votes for English laws. I wonder if you have any particular views on that.

Ms Eagle: There are all sorts of different ways that we could have addressed this in a more evolutionary way that was less like pulling out a red rag and waving it at a bull, if I can put it that way. I have an open mind about how that could be done, but I do think instinctively that having a veto rather than a voice is entirely the wrong principle from which to start.

I think that evolving to something that actually works by consensus is the way to do it, and certainly an English Grand Committee could be possible, but I think in all the discussions about English votes, Scottish rights, Welsh rights and all of that, we have to remember that England is 85% of the whole. It is always difficult when you are trying to think of a way to balance different interests when one nationality is so dominant as a percentage of the whole, so we have to be very careful about the rights of minorities as well as ensuring that the English voice is heard.

Q97 Ian C. Lucas: If a veto is given to English MPs on English laws, should Welsh, Scottish and indeed Northern Irish MPs have a similar role in non-devolved matters that affect their jurisdictions?

Ms Eagle: It opens up a can of worms. The radical nature of this, the way that it has been applied to bits of Bills in a far wider way than we all thought, the fact that it is a veto rather than a voice—a double majority—and the fact that we will now be in an unprecedented situation if these Standing Orders are put into effect, whereby groups of English MPs can actually stop a Bill while no other group of MPs can stop a Bill in that sense, means that it is unprecedented. These are very difficult waters, where the law of unintended consequences is likely to throw something up that we have not thought about. So again, I would commend the McKay approach, which was much more about having a principle that you state at the beginning and you hope gradually comes to be a convention that everybody accepts.

Q98 Patricia Gibson: I want to pick up on something that you touched on earlier. You talked about the potential under these proposals for a Government to be paralysed because it cannot command a majority without its Scottish MPs and therefore cannot get major pieces of its legislative programme through. William McKay yesterday told us that he thought that that might focus minds and force a Government in that position to negotiate across the House. Of course, the other point of view that you could take is that a Government in that position would simply abolish Standing Orders again. If this were to go through, would a Government that found itself in that position have to pay a political cost for abolishing Standing Orders in terms of their own constituents? In the light of that, what do you think are the political implications for these current proposals?

Ms Eagle: It is a nuclear option to suspend Standing Orders, and it is not an ideal way to try to deal with a situation where a Government that may not have a majority in England but does have a majority in the country—in the UK—is trying to govern. It is hard to avoid the political implication that it is being done because that is likely not to be a Conservative Government. Unfortunately, those kinds of partisan calculations appear in these proposals in a way that makes it hard to build consensus.

If we are to make constitutional change it should be done in a politically neutral way. We certainly, in my view, should not be creating circumstances where we have a Parliament that can effectively be gridlocked. It has always been accepted by all sides in our country that a Government should be allowed to get its legislation. A Government that is elected should be allowed to get its legislation. This is very much a breach of that accepted notion in those kinds of circumstances.

Q99 Chair: Shadow Leader, thank you very much for coming to see us today and for your very thoughtful evidence. We may be in touch again in future.

Ms Eagle: Well, I certainly look forward to talking to you about supply.

Chair: Yes.

Examination of Witnesses

Witnesses: **Rt Hon. Chris Grayling MP**, Leader of the House of Commons, and **David Cook CB**, Office of the Parliamentary Counsel, gave evidence.

Chair: Leader, thank you for joining us today. You are joined by David Cook of the Office of the Parliamentary Counsel. Leader, you are going to be subjected to some robust questioning and grilling over the next half hour to 45 minutes, which I am sure you are prepared for and looking forward to, to be perfectly honest. Do you want to make an opening statement or shall we just crack on?

Chris Grayling: I think we'll just crack on. I have been listening to some of the evidence given by your previous two witnesses. I think I have one or two responses to them.

Q100 Chair: I have a fairly hostile question to open up with. I hope you do not think the worse of me for asking it, but someone had to ask it and it was said by the Committee that I would ask it. When does the Government intend to put its proposals to the House for debate and decision?

Chris Grayling: Shortly after the October recess. We might have moved earlier but, as you have seen, there has been quite a focus on other things this week. There has been an awful lot of business to get through. So it will be pretty quickly after the conference recess.

Q101 Chair: Excellent. Thank you for that answer. Have the proposals been amended since the revised package was published in mid-July?

Chris Grayling: They haven't, but of course I shall look very carefully at the outcome from the Procedure Committee and see if there are any wise thoughts that need to be incorporated before they are finally tabled.

Q102 Chair: Fantastic. So you are open-minded as to the recommendations made by the Procedure Committee.

Chris Grayling: I don't think you would expect us to tear them up and start again, but I am very happy to listen to the input from this Committee and see if there is anything that you suggest that would imply we should make any modifications.

Chair: We have been thinking hard how to improve them.

Chris Grayling: I thought you might have done.

Q103 Mr Mak: Has the Government considered time-limiting the operations of the Government's proposals via a sunset clause, subject to renewal after the proposals have been in operation, say, for a parliamentary Session?

Chris Grayling: I thought about it, but actually it is less straightforward than you think to do that. The first thing is, if we sunset it, it stops, and we then have to restart it further down the track, having gone through a process of reassessment. I don't really see the need for that. I think we can make modifications and adjust the Standing Orders as it goes. Also, in time terms, we are looking at a review after a year in operation. The question is, if we were to stop it at the end of the Session, we would be eliminating any carry-over Bills. We are part-way through the Session already. I would like to see this in operation. There won't be a large number of Bills that are affected by it anyway through the rest of this Session. I would like to see those Bills come to Royal Assent, and thus to be able to take some decisions about how well it has worked and what issues have arisen based on that full knowledge rather than bringing down the guillotine artificially.

Q104 Mr Mak: Do you see any procedural risks in bringing forward these new and complex proposals straight away and have you considered piloting the new arrangements on specific Bills only?

Chris Grayling: The manifesto said that we would trial them on a certain number of Bills and, effectively, that is what we are doing. There will only be a small number—the housing Bill, for example; there are Home Office Bills due, which will apply in part; and the buses Bill will appear in due course. They are the ones with which we will see how this works. We have a limited number of Bills on which this will be applicable in the rest of the Session and we will see how it goes. At the end of those, with this Committee and, I suspect one or two others, road testing as it goes, we will be able to take a decision on how it is working.

Q105 Patrick Grady: Leader of the House, I would hope—I am sure you are not—that when you name particular Bills, you are not pre-empting any certification that the Speaker might make on whether those Bills are England-only.

Chris Grayling: Indeed not, but you will obviously ask me which Bills I expect to have some English content. What I am not pre-judging is whether some or all of the Bills are certifiable under these arrangements, but it would surprise me if a housing Bill related to England had no clauses in it that were England-only.

Q106 Patrick Grady: Okay, that brings us quite neatly into the line that I wanted to pursue, which is the several new stages between Report and Third Reading that will be added to the process for England-only and England and Wales-only Bills. How much time would you expect, especially at the Legislative Grand Committee stage, to be spent discussing motions of consent? Would that time would be taken out of the overall programme time and what would the overall impact on the parliamentary timetable be?

Chris Grayling: That is an extra section, which, if there was a debate, would have to have extra time in the consideration of the Bill. That does not concern me. Time will need to be made available for that. In many cases, it might be an hour's debate; often, they will go through on the nod. If it is not the case that the UK Parliament is seeking to impose on English MPs something that they do not want, a legislative consent motion will be a formality. I suspect, as is often the case now—for consideration of Lords amendments, for example—it might well be an hour's debate, but it might be longer. It will be for the House to decide at the time how much time they want to allocate to that. My view is that if this requires extra time, it will need extra time. If that means us sitting an hour or two beyond the moment of interruption, so be it.

Q107 Patrick Grady: An hour's debate and then however long it takes to vote through the Lobbies. That brings me to the question about the Legislative Grand Committee stage. Have you given any thought to where and how that might happen and how that might look, given the very large number of English or English and Welsh MPs? Where will that happen and how will that look? The impression that I got from the stage that involves a double majority and from some of the exchanges that have been had in the House is that the Government have been trying to avoid a situation where Scottish MPs are essentially sitting on their hands, mute—unable to speak and unable to vote—but it looks to me as though that is precisely what will happen if a Legislative Grand Committee stage is taking place in the Chamber of the House of Commons. I would be interested to know your thoughts.

Chris Grayling: This is one of the misapprehensions. Clearly not you, Mr Grady, but one or two of your party colleagues have intimated that Scottish MPs would be excluded from debate. Scottish MPs are not excluded from the Chamber when the Legislative Grand Committee is sitting. They are not actually excluded from speaking at that point. They are excluded from voting. This is a matter where consent is required by the English MPs but if a Scottish MP wants to intervene and say, "Please don't do this," there is nothing to stop them doing that.

Q108 Ian C. Lucas: They cannot put down amendments.

Chris Grayling: They cannot propose an amendment that says, "Include this or that," but, as is often the case in some of our Statutory Instrument Committees, people who are not part of the Committee can, none the less, voice a view. There will be nothing to exclude any Member of Parliament from the room, but the formal structure of Committee process—tabling, voting and so forth—would be an England-only or an England and Wales-only matter.

Q109 Ian C. Lucas: But Welsh MPs and Scottish MPs would have fewer rights than English MPs because they are not allowed to make amendments.

Chris Grayling: There is not a single vote that takes place on the Floor of the House today from which you as a Welsh MP would be excluded.

Q110 Ian C. Lucas: But I am not permitted, under your proposals, to table an amendment, and an English MP is.

Chris Grayling: Well, the position at the moment is that if you go into a Standing Committee that you are not a part of, you can bring forward an amendment but it has to be moved by someone on that Committee.

Q111 Ian C. Lucas: But I am excluded from putting an amendment down because I am from Wales.

Chris Grayling: You are excluded from putting an amendment down because you are not a member of that Committee. That is the case at the moment.

Q112 Ian C. Lucas: I think you are being semantic.

Chris Grayling: Well, I'm not. It is the case at the moment that you are entitled to seek to have an amendment considered by a Committee that you are not a part of, but you require someone who is a formal member of that Committee to move it. That is exactly the same as what we are considering.

Patrick Grady: So the Legislative Grand Committee—

Chris Grayling: I will just say, Mr Lucas, that I have no ability to move a motion on, to speak on or to have a view on education matters in your constituency. You are able to vote on, consider and table amendments on education matters in mine. I am excluded from consideration because I am English.

Q113 Ian C. Lucas: I am excluded from statements on education in Wales because I am not an Assembly Member. I am, however, a Member of Parliament. Our rights are exactly the same—exactly the same. We are both Members of Parliament. What you are doing is taking away my right to have the same ability as you to put down an amendment, for the first time.

Chris Grayling: No, your inability to put down an amendment is identical to what it is now. You are not able to put down an amendment in a Committee that you are not part of.

Ian C. Lucas: Because I represent a constituency in Wales.

Chair: Can I draw colleagues back to Patrick's question? Can I also point out briefly that the House is to agree these changes? The Leader of the House has many talents, but he cannot do this; it is for the House to agree changes to Standing Orders. The Standing Orders belong to the House, and all Members will vote on those Standing Orders. Ian, we will come back to you.

Q114 Patrick Grady: On the specifics of the Legislative Grand Committee stage, it seems you envisage it will take place in the Chamber, much like a Committee of the whole House does.

Chris Grayling: On the Floor of the House, yes. What I envisage is effectively that at the end of Report stage, the Minister will be invited to move the legislative consent motion. If it goes through unopposed, that's it in 30 seconds. If someone voices an objection, the House would then go into Grand Committee, which would be designated for a period of time—maybe one hour, maybe two. At the end of that, there would be a vote. There would clearly need to be a provision for manuscript amendments to be tabled in advance of that. That would happen during Report stage, and the English MP would say, "I'm going to object to that and table a manuscript amendment." There would then be a discussion and then Divisions.

Q115 Patrick Grady: And the Divisions would take place through the voting Lobbies, relying on the trust and good will of people who were excluded from that Committee to not take part in them.

Chris Grayling: Well, with the system we would have in place of recording votes on iPads, if you went in and cast your vote, the system would say, "You're Scottish—no, you don't count in this. Your vote doesn't count in this." But of course, your vote would count at Report stage and it would count at Third Reading, so it is no different to the fact that you as a Member of Parliament today cannot vote in a Committee that you are not part of.

Patrick Grady: You mentioned manuscript amendments and so on, but maybe we will save that until we come on to the question of certification, because that is another issue.

Chair: Patricia, did you want to come in briefly on this point before we go to Ian?

Q116 Patricia Gibson: I want to make a brief observation about using the Chamber. Scottish MPs, as you have said, can attend and speak but cannot vote. I have to say that I think most of us will be uneasy at the fact that we were voted into this House on the same basis, by the good will of our constituents. To exclude any Member from voting on a matter that may concern those who are excluded on a budgetary level—I am very surprised you are comfortable with that.

Chris Grayling: We will come back to this, because I dispute the point you are making about the budgetary level. Any decision taken about the allocation of funding, the setting of taxes and so forth that impacts upon Scotland would remain a matter for the United Kingdom Parliament in its totality. There would not be an English-only vote on that, so I dispute that anything in this excludes you from decision making about your constituencies. We will have a debate about Barnett consequential in a moment, I imagine.

The key point I will continue to make is that this is an inevitable consequence of devolution. The fact is that decisions about Scotland are rightly taken in Scotland. It is, of course, entirely reasonable, as Sir William McKay says in his report, that English Members of Parliament should have some degree of comparability of responsibility, or at least a right to have their consent included in the passage of a measure that affects only their constituencies. Otherwise Scotland is having its cake and eating it, saying, “We want to decide on English stuff and we want to decide on our own stuff.”

Q117 Patricia Gibson: But the size of Scotland’s cake is determined by Westminster.

Chris Grayling: And you will continue to vote on the size of Scotland’s cake.

Chair: Right. This is going to run and run, as they say.

Q118 Ian C. Lucas: Will Members from Wales be permitted to serve on the English Grand Committee?

Chris Grayling: Well, on the legislative consent motion, if it is an English and Welsh matter, one of the things that I did expressly do was to ensure that when it is an English and Welsh matter—there are many, because the devolution settlement in Wales is different

from that in Scotland and Northern Ireland—it will be an English and Welsh Grand Committee.

Q119 Ian C. Lucas: Straightforward question: will Members from Wales be permitted to serve on the English Grand Committee?

Chris Grayling: What is your definition of serve?

Q120 Ian C. Lucas: To be a member of the Committee.

Chris Grayling: By definition, this is the House resolving itself into Grand Committee. As I have said, Scottish, Welsh and Northern Irish MPs will be free to be in the Chamber and free to express their views, but the normal procedures would apply. If it is an England-only matter, in order to secure an English legislative consent motion in the way that one obtains Welsh legislative consent motions in the Assembly, the English would vote on that in the way that the Welsh vote on the Welsh legislative consent motion. But there is not a single Division that you currently take part in, Mr Lucas, from which you would be excluded.

Q121 Ian C. Lucas: You are telling me that a Member from Wales will not be able to be a member of the English Grand Committee. Is that right?

Chris Grayling: They will not be able to be part of the English-only vote on an England-only matter, but will have the right to vote on a UK matter.

Q122 Ian C. Lucas: It is a really important question. You will find out when I ask you the next question. Can you confirm that a Member from Wales will not be a member of the English Grand Committee that you are proposing?

Chris Grayling: They will not have the right to vote on an English legislative consent motion, no, but they will have the right to vote on an English and Welsh one.

Q123 Ian C. Lucas: Can you therefore explain to me why it is perfectly permissible under present Standing Orders for a Member from England to be a member of the Welsh Grand Committee?

Chris Grayling: The Welsh Grand Committee of course is an entirely separate structure. This is a Grand Committee to secure a legislative consent motion.

Q124 Ian C. Lucas: The fact is that you are giving MPs from England, in this procedure, more powers than MPs from Wales.

Chris Grayling: An English representative is not able to be a Member of the Welsh Assembly, and the Welsh Assembly is the body that secures legislative consent motions for Wales. The problem you have, Mr Lucas, is that you are a Welsh Member of Parliament who has a duty to represent Wales on matters that are within the remit of the United Kingdom Parliament, but you do not have a say on many things that I would deal with in relation to my constituents. Education in your constituency is a matter for the Assembly, not a matter for you in Parliament, whereas education in my constituency is a matter for me in Parliament.

Q125 Ian C. Lucas: Leader, I regard being an MP from Wales as an honour, not a problem.

Chris Grayling: I regard being an MP from any part of the United Kingdom as an honour. None the less, the fact is your responsibilities in this place are different from mine. You have an Assembly Member who works alongside you dealing with matters like health and education. I don't. I represent my constituents on all of those issues. So we have a slightly different job description because of devolution.

Q126 Ian C. Lucas: Yes, we do, and one of the job descriptions and one of the issues that is very important to my constituents is health. Health is a devolved issue. Can I pass to you a document, which is actually a ballot paper? I was sent this in July. You will see that the top of it says, "Liverpool Heart and Chest Hospital". Liverpool is in England. You will also see that it says below that, "North Wales (2 to elect)". So Liverpool Heart and Chest Hospital want me to vote in connection with a matter relating to the governance of their hospital. Why do you want to take that vote away from me, which affects the future of a hospital like the Heart?

Chris Grayling: Actually, in this particular case I don't. All those who are served by the Liverpool Heart and Chest Foundation Trust have an entitlement under the foundation trust rules to vote for the governing body, and that will continue. The point you are actually

trying to make is around cross-border issues, to which I would say I gave this a lot of very careful thought, because I do recognise the cross-border issues. They apply both ways, of course, because for somebody who lives just over the border from Wrexham in England and who uses the local health service in Wrexham—the GP services, for example—their Member of Parliament has no say over the funding of those services and, in fact, as we know, the Welsh Assembly chose to cut funding to the health service, in contrast to what we have done in England.

I can imagine the frustration if you are using a GP service over the border in Wales and you live in England: the Welsh Assembly Government is cutting spending on health and you do not want that to happen, but you do not get a say. But that is the nature of devolution, I am afraid.

Q127 Ian C. Lucas: Well, the nature of devolution is that we have a foundation hospital in England. Health is one of the areas where it would be likely, is it not, that Bills could be classified as England-only Bills?

Chris Grayling: It is possible, yes.

Q128 Ian C. Lucas: The governance of a hospital in England could therefore exclude MPs from Wales from the Committee.

Chris Grayling: Not in this particular case, no. The foundation hospital membership is not limited by geography.

Q129 Ian C. Lucas: But matters relating to the governance of that hospital could fall within matters that would be determined by MPs only from England.

Chris Grayling: Well, this is an independent foundation trust, so the governance issue that you are talking about is something that you will be participating in by electing the governing body. I understand the point you are making, but let me ask you this question: is it your view that the Member of Parliament for Chester, if they had constituents who use health services across the border in Wales, should have a vote on Welsh health budgets and how they are deployed?

Q130 Ian C. Lucas: I do not have a vote as a Member of Parliament on those matters; the Assembly Member does. My position—you do not seem to understand this, Leader—

Chris Grayling: I understand it full well.

Ian C. Lucas: This is about MPs having the same rights. I have exactly the same rights as the Member of Parliament for Chester. The Assembly Member deals with health relating to Wales—

Chris Grayling: But what you are saying—

Ian C. Lucas: —the Assembly Member. I do not want any more or any less rights than the Member of Parliament for Chester—

Chris Grayling: What you are saying—

Ian C. Lucas: —and the reality is that you are trying to remove those rights.

Chair: Mr Lucas, you must let Mr Grayling answer questions. Answer the question, Mr Grayling.

Chris Grayling: What you are saying, Mr Lucas, is that you want the right to vote on health issues in my constituency when you do not have the right to vote on them for your own. I understand the point you are making, but what you must understand is that a consequence of devolution is that if you are a Welsh Member of Parliament, you will not have a say over matters that are the responsibility of the Assembly Member, and what English Members of Parliament are saying is that, actually, it is not then sustainable to say that English MPs should be able to have solutions imposed upon them by the entire United Kingdom Parliament which are against their wishes. We cannot impose a health solution on Wales, so why would those who have got devolved responsibilities none the less be able to impose a health solution on England?

Q131 Ian C. Lucas: I simply want the right to represent my constituents on health matters that affect them. That is exactly what the Liverpool Heart and Chest Hospital wants, which is why they have asked me to vote. And you want to take that right away.

Chair: This is the last exchange between the two of you before I move on.

Chris Grayling: Let me go back to the point and say that it might well be that the Member of Parliament for Chester or Shrewsbury or one of the other border constituencies in England would wish to be able to express a view on a decision taken by the Assembly Government in Wales to cut health spending, which would affect their constituents. But under devolved arrangements, they have no such power.

Ian C. Lucas: I have no such power—

Chair: No, that is it.

Q132 Edward Argar: Leader, forgive me, but after listening to your answer to this, I fear I must head over to Westminster Hall, where I have got a debate in my name.

I just want to go back to the point that Patricia was beginning to explore, about the financials and the consequential. I will not labour it, because it is probably something that we will come back to, but an interesting point was made yesterday in evidence by Professor Tomkins. He said, “It won’t be the legislation itself...that changes the block grant; it will be the supply process that follows the enactment of the legislation.” I think Sir Edward will explore that further in terms of how we handle supply, but that appears to suggest that, actually, the opportunity to address the Barnett consequential and grant implications could come through better dealing with supply questions, but the legislation in and of itself does not actually have those consequential linked to it. I would welcome your thoughts on that.

Chris Grayling: I know that Sir Edward will talk about this as well. I have looked long and hard at the issue of Barnett consequential, and I think they are a bit of both an illusion and a side issue. Decisions about the amounts of money allocated come wholly and exclusively through the supply process. When we vote on the Estimates each year, we vote on the size of the education budget. There might then be an education Bill that sets up academies or more free schools, but that does not change the overall envelope available to the Department for Education, so it does not affect the overall amount spent on education in Scotland, or how much is available to Scotland through the Barnett formula.

Of course, it might be that a policy decision leads to an increase or reduction in that budget in the future, but that will still be addressed through the following year’s Estimates process, on which all Members of the House will vote—there will be no English-only or

English and Welsh-only votes on that, and no double-majority votes on that. That process will continue to be dealt with by the whole House of Commons.

Q133 Sir Edward Leigh: When have we ever had a debate on Estimates on Estimates days?

Chris Grayling: Well, we have a vote on Estimates—

Sir Edward Leigh: Come on. An overall whipped vote through which the majority party imposes its view. The fact is that over two centuries the House has given up its control of Estimates and supply, and the whole Estimates and supply procedure is a complete joke—and we know it. While we take an inordinate amount of time debating taxation through the Finance Bill process, the one thing on Estimates days that we never discuss is Estimates. That was why—I said earlier that the Chancellor asked me to do a report for him in the previous Parliament—I said that we should set up a budget Committee that should run a proper Estimates process so that we could actually look at this.

The problem with your argument is you say that in order to deal with Barnett consequentials, every single Member of Parliament will be able, presumably, to debate and vote on specific aspects of Estimates, but we never discuss Estimates on Estimates days.

Chris Grayling: I am not saying that. I am saying that I don't actually believe that Barnett consequentials exist. Let me take this very much head on. I have just sat downstairs listening to Pete Wishart on the television giving evidence about the example that he most regularly cites: the tuition fees vote nine years ago. That vote was carried by a majority of two, I think, with 30 or 40 Scottish Labour MPs voting in favour. Clearly a majority of English MPs were against it. Pete's argument was that that is the best example of a Barnett consequential, but let me read you the evidence that he gave to Sir William McKay on this very issue: "English-only tuition fees, that was always clear it had a massive detriment to Scottish education and to Scottish higher education. So from the very outset we took the view that we would participate in all this. If all this private money was going through tuition fees from students, our universities would be at a competitive disadvantage to English universities which would be better resourced and better provided. So for us that bill had to be defeated so we voted and spoke in second"—I think the word "reading" is missing from his evidence.

He was saying that the English had done something different that created a different competitive position between English and Scottish universities. There was nothing to stop the Scottish reorganising their budget spending and doing the same, but what was not an issue was that the Bill materially changed the amount of Government grant going to Scottish universities—it didn't. His concern was that this was a competitive position because students were paying more in England, so English universities were better off, and that was a Barnett consequential. I say that that is not a Barnett consequential. Actually, the SNP would like an independent Scotland, and in that case such things would become much more pronounced as decisions taken in England created more competitive pressures north and south of the border. I absolutely dispute that that is a Barnett consequential. No one has yet been able to give me an example of a Bill passed through the House of Commons outside the Estimates process that made any immediate or significant difference to the budget position—public spending levels—in Scotland. I think that this is an illusion.

Of course there are consequences. We have consequences within England if we have different levels of grant or different policies in the health service, such as regarding drug availability in different CCG areas. Of course, decisions taken locally will create variations between different parts of the United Kingdom and different parts of England, Wales, Scotland or Northern Ireland, but those are not consequences of Government decisions; they are about decisions taken locally, as part of devolution responsibilities, as to how people want to use the resources that they have available.

Q134 Sir Edward Leigh: Let us take your basic point. If we had, for the sake of argument—I have used this example before—a Bill to privatise bits of the national health service, meaning that we would save money on our national health service, overall public spending would reduce, which would therefore affect spending in Scotland. You say that the answer to that is that we can deal with this on Estimates days. I say to you, regarding the whole Estimates process, that the one thing we never discuss are Estimates. I am wondering aloud whether it might be a good idea that, as we try to address this English votes issue, we also try to address the Estimates process, and get a proper budget Committee, proper Estimates day debates, proper votes on individual matters. You see my point.

Chris Grayling: It would not be for me to judge the future programme of the Procedure Committee, but I don't think we should mix up what is part of a devolution package that involves

Scotland, the Wales Bill coming up shortly, and England. Clearly, if this Committee wants to look at procedures of the House, it is welcome to, but it is the case that on the allocation of funding across the UK, the Government tables a proposal for the Estimates, and every single person will vote on that.

Q135 Sir Edward Leigh: Another question—an obvious one. If you are right in saying that you don't think Barnett consequentials are really a serious issue, what would you say if the Speaker had a right not to certify a Bill as England-only if he felt there were significant risk of there being a Barnett consequential?

Chris Grayling: If somebody could come up for me with a real example of a Bill that has been passed through the House of Commons that has had a direct effect on public spending in Scotland—I am not talking about the kind of consequence that says, "English universities get more money from students, therefore they can spend more on research, therefore they attract better students", because that is not a Barnett consequential. That is a result of different decision making in different areas.

I have a constituency hugely frustrated by the fact that the Scottish Government, fully within its right, has decided to fund free prescriptions. There are plenty of people in England who say, "What's that all about? I want free prescriptions." But that is a consequence of devolution and different decisions being taken in different parts of the UK. That is what devolution is about. Nobody has yet been able to identify for me a piece of legislation outside the Estimates process that has changed public spending levels in Scotland.

Q136 Patrick Grady: The example we have heard a couple of times is if a Bill were to come forward, say to privatise parts of the NHS in England and Wales, and if that took public funding out of the NHS, because it would be an overall reduction in the amount of public spending by the Government, that would have a consequential effect on the Scottish Government's budget.

You can argue whether or not that has a direct effect on the Scottish health budget, because you are correct that the Scottish Parliament sets and decides how it spends the budget, but the Scottish Parliament is given a block grant. Even with the new powers and all the rest of it, it is given a block grant by the UK which is directly contingent, through the Barnett formula, upon public spending in England and Wales. The

example of tuition fees could be said to apply to that as well. If a piece of legislation goes through—

Chris Grayling: That is not the evidence that your party gave to the McKay Commission.

Q137 Patrick Grady: It is not the way that you read out that he presented it. It does not mean that that did not happen.

Chris Grayling: That's the verbatim transcript. That's the evidence that your party gave to the McKay Commission.

Q138 Patrick Grady: It does not mean that that is not what happened at the end of the day. The example that I am giving you as well is on a potential privatisation of aspects of the NHS.

Chris Grayling: Let me take that example for you.

Q139 Patrick Grady: When is my opportunity as a Scottish MP to scrutinise, criticise, seek to amend and finally vote on that reduction to the Scottish budget that is caused by the privatisation of the NHS?

Chris Grayling: So two things: first, of course, you get to vote on, amend and debate the measure that would privatise that part of the NHS, not that we would consider doing that. You would be a full part of the process of doing that; you would have a full say. That could not happen without the vote of the entire UK Parliament. You are not excluded from that process. You are not excluded from voting, from speaking, from proposing amendments. You will vote on Second Reading, on Third Reading and on Report as you do now.

Q140 Patrick Grady: And I'll be trumped by a double-majority procedure, and I'll have no opportunity to put down amendments at the legislative Report stage. So I am being excluded.

Chris Grayling: No. What we are doing is saying that in order to take a decision that affects only England, it can only happen with the consent of English Members of Parliament.

Let me finish dealing with your example. Supposing that takes place, what will then happen? Supposing that privatisation process

allows the health budget to be cut by 10%. It would not—this is entirely hypothetical, but I am taking your example, not mine. That would mean theoretically that in the next year, the Government could come to the House with an Estimates process that was reduced, and a level of public spending that was reduced by the equivalent of that 10%. The whole House would then vote on that and say, “Is that okay?” Equally, the Government might come back and say, “We’ve saved that 10% and we’re now going to spend it on a big project over here, on education spending, on flood defences or whatever.” All of that then becomes part of the Estimates process, which you vote on, and that determines whether or not the budget in Scotland changes the following year. There is not a direct link. The passing of a privatisation measure does not lead to a letter from the Treasury saying, “Scotland, we’ll just lop 10% off your budget too.” That does not happen.

Chair: Can I move this along a bit? I do not want to get bogged down in this area, because we know there is significant disagreement and we are not going to resolve that here today. Patricia, you were going to ask some questions about the drafting of Bills in relation to certification.

Q141 Patricia Gibson: Do you think it is likely, in the light of what is being proposed, that Government Bills in the future will be specifically drafted with certification tests in mind, as set out in the Standing Orders? If that is part of the consideration when Bills are being drafted, to what extent will the interests of the devolved Assemblies be taken into account? If they are not taken into account, does that not make the entire process of certification even more controversial?

Chris Grayling: I will ask David Cook to say something about this in a moment. Yes, you will get some thought in the drafting of Bills being put into making the certification process as straightforward as possible—in groupings of clauses, for example. Equally, if you have an England-only Bill, that is not going to be an issue. The issue will be one that has elements that are both England or England and Wales and the United Kingdom. I would expect those drafting the Bills to think about the certification process as they do that work. Clearly, if there are matters that are reserved to or devolved to the different Assemblies, they would have to go through the process of seeking legislative consent motions, as they do now. It is purely a matter of drafting, not a matter of substance. David, do you want to say something about that?

David Cook: On the drafting of Bills, the starting point will be that the drafting will be much as now going forward, in terms of what is

included about territorial extent and about application. At the moment, for Bills, there will be provision about territorial extent—the legal jurisdiction that the provisions apply to—and it will be obvious in quite a number of cases from the provisions themselves what the territorial application is likely to be. That will continue as before.

In terms of providing further information that might be of assistance to the Speaker in the certification process, that is best not in the Bills themselves, because the content of Bills is to change the law and these are not legal propositions; these will be judgments about how the application test or the devolved legislative competence test work in the particular case. I know that the Government is open to considering ways of providing information to assist the Speaker in relation to the certification test, but I would envisage that sort of information, if published alongside Bill documentation, to be better in, for example, the explanatory notes rather than the Bill itself.

Chris Grayling: The way I would expect the procedure to work is effectively that a Bill would arrive with the Speaker, and with the explanatory notes there would be a reasonable amount of analysis about territorial extent and probably an indication from the Parliamentary Counsel about what they think the territorial extent is—for example, “We think clauses 1 to 10 are England-only and the rest are UK-wide.” The Speaker does not have to accept that, but I think we would try to make the Speaker’s job easier by using independent advice within the civil service to say, “This is where we think we are. Take a look and see whether you agree.”

Q142 Patrick Grady: I touched on that earlier on. A lot of this seems to be predicated on the assumption that the Speaker will certify in the manner in which the Government hopes he will.

Chris Grayling: If he doesn’t, he doesn’t. That is the Speaker’s prerogative. There are times when we will table amendments or there are things we want to happen and the Speaker disagrees. He has the final say.

Q143 Sir Edward Leigh: On that point, rather than putting the Speaker in an invidious position where he will have to certify a Bill and people are going to be rowing about it, why don’t you just take it on the chin and certify it with your right hon. Friend the Attorney General?

Chris Grayling: Because if you look at the role that the Speaker plays in the House as the ultimate arbiter on the selection of amendments or the decision on whether to accept motions or not, he is the person who is the guardian of parliamentary privilege and his word is final; we think, therefore, that he is best placed to do this. He is, after all, already certifying money resolutions and money Bills—

Q144 Sir Edward Leigh: Which are non-controversial.

Chris Grayling: Normally non-controversial, but my expectation would be that the certification of a Bill would normally be non-controversial—

Sir Edward Leigh: Fair enough.

Chris Grayling: —if something is very clearly devolved.

Q145 Patricia Gibson: I have an observation about what you said. This is obviously an issue that is very important to the Government, and they want to get this through the House and into Standing Orders and so on, yet you are passing control over it to the Speaker, which I find quite strange. On something that is so important to you, you are effectively passing control of it to a third party.

Chris Grayling: I don't think that is unusual. We are progressing with a major package of devolution, and alongside that there needs to be something to address the real concerns that are certainly raised quite regularly by English constituents about the potential imbalances in the devolution settlement. We want to do it fairly and properly, and it seems to me to be obvious that the person who should be the guardian, the arbiter of right and wrong in this, should not be someone who is part of the Government. It should be the Speaker.

Chair: Edward, I want you to ask question 18, because we need an answer. Sorry to put it so bluntly.

Sir Edward Leigh: Question 18—I don't normally read out other people's questions.

Chair: But you do on this occasion.

Q146 Sir Edward Leigh: The Government's proposals are expected to be applied to Budget resolutions and Finance Bills in due course, following the devolution of certain taxation powers to the Scottish Parliament. In which year of this Parliament do you expect these proposals to be first applied to Budget resolutions?

Chris Grayling: That is prejudging the view of the House, but if the House decides in October that it approves the proposed changes to Standing Orders, I would expect this to apply from next year's Budget onwards.

Chair: Thank you. That was painless, wasn't it?

Q147 Nic Dakin: You clearly have a view that the issue of certification is a fairly straightforward matter, and that is why you are keen for it to lie with the Speaker. The evidence that we have taken to date would suggest that that view is at variance with lots of other people's view. I would appreciate an observation on that.

Chris Grayling: I have not taken the view that it is straightforward. What I have said is that I think that the correct process is that independent civil servants and a team of parliamentary counsel, who are legally qualified and who are working on the preparation of Bills, should reach a view on the territorial extent of the Bills. We have put in place what I think is a relatively simple test: is this a devolved matter or not? The Speaker will then take a look at what they are recommending in the guidance notes that arrive with the Bill, and decide whether to accept that recommendation or not. It will not always be straightforward; sometimes it will be, sometimes it will not, but that is nature of what we deal with in this House, and which he deals with day to day. Sometimes the decisions he takes are very simple; sometimes they are quite complex. He has a team of advisers to guide him on these matters. I have high respect for the Speaker; I think he is eminently capable of taking on this responsibility, which I think would enhance his office.

Q148 Nic Dakin: I think we have received quite a strong view that there is a risk of this being a much more controversial issue for the Speaker, until it settles down, I suppose.

Chris Grayling: In a sense, that is one of reasons why I have said let us put this in place, let us have it run for a year and let us take a look at the end of that year. Let us get this Committee, and I

suspect one or two others will want to do the same, to look at how it is working, to address that issue and to talk to the Speaker and his advisers over the course of the year to find out where problems are arising. I am not blinkered on this; if we need to make tweaks and modifications to make it work well further down the track, so be it, but I think we will only know that if we actually have it in operation and can monitor it as we go. That is why when Charles Walker was elected to this Committee, before the rest of the Committee were assembled we had an early conversation and I said that this Committee should play a really important role in the coming months in helping to road test the proposals.

Q149 Nic Dakin: The Scottish Government have requested that any information provided in this way should be agreed in advance between the UK Government and the Scottish Government. Are the UK Government going to consult the Scottish Government before providing information on devolution issues to the House?

Chris Grayling: There are discussions all the time. There is a process of debate around legislative consent motions and various other aspects of devolution, so I would expect official-to-official discussions over matters where there is complexity. In terms of a formal consultation requirement, it is a matter for the UK Government to reach a view and to ask the Speaker to certify that. I am not looking at a broad programme of consultation every time a piece of legislation that might have an England-only or an England and Wales-only element is coming forward.

Q150 Nic Dakin: The information that you provide to the House authorities to support the Speaker's decision on certification will presumably be transparently available to everybody.

Chris Grayling: The explanatory notes will be published so everyone will be able to see what the Government's recommendation is. They clearly will not have sight of—because we don't at the moment—the thinking that the Speaker and his team put into reaching a view about one decision or another.

Q151 Nic Dakin: But what the Government put to the Speaker will be available? There will not be anything that goes to the Speaker that is not available to anybody else?

Chris Grayling: It will be in the explanatory notes. By definition, the explanatory notes have to be a public document.

Q152 Mr Nuttall: Can I pursue exactly those points just one step further? In reaching a decision about any matter, one has to decide to what level of surety, to what degree, do I wish to be certain about a matter before I am happy to reach a decision one way or the other? For example, in civil law cases, the decision is taken on the balance of probabilities, which I always regarded as being 51:49. As we know, in criminal cases in the criminal law, it is beyond all reasonable doubt; one is looking for a much higher degree of surety and certainty. Therefore, very often—this often happened in cases of road traffic accidents where there was civil and criminal liability—different outcomes could be reached from the same set of facts. Somebody could be guilty, or found liable, in the civil courts but innocent in a criminal court. With that in mind and looking at these questions, where do you see the burden of proof? Is it 51:49 on the balance of probabilities that something should be regarded as England-only or England and Wales-only, or much higher than that? Do you think it should be beyond all reasonable doubt?

Chris Grayling: The devolution test should make it relatively straightforward in most cases. I cannot say for certain that there will never be a complex case and it would be wrong of me to second-guess the Speaker. I suspect that he will approach this task very carefully. It will become easier as it beds in. It would not be for me to say, “You’ve got to use this or that balance of probability.” That will be very much a matter for his judgment.

My view is that, with a devolution test, this ought to be, most of the time, relatively straightforward. If it is a housing matter, and housing is devolved in Wales, typically you would expect it to be—although circumstances might lead the Speaker to reach a different view—judged as an England-only matter.

Sir Edward Leigh: Can I ask a political question?

Chair: Patricia wanted to come in. Was it on this point, Patricia? Is yours on this point, Sir Edward?

Sir Edward Leigh: No. I’ll finish off after Patricia.

Q153 Patricia Gibson: You have heard today that there is concern in this room and beyond that we might get to a situation where we have second-class MPs, real or perceived. That is the perception that will

remain. You have also said that some of the Speaker's decisions will be straightforward and some will be controversial—perhaps quite testing, and even hotly disputed by some. Given that politics is so much about perception, do you think that there are any implications in Scotland about how people perceive the future of the Union in the light of the Government's proposed changes?

Chris Grayling: I think the Scottish people are eminently wise and eminently fair. They were eminently wise to seek to remain part of the United Kingdom, although I know that we would not agree on that, and they are eminently fair, and I think they would accept that, for example, the Scottish Government is going to start to set individual tax rates in Scotland, then those equivalent tax rates in England should not also be decided by Scottish Members of Parliament. In reality, our proposals do not exclude Scottish Members of Parliament from the debate and decision-making process, but what they do ensure is that, if an England-only rate of tax is to be set and there is a comparable rate of tax in Scotland, then Scottish MPs will get to vote on that rate of tax, but ultimately that tax can only be applied if it has the consent of English MPs as well. That is all we seek to do, and I think most would see that as eminently reasonable.

I genuinely dispute this idea of second-class MPs. The truth is, devolution has already created different categories of Members of Parliament, as I explained earlier. Mr Lucas has no right to vote on education in his constituency, but he can vote on education in mine. The responsibilities of a Scottish Member of Parliament are different from those of an English Member of Parliament, because you work alongside an MSP in your same constituencies and I do not; I have responsibilities for all of that. So we already have Members of Parliament with different responsibilities. All we are seeking to do is to say, "Yes, it is right and proper that we have a strong devolved Assembly in Scotland"—that is what you as Scottish nationalists want to see, but actually there has to be a degree of balance and fairness in the devolution settlement, and that is what we are seeking to do.

Patrick Grady: I do not think any of us dispute that point.

Q154 Patricia Gibson: So despite the fact that people in this room dispute your assessment and the conclusions you are drawing, you will be surprised if all the people in Scotland and Wales do not share your assessment and conclusions. You do not think this will put the Union

under any greater strain and you will be surprised if it does—is that what you are saying?

Chris Grayling: I am prepared to bet that if you and I went and had a drink in a pub in your constituency with a group of your constituents and set out for them what these proposals actually entail in the context of the enhanced devolution in Scotland, I think they would be with me rather than you.

Patricia Gibson: Well, Mr Grayling, I would gladly take you up on that offer.

Chair: Now there is an offer. We need to crack on and go into private session in a minute. Patrick and then Sir Edward and then that is it.

Q155 Patrick Grady: I do not think that anyone necessarily disagrees in principle with what you are saying about the need to address asymmetric devolution. There should be an English voice and I am very comfortable with the idea of an English Parliament, but what this brings about is a quasi-English Parliament. What the Procedure Committee is interested in is whether procedurally this is the right way to achieve the kind of aim you just described, and it seems to all of us, from all the evidence we have heard—with the honourable exception of yourself, Leader of the House—that this is a complete mess. It will lead to a legislative logjam. We will be sitting on our hands in the Chamber—our constituents will be watching us—while our counterparts vote during the Grand Committee stage. It will put the Speaker in an extremely invidious, politicised position and, as Pete Wishart asked, all for what? For what you are saying is relatively minor, inconsequential legislation that would not be very controversial in the first place.

Chris Grayling: Two quick points in response to that. First of all, that is not my understanding of what Sir William McKay told you yesterday. Secondly—

Ian C. Lucas: He said he disagreed with your proposals—

Chair: Let the Leader answer the question.

Chris Grayling: Secondly, if you are going to have English decision making at all—it may be that you do not believe in English decision making at all, but if English MPs are to have any power to decide, the absolute bare minimum that we give them is the ability to say no to having something imposed upon them against their wishes, and that is what these proposals do. Nobody has been able to suggest a lesser way than this of giving English MPs a say. I can

think of ways of giving them more of a say—an English Parliament might be the case.

Q156 Sir Edward Leigh: Chris, can I give you an opportunity to answer this question as we wrap this thing up? You and I have the same mindset on everything, and for us the preservation of the Union is up there as the most important thing with the monarchy—God bless her—and the Royal Navy and all that sort of thing. We all know that our friends in the SNP will say, “This is grossly unfair. Not only are we not allowed to vote, but, because of Barnett, it affects us.” We know they will make that argument, whether we like it or not.

What slightly worries me—I will give you an opportunity to answer this—is that we have an overall majority at the moment, so this procedure is not going to change the result of a single decision we make during this Parliament. The Labour party and every other party are opposing us, so in the next Parliament, if there is any conceivable majority or minority Labour Government, because it is a Standing Order they are going to change it on day one of the new Parliament. If there is a majority Conservative Government, it will be like this Parliament; it will make no difference at all. If there is a minority Conservative Government, given that every other party will be opposed, it will probably be abolished on day two. I just want to give you the opportunity to answer this question. Given that it is not going to change a single bit of legislation but it will be used by our Scottish nationalist friends to attempt to break up the Union, what is the point?

Chris Grayling: The point is that there is mounting resentment in England about the fact that a devolution settlement that is designed to protect the United Kingdom does not give the English any say over their own destiny. My view is that if we do not address this, it will become more of a political running sore. It will encourage those politically who within England take a different view from us about the United Kingdom, and who have views about how they can take advantage of those sentiments.

I also think it is fair. My view is that it is better to do it now. It is better to bed it in over the course of a Parliament. It is better to make it the way we operate as a norm. And then if we do reach a situation where it is prayed in anger, the challenge is to those parties who would scrap it—“Okay—but there is a political consequence to doing so.” If we were to have a Labour Government in the future—of course, the Labour party is destined to go through some interesting times—inevitably, given the fact that they have been eliminated in Scotland bar one and have taken a bit of a

beating in Wales as well, they would have to say to the majority of their Members of Parliament, the majority of whom represent English constituents, "You need to tell your constituents that we are getting rid of their bit of the devolution settlement in the interests of our own party." I think that that would be a big decision for them to take.

Chair: Thank you, Leader. That was a very interesting evidence session—fiery at times. We will be considering all the evidence that we have heard. Thank you very much.