



HOUSE OF LORDS

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The Select Committee on the Constitution
Inquiry on

THE UNION AND DEVOLUTION

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Questions 57 - 82

WEDNESDAY 4 NOVEMBER 2015

10.30 am

Witnesses: Professor John Curtice and Dr Jan Eichhorn

Brendan Donnelly and Alexandra Runswick

Members present

Lord Lang of Monkton (Chairman)
 Lord Brennan
 Lord Cullen of Whitekirk
 Lord Lester of Herne Hill
 Lord MacGregor of Pulham Market
 Lord Maclellan of Rogart
 Lord Morgan
 Lord Norton of Louth
 Baroness Taylor of Bolton

Examination of Witnesses

Professor John Curtice, University of Strathclyde, and **Dr Jan Eichhorn**, University of Edinburgh

Q57 The Chairman: The Committee is having a change of tack today, and instead of looking directly at issues, we are asking opinion formers and those who canvass public opinion extensively to give us their insights as to how various issues are perceived by the public and how they might be received by them. Welcome, Professor Curtice and Dr Eichhorn. Their CVs have already been circulated to colleagues. In your case, Professor Curtice, I—as a Scottish Conservative—am afraid that your name for the last 20 years has always been associated with bad news. But you are very welcome today.

Professor Curtice: If I may say so, Chairman, I think some members of your party were rather delighted by what we said at 10 o'clock on the day of the election.

The Chairman: They were indeed.

Professor Curtice: I hope, therefore, I have salvaged my reputation.

The Chairman: Very much so. Can I start the questioning? Lord Ashcroft produced an opinion poll on the issues that affected the decisions in the referendum campaign, and he mentioned things like the NHS, jobs, prices, pensions and so on, as though it were just another election. Can you tell us whether there are aspects of the union that persuaded Scots to support or to vote against the independence campaign?

Professor Curtice: There are two things to say to that. First, the truth is that the proposition on the ballot paper was whether or not Scotland should become independent. As a result, virtually all of the polling and survey work that was done on the subject was about people's evaluations of the consequences of independence, rather than asking about the Union. Indeed, we tried on the Scottish Social Attitudes survey, for which I have responsibility, at the piloting stage to ask people about what they thought were the consequences of the union. The

difficulty is that it is quite difficult for people to evaluate 300 years of rather familiar furniture and what difference it has made. We had to give up. That is number one. That said, the truth is that in all of the research and survey evidence, if you are going to ask what single thing seemed to determine whether somebody was likely to vote yes or no to independence, it was their evaluation of the economic consequences of independence, and therefore by implication also their evaluation of the economic consequences of remaining in the Union, and their relative judgment as to which course of action—staying in the United Kingdom or becoming an independent country—was in their view likely to be more economically efficacious. That is point one.

That in itself is rather interesting, because one of the often unspoken but rather important characteristics of the referendum campaign, which in a sense the polling information reveals, is that, in many respects for the most part the debate and attempts to change public opinion were essentially around what you might call the contingent consequences of independence versus the Union, as opposed to any clear commitment. Now, why is that the case? Certainly underlying this there is no doubt that those people who had a strong sense of British identity—who are a decided minority north of the border—were certainly much more likely to be in favour of staying in the Union. Conversely, those who were feeling strongly Scottish and might deny having a British identity—a rather larger group—were certainly more likely to vote in favour of independence. Therefore, one aspect of the Union that matters is people's sense of emotional empathy for the idea of the Union, and whether or not they themselves regard themselves as British, and therefore in that sense want to remain inside the Union. Then one has to ask why we ended up with such a contingent referendum debate, because the truth is that most people in Scotland feel some mix of the two identities. They feel both Scottish and British, albeit their Scottish identity is the stronger of the two. Therefore, in a sense, for many people answering the referendum question could not simply be addressed by how they felt and which constitutional settlement best reflected their feelings. They felt both. For theme, it was the balance of advantage in expressing their Scottish identity and the state organisation that would reflect that, or going with their British identity and the state organisation that would reflect that.

Dr Eichhorn: It is also probably quite important to remember that that is how the referendum was distinct from an election; we were looking at two years of campaigning on an issue that a lot of people had views on anyway, perhaps for the whole of their life. In that sense, I would argue that people were more informed, in many ways, than parts of the electorate that otherwise were not engaging. The idea sometimes put forward, especially by journalistic

commentators who came quite late to the debate, that it would be very emotive and so on does not necessarily hold true. If we look at it after the referendum, people in Scotland on average, and particularly younger members of the Scottish population, look at a greater variety of news sources than their counterparts south of the border. With that process over the two years, you had more people who looked at arguments, who engaged with a broader set of information and weighed up those options. It was not just in simple terms of whether or not they liked it; they heard a lot of arguments about the dangers of leaving and the advantages of staying, and vice versa. That is quite important to keep in mind. Many people went through quite complex and long-lasting discussions to reach that decision, which is arguably slightly different from elections, where some people come very late to a discussion around that before they form their opinions.

The Chairman: One rather senses from your answers that those who wanted independence voted on philosophical reasons, the big question, whereas those who voted to stay in the union were not motivated by the union itself, but by either fear or other small points that accumulated. Is that correct? We are trying to identify the union, what its pulling power is and what needs to be done to clarify its advantages.

Professor Curtice: My answer to you, Chairman, is that ultimately the debate, and for most people the consideration in their minds, is what course of action is in Scotland's best interests and best represents their feelings. One needs to understand that politics in Scotland now is primarily about Scotland, and not about the interests of the UK as a whole. The truth is that the Prime Minister is rather good at being able to articulate the view as to why the United Kingdom as a whole should stay together, but I am not sure that it cuts a great deal of mustard with voters north of the border, because that is not the question that most voters in Scotland are asking themselves. The question most voters in Scotland are asking themselves is what is in Scotland's interest, not necessarily what is in the interests of the UK as a whole.

Dr Eichhorn: Just to add to that, it is very easy to jump to the conclusion that, therefore, we have had a rise of national identity and so on. But that is not the case. There was no rise in the emphasis of Scottish national identity, in the long run or throughout the campaign. If anything we have more people now who say they are equally Scottish and British than 10 years ago. So, basically, identifying with Scotland as a political community and an interest community has definitely risen, but it is not necessarily the same as saying that identity orientation has risen on a more emotive side.

Lord Lester of Herne Hill: I thought that dissatisfaction with the Westminster political system might have been a factor. Was I wrong?

Professor Curtice: You are not wrong in the sense that clearly the proposition on the ballot paper was that Scotland should leave the Westminster political system. Clearly the truth is that if you believe in independence for Scotland you are going to be inclined to take a relatively critical standpoint on this institution and the institutions in Whitehall. The two things follow. However, I, certainly, have not been able to demonstrate through the work that I do that feelings about Westminster or the United Kingdom governmental structure in particular were particularly influential as opposed to the considerations in terms of the implications of independence or otherwise for Scotland.

Dr Eichhorn: We can also see that, to some extent, if we compare Scotland with other parts of the United Kingdom. We have asked people how well they feel their respective part of the UK is represented in, for example, the discussions about constitutional change at the moment. Scots are, on average, about as satisfied with their representation as the English, whereas the Welsh and Northern Irish are, on average, a lot more dissatisfied in that sense. If we think about it, there are a lot of Scots who say that they do not feel that Scotland is sufficiently represented in the process, but if that were the determining factor, more than orientation towards the economic consequences, we would expect that such independence motivations would be much higher in places like Wales, for example, but they are not—despite the dissatisfaction being greater there.

Professor Curtice: Certainly, one of the relative successes of devolution—if one wants to use that term—is that people are now relatively inclined to believe that Scotland's voice within the United Kingdom has been strengthened as a result of devolution. But notice the way I am putting it: it is the implications of devolution for Scotland that seem to matter, which has been credited to the advent of devolution. It is not necessarily people's views about this place in particular.

Q58 Lord Morgan: You say, and I am sure that it is absolutely right, that Scottish electors are concerned with what is best for Scotland, but one of the great puzzles I have is that the last few years under Scottish nationalist rule have not been particularly successful. The statistics on things like education and health are not very encouraging. On the economy, through external circumstances, oil and the financial services that loom so large in the Scottish economy have not been thriving. Do electors not take into consideration much the history of Scotland over the last five years?

Professor Curtice: I have two answers for you. Voters ultimately have a choice between alternative parties and perhaps, in their minds, alternative governments. We are where we are because, frankly, there was a collapse in the ability of the Scottish Labour Party to provide

Scotland with effective devolved government, particularly in the 2011 election. There is a choice. One of the interesting things that came out of the 2011 election was that, indeed, if you asked people what had happened to education or health, et cetera, in the last four years under the then-minority SNP regime, they replied it was ‘not too bad’. They were saying that it was so-so, or even slightly critical. When asked how good a job the SNP had done of governing Scotland, they would say that they had done a pretty good job. The thing is that it is a choice between two alternatives. There is no doubt that the SNP have their first XI inside the Scottish Parliament. Virtually all of the senior players inside the SNP opted to go to Holyrood rather than stay here, Alex Salmond albeit in a slightly zig-zag fashion. In contrast, for a variety of reasons, very few senior members of the Labour Party opted to go north of the border, and many of those who did, for a variety of reasons and in some cases very sad ones, were not in Holyrood for very long. The truth is that the Labour Party ended up with a second XI in Holyrood, and voters in part are making that judgment.

That said, the other thing you now have to realise is that one of the consequences of holding the referendum is that electoral politics in Scotland is now centred on the constitutional issue to an extent that has never previously been the case. Roughly speaking, around 90% of those people who voted Yes in the referendum voted for the SNP in May 2015, and around 85% of those who voted for the SNP in May 2015 voted Yes in the referendum. That relationship is much stronger than in 2011 or in 2010, or in any previous election in Scotland. There is a question now about whether or not, for example in the Scottish Parliament election of May 2016, that now very strong link between people’s constitutional preferences—as finally determined in 2014—and their vote choice will remain so strong or not. In which case you are right: those considerations may not be relevant, because the constitutional question has become so dominant in the minds of voters.

Lord Morgan: That is a very interesting answer. I find it very interesting that in Wales the record of the Labour-led Government has been used to attack it, particularly the unfortunate statistics on aspects of health. That does not seem to be happening in Scotland in the same way.

Professor Curtice: No—presumably because the UK Government have not found comparative statistics to their advantage. Partly the issue of Wales became politicised across the UK because it provided an opportunity for the Conservative Party to fend off attacks from the Labour opposition about its record on health in England and say, “But look at Wales”. Doubtless you do not need me to tell you that coming up with exactly comparable statistics across the four territories of the UK on this issue can be somewhat difficult, because we have

four different health and administrative systems, so to some degree four different sets of statistics. That often gives politicians on all sides of the borders enough wiggle room to suggest that comparisons that may be unfavourable to them are perhaps not necessarily as robust as their accusers would like to think.

Q59 Lord Maclellan of Rogart: Can you give any idea of what the Scottish electors might consider their place in the world, and to what extent they feel being part of the union is important in order to have influence outside?

Professor Curtice: The answer to you is that is one of the things that we were tracking on Scottish Social Attitudes during the referendum. If you put it through the statistical sausage machine and asked what the most important issue is, and what the next most important issue is, it would be on the list but lower down. It is certainly a consideration. But you will not need me to tell you that, for many of those on the Yes side, the United Kingdom's role in the world is a point of contention, not least over the issue of the UK's nuclear weapons facility. Some people will say to you that they agree that the United Kingdom has clout in the world, but would either cite Iraq or their dislike of the UK's nuclear weapons facility as evidence that it would be rather nicer to live in a country that did not have quite so much influence in the world. The other thing that I would say to you is that the truth is, for most voters, whether or not they have politicians that are sitting at a top table in New York, or wherever, is perhaps not as important as it is to those people who are involved in politics.

Dr Eichhorn: However, it is important to mention that, when you ask people to specifically consider which issues should be devolved and which should be reserved, the majority of people in Scotland at all points thought that issues such as defence and foreign affairs should be reserved—should be decided at the union level. When it is about outward-facing activities of government, there is more of an orientation towards the union. We have also asked about this in the context of the referendum on UK membership of the European Union, and when the proposition came up that each country should effectively hold a veto on this, not even in Scotland did we find a majority for this. There were more people in favour of this idea—that each of the four parts would have to agree. But even in Scotland there was not a majority for it. When we are outward facing, more people, even in Scotland, consider the union as probably the more important actor.

Q60 Baroness Taylor of Bolton: I am not sure, in terms of what you have told us already, how much real public understanding there is of what the union means, what devolution means, and what the issues were. I know that we should not get involved in personal experience or anecdotal information, but earlier Professor Curtice, I think, said that there were

two years and therefore there was an increased knowledge of the issues. During those two years the public opinion polls changed dramatically, yet during the referendum campaign more or less everybody who was involved, certainly on one side, found that people did not want to talk about the issues; they were talking about the emotional aspects. You mentioned empathy, and whether you were more or less Scottish. How did people make up their minds? A mention was made of people being alienated, and I wonder to what extent people in Scotland were voting against Westminster, in the same way that people in parts of England would vote for UKIP against Westminster.

Professor Curtice: I have a variety of things to say in response to that. The first is that anybody who lived in or, frankly, visited Scotland for any length of time during the referendum would have realised how incredibly engaged the Scottish public were.

Baroness Taylor of Bolton: In the event, but I am talking about the issues.

Professor Curtice: Okay, but I think it all gets to this. The truth is that many foreign journalists who visited north of the border, and particularly those from southern Europe would ask where the referendum was, because they are used to political issues attracting large crowds in the streets and flags waving, et cetera. They said, “Hang on, what is going on?” The answer to them was quite simple: “Just sit down for half an hour in any pub or café in Scotland, and I bet you within half an hour, if you keep your ears open, you will hear people talking about the referendum”. The truth is that part of the answer is that people just talked to each other. We also saw the incredible revival of the public meeting north of the border. You just needed to say that you were holding a public meeting, put the word independence in it, and people flocked to turn up. Part of my answer to you is that people talked with themselves about the subjects and about the issues that they regarded as being important in the referendum. Certainly that was going on. We can all argue about whether or not they were talking about the things that we think to be relevant, but they were certainly talking to each other and certainly engaged. That is point one.

The second thing I would say to you is: my judgment of the referendum campaign is that—and, again, this is about the proposition on the ballot paper—we now all know what questions should be asked about the proposition of independence. That proposition underwent fairly extensive critical scrutiny. All of us came to our own views as to how well it survived that critical scrutiny, but it had undoubtedly undergone that critical scrutiny. You have to realise that at the other end of the spectrum we were talking about a “No” campaign that was being led by three different political parties who would not necessarily agree with each other about how to run the United Kingdom as a whole, let alone Scotland in particular, and who in

particular until the very end of the campaign adamantly refused to agree with each other as to what alternative vision for Scotland's place in the Union they would be willing to offer in the wake of the referendum. That has led to this situation, frankly, where we now have very major legislation going through this place for devolution in Scotland that very few people in Scotland know anything about. But I would lay the blame for that with the people who are responsible for promoting that idea, because very little has been done north of the border to say to people that this is what we are in favour of. To be brutal about it, the SNP have run rings around the unionist side in the last 12 months on this issue.

Dr Eichhorn: Just to substantiate this further, one of the key lessons in terms of participation in the process on this in Scotland is that we would not have seen the same amount of engagement at all of these different levels had this campaign been only four or five months long. It needed time, because a lot of people who became involved in discussions and local activism, and who just went to information events and so on were people who did not do this on anything else, and who might never have done this for an election or in any other context. That is important. The way that people discuss issues might be slightly different at different levels, but you always have to compare it with what sorts of discussions were held before by particular individuals and groups. Around this debate it went up at many levels, so the question is: what is an issue for whom? For a lot of people, it was about issues that happened at their local level. The key thing is that you are absolutely right, and in particular in the month before the referendum there was a lot of emotion, and if you spoke to people it became emotionalised. But I would argue that the causality is the other way around. They started to realise that these issues were important and that they had a chance to participate, and therefore they became emotionally involved. That makes sense. If you start to become involved and think that it matters for your own life, and we have seen that people who thought that it mattered to their own life were more likely to turn out and become active, you obviously become more emotional. If you are campaigning for several months, you will be more emotional about it. It is more that way around.

With regard to what is happening now and why people do not feel that they have much of a say in this, it is because the process was so much quicker. The Smith Commission process was so incredibly fast. There was a public consultation, but also we did elite interviews around this project, and it is very clear that there was little feeling, and the public feels this. We have asked how much people feel that different actors have a chance to influence this debate. Ordinary people are at the very bottom of the list everywhere in the UK. The Scottish do not feel that ordinary people have more efficacy than elsewhere in the UK, in this process

about constitutional change in the UK. That is a real problem for the process, if it is meant to take people along and keep them informed.

Baroness Taylor of Bolton: Can I just follow up on one point? Professor Curtice, you talked about the legislation going through, and I can only agree about the actual process of the Smith Commission, the vow and all of that. But if people do not understand what is happening now, because this legislation has left them behind because there has not been involvement, does that not create another problem? How do we get to the stage of making people understand what it is, rather than just those broad-brush emotional issues?

Professor Curtice: The proposition that I have argued for for some time is that you should be holding a referendum on the provisions of the Scotland Bill currently going through this place. That will force the public to engage with the issue, and if you wanted to be Machiavellian about it, it is perfectly clear that simply having held a referendum and 55% of people voting in favour of staying inside the UK has not done anything to quell the debate. If your objective is to cement Scotland's place in the Union, then it seems to me that the unionist side in this cause needs to stop apparently wanting to run away from facing the public and be willing to take what it wants to do, put it before the public and get a positive endorsement. If you then get a situation where, if indeed you succeed and get a majority of people in Scotland voting for this, your position is much stronger because you can then say not only that people voted against independence but that people actually voted for this, and this is what people in Scotland wanted. In the absence of that kind of endorsement, you are always, frankly, going to be in a difficult position.

Q61 Lord Lester of Herne Hill: The experience of Irish referenda in particular suggests that the public do not understand complicated issues when they are raised in referenda. What I was going to ask you, before you mentioned referenda, is whether you think one answer to Baroness Taylor is that one of the problems about public understanding is that no sensible person, not even a sensible lawyer, can understand the state of devolution law as the asymmetrical system operates. I am a rather old lawyer, and I am probably one of the few people in this room who has had the sad misfortune to have to read the whole of all of the devolution acts. If you ask a simple question, such as how did it come about that the DUP was able to veto same-sex marriage in Northern Ireland and what is the role of the Secretary of State in securing human rights in Northern Ireland, I assure you these are extremely impenetrable questions, certainly to me, and if they are impenetrable to me then I expect that they are to ordinary men and women.

Professor Curtice: Can I take two responses to that? The truth is that probably a pretty large body of the legislation that goes through this place, and indeed the other legislatures of the United Kingdom, is pretty complicated. The job of politicians is to communicate and to ensure that the public understand in broad terms what they are doing. That would be my first response to you. The second response is that one of the remarkable things about the Scottish independence referendum, whatever we think about the merits of what people were voting on, is that one thing it does not seem to have been about is what people thought of the current UK Government. There is no doubt that one of the classic concerns about referendums on subjects about which people are not terribly concerned or interested, such as the Nice treaty in Ireland, is that people choose to give the Government a kicking. The fascinating thing about this referendum, apart from the extraordinarily high turnout, was that it did seem to be about what people thought of the issues that were put before them, regarding independence versus staying in the Union, and not the much more ephemeral things such as what they thought about the current UK Government. Putting it slightly differently, if you cannot convince people in Scotland that you are providing, within the framework of the United Kingdom, the degree of autonomy that people in Scotland are looking for, undoubtedly the position of Scotland within the Union will remain relatively weak.

Lord Lester of Herne Hill: Professor Curtice, do Parliament and Government not have a responsibility to create a code that ordinary people might be able to understand?

Professor Curtice: In an ideal world, sure. Reading the original Scotland Act was not too difficult, because there was a list of reserved matters. That was not too complicated to follow. It seems pretty clear that, in the arguments about the legislation going through at the moment, once you get into a situation of partly devolving welfare and partly reserving it, it becomes even more complicated. That is undoubtedly true. But that is the settlement that you wish to implement, that is the settlement that the unionist parties have decided they think Scotland should have, and it seems to me that it is the responsibility of those parties to generate public support for it, because at the moment, frankly, you have failed.

Dr Eichhorn: It is important to consider, if I am just a general member of the public, what my motivation is to become informed with a question like this. In the Scottish referendum a lot of people, at different levels, became more informed about these matters than before. It does not mean that they understand every detail, but they definitely understand a lot more than before, and continue, as I said earlier, to look at a greater variety of news sources than they did before. But I will only, as a general member of the public, do this if I, first, have the feeling that what is being discussed matters to me—if I see the connection, for example, between a

constitutional issue and my life, which was very clear in the Scottish referendum—and, secondly, if I have the feeling that I am being taken seriously as a member of the public. It is not even a question of knowledge. In a lot of situations there are comments that people do not care about constitutional matters, for example. We have asked people if there is too much time spent on this, because sometimes the argument is that we spend too much time talking about the constitution and we should talk about other things; there are a lot of media comments on these sorts of things. The majority in every part of the UK says either it is the right amount of time or we should be spending much more time talking about how we are being governed. There is an interest for people, but if they are constantly told that they are not interested, as is often done, there is some resistance to it. Secondly, if we look then at processes about decision-making and the change of the governance of people—for example, if we look at the devolution of powers to Manchester, which was done in a process that did not involve the public, full stop—that is very problematic. Why then, as a member of the public, when I do not feel that my voice matters in it and nobody thinks that I am interested, should I engage with it in much more depth?

The Chairman: Your answers have been fascinating, but they have also been quite wide-ranging. You have strayed into some of the areas about which we have yet to ask. We will ask anyway, but it may give you a chance to give us slightly shorter replies.

Q62 Lord Cullen of Whitekirk: I would like to ask about the level of support for the union within the nations, as matters now stand. I notice that in your written evidence, Professor Curtice, you say that the instinctive reaction of most people in Scotland appears to be that more or less all of the country's domestic affairs should be determined by the Scottish Parliament, leaving the UK Government to deal with just defence and foreign affairs. You go on to give examples in support of that. Now, if that was to come to pass, would we have a union, or would we simply have a situation where the Scottish Government wrote a cheque every year to pay for the cost of defence and foreign affairs?

Professor Curtice: Sure. If you go to the full version of devolution max, Scotland therefore has to finance its public expenditure entirely out of its own resources, and you do not have any of the pooling and sharing of resources that you might regard as integral to a Union. I do point out elsewhere that I use the word “instinctive” quite deliberately, because if you ask people explicitly about the proposition of pooling and sharing resources, in many respects the Better Together campaign got it absolutely right. Their offer was ‘the best of both worlds’, and there is no doubt that people in Scotland want the best of both worlds. They want to make the decisions about welfare, but they are still quite keen on the UK-wide taxpayer having

some responsibility for funding that. Human nature is thus. I can find you the odd occasion when on pensions it is about 50:50, but virtually all of the survey evidence shows that, if you ask about a domestic affair, people think that Holyrood should decide, and if you ask about defence and foreign affairs, as Dr Eichhorn has already said, it is that Westminster should decide. That is point one.

Point two, coming back to where we stand as far as public support for the Union is concerned, as I say in my written evidence, I think that support for the union in England is now stronger, because the referendum campaign convinced people in England that it was in England's interest that Scotland should remain inside the union. It is pretty clear that support for independence in Wales is very low. Support for reunification of Ireland is now lower than it was. This may be because of the eventual revival of devolution, although I believe it also may be because of the fiscal crisis in the Republic of Ireland. The one place where continued membership of the Union is clearly now problematic is Scotland. It is now more problematic in Scotland than it ever has been, and my view is that Scotland's membership of the union is now more problematic than Northern Ireland's. You would not have expected that to be the case 20 years ago.

Lord Cullen of Whitekirk: But does the attitude to which I have referred not show a desperate lack of understanding as to the value of the union?

Professor Curtice: Perhaps. But, again, if I come back to some of the other things that have come out of the statistical sausage machine, there is no doubt that, for people who were rather keen on the idea of pensions being funded across the UK as opposed to being funded out of Scottish revenues, it was one of the secondary considerations that helped to incline them towards No. One of the things that we certainly know, as I like to put it, is that those who are older than I am were much more likely to vote No than those who are younger than I am. Undoubtedly pensions seems to be one of the considerations for that group. Yes, there is that indication, but in a sense, under the devolution settlement that is now being proposed, we are going towards 'the best of both worlds'. There is now a range of options across much of the welfare field. What is now being proposed is that Scotland's welfare provision is funded out of the UK tax base, but if it then wishes to use its devolved tax base in order to spend more on welfare and top those benefits up, it can do so. It is the best of both worlds, perhaps.

Dr Eichhorn: Just briefly, it is not completely surprising that is how people might think about it in Scotland, when a lot of the campaign, as pointed out earlier, was constructed around the risk of leaving the United Kingdom rather than the benefit of staying in. There is some path dependency. Briefly, just because there is not a strong movement for independence in Wales

in the same sense, we should not mistake that for satisfaction when we are talking about resources and the financial aspect of this. Wales, by far, has the largest dissatisfaction with the share of government spending it receives. On average, the Scots have exactly the same satisfaction as the English, roughly speaking. It is Wales where two-thirds of people say that they get less than their fair share of government spending, whereas in the other places it is somewhere around the 50% mark or lower. It is important to note that attitudes towards independence are not equivalent to satisfaction with the current arrangements.

Lord Morgan: We have covered the point, but is it possible to generalise about support for devolution in the four nations? As you very well know, it is asymmetrical, and the settlements are quite different; the historical backgrounds are totally different. Can anything generally be said? I will say, incidentally, that one of the statistics we have in our papers is that 6% of voters support independence for Wales, which exaggerates it by at least 5% in my experience.

Professor Curtice: That is for you to judge, Lord Morgan. The answer to you is that, as I detailed in the written evidence, as you know one of the crucial things that happened in Wales is that, although Wales only voted very narrowly in favour of devolution back in 1997, opinion shifted fairly rapidly thereafter, and not many people in Wales wish to get rid of the National Assembly. Equally, now, in Scotland less than 10% of people wish to get rid of the Scottish Parliament, and I cannot remember the exact figure but support in Northern Ireland for direct rule is relatively low. Pretty much in all of those three parts of the UK, over 50% of people say that devolution is their first preference, and for those in Scotland for whom independence is their first preference, devolution is undoubtedly their second preference. The idea of Scotland, Wales and Northern Ireland being able to run themselves, to a degree at least, is clearly popular within those three parts. The evidence on England seems to be that it is still unclear, in my view, how far England wants devolution for itself, but that England still seems to be willing to tolerate Scotland having its own Parliament, if that is what it wants to have.

Q63 Lord Brennan: Following up your last response, Professor Curtice, to what extent can constitutional change affect public opinion—productively not just negatively? Secondly, you have told us a great deal about Scotland, the once and for all decision and its impact, and you have mentioned Wales and Northern Ireland. Let us talk about England for a while. How might public opinion in England be influenced in relation to the union and the governance of the UK?

Dr Eichhorn: The first thing is that constitutional change processes, policymaking and campaigning can influence public opinion. In Scotland, at the beginning, obviously, polls

were quite stagnant. The determinants of independence remained very stagnant; it was quite solid for a long time. But it changed over time in this long-run process. For example, the issue of what people expected would happen to Scotland in terms of inequality was not very important at the beginning to people's vote decision. In the end it was quite highly correlated with vote decision. It was not as important as the economy overall, but things can change. Campaigns and policy discourses can have an influence on public opinion. People can start caring about things that they have not thought about because they have not been confronted with them. If you force people to engage with something, that can help but, I would argue, as I said earlier, only if they feel that it matters to them and that they are taken seriously, and do not perceive it as a consultation with 14,000 or 20,000 people but the decision made in backroom dealings. That is important.

That matters for your second question about England. When we look at these processes about what could be done in England, it is very complicated. There is not a one-size-fits-all solution. If you ask people about different options for devolution in England—arrangements to address this—we find that there is some form of support for doing something that affects England at a whole level, but it depends on how you phrase the questions and how you engage with it. There is also some support for doing things at a more local or regional level, to some extent. Crucially, when you ask these questions in a way that is unbiased, what you get is that people have quite complex interplays of their preferences for how to deal with things. There are some areas of the UK where the preferences, for example, for empowering city regions are greater than other regions. There are some regions where an emphasis on larger regional arrangements is more important. It is very important to look in depth at what is happening there. I guess that it is important to disentangle that, and not assume that there is a simple solution to it. People have very different needs, and people do understand that some decisions are made at local levels and others are made at much higher levels. Both of these areas need to be addressed.

Professor Curtice: Constitutional change can make a difference, but constitutions are inhabited and used by politicians, and it is the way in which politicians use constitutional change that can be crucial. Let us take two examples. Clearly the process of constitutional change has been very important in Northern Ireland, and the Good Friday agreement and St Andrews agreement have been pretty important. But ultimately what was crucial was the willingness of the DUP and Sinn Féin to sit down together and come to an agreement and the way, at least initially, that agreement was developed, articulated and promoted by the late Reverend Ian Paisley and Martin McGuinness. Things more recently have clearly been more

difficult, and the process looks rather more fragile. As I said earlier, it may well be that one of the reasons why support for reunification in Ireland now seems to be lower is that the concerns of the nationalist and Catholic community in Northern Ireland are more clearly articulated inside the Northern Ireland settlement. At the other end of the spectrum, clearly in Scotland, insofar as one of the purposes of introducing devolution was to cement Scotland's place in the Union, it has clearly not succeeded. Why not? In part it comes back to something we were dealing with earlier: in my view it is essentially to do with the political failure of the Scottish Labour Party and doubts about what it was offering Scotland in the first place, and its seeming to think that what the people of Scotland wanted from devolution was a lovely partnership with London. No; what they want is grit in the oyster. They want somebody standing up for Scotland's interests within the framework of the union, and that is something that the SNP understood. Thereafter, the SNP have used the fact they have power to end up in a situation—partly, I think, by accident—whereby they have been able to push the cause for independence. It depends on how politicians use and develop the constitutional framework that is promoted and put in place. There is no obvious necessarily deterministic relationship.

On England, there are a number of points to make. One is that, ironically, the referendum probably did help to increase support for the Union in England. In England the kinds of arguments that many unionists would want to make about overall being stronger together and having a great British heritage, and why should we throw that away, have much more resonance in England than they do in the rest of the UK, and therefore they serve to work here. That said, we know that if you ask people in England whether Scottish MPs should be voting on English laws, they say, “No—why should they be?”. But, to be honest, until now that has also been the reaction in Scotland: “Why the hell are Scottish MPs voting on English laws?”. What we do not know is whether or not people would, in fact, have taken that view even before the advent of devolution. Nobody ever asked people before the advent of devolution whether only English MPs should vote on English laws. Therefore, we do not know whether it is a case of, “Hang on, of course that makes sense,” or whether it is a reaction to the advent of devolution in the rest of the UK.

The Chairman: We will come on to English votes for English laws a little later.

Q64 Lord MacGregor of Pulham Market: I was really going to follow up on the point that Lord Brennan made about England, and what you just said. I wonder to what extent it is the influence and intensity of the media that conditions people's thinking. Put it this way: in East Anglia there is very little talk about Scottish independence except in terms of the Barnett formula or English votes for English laws. It has not been an issue on people's agenda, and it

is hardly ever reported in the local media. In Scotland, of course, it is entirely different and the focus has been entirely on this. What I think has been happening with the increasing support for EVEL is that people have begun to see the consequences of Scottish devolution for them, and it is at last beginning to be talked about in the local media, but it has not been until now. It is really a question about the impact of the media.

Professor Curtice: Let me say two things to you. The first is that I do not, as yet, know of any clear and unambiguous evidence that support for EVEL has gone up. It has always been there ever since it was first mentioned in 1999/2000. It has become somewhat more intense, in the sense that people are now more likely to say that they strongly agree with it, but there is not any clear change over time.

The second thing I would say to you, of course, is that inevitably both the referendum and the outcome of the May 2015 election have ensured that Scotland now has a visibility south of the border that was not previously the case. One of the ironies of what has happened in the wake of May 2015 is an electoral outcome that has ensured that Scotland's politics are now so different from the politics of England—and in that sense British politics does not exist as, however ensured that the SNP is now a significant player in British politics and its views are now being quoted much more widely, because the frame of reference that the media use for deciding who to put on air means the SNP are the third party, and therefore they put somebody from the SNP on. Undoubtedly Scotland is now much more visible. To that extent, the media and what has happened in Scotland mean that England probably does take more notice. But whether it has changed opinion in England, other than, as I said, during the course of the referendum England being keener on keeping Scotland inside the UK, is, I think, much more debatable. The other thing to say about the media is, of course, that anybody of a nationalist disposition would certainly dispute the notion that the reason why Scotland is now where it is is because of the media campaigning in favour of independence. They would say to you that we are where we are despite, not because of, the media.

Dr Eichhorn: Briefly, one thing we definitely find is that over 80% of people in Scotland say that the referendum had a long-term effect on how they are governed; that is unsurprising perhaps. In Wales and Northern Ireland it is about a third who say that the Scottish independence referendum had a long-run effect on them, but in England it is over 50%. There is, particularly in England, definitely a more strongly felt long-term effect of the Scottish independence referendum, compared with Wales and Northern Ireland. But I would argue that people obviously care more when they feel that this impacts them and there is relevance to it, and this has probably galvanised some of the debate. There is something to that. We have to

be careful not to infer change in particular attitudes towards it, but there is maybe heightened awareness or engagement.

Q65 Lord Norton of Louth: Following on from your response to Lord MacGregor, we still have a union, but we have been talking about attitudes in different parts of the union. To what extent can we still talk about British politics—that there is a polity there, as distinct from UK politics being the sum of its parts? We have fragmentation, structures, political parties in control of different parts of the United Kingdom. To what extent is there still a UK demos such that we can talk about UK or, for that matter, British politics?

Professor Curtice: There is still more of a UK demos than there is a European Union demos, but that demos is undoubtedly weaker. The first thing one has to accept is that the degree to which Northern Ireland has ever been part of the UK demos is debatable, and indeed although British Social Attitudes has stopped asking recently, it was very clear throughout the 80s and 90s that the majority of people in the rest of the UK were quite happy to let Northern Ireland leave the United Kingdom if that was what it wanted to do. That is number one.

Number two, of course, is that in terms of the party-political system, Northern Ireland, whose relationship was always somewhat tenuous, left in the 1970s. I would now say that Scotland has also left it. The considerations that affected people in Scotland were completely different. The outcome was completely different. To that extent, at least, Scotland now has its own distinct party system, which is also becoming increasingly focused on the debate at Holyrood. We still have English and Welsh politics, but that is what we are left with. To be honest, my view is that the United Kingdom is probably moving towards a situation whereby four parts are living beside each other, and in a degree of mutual accommodation, but the idea that we have a single demos that wishes to see its politics articulated through one set of institutions has frankly gone out of the window.

Dr Eichhorn: Just to add to that, that is important. It is the systemic changes, the party structures, the orientations, how people engage. It is not that people care about what is happening locally to them. Scotland is now the focus, because there we have the relation to nation and things like this, but that has always been the case. People cared very much and had different identities also in different parts of England in the past, and different foci. It is not that. It is really the larger-scale systemic changes that we should focus on, I think, to understand this. People still see something in some of the issues that we talked about earlier with regard to external affairs at least. But that might be seen as quite a pragmatic evaluation rather than something that is deeply or even ideologically rooted. It is quite interesting, and I think you can read these figures one way or another. If you ask people whether the

arrangements for devolved powers should be the same everywhere across all of the parts that make up the UK, about 60% in Wales, Northern Ireland and England agree. Even in Scotland 50% say everyone should have the same, probably like the Scottish model. But it could be read the other way: even in England 40% say it is fine to have this disparity. In a sense you could argue that you have a coherent political community in which people accept that there is a lot of difference, and that is a connecting factor, with a high emphasis on localism and so on. But that depends very much on your reading and interpretation.

Lord Norton of Louth: So the unity comes through fragmentation.

The Chairman: We will move on from that interesting point. Because we are time limited and we are running out of time, I am going to jump to one or two questions that have not yet been covered, and bring in Lord Morgan on question nine, and then Lord MacLennan on question 11.

Q66 Lord Morgan: We have been talking as the debate has gone on, indeed over some time, about devolution continuing and the differentiation between the nations being clearer. Would you think there is, or have you discovered, support for initiatives perhaps of a non-constitutional kind that might strengthen the image of the union—something that might be supported by the public in Britain as a whole?

Dr Eichhorn: We can definitely say from our research that people agree with general ideas about, let us say, things that might be called a constitutional convention, people coming together and developing ideas. It is not what everybody lists as the number one thing that they want to do, but if asked about it around three-quarters of the population say that is an idea they support. Around 60-70% in each part of the UK would give up five hours or more to be part of it. People are not opposed to these things. Whether they are enthusiastic about it is a different question, but there is a general support. There is an openness to these ideas.

The important thing, in the end, is that whatever initiative, engagement or sort of campaigning there is and whoever does it, it needs to resonate. Again, it needs to matter to people and people need to feel a connection. It needs to have some accommodation of the union, and articulate the worries that people have about their particular parts. It is very important to note—I emphasise this, and we touched on it briefly—within the English context and English votes for English laws, there is support for it, but equally there is majority support across all of England for regional assemblies and powers to city regions. For most people a variety of different options are not mutually exclusive. There is not this magical thing that would happen and people would say, “Fantastic—now I am happy with the arrangement”. Partly, that is because there have not been these engagements with people. If you want to do anything, and

want people to come on board and develop lasting support, people need to engage in the process long term. What has happened in the case of Manchester is exactly the opposite of what should happen from a point of view of getting people along and participating, rather than saying, “This is happening; see how it works out. We think it will be really good for you”. That does not work, obviously.

Professor Curtice: I would rephrase the question slightly, in the sense that it is probably not a question of how you strengthen the image of the Union but rather how might you strengthen the underlying emotional affinity that might then translate into support of the Union—basically, Britishness. My answer to that is to ask Danny Boyle and Dan Snow to do lots of programmes for you. Clearly in part underlying the argument about the constitution is an argument about culture. Some people in your part of the United Kingdom would prefer Wales to have much more autonomy because in part they see that as a way of promoting the Welsh language and culture. In part—and this is not confined only to the Gaelic-speaking community—in Scotland the nationalist impetus is a wish to promote what they would regard as a distinctive Scottish culture, and undoubtedly to some degree a distinctive Scottish history. It is similar in Northern Ireland. Insofar as you can do very much about these things, you may want to ask yourself about the extent to which there is adequate work being done to remind people of and promote to people a sense of shared British culture and history. The obvious problem you face, however, is that you have devolved education, so you no longer have control or influence over the educational curriculum in Scotland, Wales or Northern Ireland. The pass may already have been sold, from your perspective.

Q67 Lord MacLennan of Rogart: Do you consider that the greater devolution or decentralisation has been matched by a desire to see greater variation in service delivery and possibly tax and welfare policy?

Professor Curtice: The short answer is no. We have already touched on this. When we have asked people in Scotland whether it is okay for the basic rate of income tax to be different from that in England, either higher or lower, they are inclined to say no. They are certainly inclined to say that as far as pensions are concerned. Of course, if you ask people in Scotland whether they think that the policy on tuition fees should be the same as that in England, they say no, even though there is not that much support in Scotland for free university tuition, but that is a different story. It may well be that, if you begin to introduce policy difference, people will accommodate to it, but one possible reading of the legislation that is currently going through this place is that it will certainly require Scotland, to some degree, to live off its own tax base. But how much freedom Scotland’s politicians will have in practice to be able to vary

the rates of taxation in Scotland is much more debateable. In a sense, the Scottish Labour Party is going to test that proposition relatively early, because the announcement that Kezia Dugdale made at the weekend is essentially saying that those people on the 40p rate are going to have to pay more if there were a Scottish Labour Government. You could raise the top rate from 45p to 50p and most people would not notice, but otherwise it gets you into the kind of territory where it will be fascinating to see whether or not people are willing to accept a non-trivial taxation difference between Scotland and England, and those who want to do that will have some work to do to persuade public opinion in Scotland that that is “fair”.

Lord MacGregor of Pulham Market: What do you mean by “fair”?

Professor Curtice: The truth is that this is where the demos does still exist; there is still a tendency for people to say that it is not fair that it is different in Scotland from that in England. The truth is that people’s reactions to policy differences ultimately will not simply be a high-minded, “Is it okay that this policy is different on the two sides of the border?” In the end, their reaction will be whether they think the policy they are getting is okay or not. People’s sense of fairness tends to be mixed up with a substantive idea. But as you know perfectly well, the postcode lottery syndrome is still, potentially, important, and if people think that they are getting different services or paying higher taxation or getting lower benefits because of where they live, it still matters, and what goes on in the rest of the United Kingdom is still, potentially, a frame of reference, even within Scotland, Wales and Northern Ireland.

Dr Eichhorn: The important thing is that people accept difference if they feel they benefit from it. That is the key point. It is difficult; if you are being asked the question of whether you want higher taxes, and you might get something out of it, a lot of people would be inclined to say no. As was just said, it is really important to see what exactly that would be offset with. What is the benefit from this to advance? It is very complicated to predict exactly what would happen. People do not like difference if it means that they can see something better happening somewhere else from their own perspective, obviously.

Lord MacGregor of Pulham Market: If they want better welfare benefits, or tuition fees, or whatever, and they are going to be asked to pay something towards that through their tax system, is that not fair?

Professor Curtice: It is fair in the sense that insofar as, say, Scotland wishes to provide more in the way of public services or welfare than England, then Scotland pays. That still raises the issue, for example, as to whether it is fair that people in Scotland are going to end up with

higher pensions, let us say, than people in England. People in England may not think that is fair, because that opportunity has been denied them.

Dr Eichhorn: It also raises the question, first of all, whether people in Scotland in that example want those specific differences in the first place. As we said, the evidence on tuition fees is quite complicated. Traditionally—and we will see whether this changes—if we look at things like unemployment benefits and so on, and whether they are too high or too low, there is a small difference between Scotland and England on this issue, but it is not massive. These differences in attitudes between people are quite often blown up in magnitude. That is one of the things; voting behaviour should not be mistaken entirely for attitudes towards specific policies. There are loads of other factors that come into it, of course, and that is very often forgotten by commentators in the media, as well.

The Chairman: There I am afraid we must draw stumps. Thank you very much indeed. You have been extremely informative and you have managed to range extremely widely. You have covered the ground that our questions embraced, even if we had to leave one or two out. But it has been extremely useful, and we are very appreciative of the time you have spent—and for your written evidence to us as well. Thank you very much.

Examination of Witnesses

Brendan Donnelly, Director of the Federal Trust for Education and Research, and **Alexandra Runswick**, Director of Unlock Democracy

Q68 The Chairman: I do not know how much our second guests heard of the earlier exchanges, but I am very glad that you were sitting there, because you can either say, “Yes, I agree”, or, “No, I disagree”, and give us concise answers on some of the points that they have covered. But we are very glad to welcome Alexandra Runswick, director of Unlock Democracy, and Mr Brendan Donnelly, director of the Federal Trust for Education and Research. We thank you, also, for the information that we already have from you and about you. I will start the questioning straightaway, by reference to the pamphlet *Devolution in England* that came from the Federal Trust, and ask whether you believe some form of legislative devolution to or within England is needed for a stable constitutional settlement.

Alexandra Runswick: Yes, it is. There is a real problem within England in terms of the devolution settlement, in that people particularly in areas outside London, like Yorkshire, Cumbria, Merseyside and Manchester, feel that being governed by London is far too remote and that they do not have enough say in the decisions that are taken about their communities, or indeed in how those communities are defined. When you are trying to maintain a union and you have part of that union that dominates to the extent that England does within the United Kingdom, you need to look very seriously at decentralising that main unit.

The Chairman: Do you agree, Mr Donnelly?

Brendan Donnelly: Yes, I would, and what Mr Osborne is doing is an attempt to respond to his sense of that desire, which has been accelerated and reinforced by devolution to Scotland, Wales and Northern Ireland. One other element is that within Scotland—and here I speak with some hesitation, given the distinguished Scottish Peers sitting around the table—it does seem to me, to judge from the rhetoric of the SNP, that they at least believe that in Scotland there is a sense of the United Kingdom being excessively centralised or an English superstate, something that is very much focused in an unhealthy way on Westminster, Whitehall and London. Devolution and the willingness to look in a fairly radical way at the internal governance of our United Kingdom might be a way of reassuring Scotland that indeed we are willing to live in a United Kingdom where there are four related demoi, all of them striving to make it as easy as possible for the other demoi to live in harmony with them. I would add that point, if I may.

The Chairman: What is interesting about Scotland, however, is that devolution to Scotland has taken place, but devolution within Scotland is not happening. Indeed, centralisation is taking place. I will not pursue the question further, because we will come on to other aspects of it in future questions, so I will move straight on.

Q69 Lord Norton of Louth: Coming on to the proposal for—or the implementation of—English votes for English laws, how significant do you see this in relation to the union? Is it a means of stability? Will it address concerns about the West Lothian question?

Brendan Donnelly: I will answer that, if I may. Particularly in the short term, it will make very little difference. There is a symbolically negative aspect to it that underlies this not so much at the political level but often when it is raised in popular discourse, if you like, in England—there is a sense that devolution has been unfairly or unreasonably generous to Scotland and this is a balance that needs to be redressed. That is an unhelpful attitude of “us and them”, which is not a very good background against which to look at the questions we are considering today, which I reformulated using your phrase as, “How do the nations live more easily together?” More political capital has been invested in it than was justified by the objective circumstances.

Alexandra Runswick: There is a risk that English votes for English laws could make the situation worse, in the sense that there is going to be a process by which Bills are going to have to be determined and certified as to whether or not they are England-only or not. That could become a very political and politicised process. For people who feel strongly about their English identity, and who feel they are not able to express their English identity and that there is this unfairness, it will become very contentious. You will have enormous arguments about whether or not a particular clause is or is not England-only. Rather than giving people a sense that they have more control over what is being done, it could just make the whole situation worse.

Lord Norton of Louth: Will the dispute about the provisions be very much within this place, to some extent? Robert Hazell made the point that he did not think people outside were really going to be that knowledgeable about which Bills are, say, certified as English-only law provisions and that—this was Mr Donnelly’s opening point—this is not so much to do with the detail but the broader perception that there is a problem. If people felt, “Yes, there are English votes for English laws”, that would create some degree of stability or, if not, at least stop the concerns that people south of the border have been having.

Alexandra Runswick: Members of the public are not going to be scrutinising each and every certification decision, but there are going to be some Bills that are politically contentious.

There will inevitably be some Bills people instinctively feel should be England-only but are deemed not to be—probably for very good reasons, but for reasons they may not necessarily understand. It is not clear to what extent there will be reasons given; at the moment, it looks like reasons will not be given for why a Bill is certified in a particular way. Equally, you could have MPs in particular areas campaigning on a particular issue. It could very quickly become a highly politicised issue as to whether or not something is or is not England-only. Nothing about the English votes for English laws process is simple—ie how you determine it and make it work in practice. The idea is quite simple and quite appealing, but nothing about how it works is. It will not address people's sense that their English identity is not being reflected enough or their sense that they do not have enough control over the decisions that are being taken.

Lord Cullen of Whitekirk: Is it possible it might even have an effect on the drafting of legislation in order to try to circumvent the problem before it is reached?

Alexandra Runswick: Yes, it will.

Brendan Donnelly: That would be an ironic outcome in some ways—but a highly predictable one.

Lord Cullen of Whitekirk: It is a little like our natural situation.

Q70 Lord Morgan: I recall that Metternich famously described Italy as a “geographical expression”. The problem here is how to define or create England as something rather more than a geographical expression, which is very difficult. Would regional devolution be a realistic possibility? I live in West Oxfordshire. I ask neighbours what they think about regional devolution. The answer is either “Oxfordshire” or, “I do not understand your question”. It is a widespread problem. What do you feel about regional devolution, given the famous rejection of it in the north-east? Is it even worth thinking about?

Brendan Donnelly: If I may, because I think that was more directed to me, it is certainly worth thinking about. The fact that some of your neighbours say they do not know what you are talking about goes back to point that was made earlier—that public discourse can alter attitudes. I would not look back at the events of the north-east referendum as being necessarily decisive for possibilities now. The Scottish situation has moved on very radically since then. The north-east referendum was something on which the Government of the day were clearly divided and they become less enthusiastic as the campaign went on. It was not something that was part of a general scheme. It was not something that was preceded by a proper public debate on the subject.

I would be the last to deny that there are difficulties about regional identities and regional boundaries associated with regionalism in the United Kingdom. However, if you take the view, as I do, that a more federal structure for the United Kingdom would make it easier for the nations to live together and if you take the view, as I do, that England as a unity would—perhaps we can come back to refinements on this—almost certainly be a destabilising element because of its size in a federalising system, you are thrown back on the question of regional arrangements. It will be a question of whether there is a political will to think about that seriously. If there is a political will for it, I am far from convinced the administrative or objective difficulties are insurmountable.

Q71 Lord Lester of Herne Hill: Yesterday, the Minister, Baroness Chisholm of Owlpen, said something that could be the motto for the work of this Committee at the moment. She said that the Government’s immediate focus “must be on implementing a fair and balanced constitutional settlement that works for all the people of the United Kingdom”. That, apparently, is the Government’s objective. Let us assume we all share that objective. Could we learn from Spain, for example, in answering that question, using a rolling system of opting in, in which you could carve up England into units much as the Allies carved up Germany after the Second World War into Länder? You could then have a process of opting in or opting out in order to try to help produce a “fair and balanced constitutional settlement that works for all the people of the United Kingdom”.

Alexandra Runswick: That is certainly one model. To step back a little, if you want a fair and balanced settlement for the people of the United Kingdom, you do have to involve the people of the United Kingdom. One of the big problems we have had with the referendum that has already been mentioned or the current proposals going through Parliament is that approaches to decentralisation and devolution within England have been top down. It has been a Government deciding (a) what the regional unit is and (b) what powers that regional unit then gets. That has been one of the fundamental problems, particularly with devolution within England. As we have already explored in the earlier session and a little today, the idea of Englishness is quite a contested identity. The idea of what a region is is quite contested. We need to have the public discourse—the space in which to explore some of that.

I have been working on issues around democracy and constitutional reform for over 10 years. Whenever I speak at a public meeting around these kinds of issues, someone inevitably gets up and starts talking about the reorganisation of local government in the 1970s. They talk about how they used to have a community and they knew what it was and they knew what their identity was, but that they have not had it since then. I am not trying to make a comment

specifically about those structures, but we are talking about people's sense of place and their identity as well as powers for government units. You need to make sure that is incorporated and addressed in any proposals we bring forward. Broadly, however, the model you discussed—we published a paper jointly with the Federal Trust around an English devolution enabling Act, where people could pull down from a menu of powers at different rates—is one viable way forward, yes.

Brendan Donnelly: In the case of Germany, it was not opting in; it was an imposed system—and rightly so, in my view. An interesting parallel with Germany is that by no means were all the Länder historic regional entities. There were enough of them in Bavaria, Hamburg, Berlin and Bremen to be able to say these were building blocks. The rest of them were, as it were, filled in. Something similar might be conceivable in this country, in the sense that we do have some building blocks, it seems to me: London, the south-east, Yorkshire, Wales, Scotland and possibly the south-west. As to the question of a programme of rolling acceptance of a menu, yes, that could indeed work. I have two points, however: it would have to be up to the regions themselves. It would not be decided centrally whether they were able to do it. The tendency of Spain has been towards more and more drawing down of this option. It would probably be a phased move towards a federal system, not something that was likely to be arrested halfway, as a halfway house.

Q72 The Chairman: Do you agree that devolution to Scotland was essentially demand-led and, thereby, it enhanced the asymmetry that already existed in the United Kingdom through geography, demography, economics, culture, history and so on, and did not take account of whether or not it was beneficial to the union itself to approach it in this way? If you agree with that, do you not see the dangers of the approach you are outlining within England?

Brendan Donnelly: It was demand-led. However, it was not inevitable that those who were involved in this process should have ignored the implications for the rest of the United Kingdom. They did, to some extent, but one of my general thoughts would be that the United Kingdom, particularly the central Government of the United Kingdom, has rather tended to think of Scotland, Wales and Northern Ireland as being English problems. The thought is, “We will solve this problem as an English problem. There is unhappiness in Scotland. We will give Scotland what we think Scotland wants and then the problem will be solved”. In fact, the interactions within the union are more complex than that, it seems to me. I see the danger you are referring to, but the dangers of not looking again in quite a radical way at how our United Kingdom is constituted are even greater—and may well be the occasion of putting Scotland over the edge of going for independence.

The Chairman: Yes, I was not making that broader point. I was making the point about England becoming an extraordinary mixture of diverging and differing local authorities, local organisations and so on. Where would it stop? How would it relate to the rest of England, England as a whole and the United Kingdom?

Brendan Donnelly: I made the point in replying to Lord Lester that the Spanish model suggests that regions converge towards similarity—ie that there would be symmetry within England. If you think a transitional period was a necessary price to pay for that, it would be entirely sustainable.

Alexandra Runswick: If you want to look at it from a union point of view, you need to look at what people identify with. The union is a very abstract concept. We need to look at what you are asking people to support and identify with. In the earlier session, John Curtice mentioned that you could have a whole series of history programmes to get people feeling engaged with the union. That is one approach that could be taken. You could also look at the reasons why people feel alienated and disaffected with the British state more generally. A lot of people feel that the way they vote does not match the way seats are allocated in Parliament. There are lots of different reasons why people might feel they do not have a close relationship with the British state in the way that they have a local identity and a local affiliation. They are issues that need to be addressed together, but you cannot simply say, “Until we resolve how people feel about Britishness, we cannot let people have more say over their affairs locally”.

Q73 Baroness Taylor of Bolton: This is interesting. As someone who lives in Yorkshire, there is certainly a feeling of a Yorkshire identity. That does not take us very far in terms of what kind of devolution or decentralisation there should be there. There is certainly a lot of interest in northern cities about the current Government’s proposals for a northern powerhouse, city devolution and things of that kind in the current legislation. I am wondering what you think of that. How does this fit into your English devolution enabling Act that you touched on earlier, which you said would be demand-led? We have talked about having a “fair and balanced” constitution. One of the concerns is that there is no end point—there is nothing that looks as though it will bring that stability. Without that stability, it is difficult to reinforce the meaning of “the union” or the country as a whole. Do you see an ongoing process of demand-led leapfrogging: “They have this; we want that”? I do not see the end product yet in terms of stability from what you are suggesting with an enabling Bill.

Alexandra Runswick: My first point would be the point that Brendan made about the model of Spain: although there were differences initially, you can get to the point where there is more convergence. England historically has always had different units of government and

different powers. It has never been an equal system of local government. I fully accept that this is a messy model, but that is not necessarily different either from where we have been or a deal-breaking problem. We have to accept that, if there is to be a United Kingdom, England is going to be a bigger part of that union than the other parts of it—and you have to find ways of decentralising power within that. What works for one community is not going to work for another.

Obviously, you have talked about the debates going on in Yorkshire at the moment. There are enormous numbers of different ideas around different models for Yorkshire at the moment. However, the debates going on in Yorkshire are completely different from the debates going on in Sussex, Cornwall or other parts of the country. Yes, it is messy. Yes, it is a journey. Partly, however, for me this is about having the public discourse. Particularly within England, there has not been the same kind of public discourse around how we are governed that there has been with Scotland and the independence referendum and even also within Wales and Northern Ireland. They have had devolution settlements. There has been a process; there has been something for people to talk about and issues to explore, which we have not had in England. There has been some discussion around English votes for English laws, but there has been much less around what kinds of models of devolution people want. There is not one simple answer that will take us to a neat system. We probably have to accept that we are going to have a messy constitution and we are going to have to live with that. However, it is how we involve the public and how we communicate it that is essential to making that stability.

Brendan Donnelly: It seems to me that within the English discussion of constitutional issues there is always a tension between two things, one of which is wanting an end point and the other the horror of systematic thinking, because that is felt to be inadequate for the complications of life and reality and our chequered history. The model I was putting forward, which is a more overtly federal one, is perhaps a little less open to that criticism, but it is open to the opposite criticism, which is that it is trying to shoehorn people into boxes, whereas our constitutional experience and perhaps preference has been of a more evolutionary nature.

Baroness Taylor of Bolton: Can I follow up on that? How do you envisage getting that connection and the public involvement you were talking about as being absent?

Alexandra Runswick: There are lots of different ways you can do it. You need to use deliberative democracy. You can do that through a constitutional convention. You can do that through smaller events locally. There are already lots of citizen-led projects going on. You have already seen the creation of the Northern Citizens Convention. There are lots of different

campaigns in different parts of the country for specific models. There are pilots being run at the moment in Sheffield and Southampton, I think.

Baroness Taylor of Bolton: It is on the south coast somewhere, yes.

Alexandra Runswick: Those pilots are around using a more deliberative citizens' assembly model. Fundamentally, you need a deliberative model that allows people to hear different points of view and explore ideas. The experience of the Scottish referendum was touched on in the earlier session. That was a two-year period where a lot of that work was done, not necessarily by the referendum campaigns but by lots of organisations in Scotland that were facilitating conversations around how they thought they should be governed and the kind of Scotland people wanted to see. It is perfectly possible to do. People in England are having those conversations, but not with the language that is necessarily used in this building around devolution and decentralisation—but certainly about the powers they want and the say they want in their community. Those conversations are already going on. There needs to be more of a public discourse with politicians taking the lead, articulating views and allowing people to explore those identities, rather than being quite politically scared of Englishness as an identity, as they have been historically.

Q74 Lord Lester of Herne Hill: I love the danger of systematic thinking. Mr Donnelly, you are from the Federal Trust. The Federal Trust suggests that the idea of a federal UK has substantial attractions. Is one of the problems that the f-word—ie “federal”—is completely misunderstood by most people, quite apart from the prejudice against systematic thinking? Most people seem to think that “federal” means a concentration of power at the centre, for example, or centrifugal forces that break up the country. What can you do to educate the British people in systematic thinking about what federalism means and does not mean?

Brendan Donnelly: Obviously, the Federal Trust does its best. I looked up “federalism” in a Longman dictionary recently. Meaning one was “a centralising political philosophy” and meaning two was “a decentralising political philosophy”. Of course, both of them are wrong. The point is that it is a philosophy of allocation. Some things are centralised; some things are decentralised. It is the agreement and recognition of where the boundaries are that is quite central.

For what it is worth, the word “federal” has suffered from another problem, which is its use in the European context. Most people who want a federal Europe, as I do, want a more integrated Europe—and that is a controversial issue in this country. People assume that the term “federal” specifically applies to the European context, where it may well be, at some level, a centralising and integrative phenomenon. It is more complicated than that, but I can

understand why people come to that conclusion. I have been rather heartened by the way in which, it seems to me, in UK discourse the term “federal” is becoming halfway respectable, in that the most unlikely people talk about a “federal Britain”. The Society of Conservative Lawyers recently produced something called *Our Quasi-Federal Kingdom*. I have my doubts about whether you can have a quasi-federal system, because it seems to me that you either have a federal system or a non-federal system, but that is another issue. It was very interesting, however, that they seemed to think that it was something that rational men and women could talk about. The Federal Trust would certainly be an enthusiastic advocate of talking about federalism. One of the things we are debating is whether you can have a federal United Kingdom with England as a single unit. There will be people within the Federal Trust who have different views on that. We are looking to contribute to the debate and refine the debate rather than be a campaigning organisation.

Lord Lester of Herne Hill: You mentioned Europe. Yesterday, in a debate, Lord Hannay pointed to the dangers that the European referendum will present in relation to devolution. He said in the debate yesterday evening, “The consequences ... could be dramatic, and ... irreversible”. He tried to explain how going one way would lead, almost inevitably, to Scottish independence and would also lead to very serious problems in north and south Ireland as well as Wales. Is that something that is within your concern?

Brendan Donnelly: Both personally and with the Federal Trust, yes—although I must stress that the Federal Trust is not a campaigning organisation. We had an interesting meeting with Irish colleagues in June. In many ways, they were very disturbed about the prospect of England leaving the European Union in a way that goes beyond the question of economic relations. They think it would be profoundly destabilising for the island of Ireland.

Q75 The Chairman: I am glad you mentioned England, because that has always been the objection of people who think that it is a non-starter in the United Kingdom. England, being 85% of the United Kingdom’s population, would be too dominant. As one of our witnesses pointed out to us, the Prime Minister of England in a federal United Kingdom would be more powerful than the Prime Minister of the UK and would have a larger budget. How is this achievable? In what way would you break down England to achieve it? Would that not run counter to the demand-led approach that was talked about for England?

Brendan Donnelly: England would dominate a UK federation if it were a single unit. We have been talking about the possibilities of regional units along the lines of the German Länder—that being the model I would personally prefer. There are difficulties about that, but I have suggested that, if the conclusion was that the United Kingdom would be more easily

held together in a federal system and it was probably impossible to have a federal system with England as a single unit, you are forced back on to question of regionalisation. If you do not accept this last link in the argument—believing that regionalisation is impossible—you would then look at safeguards and vetoes within the federal system for the other components apart from England. These would have to be fairly explicit. If there were decisions taken at the federal level about which the four federal Parliaments were consulted—assuming England had a Parliament—you would have to have disproportionate rights for the smaller partners. Whether that is something that would be acceptable to English opinion is also a good question.

The Chairman: You are treading into the territory where the word “quasi” attached to “federal” becomes more relevant. I will not ask you to answer that, though.

Q76 Lord Morgan: I would like to ask a slightly different question. If you look at many of the federations in the world, and particularly that of the US, what makes them buoyant and stable is the role of the Supreme Court and the courts in general. In a way, this is true of France, in view of the recent constitutional changes they have had. Would one important aspect of having a federal Britain be making our Supreme Court something that people like Lord Neuberger and others have resisted hitherto: a constitutional court able to adjudicate on boundaries and balance, or what the French call a *cour de cassation*?

Brendan Donnelly: I used the phrase slightly flippantly, but I honestly meant no disrespect in talking about the horror of systematic thinking. It is certainly true that federal systems are more codified than our British constitutional system is. That has advantages and disadvantages. If you are looking at that from the perspective of our existing system, somebody who occupies a prominent role within the existing system is more likely to be aware of the problems of a radically different system than someone who is not playing a leading role in the present system. I do not baulk at the idea that judges and Supreme Courts can play a more significant role in our political culture under a more federal system. That does not seem to be an objection—and it might, perhaps, be an advantage.

Q77 Baroness Taylor of Bolton: I wanted to go back to what you were saying about regionalism in a federal situation. When you were talking about it, we were talking about Scotland, Wales and Northern Ireland. I wonder whether you think we would have to have some regionalism within Scotland or within Wales, because there are very significant differences within those countries as well.

Brendan Donnelly: It would be impertinent of me to give too definite an answer to this with Lord Morgan here, but I would not have thought that there would be a case for division in

Wales. There might be in Scotland, but that would be something where—I come back to Alexandra’s point—the demand led within Scotland would be able to articulate itself without too much difficulty if there were a serious discussion at the political and civil society level about radical constitutional change.

Q78 Lord Brennan: Would a federal system in the United Kingdom, if it came about at present, depend upon the agreement of each of the devolved Governments? That is question one. Question two is this. Surely, such a system would require a written constitution. Who is going to produce it?

Brendan Donnelly: I would be surprised if there were any problem about getting the agreement for a federalised England from any of the devolved Administrations. I cannot see what problems it would create for them and it might even be beneficial for them.

On the question of a written constitution, in the submission we linked this to a written constitution. That is, as it were, orthodox thinking among people who regard themselves as federalists. I am, however, thinking about it, struck by the Scottish experience, whereby Scotland now has a Parliament, which is very unlikely to disappear in any foreseeable future. It has become, in the jargon of the British constitution, almost a constitutional convention that there should be a Scottish Parliament. Perhaps it might be possible, particularly if you were thinking about a transitional arrangement of a menu of options, to have a federalising system—more than quasi, perhaps three-quarters federal—brought into being by a simple Act. In the long term, entrenchment is one of the advantages of federalism, and a written constitution is a way to bring that about. For other reasons, I personally favour a written constitution. I am wondering, as I think about it, whether it is absolutely essential, particularly at the beginning of this federalising process, to have a written constitution, with all of the other sets of problems that provokes, in addition to the problems of regional boundaries.

Lord MacLennan of Rogart: Arising from that, it seems that Scotland is being over-centralised. To give an example, we now have one police force. Policing in my former constituency and in the central parts of Glasgow on a Saturday night are very different. I would have thought that we should have decentralisation within devolution. I would be interested to hear your views about that.

Alexandra Runswick: There certainly is a case for looking at devolution in Scotland beyond the Scottish Parliament. Obviously, there is a discussion around the powers the Parliament should have, but I know many campaigners within Scotland are looking not just at the powers of the Parliament but of councils and bodies beyond that. It is about making sure that

devolution does not stop with the Scottish Parliament. I am afraid I cannot comment on the issue of policing.

Brendan Donnelly: In general, I am in favour of decentralisation. The question in Scotland as to whether the devolved assembly has used its powers in too centralising a way is not, it seems to me, a question that goes to the heart of the stability of the union of the United Kingdom. It is a pity and it is a legitimate subject of controversy, but I do not think there are many people who say this problem undermines the contribution of devolution to stabilising the union.

Q79 Lord Maclellan of Rogart: The Bingham Centre made a proposal to us that we should have a charter of the union, which seems attractive, setting out the principles and maybe the structure of the union. How could we get the public involved in such a discussion? If the charter is to be something that binds the union together, it needs to be supported and understood by the general public. Perhaps a convention would be a way of doing that, but, if so, what structure would that have to have?

Alexandra Runswick: First, you want to make sure the public have the chance to influence whatever this charter is going to be, whether that is helping to draft it initially or not. One of the speakers in the morning session was talking about public involvement and the importance of what the motivating factor is for the public. That is really key. If you want the public to be engaged with these kinds of issues, there has to be a sense that their involvement means something and that there is going to be an outcome from what they do. Obviously, we cannot have each individual member of the country drafting their own charter, as we would have many millions of charters of the union and that obviously would not work. However, there are processes by which we can bring people together to have those discussions. It has to be clear from the outset how and where the public can have a say on the charter, rather than it simply being something that might be drafted by parliamentarians or lawyers and then potentially put to a referendum. There needs to be some sense the public can have a say.

I would recommend, as I said earlier, doing that through deliberative mechanisms. Whether you call that a constitutional convention or a citizens' assembly or whether you have smaller focus groups, there are lots of lessons we can learn from the way more participatory democracy has been used in other countries in order to have those conversations. It is perfectly possible to do. It is not something that has been done particularly in the United Kingdom yet. It was with the Northern Ireland Bill of Rights process, but otherwise it has not been used at a governmental level very much.

People say that the big thing with the independence referendum in Scotland was not just that they had the two-year campaign with people doing that deliberative work on the ground but that people also knew that how they voted mattered—that it was going to have an impact. Far too often with government processes, the public view is, “The Government have already decided that x or y will happen, so it does not matter if I get involved”. If what we want is meaningful public engagement in constitutional processes, we have to think about those motivating factors and how it is that we are allowing the public to have their say.

Brendan Donnelly: The role of politicians in generating public interest was rightly stressed in the previous session. It is very crucial on constitutional issues. There is an interaction, it seems, with the things Alexandra was talking about, which I am all in favour of. However, they cannot replace or proceed without clear political leadership, which can then be rejected or endorsed or modified, but there has to be a dialogue.

Lord Cullen of Whitekirk: You have taken the words out of my mouth, because I was going to say, complementing what you have said about the public, that there is surely a need for Ministers to act. We have been informed by various witnesses that United Kingdom Ministers should act as if they believed in the union. Is that not important?

Alexandra Runswick: Yes, absolutely. In the recent past, one of the problems has been that the expression of English identity has been felt to be politically difficult. Lots of people, particularly in southern England, felt very strongly that they were English and British but that, although it was okay to be Scottish and British or Welsh and British, being English was somehow problematic and there were not the same level of expressions of Englishness, politically, as with the other identities. I completely agree that there needs to be political leadership as well as meaningful engagement with the public.

Q80 Lord Lester of Herne Hill: Yesterday, the Minister was pressed by Lord Foulkes of Cumnock to be in favour of a constitutional convention. Her reply was, “My Lords, there is nothing to suggest that the public want to be involved in a constitutional convention. The Government were elected on a mandate to deliver their commitment to further devolution, and that is what we are doing”. What are your comments on that apparent lead by the Government?

Alexandra Runswick: That is not true at all. The fact that there are pilots being run in Sheffield and Southampton, where people are willing to give up their time to take part in a deliberative process that is exploring these issues, very much shows that people are willing to make the effort and take part, where they can see it makes a difference. Internationally, we have seen that deliberative processes can have a very positive effect. Look, for example, at the

assembly in British Columbia and the effects that had and the participation it had. If you ask people at eight o'clock in the morning, "What is your priority for today? Is it taking part in a constitutional convention?" the answer is obviously, "No, it is not". People are worried about their day-to-day lives. Where they are given a chance to have a meaningful say about the powers their community have over how they are governed, there are more than enough people who are willing to take part in those processes.

Q81 Lord Morgan: On engaging the public, harking back to Lord Brennan's question, would one very important way of doing this in the longer term be to have a written constitution, as in the United States? It is a badge of citizenship; it is a way of getting fundamental changes to society, like implementing the civil rights process. How do you feel about that?

Alexandra Runswick: Unlock Democracy—and Charter 88, its predecessor organisation—campaigns for a written constitution. I would absolutely agree with you: part of the problem with attitudes to governance in the United Kingdom is that it is very confusing for people as to where power does lie. There is no clear sense of what the Government can and cannot do in our names. How we are governed is not clear. The fact that central government can, at a whim, restructure local government leaves people very confused. From my point of view, having a written constitution that set that out would be a very positive step.

Brendan Donnelly: Even if it were true that there is no public desire for a constitutional convention, that would not necessarily be an overwhelming argument against having one. It might well be that the ideas that would be generated by such a constitutional convention would help the proposals of politicians and might help generate interest in a way I personally would think very desirable.

Q82 Lord Norton of Louth: Most of the discussion has necessarily been about constitutional change, because that is what has taken place and there are proposals for more. That has really been dominant. However, is there anything we could do beyond constitutional change that would help to maintain the stability of the union?

The Chairman: We kept the easy one for last.

Brendan Donnelly: The balance in our political culture between continuity and innovation is one that tends a little too much towards continuity. While operating in a continuing historical environment, if politicians nevertheless had a more self-critical attitude towards the institutions in which they operate, that would be something that would make the United Kingdom, in an intangible way, a more attractive place to live in, particularly for people who do not come from London and south-east England. If I may take up a remark

about devolution and its effect on Scotland, one phenomenon I notice in Scottish friends and commentators is that they have been exposed to an interesting political culture in Scotland that is much nearer to home and something they can identify with much more—and it was not the Westminster model. I suspect that is one of the reasons why there are people in Scotland who doubt the Westminster model. They say, “We thought the only political show in town was what happened in Westminster—but, no, something rather interesting and engaging happens on our own doorstep”. I suppose it comes back to the parliamentary sovereignty idea, which is an incubus on British political culture. To think more creatively and flexibly about it is something that would make the United Kingdom a more attractive place to live in, politically.

Alexandra Runswick: If I could add to that, a lot of the reforms I would want to see that would help people identify more would be constitutional change. Things like electoral reform and people feeling more represented in our politics would be helpful. To go back to the points that were made earlier, if you want people to identify with the union, you have to make a case for the union; you have to make a case for what the union is and why it matters. Obviously, I am not Scottish; I was not there for the referendum. However, as an interested observer I saw a campaign that was called Better Together but never seemed to make a case for what was better about being together—or at least I did not see that case being made. If there is to be a campaign for the union, there has to be a clear set of reasons as to why a union is better.

Lord Norton of Louth: That is very similar to Professor Gallagher saying last week that within government there needs to be a fairly high level union—or at least Ministers with political authority who were sent there to make the case for the union.

Brendan Donnelly: It is quite significant, as Professor Curtice said, that the case for the union was made quite successfully—or it improved its standing—in England but not in Scotland. That might suggest that making the case for the union is good for one audience but not for another. You mentioned the need for Ministers to sound as if they believed in the union. Alexandra is right: what kind of union is that? Some people want, particularly in Scotland, a rather different kind of union from the one that commends itself to people in England.

Lord Norton of Louth: It might have to be tailored, but none the less the point was one needed to be at least proactive, rather than simply reacting to what is happening. We therefore might be encouraging fragmentation without standing back and thinking about it.

Brendan Donnelly: I prefer to say that, rather than tailored, it should be comprehensive.

The Chairman: Thank you very much indeed. It has been an extremely informative, articulate and thoughtful session. You have given us some very interesting thoughts, which

we will carry forward and take into consideration as we move towards reaching some sort of outcome for this rather difficult study we are engaged in. We are most grateful to you, Mr Donnelly and Ms Runswick. Thank you very much.