



## Public Administration and Constitutional Affairs Committee

### Oral evidence: [English Votes for English Laws and the Future of the Union](#), HC 523

Tuesday 10 November 2015

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Members present: Mr Bernard Jenkin (Chair); Ronnie Cowan; Oliver Dowden; Paul Flynn; Kelvin Hopkins; Mr David Jones; Gerald Jones; Tom Tugendhat; Mr Andrew Turner.

Questions 136–271

#### Examination of Witnesses

*Witness:* **Chris Bryant MP**, Shadow Leader of the House of Commons, gave evidence.

**Q136 Chair:** May I welcome our witness to this further evidence session about English Votes and English Laws, and recent changes to Standing Orders, and the longer term consequences of this question in relation to the future of the United Kingdom and our constitution? Could I ask our witness to identify himself for the record please?

**Chris Bryant:** I am Chris Bryant. I am the MP for Rhondda and shadow Leader of the House.

**Chair:** We have some fairly crisp questions. It always helps if the answers are crisp and to the point as well. I may pull you up if you are going on a bit too long. Thank you.

**Q137 Ronnie Cowan:** Good morning. A number of individuals, including the former Clerk to the House of Commons, have highlighted the complexity of the new Standing Orders. I think you, yourself, described them as a “bowl of spaghetti”. You also said it could quadruple the legal advice, so how comprehensible and how workable are these Standing Orders?

**Chris Bryant:** I would defy any Member of Parliament to be able to explain the new process to a group of sixth formers in their school. I should say, I like spaghetti and I don’t particularly like this bowl of spaghetti but in the end—even to those who passionately believe that England should have a more coherent, explicit and distinct voice in Parliament—I think they will prove unhelpful to the way we do our business.

If I briefly take you through what will happen when we get to the end of the Housing and Planning Bill. The programme motion that has already been agreed by the House says that we will do all remaining stages in one day. Well, the remaining stages on the Housing and Planning Bill will be report stage, which normally ends an hour before the moment of interruption. Let's say it is on a Tuesday, that will be at 6.00 pm when there are normally one or two votes on amendments or new clauses or something like that, so that is half the remaining hour gone. Then the House has to be suspended while the Speaker decides how to certify any amendments that have or have not been carried, including Government ones. Then the House reconvenes with a new chair, who will be chairing the English Legislative Grand Committee, and then we will have the English and Welsh Legislative Grand Committee and then the House will reconvene.

There is meant to be debate on these legislative consent motions during that half hour that we now only have left, so to all intents and purposes it will have abolished third reading. I know the Government is saying, "Well, there will be another programme motion when we get closer to the day that will lay out more fully exactly how, and we won't try to do it all in one day". It was interesting that the Clerk's advice was that you could not have amended, or you could not even have drafted a programme motion for the Bill that could have allowed for the new processes.

**Ronnie Cowan:** You missed out one step; we could do the Hokey Cokey and we would turn around in sorts.

**Chris Bryant:** There is quite a lot of that. I would suggest all for negligible return, certainly in this Parliament and, I would argue, in most Parliaments. The Commons Library went through the last 15 years to see how many votes would have been changed if you had taken all the Scottish votes out of every single Division in the House of Commons. I think there were 25 instances of which a large number were on anti-terrorism legislation, on matters to do with the House, like whether there should be a screen in the gallery, all of which would still apply to all Members anyway. The only instance where the present Leader of the House has complained that it was a major political problem was the vote when the tuition fees in England were going to be increased from £1,500 to £3,000, which was carried because there was a majority of five and that was carried on the back of Scottish votes, but that was at second reading. It was second reading of the Bill, not at the committee stage or report stage, so it would not have been affected by the changes that have been introduced recently anyway.

**Q138 Ronnie Cowan:** Given what you have said there is it feasible that a future Labour Government would revoke these Standing Orders?

**Chris Bryant:** It is certainly feasible, if not probable. This is why my argument against using the Standing Orders I think is important because any Government can always change the Standing Orders. By definition, it has a majority in the House of Commons and I think to introduce a major constitutional change, on the back of a measure that only has to go through one House, is a mistake.

**Q139 Chair:** On that point, is this not all rather a fuss about nothing because so long as the present Government has a majority in the whole House it can get its will on any

legislation, whether it is English or English and Welsh or the United Kingdom legislation, in theory, but as soon as it does not have a majority then the Standing Order will not be applied?

**Chris Bryant:** I think it is a fuss about nothing in the sense that the present Government has a majority of the UK and of England and of England and Wales, so I would say it is unnecessary in this Parliament.

**Q140 Chair:** But as soon the present situation no longer persists, presumably there will be a majority in the House of Common to jump the Standing Orders.

**Chris Bryant:** Indeed, but of course the Standing Order motions can only be moved by virtue of a Government decision rather than anybody else, because the motions can only be tabled by a Government Minister to change the Standing Orders and then be debated. Anybody can table them but it does not mean that they will be debated.

**Chair:** Yes.

**Chris Bryant:** It matters because we are making a very significant change, which I think introduces a new set of grievances for the Welsh and for the Scottish—new anomalies. For instance, a Member of the House of Lords who lives in Scotland, was born in Scotland, is only in the House of Lords because they were an MP in the House of Commons for a Scottish seat for 25 years, can vote on measures that a Member in the House of Commons cannot.

**Q141 Ronnie Cowan:** On that last point then, would a hereditary peer of a Scottish seat be in the same situation; he can vote on it whereas an elected MP of a Scottish constituency could not?

**Chris Bryant:** Did you say a hereditary peer?

**Ronnie Cowan:** A hereditary peer.

**Chris Bryant:** There are 90 hereditary peers plus the two Officers of State. In theory now all Members of the House of Lords are not Members of the House of Lords by nationality within the nation states, although there are historic hereditary peerages that are of the Scottish peerage or the Irish peerage and so on but that no longer applies in the consideration of their membership of the House of Lords.

**Q142 Mr Andrew Turner:** EVEL adds at least one additional stage to the legislative process and could potentially add eight additional stages. What impact do you believe these new Standing Orders could have on the legislative timetable?

**Chris Bryant:** I cannot conceive how you could now do remaining stages in one day of any Bill, even a tiny Bill because you have to suspend the House and form as the Legislative Grand Committee for any Bill that it applies to. My working assumption is that Government lawyers and Government Ministers will want to try to fashion Bills so that they are exclusively England only, and therefore they will carve out Welsh only legislation as well. They will want to take it out because they will want to make life easier for themselves. That will mean that there will be more Bills going through, just smaller Bills.

I think that is probably not for the convenience of the House or for how we do our legislation.

Incidentally, I think that there are several imponderables that have not yet been considered. For instance, the Labour team were given a briefing by the Clerks on the simple matter of how double majority voting will be done in the lobbies. I am afraid we all came away laughing because I cannot conceive how it will work.

**Q143 Mr Andrew Turner:** Perhaps you could help me by making me laugh.

**Chris Bryant:** Well, it is not my normal aim in life but, for instance, when there is to be a double majority instead of voting by pointing to our names on a piece of paper we will be pointing to a tablet and our name will be ticked off. We will then go through the voting lobby in the usual way and will be counted. The thing is that some people will not be allowed to take part in that Division and there will be a sign up saying either “England only” or “England and Wales only”, and my working assumption is that some people will not want to abide by that and will just walk through.

The rule of the House is that the tellers’ numbers are the numbers that count for the Division. However, if it is a double majority you have to have two votes. You have to have the vote that the tablet has registered for England only or England and Wales only and of the whole House, which is the number going through the door, so the tellers will have to make two announcements at the same time, one of which they cannot verify themselves. They will be relying on the electronic version. The Clerks were very unsure about how we would prevent people from going through a Division lobby that they are not entitled to go through and what would happen if they had walked through the Division lobby, for instance, en masse to make a point, whether that would be disorderly, whether the Speaker would name them and so on.

**Mr Andrew Turner:** Thank you.

**Chair:** We are rolling in the aisles.

**Chris Bryant:** Sorry.

**Q144 Mr Andrew Turner:** The new Standing Orders have already kicked in, I understand, and have been applied to the Housing and Planning Bill. What are your initial thoughts on how the new Standing Orders were applied with regard to this Bill?

**Chris Bryant:** That is the Bill. I have labelled all the different bits. If you read the Bill, these are the Speaker’s certifications, whether it is England or England and Wales only, and Scotland gets a say. For instance, schedule 11 has mentions of Scotland and so on. I think what will end up happening is that Governments will try to make sure that no Bill has so many different elements, which is why I think that they will cut Bills up into different bits. That will end up being their preferred way of doing business, so we will have more Bills starting and going through the process. I did not have any problem with the way the Speaker certified any of the individual elements and I think he will have some statutory instruments to do, probably, this week, so I would guess we will have the first statutory instruments coming through the process next week.

**Q145 Mr Andrew Turner:** What, if any, discussions did you have with the Government and the Speaker prior to certification?

**Chris Bryant:** I did not. On my side of the House we did not have any conversations with the Speaker about certification of this Bill. I think most members of the public would presume that the Housing and Planning Bill was mostly English, but it turns out that quite a lot of it is English and Welsh and significant elements of it apply to Scotland as well, and that is without any consideration of Barnett consequential and other consequential. I think it was a mistake in the Standing Orders that the Speaker is not allowed to consider substantial consequential.

**Q146 Mr Andrew Turner:** What discussions have you had with the Speaker and the Leader of the House as to how EVEL will operate?

**Chris Bryant:** All the discussions I have had with the Leader of the House have been on the floor of the House, so you have witnessed them I am afraid.

**Mr Andrew Turner:** And with the Speaker?

**Chris Bryant:** None. We have had discussions on our side of the House with the Clerks about the operation of individual bits and pieces. For instance, as I said earlier, we tried to conceive of a programme motion for this Bill that would allow for a two-day remaining stages, because I think you will need that unless fundamentally you are going to abolish third reading debates. There may be an argument for that but if you are going to go down that route that is a significant change from the historical practice over the last 600 years, and the Clerks were very clear that there was no way of framing such a motion. To me that proves that the process is fundamentally flawed.

Incidentally, if a legislative consent motion is not agreed to during that one hour period from 6.00 pm to 7.00 pm on a Tuesday, which is when it will probably be, it is somewhat unclear what then happens to the Bill. It is clear what Standing Orders then say but the programme motion has said that the Bill must be completed at 7.00 pm. I presume it means that, to all intents and purposes, the Bill has then fallen.

**Q147 Chair:** Have you asked the Clerk about that?

**Chris Bryant:** We have and they are not quite sure. Nearly every question that we have asked the Clerks about the operation of this, they have said, “That is a very good question”.

**Chair:** Very flattering.

**Q148 Ronnie Cowan:** Based on what you just said there, is it fair to say that this is going through with some undue haste?

**Chris Bryant:** To be honest, I think this is a slogan rather than a policy, if I am really honest and—

**Q149 Gerald Jones:** You mentioned the Barnett consequentials. There has been some concern from Members—primarily non-English Members—about the effect of spending decisions and the consequential within the developed nations. How effective do you think the Standing Orders would be in addressing some of those concerns?

**Chris Bryant:** I think the Standing Orders make it impossible for the Speaker to consider Barnett consequentials as part of the certification process. I know that the Leader of the House says there is no such thing as a Barnett consequential but there is, and one of my longstanding complaints about the way we do our business in the Commons has been: we have financial privilege and yet we do the scrutiny of public expenditure extremely poorly. We don't really have a budget in the sense that any local authority would understand the budget. We have a series of announcements about changes to tax laws. We have never scrutinised expenditure properly. There have not been votes on the estimates for years. The only moment at which you can have an effect on the public expenditure is when you are considering legislation that has a financial implication, so I would argue that it is important that everybody has an opportunity to engage in those moments.

**Q150 Chair:** The Barnett Formula does not really have a future in these arrangements, does it, because it is illogical for English MPs to be given sole control over what occurs in the English jurisdiction if it has a spending implication through the Barnett Formula into the other parts of the United Kingdom? That is an unmistakable consequence, isn't it?

**Chris Bryant:** Yes, but that is not what the Speaker is allowed to certify. He is expressly not allowed to certify that.

**Q151 Chair:** How do you think the House of Commons should address that?

**Chris Bryant:** It would be very easy. All you have to change is the word “or” to “and”.

**Chair:** Can you explain that, please?

**Chris Bryant:** Sorry, because the Speaker certification process under the Standing Orders says that he is not allowed to consider—let me get this the right way round—minor and consequential issues. In other words, an issue has to be minor and consequential, not a major consequential such as a Barnett consequential. All you have to change is the word “and” to “or” so that he could then consider a Barnett consequential as a significant issue, which meant that it was not England only.

**Q152 Chair:** If there was a Barnett Formula, it would be fine?

**Chris Bryant:** I have lots of views about the Barnett Formula, as they apply to my Welsh constituents, but my issue is more about whether Scottish and Welsh MPs should be barred from taking part in a debate on issues that will have financial implications.

**Q153 Chair:** What effect would genuine legislative devolution for England have on the Barnett Formula?

**Chris Bryant:** Well, what format?

**Chair:** Whatever shape it takes and whatever mechanism it takes, what consequence would it have for the Barnett Formula?

**Chris Bryant:** I would want to start from a different fundamental principle, I am afraid.

**Chair:** I want you to answer the question.

**Chris Bryant:** I do not understand the question is the problem.

**Chair:** If England is going to be making its own decisions about its own legislation, which historically has had consequences for the distribution of funding, what is the logical consequence of going down an English devolution route?

**Chris Bryant:** An English devolution route that, for instance, allowed each element of England to be setting its own taxation levels—

**Chair:** For example, if we adopted this SNP proposal and had an English Parliament, what would happen to the Barnett Formula?

**Chris Bryant:** It depends how generous England chose to be I would guess.

**Q154 Chair:** Yes, but in what way would Scottish MPs be able to influence decisions taken by an English Parliament to protect their Barnett consequentials? They would not have any.

**Chris Bryant:** They would not but it depends—

**Chair:** Would that be the end of the Barnett Formula?

**Chris Bryant:** The Barnett Formula is only there because there is an assumption that we should redistribute within the United Kingdom so as to achieve fairness of outcome. There are those who disagree with that but I passionately support that principle.

**Q155 Chair:** There are plenty of other multi-nation systems of organising a single state, which do not have a Barnett Formula, and the House of Lords have condemned the Barnett Formula in their 2009 report as unsustainable. We would have to move to a different system, wouldn't we? I mean it is not about not having distribution. It would just have to be a different system of distribution.

**Chris Bryant:** We have lots of forms of distribution now because, as you know, the Revenue Support Grant is a significant part of every local authority's budget in England, Wales, Scotland and Northern Ireland; whereas most voters probably think that what pays for the local council is the Council Tax.

**Q156 Chair:** Yes, but if we had an English Parliament we would have to replace the Barnett Formula with something completely different, say, like a "has and has not" funds, like the Canadians have.

**Chris Bryant:** You are undoubtedly right. On the working assumption that you had given that set of powers to the English Parliament, the problem about creating an English Parliament is then who is the Government because, unlike some other countries where it

has been easier historically to establish federalism, England is so much the dominant partner within the four.

**Chair:** We will come to that later.

**Q157 Mr David Jones:** Could we go back to your last piece of evidence? My recollection—and, more importantly, the advice I have just had from the Clerks—is that the certification process refers to minor or consequential effects.

**Chris Bryant:** That is what he is not allowed to consider.

**Mr David Jones:** Yes, not minor “and” as you seemed to think was the case. Do you want to revisit your evidence?

**Chris Bryant:** The point is the Speaker is not allowed to bear in mind, first, something that is merely consequential. Let me get this the right way round because it is complicated and I had it written down when I said it in the debate in the House. The point is I believe that the Speaker should be allowed to determine that everybody can take part in something where there is a major consequential to be considered, which I would consider to include any Barnett consequential. At present, the way the Standing Orders have been crafted, he is not allowed to do so. If it is consequential or if it is minor, he is not allowed to.

**Mr David Jones:** “Or”—is that correct? I think you got that right that time. But it is important—

**Chair** I will tell you what we will do, we will refer to the speech in the House to make sure that we have the reference correct.

**Chris Bryant:** Yes, I am sorry I am getting this the wrong way round. But my fundamental point I think you understand, which is if—

**Mr David Jones:** I do understand the point but I just wanted to give you the opportunity to correct your evidence.

**Chris Bryant:** I cannot quite remember whether you have to swap “or” to “and” or “and” to “or” but the point is, nonetheless, the same.

**Q158 Mr David Jones:** Okay. Could we move on? The accusation has been made repeatedly in the discussions about English votes for English laws that the effect is to create two classes of MP. Would you agree with that?

**Chris Bryant:** Yes, I think it does in the end to be honest. It is perfectly legitimate for the House to decide when it sends a Bill into committee who should go into that committee. That is what it always done in all its history. In the early days it was the people who were most interested in the subject matter but then it came back to the whole House for report stage. I think that it is perfectly legitimate to send a Bill that is either wholly English or English and Welsh, or whatever, to English or English and Welsh MPs only for committee, but I think it should then come back to the whole House for report stage and all the other stages because, to me, that embodies providing a distinctive English voice without providing a distinction English veto.

**Mr David Jones:** What would you say to the argument that before the Standing Orders were adopted there were already two classes of MPs, ie the Scots, who were interesting themselves in issues that did not affect Scotland? One of the most prominent recent issues being the issue of fox hunting, where I had several constituents in Wales wondering why the Scottish MPs were interesting themselves in that when of course it is a wholly devolved issue in Scotland. Would you not agree that at that stage there were two classes of MPs?

**Chris Bryant:** There are lots of anomalies. If I take you back to when we made it illegal to smoke in a public place, the legislation was taken through affecting Wales on the back of English votes, and that happens very regularly. A piece of legislation or a clause or a schedule that only affects Wales will regularly be taken through on the back of English votes who might disagree entirely with the Welsh votes, so you will always have those anomalies. My anxiety is because I am a passionate supporter of the union I just do not want to add a new grievance, which I think will tear apart the union.

**Q159 Mr David Jones:** Is it not the case that various MPs have always had various rights to speak in fora in this place, which others are excluded from? For example, the Welsh Grand Committee—of which you are a Member—when it sits excludes by and large everybody from other parts of the country. Is it not the case that this is something that has always prevailed in this House, various MPs have rights to speak in various fora depending on which part of the country they come from?

**Chris Bryant:** As I said, I think it is perfectly legitimate for committee stages and for committees to be constituted of a fixed number of people, as indeed yourselves are, but when it comes to voting on legislation, I think that it should be for the whole House—and that has been the tradition—otherwise you are creating two tiers of MPs.

**Q160 Mr David Jones:** Wouldn't you say that in fact there are more than two tiers? In fact, there are several tiers: English; English and Welsh; English and Welsh and Northern Irish; English and Welsh and Scots and Northern Irish.

**Chris Bryant:** Yes.

**Mr David Jones:** So it is not just two, it is several?

**Chris Bryant:** Yes, obviously. That seems a statement of the obvious.

**Q161 Mr David Jones:** Yes, it is just that everybody has referred in the debate so far to two classes of MPs, whereas in fact that is not the case, is it?

**Chris Bryant:** No, there will be many tiers of MPs, and that is even worse than having just two, so I am glad you agree with me.

**Q162 Mr David Jones:** I do agree with you, but it seems to me that this is something that, to a greater or lesser extent, has always prevailed in this House.

**Chris Bryant:** It has not. I think your voice and your vote are two completely different matters, not in Divisions, obviously, but that is why I say it is legitimate to send an

English only Bill to English only MPs in committee, but then I think it should be for the whole House. For that matter, if at any point the whole House overturns the English committee, then I think that is on the head of those who made that decision, just as—let us say for the sake of argument—a Government appointing an English MP representing an English seat as Secretary of State for Wales, then I think it is on the head of the Government when it makes that decision. That might have an implication for how Welsh voters see that Government.

**Q163 Mr David Jones:** Isn't this only a practical problem when there are different parties with the majority at UK and English levels?

**Chris Bryant:** Yes, but that is very, very rare. Historically it has hardly ever happened.

**Q164 Mr David Jones:** How would you suggest that Standing Orders could be revised to protect against there being several classes of Members of Parliament?

**Chris Bryant:** If you got rid of the legislative consent motion process, you would be there, which I think in the end the House will conclude is for its better convenience in a year's time.

**Q165 Chair:** Isn't the truth of the matter that, when devolution was relatively limited, the fact that different MPs voted on different matters in respect of their constituencies mattered less and it matters more now?

**Chris Bryant:** Yes. The truth is I remember taking a group of MPs to Spain 14 years ago when, as you say, devolution had begun its process. Some of us hoped it was going to be a settlement that we were talking about then, but it has become far more of a process than a settlement. I personally have anxieties about that, because I have never had a constituent on the doorstep in Wales ask me about any of these matters; never in 14 years of door-knocking, and we knock doors every week in Rhondda. I sometimes feel as if we, in politics, are having a debate that voters—in my constituency anyway—are simply not interested in. That is not good for parliamentary democracy.

**Q166 Chair:** As we devolve more and more to Scotland, Wales and Northern Ireland, does this problem not become more and more acute?

**Chris Bryant:** I think it would be quite nice to have a constitutional settlement at some point, where things stay still for a while. Part of accountability, in politics and government by consent, is that the people who are being governed understand the system under which they are being governed.

**Q167 Chair:** It is the Government that you supported that always said devolution was a process, not an end point, and it was your Government that started this process that seems to have no end; there is no settlement. How are we going to arrive at a settlement?

**Chris Bryant:** I think we should stop.

**Q168 Chair:** What, when everything is higgledy-piggledy and topsy-turvy and out of line and asymmetrical? How can we stop it?

**Chris Bryant:** There is not much we can do about the asymmetry. The point I was going to make about Spain is that Spain is, likewise, completely asymmetrical in its devolution. There are different—

**Chair:** What is it? How do we stop it?

**Tom Tugendhat:** And not stable.

**Chair:** How do we stop it?

**Chris Bryant:** I think we should all just stop keeping on bringing forward more demands for powers and, for that matter—

**Q169 Chair:** Did you vote for the Scotland Bill that went through last night?

**Chris Bryant:** Yes, I did, because a vow was made and so on, but my personal view is—

**Q170 Chair:** Some of us warned that this was going to happen when the devolution process was started.

**Chris Bryant:** Yes, and there is a clash here of principles. I have another principle, which is that no state should abrogate to itself a decision-making process that could be better made at a more local level. That is why I support—

**Q171 Chair:** It sounds a bit like subsidiarity to me. That has achieved a great deal in another place.

**Chris Bryant:** It is the definition of subsidiarity and “Quadragesimo anno” but, in the end, we are at a state where so many elements of our constitutional settlement in this country are in flux, not least the House of Lords and the relationship with the House of Commons and so on.

**Q172 Chair:** What is your answer to this problem?

**Chris Bryant:** I would have a written constitution that would lay all of these matters down, which is why I think there should be a constitutional convention that resolves all of these issues.

**Q173 Chair:** Is that why you abstained on the third reading of the Scotland Bill?

**Chris Bryant:** No.

**Chair:** Why did you abstain on the third reading of the Scotland Bill?

**Chris Bryant:** I did not vote on the third reading because I did not—

**Chair:** I think that is called an abstention.

**Chris Bryant:** Well, because the Bill was going through. We were not whipped to attend for the third reading.

**Q174 Chair:** Why did the official Opposition not support or oppose the third reading of the Scotland Bill?

**Chris Bryant:** We were content for the Bill to go through.

**Q175 Chair:** It was tacit support?

**Chris Bryant:** Yes. We supported the Bill. We supported the Bill in the second reading.

**Chair:** I rest the matter.

**Q176 Tom Tugendhat:** Forgive me, Mr Bryant, you raised the point that you have not heard on the doorsteps of Rhondda of anybody complaining about the settlement and, therefore, this is not an issue. May I simply raise the fact that in Kent I have heard this on numerous occasions?

**Oliver Dowden:** As have I in Hertsmere on numerous occasions.

**Tom Tugendhat:** Though I claim no right to speak for the people of Rhondda, I do claim some right to speak for the people of Tonbridge and Malling. They have raised it many times with me and see this settlement as unfair and illogical. Can you not see that they have some legitimacy in looking for a settlement that at least begins the process of addressing the rights of the people of Tonbridge and Malling versus the people of, say, Rhondda?

**Chris Bryant:** I am sorry, Mr Tugendhat, I have obviously mis-expressed myself, but I believe very strongly that the people of England need a stronger and more distinctive voice in Parliament. I said that in the debate that we had; I thought I had said it this morning as well and I hold to that. That was not the point I was trying to make about whether there is a debate going on or not. My argument is that, whichever way you cut this, you will end up with a set of anomalies. There is no means of achieving a non-anomalous settlement. There is an anomaly in the new arrangement, in that Scottish MPs will not be allowed to take part in Divisions that, if they were happening in the House of Lords, Scottish peers would be able to take part in. There is legislation that is regularly put through that only affects Scotland or only affects Wales, which is entirely put through on the back of English votes.

**Q177 Tom Tugendhat:** It is certainly true to say that, in the lives of all nations, inequalities between regions and cities, towns, whatever it is, appear, but surely this is at least some work towards that settlement. If you do not—as you clearly do not—accept this settlement, what would you do?

**Chris Bryant:** Sorry, I have tried to say several times what I would do. I would do half of what the Government has done, which is I would allow for English only committees—and I am perfectly happy to have some form of certification for that—and English and Welsh only committees but then I think, after the committee stage, it should come back to the whole House. Then if a Government has a different majority from the English majority and it chooses to overturn the English voice, then on its own head be it.

But my other anxiety about what we are doing is not only the issue about whether it creates two tiers of MPs or four tiers of MPs, but it also, I think, bifurcates Government.

**Q178 Tom Tugendhat:** Sorry, my Right Honourable friend, I think, highlighted very clearly that there are already several tiers of MPs and, therefore, whether this does or does not—and we can debate that—add another tier is slightly beside the point. There are already several tiers.

**Chris Bryant:** There are not.

**Tom Tugendhat:** I am sorry but I thought you agreed there were.

**Chris Bryant:** No, I said that you are creating several tiers of MPs. There are not several tiers of MPs now.

**Q179 Tom Tugendhat:** You would not agree that, say, an MP for London, Manchester, Wales, and Northern Ireland has slightly different powers and responsibilities over the areas that they claim to represent?

**Chris Bryant:** No.

**Q180 Tom Tugendhat:** Right. That is an interesting statement, given the relative powers of Government within—

**Chris Bryant:** Well, until this moment, all MPs had exactly the same rights to vote.

**Q181 Chair:** Yes, but the point of the whole West Lothian question is that a Scottish Member of Parliament can finish up voting on schools and hospitals in England when he or she does not have the power to vote on schools and hospitals in his or her own constituency. That is what creates separate classes of MP.

**Chris Bryant:** I understand that point, Mr Chairman. However, I would merely point to the fact that you create a new set of anomalies when you have, for instance, the Member of Parliament for Wrexham—

**Chair:** So we get back to the yes. That is good enough, thank you very much.

**Chris Bryant:** Well, that is just—

**Chair:** Mr Jones, a very brief supplementary.

**Q182 Mr David Jones:** Mr Bryant, you and I are both Welsh MPs. We are both passionate unionists and I am pleased to see you declare yourself. Do you regret the constitutional damage that the Blair Government did to this country? He does.

**Chris Bryant:** I think that is a contentious argument. That is not a question, is it? It is a statement.

**Mr David Jones:** Do you regret that?

**Chris Bryant:** It is not a question, it is just a statement.

**Mr David Jones:** There is much to be regretted.

**Chris Bryant:** There are things that I disagreed with that the Labour Party did in Government. As a for instance, I have long campaigned for an elected second Chamber and I think when we took the majority of hereditary peers out of the House of Lords, we should have ended up with a proper settlement between the two Chambers with their respective powers codified in law and with an elected second Chamber, but that has not come to pass.

**Q183 Chair:** Instead you took the advice of Lord Salisbury?

**Chris Bryant:** I personally have never taken the advice of Lord Salisbury, but I am not sure of the point you are making, Mr Chairman.

**Q184 Chair:** It was his settlement that the then Prime Minister accepted.

**Chris Bryant:** Oh, on the 92, you mean?

**Chair:** On the 92, yes.

**Chris Bryant:** Yes. As you know, I campaigned very vigorously. I often managed to cajole you through the lobbies in favour of an elected Chamber as well.

**Chair:** Before I go on to Mr Dowden, I owe Mr Cowan an opportunity.

**Q185 Ronnie Cowan:** It is interesting, we started this discussion comparing this to a bowl of spaghetti and I am thinking of that wonderful scene in the movie “The Lady and the Tramp”. I think it is highly unlikely we are both going to start at either end and meet in the middle and kiss and make up, though, because what we have here is a country, the United Kingdom, which is on a journey. You cannot just stop that journey; you cannot just stop and say, “Okay, we have come so far. That is it”. If it is the will of the electorate of any part of the United Kingdom to give itself more power, through federalism or whatever, you cannot stand in the way of that and say, “No, it does not suit this particular place because we are finding it a bit difficult to deal with right now”. Our job is to make sure that the will of the electorate is seen in this place. If they are asking for more democracy, they are asking for federalism, then that is what we should be giving them, not arguing among ourselves as to whether they have a right to it or not.

**Chair:** Would you like to respond to that point?

**Chris Bryant:** I think that was a speech as well, not a question.

**Chair:** But what is your response to that? What is your response?

**Chris Bryant:** My response is because we do not have a written constitution, the truth is that it changes every year and every—

**Q186 Chair:** It does not. It never used to change like this.

**Chris Bryant:** It did, because just, for instance, we have more Government Ministers in this country than France, Germany and Italy put together. That is only a function of

successive Governments in the 20th century. It is not an established fact for all time. I would say that means that we do not have a very free House of Commons. I completely agree that, in the end, what you try to do is you try to make sure that Parliament reflects the will of the people, but the will of the people is a slightly more difficult thing to ascertain than some of us might presume at any given point.

To answer Mr Tugendhat's point, I do not think my constituents would have put up for so long with so little say over things that affect them locally, but I would say that we need devolution within England. I am not sure that creating an English Parliament is the answer to the problems. There is a significant need for real devolution of power and responsibility within England. The unfortunate problem that we had when we were in Government was when we tried to introduce one version of that in the north-east, we were given a very loud raspberry.

**Q187 Tom Tugendhat:** Would you not agree the question we are fundamentally asking here is: what is the nation? Because if the nation is the whole constituency of the United Kingdom of Great Britain and Northern Ireland, then talk of federalism must include an electorate that includes the whole lot. If you are talking about subsidiarity or devolution that pulls it apart in any way, whether that is in favour of Scottish independence or north-east independence or, indeed, independence for the Kingdom of Kent, you start to get a question that treats the electorate as different. What your Government set in train in 1997 and proceeded to do for the next 13 years is to recognise different classes of electorate, not just different classes of the elected.

**Chris Bryant:** You may be right. I had not heard the Kingdom of Kent referred to for quite a while.

**Tom Tugendhat:** It has been a few years since it was absorbed into the Kingdom of England.

**Chris Bryant:** Yes. Look, my anxiety is that—Mr Jenkin is absolutely right—we started on two or three bits of constitutional reform when we were in Government and the truth is most countries in the 20th century did one process of constitutional reform, rather than lots of little bits. Every bit of constitutional reform that you do entails other sometimes foreseen and sometimes unforeseen consequences. My anxiety about EVEL is I think that the unforeseen consequences will be not only a laborious process, which does not deliver anything in terms of how the House of Commons works and legislates but, secondly, will end up creating new grievances and new anomalies that will not lead to the preservation of the union, but rather to the destruction of the union.

**Chair:** It is so satisfying to hear you saying the sort of thing that many of us were saying when the first two devolution Bills were passing through this House in 1997.

**Chris Bryant:** If I might, Mr Jenkin, just very briefly—

**Q188 Chair:** No. Can I ask a supplementary about the number of Ministers? Is it now the policy of Her Majesty's official Opposition to reduce the number of Ministers in the House of Commons? It is a yes or no question.

**Chris Bryant:** I am not sure that policy is our strong point at the moment and we certainly have not had a lengthy debate about it. We want to have a constitutional convention in which one of the issues that should be addressed is this, but I would merely make the point—I know you are champing at my bit—that if we are reducing the number of MPs from 650 to 600 and keeping the number of Ministers at 95, as established in the 1972 Act, then of course there will be a higher proportion of the House of Commons and that would be inappropriate.

**Q189 Chair:** You believe that this should be addressed?

**Chris Bryant:** I believe it should.

**Chair:** You will make your case?

**Chris Bryant:** I might be speaking for myself. You have referred several times to “my Government” but—

**Q190 Chair:** Of course you are echoing a recommendation made by this Committee during the last Parliament.

**Chris Bryant:** I am thoroughly aware of that and I think, when it was first raised to Mr Clegg in the last Parliament, I raised it first and then you agreed with me.

**Chair:** *Touché*. Mr Dowden.

**Q191 Oliver Dowden:** As you know, the Government has pledged to review Standing Orders in 12 months’ time. How will the Opposition engage with this process fully? What are you seeking to do with this? Are you seeking to iron out the sort of irregularities that you have suggested there are in this process and perfect this process? Do you accept the will of the House of Commons, in essence? Are you going to try to make it work better or do you still not accept that the Commons has opined on this and will be trying to undo what is being presented to you, if that makes sense?

**Chris Bryant:** I will want to continue to point out where I don’t think it is working for the convenience of the House, and where I think that it has created new anomalies that need to be addressed. I think there will be considerable logistical problems that we will have to face over the next 12 months. The Government have not said to us that it is 12 months. They have made general comments about a review but, to be honest, I am open to discuss how we can make the House of Commons work better in many different regards.

I have a slight anxiety that some people might want to use this as a means of going down the route of electronic voting, so we want to be careful about that as well. If that is a decision that is being made, it should be made by the whole House, not just by the back door.

**Q192 Oliver Dowden:** You think this is improvable, and you could get to a point in 12 months’ time where you could deal with the concerns that you highlighted at the beginning of this evidence session?

**Chris Bryant:** Yes. I had hoped that the way I tried to address the debate, when we had it in the Chamber and this morning, was to say I think there is a legitimate issue that the Government has been right to look at and to concern itself with. As both of you have said, there are very strong concerns in your constituencies—and doubtless in many others in England—about this matter. Of course it was a live matter in the general election as well, but I think that the route that the Government has chosen is the wrong route. I would like to steer them back to a route that I think will be more effective and will create fewer anomalies.

**Q193 Oliver Dowden:** Nonetheless, given the Government has chosen this route, you will try to work to make this route—

**Chris Bryant:** Yes, I will try to make it work. I am not in the business of civil disobedience in this.

**Q194 Kelvin Hopkins:** You have touched on the broader constitutional implications of EVEL—for example, the number of Ministers—but there may be other wider constitutional implications, which you maybe have not touched on yet. In the past you have favoured a constitutional convention. Would you still think that is a good idea, to look at all the implications?

**Chris Bryant:** I have argued for a very long time that you need to look at all of these issues in the round and I think it is problematic that we have not done so. I think that the present state of our constitution is feeble at best. There are so many elements now that simply do not work, which I think they need to be addressed in the round. I would hope that the Conservative Party, as well as other political parties, would want to engage in that.

**Q195 Kelvin Hopkins:** Do you have any specific thoughts about particular issues that might be addressed beyond the number of Ministers, for example?

**Chris Bryant:** Yes. Incidentally, could I just say something? You mentioned about Ministers. For a while, I was the shadow Secretary for Culture, Media and Sport, and a large amount of that is devolved. Now it is on my head whether that was a bad thing if I went to talk about arts funding in the north-east or in Birmingham or whatever as a Welsh MP. Nobody ever raised an objection to that, but it is on the head of a political party that chooses to appoint somebody from one of the other home nations to a job where most of their work is in the devolved arena.

My biggest concern is that I think that the present constitution of the House of Lords is unsustainable. The row about financial privilege is just one element of that, but the numbers in the House of Lords growing exponentially, the unwritten rules around most of what governs how it operates in its relations with the House of Commons and the Strathclyde review that is coming up now I think betray that fact.

**Q196 Kelvin Hopkins:** Looking at the Standing Orders in the House of Commons, would it be an interesting thought to formalise the payroll vote? Because the Blair Government, in its disgraceful move to extend the payroll vote to almost everybody in the Parliament to keep them in line, an enormous number of parliamentary private secretaries were created, which were completely unnecessary. Would you think we could look at the

Standing Orders to make the House of Commons itself a bit more democratic by having a smaller payroll vote, not just Ministers, but others as well, so that we can have a much more lively democracy?

**Chris Bryant:** This is not me speaking on behalf of the Labour Party, but this is my own personal view: Edmund Burke complained about the House of Commons being corrupt because 140 of its members were in the pocket of the Government of the day in some form or other, either by a pension or a job or whatever. That was the big campaign to free Parliament, which eventually led to 1832 Act. We now have 95 Ministers in the House of Commons, plus 47 PPS's, plus some people who were appointed to be advisers to the Prime Minister on this, that and the next thing. They are all mirrored on the opposite side—in fact, I think we have even more on the Labour side—and then on top of that, you now have the same number of people, similar mirrors, in the SNP.

The truth is you end up with three people deciding 97% of votes. In the end, I do not think that leads to good legislation or to a free Parliament, so I personally would want to radically change that, yes. The fault for that, when we entered the First World War, we only had something like 30 Ministers. Lloyd George and Asquith increased the number dramatically, and then Winston Churchill introduced PPS's and increased the number of Ministers again in the Second World War. We have never managed to seize Parliament back and I think that is what we should do.

**Q197 Chair:** Like me, would you like to see a couple of dozen Paul Flynns, for example, to make life a bit more interesting?

**Kelvin Hopkins:** Easy.

**Chris Bryant:** Mr Jenkin, I would prefer Paul Flynn to be the Minister for Europe than Mr Hopkins.

**Q198 Oliver Dowden:** A small point of clarification: you talked about the constitutional convention, so do you think we should be suspending the Scotland Bill and consideration of the Scotland Bill so that can properly be considered as part of the convention?

**Chris Bryant:** No, I do not. Look, we are on a course and, in relation to Scotland, a vow was made by all the political leaders and that was part of the vote that was taken in Scotland on the referendum, and I think that that should be honoured.

**Q199 Oliver Dowden:** But don't you think that rather points at where you are coming from, and that you are happy to put English devolution into the long grass—

**Chris Bryant:** No, I am not.

**Oliver Dowden:** —in the form of a constitutional convention, so in England, the enhancement we have to wait and wait endlessly, while the Scots career ahead with their enhanced devolution?

**Chris Bryant:** I do not think EVEL delivers devolution for you, and I think there are—

**Oliver Dowden:** I use that as shorthand for that.

**Chris Bryant:** I understand. If I were an English MP, either by nationality or by seat, I would be clamouring for more of a say—not least on a regional basis—within England. We have a ludicrously over-centralised British state and much more could be devolved within England without the necessity for legislative change. But I think that there are now so many different elements of our constitutional settlement that are imperilled and in trouble that we do need to sit down and put the whole thing together in the round. For my money, I cannot see how that will not, in the end, necessitate a written constitution.

**Q200 Mr David Jones:** I will make this the last question, you suggested that you still support a constitutional convention. What consideration would you give to a joint committee of both Houses undertaking that role?

**Chris Bryant:** I do not have an objection to that. My slight anxiety about a joint committee of both Houses is I am very much a Commons man and joint committees means equal numbers of Commons and Lords, though not in your household—

**Chair:** We are very balanced.

**Chris Bryant:** I think it should be largely in the hands of the Commons and of elected representatives and I want to bring in the whole civil society. The process of devolution was successful in its initial stage because—I know you might disagree, Mr Jenkin—

**Q201 Chair:** But how would you prevent a constitutional convention of that concept just sitting for years and years?

**Chris Bryant:** Yes, indeed. You end up having to cut a lot of Gordian knots, indeed, though a lot of constitutional experts have written perfectly good drafts.

**Chair:** Yes, but they do not all agree, do they?

**Chris Bryant:** No, and you and I do not agree, and there it is.

**Q202 Tom Tugendhat:** The other thing—forgive me, Mr Bryant—that you do not touch on, if you talk about a written constitution, is of course the very nature of the way that the Government of the United Kingdom has evolved over 1,000 years: the presence of the judges, the ability of the judges, therefore, to interpret the will of the people or indeed overthrow the will of the people. You have to look at these things, not just as a sort of legislative body but surely as a social contract. I think that we are dealing very slap-dashedly with the people of the United Kingdom, as we seek to impose laws on what are fundamentally personal relations and relations between home nations, communities and towns.

**Chair:** That could be a “Yes” or a “No”.

**Chris Bryant:** Could I just have two sentences?

**Chair:** Okay. We are running out of time.

**Chris Bryant:** I think the most fundamental point is that you can only govern by consent. My anxiety about the way our political settlement is now is that we do not govern by consent anywhere.

**Chair:** On that happy note, shadow Leader of the House, thank you very much indeed. You have been very helpful.

### **Examination of Witness**

*Witness:* **Rt Hon Chris Grayling MP**, Leader of the House of Commons, gave evidence.

**Q203 Chair:** May I welcome the Leader of the House of Commons? For the record, you have to say who you are.

**Chris Grayling:** I am Chris Grayling. I am Leader of the House of Commons.

**Chair:** We shall ask some crisp, short questions and we hope that you will give crisp, short answers. If you are going on for too long, I will have to pull you up. We all want to get to the statement at 12.30 pm, so we will finish at 12.20 pm.

**Chris Grayling:** I would not have doubted it for a moment.

**Q204 Paul Flynn:** Your party and my party went into the Scottish referendum with a campaign of “Better Together” and we won that by the vow, but then in the general election, the Scottish people voted to be better apart. Do you not think that the cause of unionism is dying and the cause of nationalism in the four countries of the United Kingdom is growing?

**Chris Grayling:** I do not buy that argument. I certainly do not think it applies to the four countries. There is clearly a strong nationalist tide in Scotland; that has been very evident for the last few years. I am not sure that that was the reason for the general election result. The polls in Scotland, those in favour of leaving the United Kingdom and those in favour of staying, have not moved very much since the referendum. They still generally show a lead for the union as opposed to an independent Scotland. I would be inclined to think that the results in Scotland during the general election were more about the relative strengths and weaknesses of the political parties contesting rather than a renewed surge of nationalist sentiment.

**Q205 Paul Flynn:** What about the surge of English nationalism, which was a sleeping giant for a very long time and now it is up, rampant, demanding rule for England? This was an unknown factor in recent years, but this has now been aroused. The process of EVEL will—as our last witness suggested to us—lead inevitably to an over-emphasis on the divisions between the four countries and lead inevitably to the break-up of the United Kingdom.

**Chris Grayling:** That has not been either our intention or my view of what is likely to happen. There is no doubt that those of us who represent English seats in recent years have experienced more and more occasions where people have said to us, “We are giving all these powers to Scotland, to Wales, to Northern Ireland. What about us?” and the EVEL package is designed to enable us an English Member of Parliament to say to those people, “There is now a piece of the devolution package that is yours”. My view is that in the end

it will serve to strengthen the union, because it will help to dampen the mounting concern that we have experienced in our constituencies in England.

**Q206 Paul Flynn:** But isn't this package a panicked reaction to an ill-advised vow that was taken because of an opinion poll, which suggested that Scottish nationalists were going to win the election, followed by a reaction from the tabloids—and we hear it at the doorstep in England—demanding a bit more devolution for England? Isn't it one of these pieces of legislation, like many in the past year, that are legislative futility that are probably going to do more harm than good?

**Chris Grayling:** As a party, we have fought three general elections with this in our manifestos, so I do not think we can be said to have come to it in an on the hoof reaction to the referendum in Scotland. The McKay Commission predated the referendum. This has been something that, as a party, we have argued for for some considerable time.

**Q207 Paul Flynn:** Could you tell me how it is going to work? We just had a picture of the looming chaos that is about to engulf us in going into Divisions where we would be classified as the sheep and the goats, the English only, the English and Welsh and the Scottish and all kinds of complications that come from that. Are you not creating a monster?

**Chris Grayling:** I take it that Chris Bryant has been in florid form this morning. Look, it is not beyond the wisdom of the House of Commons to operate with the same technological assistance that the House of Lords is already using for its Divisions, that is: in the double majority vote system, you go through, you give your name, it is recorded on an iPad rather than on a piece of paper and, at the end of the Division, the iPad will tell you what the totals are. When it comes to an England only vote or an England and Wales only vote on a legislative consent motion, then it all requires is the Division Clerks to have a list of eligible MPs in front of them.

**Q208 Paul Flynn:** Why can you not go the whole hog and prove that good can come out of EVEL by allowing us to vote on our iPads sitting in our place in the Chamber? That would be a very simple way to do it, rather than the idiotic procedure that we have of taking a quarter of an hour at least for every vote now. In these complications, why on earth don't you do something sensible and worthwhile and allow us to vote from our iPads?

**Chris Grayling:** Of course that is a different matter and that is something the Procedure Committee might consider, but my view is that it would not be the right thing to do. The reason I think it would not be the right thing to do is that the Divisions that take place in this House are a rare opportunity for all members of a political party to catch up with all their colleagues. If you need to have a two-minute word with the Minister, if you need to catch up with a colleague you have not seen for a while, Divisions are an important moment of concourse for parliamentary parties.

**Q209 Paul Flynn:** We have heard this tired old story for years. If they want to get in touch with Ministers they can write to them, they can e-mail them, they get in touch in other ways, but often we are here—as we were last night—with half a dozen votes, which are utterly futile and a waste of time for everybody. It could be done, as many other Parliaments do, where people sit at their desk—

**Chris Grayling:** It is an opinion, it is a view. There are some who hold that view. I suspect that you are a minority view in the House at the moment.

**Paul Flynn:** As you are introducing a huge new complexity, we are all going to have to work out whether we are the sheep or the goats or anything else.

**Chair:** Are you going to ask about certification?

**Q210 Paul Flynn:** Yes. I was asking about: have you been briefed on certification by the Speaker to discuss what is English, what is Welsh, what is English, Welsh and Scottish?

**Chris Grayling:** I have talked to the Speaker about the principles. The Clerks in my team have had extensive discussions about it. We have tried to provide for the Speaker a very simple test, a devolution test about whether something should be certified or not. I have complete confidence in the Speaker, and those who advise him, to be able to identify when a section of a Bill is England only, England or Wales only, or is United Kingdom. The intention is that the Civil Service, when they draft a Bill, will indicate—as they have always done—what the territorial extent of that Bill is but it will be a matter for the Speaker and his advisers to decide whether to accept that view or not. The Speaker is taking decisions every day of every week about the certification of money Bills, about whether to grant urgent questions, whether to grant Standing Order No. 24 debates. His job is to take decisions about how matters should be handled in the House and I do not see this as causing a massive problem for him.

**Q211 Paul Flynn:** Do you see occasions when the Speaker's decision on certification will be challenged by judicial review?

**Chris Grayling:** My expectation is not, because the Speaker's decision has always been final. Parliament is protected by privilege. It would be a pretty major constitutional step for the courts to take to try to insert themselves into decision-making within the Westminster Parliament. I do not believe they will take such a step. If they were to take such a step, it would be a matter of far broader constitutional importance and a matter that the House would have to give very careful consideration as to how to handle because, ultimately, we would be in a position where part of our democratic freedom as a Parliament was ceded to the courts, and I am not convinced anybody would think that was a very good idea.

**Q212 Paul Flynn:** I am not sure how familiar you are with what happened with Welsh legislation, which went through various forms of LCOs, which were very strange things that were immensely complicated. That was followed by judge's rule, where most of the Bills from Wales were challenged by your Government and were decided by judges in a judge's rule. Now we have a system in Wales that is going to be English vetoes for Welsh laws, which is the Welsh Bill. Will this Welsh Bill be voted on by only Welsh MPs?

**Chris Grayling:** No, because it is a matter for the United Kingdom Parliament to decide collectively whether to devolve powers from itself to the Welsh Assembly.

**Q213 Paul Flynn:** But why do we have Welsh votes for Welsh laws if we are having English votes for English laws?

**Chris Grayling:** We are not. The Wales Bill is not a Wales only matter anymore than any major constitutional reform Bill would be an England only matter. Indeed, the whole House has just voted on whether to introduce English votes for English laws and you would expect the devolution package for Wales to also be voted on by the whole Parliament.

**Q214 Paul Flynn:** I do not understand. If it is English votes for English laws, it is Welsh votes for Welsh laws, surely. There is a majority of the Welsh MPs who are not of your party, so I presume that is the reason you are opposed to that, Welsh only votes for the Welsh laws, which affects only the territory of Wales.

**Chris Grayling:** The first thing to say, of course, is you already have Welsh votes for Welsh laws. It is called the Welsh Assembly in Cardiff.

**Paul Flynn:** Yes, but this Bill is before us.

**Chris Grayling:** In terms of the Wales Bill, in the same way you, Mr Flynn, as a Welsh MP voted on English votes for English laws, then I should say it is also English and Welsh votes for English and Welsh laws, because Wales has a different devolution settlement to Scotland and Northern Ireland and, therefore, it was necessary to protect the interests of Wales in the package that was put forward. Nonetheless, this is a matter on which the whole United Kingdom Parliament voted, Scottish nationalists voted on it, Northern Irish parties voted on it, because this is a matter for the United Kingdom, collectively, to decide whether or not to devolve powers to one of its constituent parts.

**Q215 Paul Flynn:** Do you wake up at say 3 am hit by the thought of, “What a tangled web I am weaving and how can I get out of this nightmare”?

**Chris Grayling:** No.

**Q216 Chair:** That was the last question. What legal advice did you take on the question of certification?

**Chris Grayling:** We had extensive advice from the Government legal service—very extensive advice—about how to do this. We also had extensive discussions with the Clerks of the House. As we prepared the Standing Orders, there were virtually daily meetings between members of the team and different parts of the Clerks department.

**Q217 Mr David Jones:** The test for certification is whether an issue relates exclusively to England or England and Wales and is otherwise devolved. To what extent did you carry out consultation with the territorial Secretaries of State when deciding to arrive at this particular further test?

**Chris Grayling:** I had discussions with all of them and, indeed, there were official level discussions with their teams as well. It was important right the way through to make sure that we had proper alignment between the three territorial Secretaries of State and what we were trying to do. The issue of cross-border is a very difficult one and it is the one area where when we looked at the detail, we felt we had to propose something that was at

variance with our manifesto commitments. The reason for that was it became very hard to define what a cross-border issue was. The danger is if you have somebody who lives in Wrexham but goes to school in Chester, does that mean that the MP for Wrexham should be able to vote on education matters in Chester, and is it one student or five students or 50 students or 500 students? Where do you draw the line? Of course the other way round—if you have a child who lives in Chester and goes to school in Wrexham—there is no vote for the MP for Chester on educational matters in Wrexham.

When we sat down and tried to work this through in practice, we could not see how you could define a cross-border test that was workable. I came to the conclusion that the only practical test that we could use was based on: was a matter devolved or not? That is what we lay before the House and that is what we argued for. I understand the cross-border issues for those in North Wales, where North Wales in particular looks extensively to north-west England for many of the services it uses. Of course it does not work the other way round, so somebody who lives in England and uses services in Wales, their Member of Parliament does not have a say, whereas a North Wales MP—like yourself, Mr Jones—will continue to vote on all matters related to health, education and so on in England, even though you are a Welsh MP. The only difference is that the United Kingdom Parliament, so Scottish, Wales, Northern Irish MPs and a block of English MPs, cannot impose a solution on England against the will of English MPs. I think we have the balance about right.

**Q218 Mr David Jones:** The question of the boundaries in the devolution settlement is key, and of course, as Mr Flynn has pointed out, frequently they are unclear. There have been a number of Welsh cases that have ended up in the Supreme Court that have altered the perception of where the boundaries of the devolution settlement were. Is that a concern to you that, although you may have advice from the territorial Secretaries of State as to what is the boundary of the settlement, they may not be sure themselves?

**Chris Grayling:** I don't think it will be a problem, but it is something we are very clearly willing to monitor and will monitor over the next 12 months, to look and see if there are any implications. One of the things I committed to do is to look at the effect on English legislation or elements of legislation that are England only on Scotland, Wales and Northern Ireland to see if there are further lessons that should be learned. I have said very clearly we will have a review after 12 months of operation, and we will look at all these issues again to understand if there have been unexpected consequences. But I think, particularly after the current devolution packages are passed through, that the devolution settlements in Scotland, Wales and Northern Ireland will be pretty clear and of course this House is protected by—

**Q219 Mr David Jones:** With respect, we thought that under the last devolution settlement.

**Chris Grayling:** But we are also protected here by parliamentary privilege, so it will be a matter of judgment for the speaker and those who advise him. I am obviously aware that the different devolved Assemblies have had issues where their decisions have been taken to the courts, but of course this House is protected by parliamentary privilege and rightly so.

**Q220 Mr David Jones:** The question of monitoring, which you mentioned, that is important too, isn't it? Because, of course, the boundaries of the devolution settlement are constantly evolving, not necessarily through primary legislation but through statutory instruments and so on.

**Chris Grayling:** Yes.

**Mr David Jones:** What mechanisms will you be putting in place to monitor these changes in the devolution settlement?

**Chris Grayling:** There are two or three elements to this. We will obviously continue to receive representations from the devolved Assemblies, if they have concerns in this area, and we will invite those. We will obviously be expecting contributions from this Committee, from the Procedure Committee, from the Constitution Committee in the House of Lords, all of whom have indicated their willingness to look at this in practice over the first 12 months. I have also tasked the Civil Service team who worked on this to monitor very carefully the consequential impacts of it to see if there is anything that we had not spotted at the start. I do not believe for a moment that this is something that we should set in stone on day one. We must be willing to make tweaks and modifications a little further down the track if we discover that there are elements of the package that are not working quite the way it was intended. I expect the review after 12 months to be a refining process where we look at how it has worked, we take contributions from those organisations that have been monitoring it and we make any changes that are necessary.

**Q221 Mr David Jones:** The certification process also makes reference to minor or consequential effects on those outside England and Wales, what consultation have you had as to the definition of minor or consequential?

**Chris Grayling:** This has been a subject of quite extensive debate and I think it might help if we explain how we reached the decision we have. Minor is very straightforward as a concept but consequential is where most of the debate has been. The point about consequential is that—you have many examples. First of all, there are the Barnett consequentials, which I have said in relation to this package I do not believe exist. There are Barnett consequentials. They are listed in the Departments covering the devolved administrations' annual reports—Scotland Office, for example, produced a list of Barnett consequentials—but none of those fall outside the budgeting estimates process. The budgeting estimates processes will remain as they are today except insofar as a tax measure is devolved, so if there was a Scottish only Landfill Tax, for example, or there is an England only Landfill Tax, then that would be covered by the English votes procedures.

In terms of consequential, what we intend by consequential in relation to this—a practical example—in the last Parliament the Bill that covered adoption, which is a devolved matter in Wales, expressly contained at the request of the Welsh Assembly Government a clause that said, "This does not apply in Wales". Now that is a consequence of the legislation. It is a consequential matter. It does not mean it has suddenly become Wales only legislation or Welsh legislation. Likewise, if a child was at school in England but lived in Wales and the Government took a decision to collect a particular type of data about school children in England, but that collection of data did not apply in Wales, the fact that the child was at

school in England would mean the consequence would be a Welsh child would be covered in that particular policy—

**Chair:** This is a bit long. Please carry on.

**Chris Grayling:** That is what we are talking about. We are talking about not massive huge financial import, which I have covered already in the estimates process; we are talking about things that flow from a piece of legislation where the impact is not financial and certainly not a Barnett consequential.

**Q222 Chair:** It has just been suggested to me by text, by a political correspondent, that I should ask you about the Sunday Trading Bill. Is the effect of our Sunday trading legislation in England on wages in the retail sector in Scotland a minor or consequential matter?

**Chris Grayling:** Of course, I cannot comment on what the Government plans today about Sunday trading are because nothing has been brought before this House yet.

**Chair:** Of course.

**Chris Grayling:** The point I would make on this matter and others is that the package we put together prevents something being imposed upon England by the United Kingdom Parliament. It does not allow for England only policies to be pushed through against the wishes of the United Kingdom Parliament—the example was the hunting measure in the summer, where it would not have been possible for a measure that applied only in England to be carried against the wishes of the whole Parliament. Under the Eagle proposals, you need the consent of both. You need the consent of the whole Parliament and, if it is going to apply in England or England and Wales, it needs the consent of English or English and Welsh MPs.

**Q223 Chair:** What objections are we expecting from Scottish Members of Parliament to the restrictions on their voting, in terms of the amendments, for example, to the Sunday trading law?

**Chris Grayling:** Of course for that there would not be a restriction on the voting. If an amendment was brought forward—take that Bill as an example—the Local Government Bill is predominantly England only but it might have been certified as having elements that are not England only, so whether it was classified as an entirely England only Bill would be a matter for the Speaker. Let's assume that it wasn't, it would have gone through an identical process to that at present. The second reading would have been the same, the committee would have been the same, and the report would have been the same. The new stage kicks in at the end of the report when the Minister has to seek a legislative consent motion from English MPs.

**Q224 Chair:** But the problem here is this: supposing England wanted new Sunday trading laws, the Scots, combined with the rest of the House of Commons, could provide the balance of votes that would prevent it happening.

**Chris Grayling:** That is indeed correct. This is something that has led to arguments from a number of people in this House for the English votes package to go further than it does.

The package we brought forward, which was the package in the manifesto, simply provides a firewall for the English that says—

**Q225 Chair:** How does this proposal that is now in our Standing Orders address the West Lothian question, if you still have Scottish Members of Parliament able to vote on Sunday trading or schools or hospitals in your constituency and my constituency when they cannot vote on those matters in their own constituencies?

**Chris Grayling:** What it does is it means that a United Kingdom Parliament cannot impose on your constituents nor mine a reform—for example, to schools—that is not agreed to by a majority of English MPs. What it does is it provides protection for the English against the imposition of a solution that they do not wish. What it does not do is create an England only Parliament, effectively. It does not create an English only legislature.

**Q226 Chair:** In effect, it is a veto over new proposals but we could not repeal restrictions on Sunday trading. They can still impose their will about existing law. That is an illogical position, isn't it?

**Chris Grayling:** The United Kingdom Parliament could take a view that it wanted to impose change upon the English on Sunday trading and the English could say, “No, thank you very much, we do not want that”.

**Q227 Chair:** Yes, I appreciate that, but what we have is a double negative in this arrangement rather than legislative devolution for some kind of English entity?

**Chris Grayling:** Yes, indeed. I have been very clear all along that this is a mechanism for the English to resist measures being opposed upon England against the wishes of English MPs. What it does not do is create an English only Parliament or an English only mechanism for creating English only legislation.

**Q228 Chair:** If Parliament recognises that there is a democratic deficit in the ability of England to control its own laws, which matches the ability of the Scots, the Welsh and the Northern Irish to control aspects of their own laws, but there is still a veto over what the English can decide for themselves, how does that address the West Lothian question?

**Chris Grayling:** What it does is it prevents solutions being imposed on the English against their wishes.

**Q229 Chair:** I appreciate that but it does not actually put English MPs in control of their own legislative destiny.

**Chris Grayling:** There is a broader question—as you and I both know, Mr Jenkin—that there are people who would like to create an English only Parliament, argued by people in England, and indeed by the Scottish nationalists. There are people who would like to create a mechanism within the existing Chamber that excludes Scottish MPs or Welsh MPs or Northern Irish MPs from part of the process. What we have implemented is what was brought forward in our manifesto. I have no doubt that others will have further views about our future constitutional structures and will bring forward their ideas, but what we have done is to put in place what we implemented in our manifesto, which was to provide a firewall for England against the imposition of things that England did not wish.

**Q230 Chair:** What happens about tax rates? Income taxes rates can be varied by the Scottish Parliament and, under the Scotland Act—as it probably now will be—they will have increased control over income tax rates.

**Chris Grayling:** Yes.

**Chair:** Will Scottish MPs still be able to vote on income tax rates for my constituents, even though Scottish MPs in the United Kingdom Parliament cannot vote on tax rates for their own constituents?

**Chris Grayling:** Every Member of Parliament continues to be able to vote on every—

**Chair:** So the answer is yes?

**Chris Grayling:** So the answer to that is yes, but—

**Chair:** So the—

**Chris Grayling:** Can I just finish?

**Q231 Chair:** We could finish up with a majority in the United Kingdom held by the balance of Scottish MPs voting to increase taxes on your constituents, but without having any power to increase the taxes on their own constituents. Doesn't taxation and representation come to mind?

**Chris Grayling:** Let me give you the “but” on this. What will happen is that the English votes procedure will apply when a tax has been devolved. If a tax is devolved to the Scottish Parliament and it is within the gift of the Scottish Parliament to set a Scottish tax rate, then the English votes procedure will apply to the equivalent vote on an English tax rate in England. That will not—

**Q232 Chair:** I understand exactly what you are saying. Supposing the Scottish Parliament reduces the tax in Scotland for Scottish taxpayers then Scottish MPs at Westminster could vote to refuse to change the tax rates for your own constituents?

**Chris Grayling:** That is correct, but what they could not do is reduce the tax rate in Scotland in order to—

**Q233 Chair:** I got that, thank you very much. That is what I got, which was: we could finish up with the Scottish Parliament reducing taxes for Scottish taxpayers but Scottish MPs voting to keep high taxes for English taxpayers. That is correct, isn't it?

**Chris Grayling:** But what they could not do is vote to increase taxes for England to pay for a reduction in Scotland.

**Q234 Chair:** But there is still an inherent disequilibrium in these arrangements, is there not?

**Chris Grayling:** What these arrangements do not do is to create an English Parliament or the equivalent thereof. I have been very clear about that. What they are designed to do is to give the English, as I described, a firewall against the United Kingdom decisions that are

imposed on England against the wishes of the English. That is what is set out in our manifesto and that is what we have implemented.

**Q235 Chair:** If this arrangement is designed to resolve the English question, how far does it go in that?

**Chris Grayling:** To my mind, it gives all of us the ability to answer the question: where is our place in England in the devolution settlement? My answer to that is: we can now say no in England to the imposition of solutions upon England that we do not want.

**Q236 Ronnie Cowan:** Sir William McKay has added, “There is a great difficulty in discovering what each of these Standing Orders means”. He is a very well respected Clerk. If he is having difficulty in understanding this, what chance do the rest of us have?

**Chris Grayling:** I do not think I would necessarily agree they are that difficult to understand. We held extensive discussions with the current Clerks about the framing of these Standing Orders, but if both current and former Clerks over the next 12 months want to bring forward ideas about how to simplify the Standing Orders that are in place, and have the same effect, we would obviously look at that as part of the review, as we would indeed look at other thoughts from this Committee and others about the system in operation. But these have been carefully crafted by teams of lawyers and, to my mind, they do what they say on the tin.

**Q237 Ronnie Cowan:** Do you believe they are sustainable?

**Chris Grayling:** Yes.

**Q238 Ronnie Cowan:** Take the example of Heathrow then. Scottish taxpayers have been asked to pay for a large chunk of any Heathrow expansion. Am I, as an SNP MP, going to get a vote on that?

**Chris Grayling:** It entirely depends on what the mechanism we are talking about is. Are we talking about a planning application or are we talking about—

**Q239 Ronnie Cowan:** You have just told me you understand the mechanism, so am I going to get a vote on that?

**Chris Grayling:** The Heathrow/Gatwick review was a UK-wide aviation review. The allocation of slots of airspace in this country is a UK-wide matter but it will entirely depend on what the measure brought forward is. The answer is: you will get a vote come what may because we have not taken away votes from you. There is no vote that you currently take part in on the floor of this House that you will not be taking part in in future.

**Ronnie Cowan:** But there is a veto.

**Chris Grayling:** There is a veto against a solution being imposed upon the English against their wishes but, in the case of Heathrow, it will depend entirely what the legislative vehicle is, whether it needs legislation, whether it is a planning application, whether it is about allocating public funding through the estimates process. If it requires public funding

then the estimates process is unchanged. You have exactly the same vote in that as you do at the moment. This Heathrow argument, my question to you is: what precisely are you talking about when you talk about a vote on Heathrow?

**Q240 Ronnie Cowan:** I am not saying I would, but if I vote against it, for example, along with my colleagues, and that meant it did not go through then my vote is going to be vetoed out. It could then go through and the Scottish taxpayer will be expected to stump up to pay for part of it.

**Chris Grayling:** If we have a vote on whether to build a runway at Heathrow or at Gatwick within the UK Parliament, it will be carried only with the wish of the UK Parliament. The whole point about what we have put in place is that, effectively, in order for a measure to pass, it will require a vote of both. But whether there is an England only vote element to it will depend entirely on the nature of the vote, the nature of the vehicle. If it is simply a vote in principle and it is not on legislation, then it would not be covered by these procedures anyway. But that is my question to you: are you talking about a planning Bill for Heathrow? Are you talking about the estimates process? Unless you can be more specific about what you are talking about—

**Q241 Ronnie Cowan:** To get to that instance we are going to have to go through all of those eventually, are we not?

**Chris Grayling:** Potentially, yes.

**Q242 Ronnie Cowan:** Yes. At any stage during that—and I am not debating the actual Heathrow issue here—if I was to vote against it and say, “I don’t think it is good idea” then my vote could be vetoed out and, therefore, that could go through. The Scottish taxpayer would still be asked to put some money in to pay for it.

**Chris Grayling:** But if you are voting—

**Ronnie Cowan:** Whether it is planning or legislative or whatever, the endgame would be to extend the Heathrow airport, have an extra runway there. If I vote against it my vote can be vetoed out.

**Chris Grayling:** No. Let’s take an example where there is a motion before the House saying, “Shall we embark upon a major infrastructure project?” If it is not a piece of legislation that is an indicative vote in the House and so the English votes and procedures do not apply. If there was a piece of legislation that is about the detailed planning of a new airport, it will be for the Speaker to decide whether it is an England only motion or not, whether it is sufficiently localised in its extent that it is an England only measure. If it is an aviation measure, aviation and the allocation of air space is a UK-wide matter, the Airports Commission was a UK-wide Commission, so then the Speaker may very well certify any vehicle as UK-wide.

**Chair:** I am afraid we are repeating ourselves.

**Chris Grayling:** I cannot certify what the Speaker did but, ultimately, the nature of your vote does not change. If you vote against and the Parliament agrees with you it does not happen. If you vote against and the Parliament does not agree with you, and votes a majority for it to pass, then that is what would happen at the moment.

**Q243 Chair:** Moving on. Can I ask why the Government use parliamentary counsel to draft these new Standing Orders instead of relying on the Clerks?

**Chris Grayling:** I think most immediately because, since this is a proposal that was being tabled before the House by the Government after a manifesto commitment, to use the Clerks as the drafters would seem inappropriate. We consulted the Clerks extensively on this. Discussions took place on a regular basis, and indeed have continued to do so since this was implemented. I think it is right and proper that we should not expect the Clerks to draft a proposal that the Government was bringing to the House but I do think it is appropriate that the Clerks should have been involved, as they were and continue to be.

**Q244 Chair:** Lord Lisvane pointed out that these Standing Orders are drafted like legislation, and the 30 pages or so of these Standing Orders look awfully like a Bill rather than the Standing Orders with which we are familiar. Why do you feel that that is appropriate?

**Chris Grayling:** I think it is appropriate that parliamentary counsel draft these measures given their origins. As I said earlier—

**Chair:** No, you have already said that. But why do you feel it is appropriate that we should now have Standing Orders that look more like legislation going into the same minute detail that legislation tends to go in for in these modern times, instead of having Standing Orders that set down general principles, which are perhaps far more comprehensible for Members to understand and that would be subject to interpretation? These are going to be subject to interpretation anyway.

**Chris Grayling:** Given the fact that these new Standing Orders have indeed had some degree of controversy around them, it seems appropriate that they have been done in fine detail. As I have said, if the Clerks now believe, as this becomes bedded in, that we can simplify the Standing Orders—

**Q245 Chair:** How has parliamentary counsel drafting these made them less controversial?

**Chris Grayling:** The level of detail is necessary so that they are watertight.

**Q246 Chair:** You think the fact that they do look like more like legislation than Standing Orders makes them less controversial. Is that correct?

**Chris Grayling:** No. It is not a question of looking like legislation. It is about bringing forward something that is in appropriate detail to explain how this will work.

**Q247 Chair:** What instructions did you give to parliamentary counsel for drafting these Standing Orders?

**Chris Grayling:** The instruction was we had a fairly detailed manifesto commitment that set out the process that we wanted to pursue. As I described earlier, I made a couple of modifications to those and we gave that to parliamentary counsel as a brief to work with. They had extensive discussions with the Clerks as well, so this is not something that has

happened in isolation from Parliament but I do think it is right and proper that Parliament did not have to do the work itself.

**Q248 Chair:** When we get to the review if the House is expressing a preference for a much simpler set of Standing Orders, would you consent to let the Clerks have a go at simplifying them instead of—

**Chris Grayling:** Yes, of course. The whole point about having the review is: let's see how this works and see what works well. If anything does not work well, if we can do things better, then of course we will. If the Clerks want to simplify them, as long as they still work then I am perfectly relaxed about that.

**Q249 Oliver Dowden:** Good morning. Why were the Standing Orders more far-reaching than previous EVEL proposals; for example, those put forward by Lord Norton or Sir William McKay?

**Chris Grayling:** The biggest change was the outcome of the Scottish referendum and the commitments around further devolution to Scotland and Wales. I have talked to Sir William about this and the principles are identical. If you look at the introduction to Sir William's report, it talks about the English having the final say. The only real difference between Sir William's report and what we brought forward is that Sir William intended the House simply to respect the views of the English, so if an English MP has expressed a view, his expectation was the House would simply accept that. All we have done is make that a part of the process rather than leaving it to trust that the House would do that.

The vow, post the Smith Commission, involved a commitment to provide very substantial additional powers to the Scottish Parliament, and to provide through the Wales Bill, very substantial additional powers to the Welsh Assembly. I think there was a need to have a clear statement about England as well that was not just left to convention.

**Q250 Oliver Dowden:** Have you had conversations with Sir William and Lord Norton about this?

**Chris Grayling:** I have spoken to Sir William about this, yes.

**Oliver Dowden:** What is the attitude that he is taking towards it?

**Chris Grayling:** We had a very friendly conversation. He said that, fundamentally, what he was seeking to do was what we are seeking to do. If you look at his report it is very, very similar in terms of practical input. He recommends the use of Standing Orders. He says that a measure that affects England should normally not be passed without the consent of the English. The only difference you can identify is whether it is done on the basis that Parliament simply accepts it or whether there is a mechanism to ensure that Parliament accepts it.

**Q251 Oliver Dowden:** One very short question that came up in the previous evidence session was this: is it your intention to review this after 12 months and what form would that take?

**Chris Grayling:** It is a joint enterprise between both Houses and the Civil Service team who have been working with me. I want to know how this is viewed in action. We will see the first usage of this in the next few weeks. We need to identify whether it causes any operational problems we have not envisaged and the bits that are working smoothly, and whether there is an opportunity to simplify Standing Orders. What I am hoping and expecting, both from the Procedure Committee and from this Committee—and indeed from the Lords Constitution Committee—is recommendations about how we could improve the process if we need to. I see this as a joint road testing exercise over the next 12 months.

**Chair:** We are getting very pressed for time, so we will keep everything as brief as we can. Mr Jones, briefly.

**Q252 Mr David Jones:** In practical terms where, as is the case at the moment, one party is in a majority both at an English and a UK level, this change in Standing Orders makes no difference, does it?

**Chris Grayling:** The change in Standing Orders is about protection for England and Wales.

**Mr David Jones:** Is it a “Yes” or “No”?

**Chris Grayling:** In this Parliament where we have a majority in both England and in the United Kingdom as a whole, then it will not make a massive difference. What I hope it will do is that it will bed the system in place. It will become a normal part of working in the House of Commons. It is better that way than trying to introduce it in a period of great political turmoil.

**Q253 Mr David Jones:** On that point Mr Bryant, who just gave evidence to us, told us that he thought it very likely that a future Labour Government would review these Standing Orders and change them. Again, in practical terms, are we achieving what we are seeking to achieve?

**Chris Grayling:** There are two aspects. There are those who argue that they should be done in legislation, which would be more difficult to reverse, but with legislating you then get the question about the involvement of the courts. My view is very simple on this. The desire to have an English element to the devolution package in this country is not limited to Conservative-held seats. If the Labour Party wants to say to England, “We are going to come into office and we are going to tear up your bit of the devolution settlement. We are going to leave all the rest in place but we are going to tear up the English bit”, well, I think there is a political price to pay for that. A lot of Labour MPs would take a different view to Mr Bryant on that issue.

**Q254 Mr Andrew Turner:** The Procedure Committee suggests that there could be one to eight extra steps for a Bill. What assessment have you made of the impact of the new Standing Orders on the legislative timetable?

**Chris Grayling:** At this stage it is very difficult to gauge because it will depend entirely on the legislation concerned. Very often things pass through this House on a nod. I think on many occasions a legislative consent motion will just be granted. If there was no great

controversy over a Bill and it is an England only Bill, there is no great controversy, the legislative consent motion will go through on a nod. If it is a controversial Bill you could have eight extra stages. If a Government had listened to the second reading debate and understood there were strong views in England, and if we had lost votes in the England-only Committee, it would be a strange situation to come back at report to have the same argument, trying to shoehorn something through, without trying to reach an accommodation with the English MPs. My view is that, in practice, it will be much less complicated and much less time-consuming than it could be in the extreme. Why would any Government go through all those eight stages when it was not going to succeed in the end?

**Q255 Chair:** Why do you think that the SNP is going to avoid making controversy about matters that you think are uncontroversial?

**Chris Grayling:** The SNP can move a legislative consent debate and they can talk for an hour if they want. By “move it” I mean if the Speaker puts forward to the House, “Those in favour say aye. Those not in favour say no”, the SNP can in theory shout. We can have a debate, but that will simply introduce an hour’s debate at which point the legislative consent motion will be granted in the normal way. The SNP and indeed—I would not point to the SNP particularly—anyone in this House has the opportunity if they want to use the procedures of this House to cause problems and complications. It is not terribly smart politics in the eyes of the outside world if you are just trying to create trouble. In some circumstances it is contempt of the House, and I have great respect for the SNP Members here. They have an argument to make about the views that they hold, which I do not agree with but they make it articulately. I would not expect the SNP to simply try to use this as a wrecking mechanism.

**Q256 Mr Andrew Turner:** At the moment it is Members of Parliament who do the count. Will they be able to count two lots at the same time when we have a double count?

**Chris Grayling:** They will do the overall UK-wide count and what I expect to happen is at the end, because the England only vote has been tallied electronically, they will be able immediately get an England only tally, so they will be able to deliver both outcomes to the Speaker.

**Q257 Mr Andrew Turner:** It will be handed to the tellers?

**Chris Grayling:** Yes. I expect the tellers to bring in both results, to announce the UK-wide vote and the Speaker to then say, “But there isn’t a majority of English MPs and therefore it is not passed”.

**Q258 Ronnie Cowan:** Some of our witnesses have suggested that these rules are going to be used rather infrequently. Would you agree with that as being a rare occasion?

**Chris Grayling:** There will not be that many England only Bills but there will be plenty of Bills that have England only elements to them, and that is the difference. If you look back, yes, it is true there have not been very many Bills that are entirely English in territorial extent but there are plenty of Bills in which there are substantial sections that are England only.

**Q259 Ronnie Cowan:** We are going into this now—and correct me if I am wrong—piloting three Bills. At this stage it is going to be suspended and then there is going to be a review within 12 months’ time and there is likely to be three or four Bills next month. John Bercow has described this as being experimental territory. Do we get that feeling that we are sort of legislating here or doing it on the hoof?

**Chris Grayling:** We are trying a new system. We are going to monitor as it goes along. We are going to fine-tune it as it goes along. We are not talking about reviewing with a view to stopping doing this. This is a reform that we have introduced for this Parliament and hopefully beyond.

**Q260 Ronnie Cowan:** Can I roll back just slightly? You say we are doing this as we go along. It has been my experience in my previous existence that you designed a solution before you implemented it. You did not put it in there and see if it worked. There was a lot of forethought went into it beforehand, a lot of testing offline before you put the thing in live. What we are doing is going live with a system that has not properly been tested.

**Chris Grayling:** We have worked this system through in a paper exercise alongside existing bits of legislation to see how it works and how we think it would vary things, but this is the kind of system that needs to be seen in operation. The whole point about having the review after 12 months, and indeed inviting the Committees to road test this as it goes, is that we can identify if there are pieces that don’t work, pieces that prove overcomplicated and if there are simpler ways of doing things or better ways of doing things. The basic principle of giving the English that right to say no to something being imposed upon them is not one I intend to resile from for a moment but if there is a way of adjusting what we are doing, which makes the process smoother, then that is fine. I hope this Committee and the Procedure Committee will be part of doing that.

**Q261 Ronnie Cowan:** It is my own experience in the past that, if you put a system in before it is tried and tested, then it becomes far more expensive than you thought it was going to be in the first place. Ultimately it fails and then it ends up being taken back out again.

**Chris Grayling:** But a parliamentary procedure is rather different from a major project elsewhere where you are racking up very substantial costs. This is adjusting the workings of Parliament to provide an additional dimension to our devolution settlement.

**Ronnie Cowan:** I understand that is what we are supposed to be doing, yes.

**Chris Grayling:** It has been worked through very carefully prior to the election by a team led by my predecessor.

**Q262 Ronnie Cowan:** You are not foreseeing any glitches then?

**Chris Grayling:** I would be very surprised in 12 months’ time if we wanted to make no modifications at all, but I am confident that this is a system that provides the foundations for the future.

**Q263 Chair:** How long will this last, do you think?

**Chris Grayling:** It will last as long as the House of Commons wants it to last. My hope is it will be a permanent fixture. If a future Government comes in and scraps it, it will do so

for its own party political reasons and it will do so, I think, at a political cost to itself in England.

**Q264 Chair:** Mr Bryant told us that his party would probably change or scrap these Standing Orders, so it will survive until there is no longer a Conservative Government.

**Chris Grayling:** I look forward to the election debate in England. After all, Labour is now predominantly an English party. For the Labour party to argue that it is going to get rid of the English piece of a devolution package, well, it is not personally a position I would want to be in.

**Q265 Ronnie Cowan:** Did I hear this correct, you were saying that Labour was an English party?

**Chris Grayling:** At the moment. Labour does not have very many MPs left in Scotland. It lost seats to us in Wales. If you look at—

**Q266 Ronnie Cowan:** The Labour Party is a UK-wide party. There is no such thing as the Scottish Labour Party or the English Labour Party.

**Chris Grayling:** If you look at where Labour MPs now represent they have 230-odd MPs and my betting is that—I cannot remember exactly—a few over 200 would be in England. Most Labour MPs are defending English seats and, indeed, since this is about English and Welsh votes for English and Welsh laws, the same applies in Wales. Personally, if I were an English Labour MP seeking re-election, I would not want to be arguing in public meetings in my constituency that I was going to scrap the English part of the devolution settlement, but if they choose to do that, that is up to them.

**Q267 Ronnie Cowan:** No, but the argument comes down to the Holyrood elections next May.

**Chris Grayling:** They will do what they want to do in the Holyrood elections. But Chris Bryant is talking about a future UK Labour Government scrapping this in this House. If they choose to argue that case that is their privilege. They can do that. It is not an argument I would want to have, if I were an English Labour MP, with my English constituents.

**Q268 Ronnie Cowan:** So you disagree with Sir William McKay when he says there is probably a stronger political need than a practical need?

**Chris Grayling:** I have had a sense in recent times, as I said in the House, that there is a growing resentment in England to the fact that there is an extensive devolution settlement being provided to Scotland, Wales and Northern Ireland, but nobody has done anything in England. You make a fair point about the West Lothian question, Mr Jenkin, but this goes a step towards providing protection for the English in a way that my constituents have certainly asked for for a long time. My view is that this is likely to diminish scepticism about the union in England rather than enhance it. That has to be a good thing if you are a unionist.

**Q269 Chair:** I have one last question on a different matter. Mr Bryant told us that he favoured reducing the number of Ministers in the House of Commons, consequent to the reduction in the size of the House of Commons, so that at least the number of Ministers should remain the same. This was a recommendation of this Committee in the previous Parliament to that effect. What consideration is the Government giving to this proposal?

**Chris Grayling:** The answer to that is that it is not within my ministerial responsibility. It sits within the constitutional team in the Cabinet Office, so I will ask them to write to this Committee.

**Q270 Chair:** How would you feel about the House of Commons becoming even more dominated by the payroll than it is now?

**Chris Grayling:** It is important that the House of Commons has access to Ministers when it needs to do so and that, also, there are Ministers able to do the job of running their departments. I think it is a balance. You have to look quite carefully at exactly where and how you need Ministers. There are Ministers not simply in this House but in the other place as well. The task of a Lords Minister, who has to know pretty much everything taking place in his or her department, is a pretty strenuous one as well. I am not aware that we have a lot of very underworked Ministers. It is important that Government is sufficiently equipped, in terms of size of team, to be able to properly account for itself to Parliament.

**Q271 Chair:** We have significantly more Ministers in our Government than, say, the German Government or the French Government. The House of Commons is this very Parliament devolving more powers and responsibility to parts of the United Kingdom so there is less for UK Ministers to do. One of the arguments for reducing the number—I have to say that I think MPs work quite hard as well but that has not been used as an argument to preserve 650 MPs—why should you be deploying this argument with any credibility to retain the number of Ministers when it is really about political patronage over the House of Commons rather than how important every parliamentary Under-Secretary of State actually is?

**Chris Grayling:** Having seen Ministers in action and being a Minister in two departments as well as my current role, I am not aware that Ministers are working short hours. I am very aware that this House places increasing demands upon Ministers to come to it, to address the issues that are before it, to address the issues that are before the Government. But I have no doubt, Mr Jenkin, that if this is a matter your Committee feels strongly about you will be making recommendations to Government shortly on this.

**Chair:** We look forward to the letter you have promised us. Thank you very much indeed.