



HOUSE OF LORDS

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Witnesses: Alun Evans

Professor Philip Booth

Members present

Baroness Taylor of Bolton (Chairman)
Baroness Dean of Thornton-le-Fylde
Lord Lester of Herne Hill
Lord Norton of Louth

Examination of Witness

Alun Evans, former Director of the Scotland Office

Q93 The Chairman: Mr Evans, welcome to the Committee and thank you for coming. We have a relatively short session and a small membership today because we have just come from a parliamentary recess and people are engaged in other events. You have had an interesting background and some interesting things to say about this whole area. Do you want to say a few words by way of introduction or go straight into questions?

Alun Evans: First of all, thank you very much for inviting me to come here today. I will make a very brief introductory statement, which will, hopefully, set the scene. You referred to my background. I had 30 years in the Civil Service in a range of departments, finally spending three years as head of the Scotland Office—the UK Government’s Office for Scotland. As such, in that time I obviously viewed the referendum quite close up and watched Scottish politics.

I have now moved to the British Academy as chief executive, leaving the Civil Service. I should stress that the British Academy does not have a position on this issue. I am speaking in a personal capacity in the comments I make. But I am concerned about how to preserve the union while recognising the legitimate demands for further Scottish devolution. That was the point and the main thrust of my inaugural lecture at the Academy, a copy of which I sent to the Clerk to the Committee and which you may have.

During the referendum my view is that the no campaign had far stronger economic arguments, particularly given the fall in the oil price recently, but that the yes campaign had both a stronger emotional appeal to many Scots and a more united and organised campaign. The no campaign was united only in its opposition to independence. The no campaign, Better Together, has been virtually non-existent and invisible post the referendum. So I believe that there is a strong case to be made for the union and the benefit it brings to the countries within the United Kingdom. That has not been done and is not being done. My lecture sought to set out why the SNP and the case for independence had attracted such support at the referendum, and since then in the general election.

It is quite important to recognise that the Smith commission, which followed the referendum, and thus the Scotland Bill, was by definition, given that it was all-party, somewhat of a lowest common denominator. It was inevitable to me that the demand for further devolution and more devolution would continue beyond the current Bill, which is why I said in my inaugural lecture that I thought the time was ripe for a big, bold and generous offer to Scotland. I defined my solution as home rule for Scotland within the United Kingdom, which I still believe is the best way to pre-empt a successful second referendum on independence. The definition I use for home rule is much the same as the Scottish Government use for so-called full fiscal autonomy. We can discuss that if you want. It is contained in the lecture, and I set out what I saw as three important conditions.

The first was what I called the economic condition; it must mean an end to the Barnett formula, which was only introduced as a short-term fix 40 years ago. Secondly, there is the political condition. My strong view is that one needs to address the number of Scottish MPs as a *quid pro quo* for further devolution/home rule, and that that is the only meaningful solution to the West Lothian question. Finally, I suggested what I called a constitutional condition; we need to put this to bed by agreement, by law, by treaty or whatever, so that it is for a generation and not just for a year or two.

I believe that the case for the union needs to be made forcefully and powerfully, and it is not happening. I quoted in my lecture the words of Lord Hennessy: one needs to identify the issues that bond the union and celebrate them more effectively: the Queen, the Armed Forces, the welfare state, the National Health Service, economic stability, the BBC, the UK passport and the Olympic Games—and, I might add from personal experience, the idea of a unified Civil Service across the whole of the United Kingdom. That is the way the case for Scottish home rule within the United Kingdom and the case for the union can be most effectively and powerfully made.

The Chairman: You have given us something to think about there. I do not want to spend too much time looking backwards, but during the referendum campaign, as you say, the yes campaign had the emotional appeal, and on the no side it was the risks that came across. Could more have been done at that point to explain the benefits of the union? Could the Better Together campaign have been more positive? Would it have had any resonance or was the mood after two years of campaigning moving so dramatically in one direction?

Alun Evans: I feel that the emotional mood, if I can call it that, did move in one direction but the Better Together campaign missed too much of a trick by not celebrating the very great ties that the union gives. The elements of the union I referred to did not feature in the campaign

because the campaign was very much on the hard economic facts of life; it was a somewhat negative campaign, as you alluded to.

One of the big problems was that, because you had three parties that agreed on nothing other than their opposition to independence, there was no stepping back to think, “What are the best arguments that we can make in defence of the union?”. As a result, they retreated to rather negative arguments. I am slightly depressed looking back on it. I am not sure that it could have been done differently, but it should have been done differently if it could have been.

The Chairman: Across the board, the parties would have agreed on some of the emotional points that you were making about the value of the passport, the welfare state or the BBC. That could possibly have had some resonance.

Alun Evans: I agree, although the yes campaign was very clever, shall I say, in that whenever there was an element where people pointed out the importance of the union—the Queen, the single economic area, the UK higher education system and research, for example—the SNP and the pro-independence response was, “Well, that will be preserved under independence”. Cynically, someone said that it was the one independence movement in history that argued that everything would be the same after independence, not that everything would be different.

The Chairman: As with the pound.

Q94 Lord Norton of Louth: I want to look at it from a slightly different perspective, which is from within government itself. How much was there a problem of co-ordination—looking at it as a union? To some extent it seemed to be driven by Scotland and what was happening there. During your time was there adequate co-ordination among the different territorial offices and do you see the situation improving? Could it be improved so that there is more unity within government in dealing with issues of the union?

Alun Evans: I agree with the import of what you are saying. The great advantage that the yes campaign had was that the yes campaign, the SNP and the Scottish Government—who are a very effective and unified Government in the way they operate—were all as one, whereas obviously the parties, the Better Together campaign and the UK Government were not as one. In terms of your specific question, the four key government departments were No. 10, the Treasury, the Cabinet Office and the Scotland Office, of which I was head. The Scotland Office was by definition the smallest, the weakest and the least powerful of the four, but I argued that it was the one that knew most about Scotland. One of the difficulties was that a lot of decision-making was made in London on behalf of Scotland, if you like—sometimes on behalf of the Scotland Office—and I never felt that we got a fully integrated and deep understanding of Scotland when some of those decisions were made.

Could co-ordination have been better? It probably could have been better. It got better during the campaign, but one always had the problem that there was this departmentalitis based in London trying to decide things for Scotland, and it was not nearly as effective as it could or should have been.

Lord Norton of Louth: Going forward, what more could be done? Obviously there should be better co-ordination, but how do you achieve that co-ordination? Should there be some unifying element within government that would draw those elements together, and indeed draw in the Wales Office and the Northern Ireland Office?

Alun Evans: I am not a great one for machinery of government changes on the whole, but my personal view before the election and after it, although it was not something that the Government chose to do, was that one needed something like a Department of the Nations with a senior figure, be it the First Secretary of State or, if there were one, a Deputy Prime Minister, whose responsibility was, and who was for, the union. Then she or he could also speak in all parts of the union on behalf of Her Majesty's Government. In terms of what would happen in Scotland I always argued, and we tried to do some of this, for a much more united UK Government presence in Scotland. I always remind people that there are many more UK Government civil servants in Scotland than there are Scottish Government civil servants. If you look at some of the departments based in Scotland—the MoD, HMRC, DfID and DWP—there are lots of functions that take place in Scotland that people in Scotland do not even realise are UK Government ones. During the campaign, I remember going out to the Isle of Skye and to the jobcentre there and hearing what a good job it does. The assumption of most people there was that this was part of the Scottish Government as opposed to the UK Government, because there is no celebration and no real branding of what the UK Government do for Scotland in Scotland.

Lord Norton of Louth: Indeed. Over a decade ago this Committee produced a report on devolution and institutional relationships in the United Kingdom. Essentially we made the points that you are making, recognising the need for co-ordination, and perhaps for a Minister who could look at the whole of the union rather than disparate departments.

The Chairman: And indeed branding what the UK Government do, in the way that you get an EU brand when you have a new road being built that is partly funded. Nothing is actually UK Government-branded as having been provided from the centre.

Alun Evans: The UK Government are very bad at that in the UK and everywhere. The EU is spectacularly good at it, but in Scotland it would be very important.

Q95 Lord Lester of Herne Hill: Mr Evans, as I understand it, you have advocated devo-max or a home rule solution as a way of consolidating and stabilising the United Kingdom. Have you talked to SNP members about that? Can you tell us how you think they would react to what you call a bold offer of that kind?

Alun Evans: I have not specifically spoken to SNP Members of Parliament, if that is your question. I have spoken to SNP activists and people I have met at various conferences. I suspect that their reaction would be that they do not agree with it, but it is considerably better than what is on offer at the moment.

Lord Lester of Herne Hill: Would it not be crucial, if you want to stabilise the union, to have strong support for home rule, or whatever you call it, from Scotland?

Alun Evans: Yes, it would, but I would make a distinction between having strong support from Scotland and necessarily from SNP members. My understanding of Scottish opinion—I have done some study of this, although people like John Curtice at Strathclyde University are much more skilled than I am—is that within Scotland there is a large, possibly an enormously large, majority in favour of what I would call home rule, or full fiscal autonomy, devo-max or whatever you care to call it. Had that been an option on the ballot paper, it would clearly have been more popular than the other two options. If there were a second referendum, and I do not particularly hope that there is one, I do think that it should be between independence and a much larger form of devolution than we have at the moment or that is given by the recent Scotland Bill.

The Chairman: Can I follow up on that? Why should Scotland stay in the union if everything is on offer with home rule?

Alun Evans: Because the benefits from the union, particularly the economic benefits—economic stability, international clout, the benefits of a defence system in the United Kingdom and all the things that I would argue should still remain reserved to the UK Government—are vastly more important than the benefits one might get from independence. One only has to take the economic case and look at the contribution of oil to GDP. In the UK it is about 2% but in Scotland it is about 16% of GDP, so you are totally reliant on a factor over which you have no or very little control, and which can make or break the success of the Scottish economy. At the moment, if the Scottish economy were trying to act independently, it is fine if it wants to do that, but it would not be able to balance the books without subsidy from the UK Government.

The Chairman: But earlier you said it was the emotional appeal and not necessarily the figures that won people over to wanting devo-max. It was not just the practicalities—it was the emotion. Why would the SNP settle for what you are suggesting?

Alun Evans: You probably need to ask the SNP rather than me, but you have to distinguish what the SNP wants and what the majority of the people of Scotland want. As I said in my lecture, the SNP has been extremely effective in putting forward an extraordinarily attractive all-embracing image or vision of what Scotland could be like. It has a very big emotional appeal, but that emotional appeal can best be addressed, in my view, by giving a form of home rule that gives control over domestic policy in Scotland, extending the controls the Scots already have from the devolution settlement of 1998, and adding control over the domestic economy, most of welfare and aspects of energy, while preserving foreign affairs, defence policy and overall macroeconomic stability within the union, which I firmly believe, and I suspect that most Scottish people, if not the SNP, recognise, is of great benefit to Scotland.

Q96 Baroness Dean of Thornton-le-Fylde: If you had devo-max or full fiscal devolution, and therefore all decisions over welfare and related social issues were taken in Scotland, what would happen to the social union? At the moment we share risks and there is a national system throughout the union. One could argue that it goes against the outcome of the referendum as such, but is it not just a stepping stone to independence? If you get full fiscal devolution and you decide entirely on welfare and the related issues around the whole of the welfare budget, why would you not then have separation completely?

Alun Evans: For the reason I gave the Chairman in answer to her previous question. I will answer your question: does it end up with a more fragmented welfare system? Yes, it does, but that is the nature of devolution. It has been the nature of devolution since 1997; arguably it has been the nature of the relationship between Scotland and the union from much further back. They have always had separate legal and education systems. It seems to me that one is just recognising the direction of history and the need for greater asymmetry by continuing devolution into other areas. But if you ask me why that necessarily leads to independence, I do not think that it does or should. There is a powerful argument that giving people control, particularly over their domestic affairs, and the responsibility that means in raising the money to pay for it, rather than relying on getting disproportionate sums of money from the UK, is a perfectly legitimate discipline to apply to Scotland. But I do not think there is necessarily a corollary that therefore it has to lead to independence. I know that some people want it to lead to independence, but I come back to this point: I believe that the majority of Scots do not want

independence—we know they do not want it—but would like a system of home rule, devomax or whatever you call it.

Baroness Dean of Thornton-le-Fylde: Can I probe a bit further on that point? Looking at higher education, you can almost compartmentalise it. If you go to university in Scotland there are various conditions, and similarly with the health service if you go to hospital in Scotland. There has been the opportunity to raise tax but it has not been taken. But the welfare structure, the welfare system, the state pension and all those related issues are the same throughout the union. I would argue that that is a much bigger step than having ring-fenced areas.

Alun Evans: I agree. The devolution of welfare would be one of the biggest steps one would make under my proposals. You could end up with different rates of welfare north and south of the border. But I come back to the point that that is a function of devolution. Recognising that seems to me the sign of a mature democracy; it recognises the way in which the union has evolved in different parts. Not to do that runs the risk of saying, “We are not listening to the desire of the Scottish people for further devolution”, and also runs the risk that if there is a further referendum it would be between a vision of Scottish independence, albeit independence light with some aspects still shared with the union, and the current system of devolution that many people in Scotland do not think has gone far enough.

Lord Lester of Herne Hill: I understand exactly what you are saying, Mr Evans, but in your view what would happen if one of the devolved countries—not only Scotland; it could be Northern Ireland or Wales—were to adopt a welfare policy that effectively involved inhuman or degrading treatment, or something of that kind? In other words, without starving people to death, it fell well below what you and I would regard as the minimum. In your idea of home rule or whatever, what would be the limitation on the devolved institutions to ensure that the safety net was not set so low that something appalling would happen to our fellow citizens in that part of the United Kingdom?

Alun Evans: I could say that that is a very hypothetical question that I choose not to answer, but I will answer it. The whole point of devolution is that there is a democratic mandate for the people within the three parts of the United Kingdom other than England. I am not ducking your question, but what is more likely is that people would seek to increase welfare payments, particularly in Scotland, and that has certain implications in terms of both where you raise money and how you manage it. That is something that people can vote on at the election. If somebody introduced a more degrading system, apart from the media backlash there would no doubt be, there would surely be a political backlash the next time there was an election.

Lord Lester of Herne Hill: Perhaps I have not put it clearly enough. The South African constitution has safeguards built into it about fundamental economic and social rights, as well as civil and political. What I am asking is whether or not you regard your scheme as needing to be buttressed by a similar guarantee of basic rights of citizenship throughout the union.

Alun Evans: Whether you change human rights legislation? I do not think it is a necessary condition for what I am proposing. I suspect it could be something that Scottish politicians would like to introduce.

The Chairman: In a sense my question follows from that. If we were to go down the route of more fiscal autonomy, as you suggest, what do you think the implications would be for other parts of the United Kingdom? A lot of what has happened already has been demand-led. Would your proposals lead to others wanting to leapfrog or do more? Do you see implications for other parts of the United Kingdom?

Alun Evans: Yes, I do, and that is quite healthy if it comes about. Indeed, it plays into what the Government are currently trying to do with the northern powerhouse and elsewhere by devolving more resources and tax-raising powers, one hopes, lower down; but it leads to certain implications and certain responsibilities. One of the risks, or challenges, I foresee for Scotland under home rule, or indeed Wales, Northern Ireland or parts of the United Kingdom if they were given more responsibility, is how they go about raising the money. I am not sure that the Scottish Government would agree with this, but at the moment Scotland gets more per head than the United Kingdom; there were figures out from the Treasury last weekend. If that were equalised, the Scottish Government, to take the Scottish example, would have to make a decision on whether they raised more money from taxation, which would probably have to be from most standard rate taxation because there are not many higher-rate taxpayers in Scotland, or whether they would seek to make it by borrowing money on the open markets, which again would have implications in terms of higher costs of borrowing. That comes back to my point that there is quite a benefit from the overall macroeconomic stability of the UK financial model.

Q97 Lord Lester of Herne Hill: I want to ask you about the territorial implications of what you are suggesting, especially the English problem—that England is so big compared with the rest. What you are advocating, whether you call it federal or home rule, would have implications for England. Do you envisage a way of solving the problem of the huge size and importance of England compared with the rest of the UK?

Alun Evans: As you rightly suggest, the problem is the disparity in the size of the four component parts of the United Kingdom, which is why a traditional-type federal model is not

appropriate for all sorts of reasons. The best answer I can give to your question is that a quid pro quo, as I said, of giving further devolution or home rule to Scotland is that by definition you have less political clout within the United Kingdom Government. I proposed that that should be done by reducing the number of MPs that Scotland has at Westminster, in the same way that previously in Northern Ireland there used to be fewer MPs in recognition of devolution at Stormont.

Personally, I think that is a better solution to the problem you set out, Lord Lester, than the current English votes for English laws procedures, which I think will run into difficulties. I suspect that the SNP would not approve of what I am proposing, but there is a compelling logic in it. If you had independence, you would lose all your seats at Westminster. If you have a much higher level of devolution/home rule, you will lose a proportionate number of seats at Westminster. That seems to me to be defensible logic.

Lord Lester of Herne Hill: Trying to get a coherent framework for the country as a whole, would you be against or in favour of a rolling programme, Spanish style, in which parts of England could opt in to a more devolved system in England when there is a demand in that area to do so, as other witnesses to us have suggested?

Alun Evans: In theory, I would agree with that, without knowing the exact details. But I suspect that the issue for the northern powerhouse, if it works, is to increase the level of devolution to a particular region of England, just as the introduction of more mayors in the London model will do the same. If it can be made to work fiscally and fairly, it seems a perfectly legitimate direction in which to go—and, I suspect, one that people would welcome.

Q98 Lord Norton of Louth: I want to follow up on your point about asymmetry. I was going to ask a normative question but I think it is inherent in what you have just said. Some witnesses said that they see it as a virtue; others say it underpins instability. As we proceed along this route, how do we actually cope with it in terms of the Government and the departments? How well geared are the Government to coping with asymmetry and keeping abreast of it?

Alun Evans: I think that the UK Government are very bad at coping with asymmetry. But one of the challenges and one of the strengths of devolution is that it leads to asymmetry, and that should lead to greater stability because there is greater acceptance of the process within the different parts of the United Kingdom. The challenge for government is to move away from the traditional model, which is London-based or Whitehall-based government, to loosen ties, to celebrate devolution and asymmetry and as a result to move to a much more devolved

system of power, which works perfectly well in other countries but has never really worked particularly well in Britain—but it could do.

Lord Norton of Louth: So stability would come from popular acceptance; that would underpin it. So it is then making sure that the structures are in place in the way you have just outlined. How do we get from here to there? How straightforward would it be?

Alun Evans: One of the ways, just picking up what I said in my final remarks, is by ensuring that one gets greater movement within the Civil Service of people working within different organisations. One of the downsides over the last 30 years, while I was in government, particularly in the 20 years after devolution, is that many fewer civil servants move between the two Administrations. Indeed, there is very little movement between central and local government. If one had a system that encouraged people to move between the systems—obviously we would need to support it in some way—you would get a much greater exchange of expertise and much greater understanding of new approaches. I will give one example to prove it. The Scottish Government have been exceptionally good in the way in which they join up horizontally in terms of policy-making and policy delivery. The UK Government, although we have talked about joined-up government, have been far too departmental and vertically based. There is a lot that we could learn from the way in which the Scottish Government have addressed cost-cutting issues. Introducing that type of approach to the way some UK Government departments analyse policy could be much better for policy-making and delivery in Britain.

Lord Norton of Louth: Were you indicating earlier that that should be within the context of a unified Civil Service?

Alun Evans: Yes, I believe in a unified Civil Service and the benefits that it brings.

Lord Norton of Louth: You indicated your preference for reducing the number of MPs—the Northern Ireland solution—if you go down the route you are indicating, but for the moment we have English votes for English laws. What problems will that create from the point of view of civil servants? Do you envisage any?

Alun Evans: There are quite a lot of problems. I would not say I am an expert on EVEL. It is being introduced quite quickly, because it was introduced as a concept the morning after the referendum rather than being given more considered thought in terms of the reshaping of the constitution. Leaving that to one side, we are already seeing the potential pressures and bottlenecks that will face the Speaker in terms of making decisions. To take the example of Sunday trading in Scotland versus England, an argument could probably be made that any

policy in England could theoretically have implications for Scotland. So you will get this problem in every policy area apart from some of the most trivial, non-important ones.

Q99 Baroness Dean of Thornton-le-Fylde: I am going to ask you a question that you could take all morning to answer, but please do not. You might want to follow up afterwards in writing. Because of your background and your experience, with the extension of the Scotland Bill and the Wales Bill, in your view how will Government departments have to adapt and change? Will the Scotland Office and the Wales Office also require change?

Alun Evans: As I said in reference to Lord Norton's question, probably the days of individual departments for Scotland, Wales, Northern Ireland and the Cabinet Office have passed. I would be happy to follow up in writing. The more important issue is to get a different culture within UK Government departments, to recognise and build on what has been achieved in the devolution model rather than somehow, if not fighting against it, being slightly grudging in celebrating what goes on. That would be a good thing.

Baroness Dean of Thornton-le-Fylde: It would be interesting to get your view on what changes would be needed.

Alun Evans: I am happy to follow up if you would find that useful.

The Chairman: Thank you very much. I am sorry that we are short of time this morning, but that was very interesting. If you would follow up, we would be very grateful.

Alun Evans: Thank you for your time. I enjoyed it.

Examination of Witness

Professor Philip Booth, Institute for Economic Affairs

Q100 The Chairman: Good morning, Professor Booth. Thank you for coming. You heard a little of our exchanges, and we may follow some of those lines later. Is there anything you would like to say at the beginning by way of introduction?

Professor Philip Booth: Not especially. I am not an expert on the constitution particularly; I am a public policy expert more generally. I came to the conclusion that is discussed in the book *Federal Britain* as a result of analysing this problem from a public policy perspective, almost ruling out every other possibility first and then coming to the conclusion in the book and thinking that it would be very difficult to improve on it. It is something I have thought about over a period of years, and to some extent I got there because I thought that nothing else could work in our current situation—other than Scottish independence, which may or may not happen and of course renders any other discussion moot.

The Chairman: Starting with your ideas about a federal solution for Britain, most of the people we have spoken to think that there is a very basic problem with that concept, namely that England is so large—both in terms of population and wealth—that in the context of looking for a stable situation it seems somewhat of a big barrier to overcome.

Professor Philip Booth: I do not think that is a barrier at all. A very large number of federal Governments around the world have very different situations in relation to the population size of the units within the federal entity. Australia, for example, has some very tiny states and two pretty dominant ones; Switzerland has an incredible variety of population sizes within the cantons; and so on. It depends of course what you compare it with. Even when we had a completely unitary United Kingdom with no Scottish devolution at all, the Scottish National Party used to talk about the Westminster problem, whereby the Westminster Government were essentially controlled by, in those days, the Conservative party, because 85% of seats, or a bit less, were English seats. So any solution other than Scottish independence is going to have the problem, if it is a problem, of a large, dominant part of the United Kingdom that controls a large proportion of parliamentary seats.

The federal solution deals with it rather better. Certainly under my proposals, what would happen is that the federal Government would have responsibility for only a relatively small range of issues where there really was a common interest—border control, defence, foreign policy and so on. Other issues where you might get problems of what economists call rent-seeking—one part of the country trying to enrich itself at the expense of another part of the

country or whatever—would be handled by the nation states in any case. So given that I propose that the federal United Kingdom controls things only where there should be a strong common interest, I do not really see that it should be a problem—and if it is a problem, it will be a bigger problem with any other solution.

The Chairman: The United Kingdom Prime Minister would have significantly less power and influence than the English Prime Minister.

Professor Philip Booth: It depends what your main concerns are, I suppose. If your main concerns are security, defence, border control and those sorts of things—the traditional night-watchman functions of government—including relationships with the European Union, and if you believe that they are the primary functions of government, the United Kingdom Prime Minister would be more important than the English Prime Minister. If your main concerns are health, education, welfare, et cetera, the English Prime Minister would have more power than the United Kingdom Prime Minister. But that is a perfectly good and reasonable thing. There should be more decentralisation of these issues.

Q101 Baroness Dean of Thornton-le-Fylde: I have a couple of questions on welfare and I will put them both together. What would be the purpose of the union in a new federal system if you had total devolution of all fiscal policy as such to, in this case, Scotland, but to the other nations, too? Would not the reaction be, “Well, you are giving us all fiscal policy but we are not going to have defence or monetary policy as well”? How would you be able to get agreements that would be long-lasting rather than an Elastoplast that we would then come back to?

Professor Philip Booth: This would be a longer-lasting and more stable solution than any other solution. There is resentment in England about the perceived iniquities of the Barnett formula and so on—whether they are iniquities or not is a different matter. There is resentment in Scotland that it is a relatively small country that could manage an awfully large number of things better if they were devolved, such as welfare. For the vast majority of the union’s existence, the state did not get involved with issues such as welfare, health, education and so on. In so far as it did, they tended to be dealt with at local level or at Scottish and English level separately; Scotland and England developed quite different education systems, as did the Welsh to some extent.

We have this obsession in the UK with everything being identical, the opposite of which is often described using the words “postcode lottery”. We should experiment a bit—indeed, a lot—with allowing not just the nations within the UK but local areas to have wide differences in terms of the approach they take to welfare. They might learn from each other. They might

be able to experiment with things. They might be able to develop a policy that is much more appropriate for their local situation than a unified welfare policy across a country of 65 million people.

Baroness Dean of Thornton-le-Fylde: In a nation that has had and used the Barnett formula and claims that it wants to keep the Barnett formula—obviously that has been conceded in the Scotland Bill—if you were talking about full fiscal independence as such, how would you be able to provide for the people of Scotland if the whole fiscal area went to Scotland on an equal basis? Or are you saying that you need to continue with the support that is given at the moment?

Professor Philip Booth: No, I do not think that you should continue with the support that is given at the moment. It has not been at all helpful to Scotland, first, to have this bias in the public spending formula so that Scotland has become so dependent on the state, or the size of the state. Secondly, Scotland could run a welfare system that is appropriate for Scotland and much more effective than the welfare system determined centrally by the United Kingdom. A lot of countries that are an awful lot smaller than Scotland run welfare states that are appropriate for their needs. They are perhaps more flexible and able to deal with local-level problems more effectively than a welfare state across nearly 70 million people.

Baroness Dean of Thornton-le-Fylde: Let us take the health service. Are you saying that the health service should, under your proposals, be totally funded from within Scotland?

Professor Philip Booth: Yes.

Q102 Lord Lester of Herne Hill: The other countries to which you have just referred all have constitutions that guarantee basic rights of citizenship and fundamental rights quite irrespective of what treaties may say. So they all have domestic guarantees. As I understand your position, you do not mind at all the idea of devolving human rights and fundamental rights on a broad scale, provided it satisfies the European Convention on Human Rights. Is that your position?

Professor Philip Booth: It is. I cannot say that I have thought about every possible nook and cranny and potential variation and anomaly within that position, but my broad position is yes. Assuming the UK remains a member of the European Union and a signatory to the European Convention on Human Rights, it would in effect provide the human rights framework for the UK as a whole. When it came to other things, and I have listed one or two of them in the paper, such as abortion, euthanasia, marriage and that type of thing, they could be dealt with at national level. Indeed, in some of these examples, that is already the case. I think I am right in saying that Scotland for a long time—I am not sure whether it still does—had separate

marriage legislation from England and Wales. Northern Ireland still has different abortion legislation, which is widely supported by the people of Northern Ireland. In England and Wales, it is different from Northern Ireland and there is more support for a different position in England and Wales. In a lot of federal systems, the United States being one example and Australia in regard to some of these issues being another, these things are determined below national level. I do not think there is any reason why that should not be the case with regard to the UK, particularly given Scotland's separate legal traditions.

Lord Lester of Herne Hill: In the other federal systems—the United States, Canada or Germany, for example—their courts, among others, apply federal standards; there are certain basic rights of citizenship that cannot be eroded by the states or the provinces. I am not clear at all about your position on that. Are you relying only upon the EU laws and the European convention to limit what may be done under your scheme, or are you advocating some kind of Bill of Rights and Freedoms that would guarantee the basic rights of citizens wherever they happened to be within the United Kingdom?

Professor Philip Booth: Whether you have a Bill of Rights is a separate issue, which it is important to discuss regardless of whether or not you move to a federal system. Currently, basic rights in the UK are largely determined under the Human Rights Act and the various conventions that we have signed. There are other aspects of legislation, some of which are already devolved—I think abortion is in the process of being devolved to Scotland—where you do not need uniform approaches across the whole of the United Kingdom. The experience of other countries, and the UK in the past, demonstrates that. If we moved from the approach of integrating European law and European human rights into our own legal system to have an entirely separate Bill of Rights, it would make sense for that to apply across the UK, but it ought to deal with the things that are currently dealt with by the European convention rather than things such as what marriage laws should be or what the law relating to euthanasia or abortion should be.

Lord Lester of Herne Hill: Could I follow that up? Does it not trouble you, for example, that a gay couple in Northern Ireland cannot have a marriage, which they could have in the rest of the United Kingdom, or that a publisher in London publishing newspapers has to comply with a Defamation Act in England and Wales but not in Northern Ireland, which has an antique common-law system? Those kinds of examples are ones that people like me keep quoting. What I am interested in is whether they trouble you or not.

Professor Philip Booth: No, they do not trouble me at all. They currently exist and there are some proposals to remove those differences. It does not trouble me. In principle, I believe in

legal competition, and that as a result of that legal competition you protect liberties rather better than you do if you have a unitary system where the same policy applies absolutely everywhere and it cannot be changed gradually, one place at a time.

Q103 Lord Norton of Louth: I want to tease out some of your views on the existing situation. You expressed them in your article but this is giving you a chance to tease them out a little, particularly what you see at present with the problems of the West Lothian question for devolution and the union. Essentially, you are arguing that it creates instability.

Professor Philip Booth: Yes. It has created an unsustainable situation, which is why there is the English votes for English laws proposal. I am not sure whether it has been entirely passed or not. The whole situation is rather confusing, as I might be able to express in a moment. I do not think you can continue with a situation where 18% of Members of Parliament are elected by nations with devolution and where those Members of Parliament come to Westminster and are able to vote on issues that do not affect their constituents at all. Something is going to crumble somewhere. It has to be dealt with by a lasting, sustainable and watertight solution. As I mentioned in the paper, there were even rumblings of problems when the Ulster Unionists were able to scupper legislation that Harold Wilson wanted to put through when he had a tiny majority.

Lord Norton of Louth: Yes. So your view would be that the only way to answer the West Lothian question properly is that either we would have to revert to a unitary state or, at the other end, go towards a federal system—that is the only way one could properly answer the question.

Professor Philip Booth: Or have Scottish independence.

Lord Norton of Louth: Yes. But until one moves to that, however, your point is that it is going to be inherently unstable.

Professor Philip Booth: Yes. You have to find a mechanism whereby Members of Parliament who represent constituencies that the issues do not affect do not vote on those issues. English votes for English laws is one way of trying to deal with that, but I do not think that it is stable and I do not think that it will work.

Lord Norton of Louth: There is an alternative view. I do not know whether you heard Alun Evans before you. One of the proposals he put forward is an alternative to English votes for English laws, which is the Northern Ireland solution, if you like. You reduce the number of Members from Scotland so that at least it means each Member is the same when they are deciding matters. Would that not be something that might provide a solution?

Professor Philip Booth: It might do and it might work, but if it works it will work only as a result of luck. Northern Ireland has a population of about 1.5 million and at the moment only 18 MPs—of course, that was 12 in the past when they had a devolved Assembly—so it is really rather unlikely that the Northern Irish MPs would crucially affect an important vote in the United Kingdom Parliament. This could work two ways. Imagine that there was a vote to go to war, which is not inconceivable at the moment, and Scottish MPs were underrepresented and the UK Parliament voted to go to war. The other possibility is that there is a vote on a major issue to do with health reform, where the reform is undermined as a result of the campaigning of Scottish MPs. That actually happened under the last Labour Government and Gordon Brown watered down the proposal, even though the proposal would not have affected the Scottish Members at all. England did not get what it wanted as a result of the action of the Scottish MPs. So this could work in both directions. If it happens with a crucial issue, especially where Scottish Members are unrepresented and it relates to something like going to war, there will be a constitutional crisis. It will not be stable.

Lord Norton of Louth: Would you regard that, from your point of view, as unstable and as bad as English votes for English laws?

Professor Philip Booth: English votes for English laws has different problems. We will not really understand the extent to which those problems turn out to be realistic and practical issues rather than theoretical problems until it is tried. The problem with English votes for English laws is that you will potentially have a UK Government elected of one colour; they do not have a majority in England but all the Ministers are appointed by the UK Government, which then cannot pass legislation in relation to certain things (such as health and education). As I said earlier, people have different priorities for different things, but health, education, welfare and these types of things are regarded as very important. Of course, welfare is not devolved, but health and education are regarded as very important. That Government may not be able to pass legislation on those issues.

Furthermore, all these issues have fiscal consequences, and that raises the question of exactly when English votes for English laws should apply. You also create two categories of MP. And, also, when a Government has a majority in the United Kingdom but not in England, what is to stop them simply repealing English votes for English laws? It was easy to pass; it will be easy to repeal. The irony for the Conservative Party might be that it has passed legislation that marginally affects things while it is in government itself and then is repealed when it hopes that it will work.

Lord Norton of Louth: The whole point of the West Lothian question is premised on the fact that there are two classes of MPs already. What about the argument that in fact very few Bills will be certified under the provision of English votes for English laws, so it might not be that disruptive or that unstable in the way you are suggesting?

Professor Philip Booth: It will either be disruptive or it will not achieve what it is meant to achieve. It cannot resolve the West Lothian question and not be disruptive; let us put it that way.

Lord Norton of Louth: It could achieve what it is meant to. People in England could feel that at least if it is exclusive to England it will be decided on, or at least there will be a veto, by English Members. At least that is fair, if needed, even if it is not much used.

Professor Philip Booth: It might be. That would depend upon sentiment rather than rational analysis, which is why it is possible that English votes for English laws might be okay, but I can see a large number of minefields in front of it. Potentially, I do not think that it is stable.

Lord Lester of Herne Hill: If Edmund Burke was sitting here listening to you, I wonder whether he would be arguing for Parliament itself to be a collegiate, cohesive institution and against the idea of cutting it up into different national, racial, ethnic, linguistic or anything else you like sections. Is your view that we should aspire as a United Kingdom Parliament to that kind of notion, or that we should really be dividing up into different parts of the United Kingdom in the way that we organise Parliament?

Professor Philip Booth: No, I do not think so. I think we should have one Parliament for a federal UK, which would be much more Burkean in the way it operated because it would be responsible for a much smaller range of issues: the sorts of issues that were considered by Parliament when Burke was around, such as defence, foreign policy, basic liberties and that type of thing. Other issues, which may be quite vital to the population but are of less profound importance, certainly as far as Burke was concerned, would then be handled at national Parliament level. I have also suggested of course that these functions are radically decentralised and radically localised, as they were when Burke was around. So it would raise the status of Parliament once again to a body that met to discuss crucial issues of national security, the defence of the realm and the control of borders. It would return us to those sorts of days.

Lord Lester of Herne Hill: But not social welfare and human rights.

Professor Philip Booth: From the early 19th century to the early 20th century, the national Parliament had very little role in social welfare. The solutions that developed were either community-based solutions or local solutions. They were not nationally legislated solutions.

Lord Lester of Herne Hill: Some of us might think that we have made some progress in the 20th and 21st centuries.

Professor Philip Booth: You might think so, but when we operate things such as welfare, health and education in such a centralised way across a country of 65 million people, as I keep saying in the book, we are really rather an outlier in those terms, especially with regard to the revenue that is raised by subnational levels of government.

Q104 The Chairman: I want to ask you about decentralisation. That seems to be the logical next area to talk about. Do you think it is important that we should have some symmetry in the provisions that are made? I am not sure whether you are familiar with what the Government have been proposing. Everybody has heard about the northern powerhouse—

Professor Philip Booth: City deals and so on.

The Chairman: Indeed, and the Cities and Local Government Devolution Bill. Do you think that these are helpful or are they going to create difficulties? Do you think we can have a patchwork, or will that create different problems?

Professor Philip Booth: I think that potentially it will create problems. I will not say that they are necessarily a bad thing, but it is not nearly as good an approach as having a radical programme of decentralisation, especially in terms of tax raising and revenue raising. We really are an extreme outlier when it comes to the proportion of revenue raised by subnational government, especially as far as large countries are concerned. It is arguable in some cases whether city deals actually lead to decentralisation or to a greater degree of centralisation. Many of them involve combining local authorities that will suck up powers from lower levels of local government to higher levels of local government. Some of them involve regulating things that were previously not regulated, especially in the area of transport. You may think that is a good thing or a bad thing, but it does not involve decentralisation.

My other concern is that it tends to create what economists call the potential for rent-seeking. In other words, if there is a powerful interest group—it might be a combination of business and political interests in Manchester, say—and an action by the Government might be influenced by the existence of marginal seats or whatever in the relevant region, you are potentially getting an unhealthy relationship between local authority bureaucrats in some large cities and the Government, where certain things are done for one locality, one city, at the discretion of the Government and they are not done elsewhere. The only way you will get things done or get powers for your city devolved from the Government is if you make a big fuss about it. I would rather have a big government programme of decentralisation down to local government.

The Chairman: With some consistency across the board.

Professor Philip Booth: Yes. I have suggested, for example, that pensions policy would be handled at nation-state level. Health and education would be financed at nation-state level, but we need a much more decentralised system of provision, and working-age welfare would be financed at nation-state level but managed by local government.

The Chairman: That is the principle of subsidiarity.

Professor Philip Booth: Exactly, yes.

The Chairman: Do you think that should take into account or override a principle of efficiency? If it is more effective or more efficient to provide on a larger scale, should you be pushing in that direction or should you accept that you do it at as low a scale as possible, regardless of cost, if that allows the principle of subsidiarity?

Professor Philip Booth: There are a lot of advantages to localisation and the ability to experiment using local knowledge, adapting the system for the needs of the local area and so on. The only reason for centralisation is where you get the potential for one area of government or one local authority area to predate on another area—in other words, do something that imposes costs on another area. If it is simply an issue of efficiency, there is no reason at all why local authorities cannot combine together to create an efficient scale. That is already done to some extent in London in relation to the administration and management of services. It is done in Buckinghamshire in relation to the fire service. It would almost certainly happen in relation to policing, if that was decentralised to local authority level. If it is simply a question of efficiency, the smaller units have an incentive to combine with other smaller units and it would be in everybody's interest to do that. You do not have to have that dictated by central government.

The Chairman: If there are no other points anybody wishes to raise, I will thank you very much indeed for coming.

Professor Philip Booth: It was a pleasure.