



Public Administration and Constitutional Affairs Committee

Oral evidence: Inter-institutional relations in the UK, HC 525

Monday 7 December 2015
(Cardiff)

Ordered by the House of Commons to be published on 7 December 2015.

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Members present: Mr Bernard Jenkin (Chair); Paul Flynn; Kelvin Hopkins; Mr David Jones; Mr Andrew Turner.

Questions 1-149

Witnesses: **Dame Rosemary Butler AM**, Presiding Officer, National Assembly for Wales, and **Adrian Crompton**, Director of Assembly Business, National Assembly for Wales, gave evidence.

Q1 Chair: Welcome to our two witnesses at this session on inter-parliamentary relations in the United Kingdom. I invite each of you to identify yourselves for the record, please.

Dame Rosemary Butler: Yes. Bore da a chroeso i Gynulliad Cenedlaethol Cymru—good morning and welcome to the National Assembly for Wales. I am the Presiding Officer at the National Assembly of Wales. I have with me Adrian Crompton, who is my Director of Assembly Business.

Chair: Paul Flynn has something to say.

Paul Flynn: Mae'n hyfryd i fod yma—it is wonderful to be here as a member of the Public Administration and Constitutional Affairs Committee. I was trying to get the Chairman to say this, but he declined, but he has done the “bore da” splendidly. Lovely to be here and to see you again, Rosemary. It is at least 24 hours since I saw you last.

Dame Rosemary Butler: Absolutely, thank you.

Chair: Thank you very much for being with us. The purpose of our visit and this session is to try to start a more engaged conversation between Members of our various Parliaments and Assemblies, not so much about how things are currently working but where we want things to finish up in the longer term. We had a very, very good informal discussion last night with people who shall be nameless, because it was a discussion under

the Chatham House rules, but we felt that we had already advanced our understanding considerably. We have a list of questions, but I would like you to feel that we can have a fairly free discussion. It feels very impolite for a mere Committee Chairman to say to a Presiding Officer please keep your answers short, but if I may have that privilege.

Dame Rosemary Butler: Feel free, feel free.

Chair: Thank you very much.

Dame Rosemary Butler: It is a lovely feeling when you do it.

Chair: We will keep our questions as short as possible as well.

Q2 Mr Andrew Turner: Dame Rosemary, today's session marks the start of our inquiry into inter-institutional relations in the United Kingdom. What is your assessment, as Presiding Officer, of the level of co-operation and collaboration between the four UK institutions?

Dame Rosemary Butler: Thank you very much. Can I, first of all, welcome the Committee to a meeting here in Cardiff? This is an example of mutual co-operation and understanding, which we do need to encourage further.

Across the four nations of the Union, new devolution arrangements are progressing at a remarkable pace. If we want a clear enduring settlement for the UK a coherent pan-UK approach needs to be taken, based on the principle of subsidiarity. To get us there I believe that we need genuine collaboration and discussion between the four nations on an equal basis, and that the devolved legislatures must play a key role in that. There is increasing recognition that inter-parliamentary relations are essential to collaboration on areas of common interest, not just on constitutional matters. One important area should be oversight of inter-governmental relations, and in my experience such inter-parliamentary working can be invaluable. I believe that increasing the level of joint working through informal flexible means would be an effective way of progressing before we attempt to create more complex structures.

But inter-parliamentary relations were what you were asking about, Andrew. There are already a number of existing inter-parliamentary arrangements in place. As well as meeting regularly with my counterparts—that is, Speakers and Presiding Officers—at quadrilaterals, there is also co-operation at other levels, and these arrangements present an opportunity to improve understanding of the settlement across the Union, share experience and good practice and co-operate on areas of common interest.

Shall I give some examples? You are probably aware of them. The Assembly's Standing Orders provide for concurrent meetings of Assembly and parliamentary Select Committees. I know there is special provision within Standing Orders of the House of Commons for the Welsh Affairs Committee to invite members of the Assembly Committees to participate in its proceedings, and I think they should be extended to other Commons Select Committees. Last month the Assembly's Constitutional and Legislative Affairs Committee and the Welsh Affairs Committee had their joint evidence session on the draft Wales Bill, which I understand was very successful.

Q3 Mr David Jones: Good morning, Dame Rosemary.

Dame Rosemary Butler: Good morning.

Mr David Jones: Before I ask you the questions I was going to ask, you said something in your response to Mr Turner that I found quite interesting. I think the way you put it was, “There is a need for discussions between the four nations on an equal basis”. I can understand how that can be achieved in the case of Scotland and Northern Ireland, but how do you achieve that in the case of England, which, of course, doesn’t have its own representative body?

Dame Rosemary Butler: What is happening at the moment is that devolution, as I said earlier on, is moving on at a pace, and nobody is sitting down and thinking that through. Everything seems to me to be done fairly on the hoof, instead of sitting down and saying, “Right, this is where we are; if we had a blank sheet of paper, what would we do?” Of course, we have the Scottish issue, and that referendum sped things up. English votes for English laws came in very quickly on the back of that. It is something that I can’t answer today, but I just generally think everybody needs to sit down round a table and start looking at how we are going to address this issue.

Q4 Mr David Jones: Because it seemed to me that what you were suggesting by saying that the four nations need to have those discussions was that there maybe needs to be some form of uniquely English representative body to conduct those discussions. You mentioned that things were being done on the hoof; are you saying that the devolution settlement, which we now have across the whole of the UK, was possibly not well conceived?

Dame Rosemary Butler: No, I am not saying it wasn’t well conceived. I think it is being rushed, and that is my concern. At the moment we have a bilateral discussion between Scotland and Westminster on things happening in Scotland, and I wouldn’t want Wales to have whatever it is that they are going to decide for Scotland and England and say, “Okay, we will give it to Wales”. Because it is not just England—the northern cities are now getting devolution suddenly without saying, “How is it going to work?”

Q5 Mr David Jones: When I asked the question I wasn’t thinking about what is going on at the moment, I was talking about what happened in 1997 to 1999. It seems to me that what we are now trying to do is to re-engineer a process that was put in place back then, because frankly it has been shown not to work very well.

Dame Rosemary Butler: That is probably a paper for a thesis. What happened then happened then. What I am seeing happening now is that we must not fall into the same situation. Any agreement we reach now must be lasting and must be sustainable, and we don’t want to revisit it again in another 10 years. My feeling is that we are dealing with things in a different way for different parts of the United Kingdom. It is not for me to sit here and say what should happen in England, I just feel that we should step back and say, “Okay, what is the best thing for the United Kingdom? How are we going to run it in the future?” Did you want to come in on that, Adrian, or not?

Adrian Crompton: By all means, yes.

Q6 Chair: While you have a think, may I just interpolate two points in the interrogative? One is how we, the four nations, could sit down on an equal basis. The only way we can do that is outside the formal structures, as elected representatives of different parts of the United Kingdom. That would be on the basis that each part of the United Kingdom only remains so subject to the consent of its people. If Scotland voted to leave the United Kingdom, or if Wales voted to leave the United Kingdom, that is the basis on which we are all equally a part of the United Kingdom, including England. If England voted to leave the United Kingdom, hypothetically, we are only in the United Kingdom on that equal basis. That is not a pretence that the United Kingdom Parliament is on an equal basis with the other Assemblies constitutionally, because that is obviously not the case. The other point I would make is that looking at where we are, a very good adage would be that we are where we are. To find success or failure in the present arrangements is not about seeking to blame but just about seeking to learn, and I think that is what we want to do.

Dame Rosemary Butler: I agree with that entirely, and that is why I am suggesting that inter-parliamentary links are important and that we can't start off on a formal footing, mainly because trying to get meetings is quite difficult. It is not for the want of wanting to do it—it is the fact that we all have busy timetables, Assembly Members here are on two or three Committees. It is about timing, and where do we meet? Often these things in the past have been on an informal basis, which has worked incredibly well.

Mr David Jones: It is actually the question I was just about to ask you—

Chair: Could we just have Mr Crompton first?

Mr David Jones: Sorry, yes, Mr Crompton.

Adrian Crompton: At the risk of taking us back, just to address Mr Jones's point, the draft Wales Bill, if it is introduced next year, will be the fourth piece of Wales-specific devolution legislation since 1999. That is a signal that there are issues with the settlement that have needed to be addressed over that time, so obviously it is in the interest of the Assembly that this next piece of legislation is as close to a lasting settlement as it is possible to get.

Mr David Jones: Which was the pious hope back in 1999.

Dame Rosemary Butler: We should learn by history, shouldn't we?

Mr David Jones: Absolutely.

Dame Rosemary Butler: Absolutely, and that is the point I am making—let's slow it down, let's just make sure that we are going to get it right.

Mr David Jones: I think you are absolutely right.

Dame Rosemary Butler: Gosh, sorry, can we just minute that? David Jones said I am absolutely right.

Chair: Yes, that is the purpose of these sessions.

Mr David Jones: This is the purpose of the conversation.

Chair: We are looking for agreement.

Dame Rosemary Butler: Yes, it is wonderful.

Q7 Mr David Jones: In practical terms, you mentioned joint workings between Assembly Committees and the Welsh Affairs Committee, but how much contact, apart from those events, do the Assembly and Assembly Members have with parliamentarians at Westminster and colleagues in Stormont and Holyrood?

Dame Rosemary Butler: Certainly Committees visit other institutions in Holyrood, in Belfast, and I know that they visit their colleagues in Westminster. There is a lot of individual contact and informal contact between Chairs of Committees and Chairs of Committees in Westminster, so there is a surprising amount that goes on. But we just need to be more aware of it, I think.

Q8 Mr David Jones: What about formal contacts? You mentioned the joint workings between the Assembly Committee and the Welsh Affairs Committee. Are there many other forms of formal contact between Assembly Members and their colleagues in other parts of the country?

Dame Rosemary Butler: There is much more contact between the devolved powers than there are with Westminster but, Adrian, can you give us some examples of formal ones?

Adrian Crompton: Yes, there is the British-Irish Parliamentary Assembly, and in respect of some policy areas the members of relevant Committees self-organise networks. Certainly in relation to European issues, those Committees are relatively active. At a staffing level there are networks all over the place—there are research networks, procedural clerking networks and so on. The Presiding Officer mentioned at the outset her own group, where she meets with the Speaker and the Presiding Officers and Speakers of the other four nations.

Mr David Jones: I am going to come to that in a minute.

Dame Rosemary Butler: David Davies, who is Chair of the Welsh Affairs Committee, has said that it works very well and that our relationship has changed over time for the much better. He is recommending—I am not sure to whom—that the existing power of the Welsh Affairs Committee should be extended to more general powers, doing the job of other Select Committees. That is hopefully one way forward.

Q9 Mr David Jones: I was interested to hear you say that there was more contact with the other devolved Assemblies than there was with Westminster itself. It seems to—

Dame Rosemary Butler: More formal.

Mr David Jones: Yes. That seems odd to me, given that there is a huge amount of crossover between what the Assembly does and what Westminster does. You mentioned the issue of Select Committees. For example, transport is an issue that is partly devolved

and partly reserved to Westminster, and I would have thought that maybe transport was a case in point where there should be a lot more working between the Assembly and Assembly Members and their counterparts at Westminster.

Dame Rosemary Butler: Can I just ask for confirmation of the fact that—I think it might be my perception—there are more contacts between Scotland and Northern Ireland? I might be absolutely wrong, I just need to have that clarified.

Adrian Crompton: I am not sure that would be the case in terms of formalised relationships. Day to day there may be some high level of informal relationship between members of the devolved institutions, but I wouldn't say it is a significant feature.

Q10 Mr David Jones: Could we go back to my question about the example of transport? It seems to me that that, from a Welsh perspective, is an area where more contact, and possibly more joint working, would be beneficial for Wales and for parts of England too.

Dame Rosemary Butler: Are you talking about inter-parliamentary relationship or inter-governmental?

Mr David Jones: Both really, but certainly inter-governmental, I know that those contacts do exist, and we will be hearing more about that, I am sure, shortly. But in terms of Assembly Members liaising with, for example in that particular case, the members of the Transport Select Committee, it seems to me that that is an area where there could be possibly great benefits for Wales.

Dame Rosemary Butler: That is just one example, and I think there are lots of others.

Mr David Jones: Yes.

Dame Rosemary Butler: That is why we should pursue it, but to do it in a formal footing it is going to be very difficult to organise. Between Committee and Committee, between Members and Members, that would be a very good step.

Q11 Mr David Jones: What would be the practical difficulty in organising those sorts of contact?

Dame Rosemary Butler: It is when you are available Mondays and Fridays. You tend to be not in Westminster and my Members tend to be in their constituencies, so that is quite a difficult one. It is also about trying to get you here and us there. In fact we could use that fantastic system behind you, which is video conferencing. We could be much more electronically aware of how we can contact each other. But it is also about the fact that we are short of resource here in the numbers of Members we have. Trying to deal with three or four Committees does impinge on their time, and trying to find extra formal meetings can be a bit of an issue, but where there's a will there's a way.

Q12 Mr David Jones: There is a transport committee of the Assembly, I take it, is there?

Dame Rosemary Butler: Not a specific transport committee.

Adrian Crompton: It illustrates the issues, so transport as a subject is within the portfolio of the Enterprise and Business Committee.

Mr David Jones: Yes, but there is a Committee that has within its—

Dame Rosemary Butler: An overview of the Minister, yes.

Q13 Mr David Jones: One of the few inter-parliamentary forums that exist at present are the quarterly meetings of the Speakers and the Presiding Officers of the various Assemblies and Parliaments. Do you find those meetings valuable?

Dame Rosemary Butler: Absolutely, absolutely. We are very different institutions, but we all have Speakers and Presiding Officers and the same kinds of issues. Yes, they are important, and we do share experiences. Next year Tricia Marwick from Scotland, Mitchel McLaughlin from Northern Ireland and I will be standing down, but I hope that going forward that forum will continue to grow. Meetings like that could consider constitutional issues in the future, both from the perspective of the individual nations and from an overarching perspective. They have been valuable to us. We have learned a different way of practising—for example, our system of continued professional development for members is now being taken on by the other Presiding Officers and Speakers, so we are learning from best practice from each other.

Q14 Mr David Jones: Are issues such as joint workings of Committees ever discussed in those meetings?

Dame Rosemary Butler: They have been, yes.

Mr David Jones: Thank you.

Dame Rosemary Butler: In fact, most things have been discussed at those meetings.

Q15 Mr David Jones: To what extent would you say that those meetings have affected the general level of awareness of the roles of the various legislatures within the country?

Dame Rosemary Butler: Hugely. We all think we have a particular role, and then we listen to other people and how they are dealing with it. There is a very much better understanding of how I come to my decisions on competence and how the Speaker in Westminster does, and in Scotland. It is very useful and it has been incredibly helpful to me.

Mr David Jones: Thank you.

Q16 Paul Flynn: Thank you, Rosemary. You have served on the British-Irish Parliamentary Assembly. The set-up there is getting together on a Sunday, then the main news is on a Monday, and it finishes half-time on Tuesday, so that MPs can get back. Do you think we should develop that more, or do you think we need a separate body on those lines to bring the parliamentarians together?

Dame Rosemary Butler: It has already expanded its brief, and I think that needs to be specific. But the concept of meeting on weekends is obviously one of the ways forward.

Q17 Paul Flynn: There is great difficulty selling the idea to the public of more politicians, but it is likely that in Parliament we are going to see a reduction in the number of Welsh MPs from 40 to 29. Do you think that would make it a very strong case, as you had before, for more Members of this Assembly? It is a very powerful case, because we are very well aware that we need Back Benchers, and that is the great difficulty here. They are an essential element, particularly Back Benchers from the Government party. Do you think it will be easier to sell if the Government does reduce the number of MPs from Wales?

Dame Rosemary Butler: We have had two referenda in Wales where people say they want more powers here. To have more powers you do need more politicians here. I am not saying we need more politicians overall, but I wouldn't be as brave as to say this morning where they should come from and where else they should be reduced. But this is the kind of thing we need to address. Certainly if we are going to get more powers here, it is absolutely vital that the Government is called to account, and if you don't have enough Back Benchers it will be more and more difficult to make sure that we scrutinise the Government. We deliver the best possible Bills for Wales, because we don't have a second House—we are unicameral, and we have to make sure that we get it right first time. But to go back to your suggestion that the format of the British-Irish Parliamentary Assembly could be replicated, I think it could well be. What is interesting is that we seem to have more formal links for Europe than we do between us and Westminster.

Q18 Paul Flynn: On the wonderful display in the constituency that we share at Friars Walk, there is a poem by Gillian Clarke. It is about power coming—it is about the Chartists, but it is about devolution as well. It describes devolution as a grudging gift, which every step of the way—four Bills, for goodness sake—has been begrudged. People are power-retentive—they want to hold power in London and it goes throughout levels of politicians. Do you think we should come to an end of this taking two steps forward and then one step back and insisting on referendums—I believe we have been over-referendomed in Wales—and that we should see progress? It didn't happen, as you just mentioned, with the northern powerhouse. Referendums weren't required there, so we can make developments without going to referendums again. Clearly, the impetus for more devolution seems to be to settle the will of the people.

Dame Rosemary Butler: Yes, I feel that if something is devolved then it is devolved. It is the fact that only bits are devolved that makes life quite difficult sometimes. I agree, and that is why I come back to the point I made to David Jones: we need to have a sustainable development so that we are not going to be readdressing it a few years down the line. I just feel at the moment we tend to be in a bit of a hurry to get a Bill through, whereas if we waited another few months—we have waited a long time for it, and I don't know what is going to be in the Bill—it would perhaps be more sustainable. If devolution is the will of the people, we are going to have to make sure that it is the best possible devolution settlement that is going to work—not take powers for the sake of taking powers, but take powers because it is the most sensible thing to do.

Q19 Paul Flynn: All these Commissions—the Calman, Silk and Smith Commissions—have recommended greater inter-parliamentary collaboration. You have dealt with some of this, but are there any new ideas you think we can come up with on how we can improve the collaboration between Committees as well as Governments?

Dame Rosemary Butler: We have had McKay, we have had Calman and we have had Smith, and they are all saying the same thing, but where there is a will there is a way. I genuinely feel now that there is a will among Members that there should be more inter-parliamentary contact and debate. I genuinely feel that from Westminster and from here, so I think that is a good thing. That is a big step to overcome, and I think—

Q20 Chair: Dame Rosemary, if it is a terribly good idea and a terribly good thing to happen, and lots of people at lots of different stages have recommended it should happen, why doesn't it happen?

Dame Rosemary Butler: If we knew that we wouldn't be sitting here this morning, would we, Mr Chairman? I agree with the old saying that the state is like a ship—it takes a long time to stop and turn around. We have shown some good examples, certainly with the Welsh Affairs Select Committee. Recently David Melding's Committee had a very good session. It was last month. It was a very good meeting of minds, and they came up with some good recommendations, but they are suggesting it should be happening more, which is a big step forward.

Q21 Chair: But who should be responsible for making these things happen? Who should be accountable?

Dame Rosemary Butler: It is going to be for each of the institutions to take it on themselves. It was suggested there should be a devolution Committee, which is quite good in a way, but on the other hand once there is one Committee perhaps only that Committee would deal with it. We just have to look at it, and perhaps in the Government of Wales Bill and the discussions around that, these more formalised ideas could come up. If we are trying to fix formal meetings—Paul Flynn made this point—it has to be on the weekend. But I can't give a definite answer how it should be done, I just know it should be done, and this is a big step towards making that happen.

Q22 Mr David Jones: On that point, I understand the suggestion there should be a devolution Committee, but it seems to me that that is rather broad-brush.

Dame Rosemary Butler: Yes, I agree with you.

Q23 Mr David Jones: Can I come back to transport? Transport is a practical problem because, of course, the routes are cross-border and because you have two Administrations and two elected Parliaments or Assemblies dealing with the issue. The consequence is that there is a lot of frustration, particularly in north Wales, over the arrangements that currently exist. It seems to me that we need to go beyond the issue of a devolution Committee and start looking at individual Committees working together and arrangements being put in place to enable them to do so. What would you say to that?

Dame Rosemary Butler: That is what I have been saying this morning—obviously not very clearly. That is why I think a devolution Committee sounds quite good in practice, but only that Committee will then deal with it. I absolutely agree that links between Committees would be a good way of doing it. The issue is, how do you formally find time in the diary? If suddenly all Committees start doing it at one time, it is going to be quite difficult. We could pick one or two areas and then start looking at that to see how we could make sure that those specific areas are looked at by both Parliaments and both their Members, and then work it from there.

Mr David Jones: I am just wondering whether you can suggest that be put on the agenda of the next Speakers and Presiding Officers quarterly meeting.

Dame Rosemary Butler: We can say lots there—whether you take any notice of us I am not quite sure.

Mr David Jones: But that, in itself, is worrying if that is indeed—

Dame Rosemary Butler: No, that was a joke, David.

Mr David Jones: Right, okay.

Dame Rosemary Butler: But you were in a very powerful position quite recently. You could have moved it forward yourself, but it is difficult, when you have an agenda, to try to move outside that agenda and take all these new areas in.

Mr David Jones: Perhaps in a more private forum I can tell you about the resistance I experienced at the time, but not now.

Chair: Paul, had you finished?

Paul Flynn: Yes, I had, thanks.

Q24 Chair: I suppose what my questions are intimating is that we can't expect this just to happen. The question is, how should it be institutionalised or codified so that it becomes part of the constitutional settlement?

Dame Rosemary Butler: I can certainly ask David Melding's Constitutional Affairs Committee to look at the issue. Perhaps you can get whichever Committee it is—perhaps your Committee—

Chair: This one.

Dame Rosemary Butler: This one? In that case this is where the buck stops, and we can look at it and just see how we can take it forward. But again, my concern is trying to fill the diary suddenly with all these extra formal meetings. We have to look at a topic, and then when a topic comes up have a process in place where informal meetings can go ahead. There would be formal meetings, but they wouldn't be structured in the diary months in advance. Adrian Crompton is the expert on how things run—are you, Adrian? I'm not sure.

Adrian Crompton: It is flattering. You have to think through the degree of formality that is needed and would be most helpful in this regard. In Scotland there is pressure from their own Members and from their Committees, as they are scrutinising the Scotland Bill, to press for more formalisation of bilateral relationships between the Scottish Government and the UK Government and, similarly, the Scottish Parliament and Westminster. One of the recommendations that has emerged from the Committee that is examining the Scotland Bill in Holyrood is that there should be a written agreement between the Scottish Parliament and the Scottish Government about oversight of inter-governmental relations. That is fine so far as it goes, and in some ways it will go a distance towards answering your question about how we make this happen. But in reality—going back to Mr Jones’s question—how would you get the transport Committees of the two institutions to work better together? The two Committees are autonomous. There has to be some leadership within those Committees to make it happen, and we could write all the frameworks and guidelines we like, but it would only happen if the Members and, in particular, the Chairs of those Committees, wanted to prioritise that work and make it happen.

Dame Rosemary Butler: I do recognise that formal arrangements might give it greater authority and greater status, however in the first instance it has to be informal and build up good practice to make progress a little easier. It is no good two Committees saying this is what will happen if the workload in each Committee is not going to allow it. There needs to be some thinking on the part of Clerks and the Chair about how they can free up time in their busy diaries, as a Committee, to make sure that they do have time to talk to other institutions.

Q25 Kelvin Hopkins: I think, to an extent, you have covered the area of my question, but I shall ask it anyway and then put another comment. Inter-governmental relations machinery is currently under review as part of the new memorandum of understanding. How do you think parliamentary scrutiny of inter-governmental relations can be improved? It should have been obvious to me beforehand, but you draw attention to the fact that you only have 60 Members. When you have 650 Members of Parliament, as we do, it is easier to people Committees and so on and spread out the work, but taking out your ministerial team, you have very few people left to do all this work. Given that constraint, how do you think parliamentary scrutiny can be built to its maximum?

Dame Rosemary Butler: We have inter-parliamentary relations and inter-governmental scrutiny. Perhaps “Taking out the Government” might not be the phrase that we ought to use, but you might feel like it some days. It is a very interesting point, and that is why I am concerned. If we had lots more Members it wouldn’t be such an issue, but because we have fewer Members it is an issue trying to fill them in. Inter-governmental relations are important, but it is also about the oversight of those inter-governmental relations. There is no formal structure, and indeed not very much of an obvious informal structure, for overseeing inter-governmental relations for the sake of clarity and—I am not sure quite what the word is.

Q26 Kelvin Hopkins: Inter-governmental relations would be very different from inter-parliamentary relations at Westminster, certainly, and the Government tends to be quietist and want to control and so on, whereas we, in a sense, want to ask all the difficult questions,

raise all the difficult issues and give them an airing. Would that be true of Welsh Assembly as well?

Dame Rosemary Butler: We do have a lot of oversight of the Government here, because we are so close together, and we have many opportunities to question the Government as individuals, whereas you don't have quite as many as individuals in Westminster. That is the point I am making—these inter-governmental relationships need to be much more transparent. On how we oversee it, it is a huge area, but I am just highlighting that it doesn't happen that much at the moment. Inter-parliamentary relationships are much freer, much easier to access.

Kelvin Hopkins: You might expose questions and ask questions that Governments may not want to address, but—

Dame Rosemary Butler: That is the role of the Back Bencher, isn't it?

Q27 Kelvin Hopkins: Absolutely, yes. Just one question of my own. It strikes me that three of the four parts of the United Kingdom have their own Assemblies, Governments and Parliaments, but they are all very different from each other. Northern Ireland has its troubled history, and still there are those who, essentially, are Republican and want to join the Republic ultimately. Scotland is on the verge, and has been on the verge, of perhaps going independent, and there is a tension there. But Wales has a much easier relationship with the United Kingdom Parliament, possibly because the forces of separation are less strong, shall we say, in Wales. Wales has an easier relationship with the United Kingdom than the other two, perhaps. Is that a fair comment?

Dame Rosemary Butler: It is an interesting comment. If we had better structures of inter-parliamentary relations and inter-governmental relations, perhaps the issue about separatism wouldn't be as up front as it is at the moment. But certainly there are issues here, particularly on financial issues and how much the Government gets to spend. But generally, we are a smaller country—we don't have the resources that Scotland does, for example, and it is not the history that we have had here. There was obviously a big separatist movement from a few years ago, but that has eased off now.

Kelvin Hopkins: I see. I want us to stay together, personally, but that is my personal view.

Dame Rosemary Butler: Yes, I would agree.

Q28 Chair: What we are talking about is, why do we want these machineries to exist? It is to deal with the matters that have to be negotiated between the two Governments and the two Parliaments, or among the four Parliaments and the four Governments. Let's go to the elephant in the room, which is the money and the Barnett formula—the remnants of. Lord Strathclyde has recommended that there should be some kind of council of the Union to hold accountable the inter-governmental process by which money is distributed between the four parts of the United Kingdom. Don't we need something of that nature at a legislative level across the United Kingdom that is not the United Kingdom Parliament? The United Kingdom Parliament has this hybrid role of being the English Parliament and the United Kingdom

Parliament. That is one reason and the other reason is that the House of Commons is not like a Senate in a federal system. It does not represent the constituent parts as constituent parts, it is a unitary institution. How are we going to resolve all those issues without some kind of institutional underpinning?

Dame Rosemary Butler: The first thing somebody has to do—I suspect as we stand at the moment that it can be done—is to negotiate a proper funding formula. Once that has been negotiated you can have whoever you like overseeing it.

Chair: But who negotiates with whom?

Dame Rosemary Butler: At the moment it has got to be the First Ministers negotiating with the Government.

Q29 Chair: How do the House of Commons and the other three elected Parliaments or Assemblies in the United Kingdom jointly hold that process accountable?

Dame Rosemary Butler: That is why we are here today, isn't it? All I know is that the funding formula is a big, big issue for us, a huge issue. The way it has been dealt with in the past has been via Westminster, so you are not going to change the system overnight. We have to deal with it in the system that we have in the short term, surely.

Q30 Chair: Can I just clarify one thing? As Presiding Officer, presumably you feel a degree of constraint about how wide-ranging and radical you can muse about these matters. Where should we look? Who should we talk to to find the more off-the-wall ideas that we should be considering?

Dame Rosemary Butler: Civil society is worth talking to but you are talking about a huge, major exercise to do that. I am quite sure that if you ask the existing groups like the Presiding Officers and Speakers group, we could have a look at it and put some suggestions forward. We are all quite off-the-wall people, so I am sure we can come up with some off-the-wall ideas if that is what you are asking us to do, but that is a big piece of work.

Chair: But you need to be mandated to do it, I think is what you are saying.

Dame Rosemary Butler: As Speakers and Presiding Officers, we do have a fair amount of leeway without people mandating us. In fact you can't mandate me, I don't think.

Q31 Mr David Jones: There was one issue I wanted to raise with you, since you are here, which is a matter that has concerned me for some time. The Assembly was established at a time when, essentially, it had secondary legislative powers and it was a fairly weak body. That, of course, has evolved over the years, and it now may well be that you have further primary powers. To what extent do you feel that it is hampered by the lack of a revising Chamber and still being a unicameral system?

Dame Rosemary Butler: I don't think it is hampered at all. We just have to be very more aware of what we are doing. We are not the only unicameral establishment in the United Kingdom, and we are as we are.

Q32 Mr David Jones: We are as we are because that was the way it was established back in the late 1990s, but we have evolved since then and there are more powers to the Assembly. I just wonder whether you ever feel the lack of a second look at legislation that goes through.

Dame Rosemary Butler: No, I don't feel that at present. What I would feel, as more powers come, is a lack of more Members. When you get more powers you are going to need more Members.

Mr David Jones: Yes, you have mentioned that already.

Dame Rosemary Butler: That is the main issue, to me, it really is. It is absolutely essential.

Q33 Mr David Jones: Just pursuing this point, because it is interesting, why do you feel that a second Chamber or some means of revising would not be a valuable development for the Assembly?

Dame Rosemary Butler: We have a system now where we can make good decisions. We hone in, and because we are close to the Government we can make sure that what they are putting forward is what the people want. I genuinely haven't felt that necessity at all, and having spoken to Scotland they don't feel it either. If you are going to have one it certainly has to be elected. I am not going to suggest that we have one, but—

Mr David Jones: I don't think anyone will suggest anything.

Dame Rosemary Butler: You are moving off in a different direction here, David.

Mr David Jones: No, I am not.

Dame Rosemary Butler: Yes, I think you are.

Mr David Jones: I am genuinely interested, because as the Assembly grows in power and possibly even in numbers, it seems to me—I am being frank with you that a bicameral system is a good one—that you may possibly find that a second scrutiny of legislation may be a big aspect that is missing from the Assembly.

Dame Rosemary Butler: If they felt that, then I am quite sure that we could set up a system within the unicameral where we have a group of people who look at anything that might not be as clear as people might have wanted. But the point is that we were set up by Westminster, they didn't give us a second Chamber, and I genuinely don't see the point of or the need for one now. I don't know what Adrian would think.

Adrian Crompton: It is important to put on the record the fact that the procedures in the Assembly, certainly in relation to our scrutiny of legislation, are very different from Westminster. One of the main reasons for that is that they are procedures that are designed for a small unicameral legislature. A couple of examples. Our Committee structure—

which the Presiding Officer has already alluded to—is that we have about seven main Committees that carry the primary scrutiny workload, and those Committees deal with both policy scrutiny, as you do in this Committee, and legislative scrutiny of Bills that are within their area. That is a direct response to the fact that we have 40 Back Benchers available to populate our entire Committee system, but it also has the advantage of bringing the policy expertise of those Members to bear on legislative scrutiny.

Q34 Mr David Jones: How does that differ from the Westminster example of Bill Committees?

Adrian Crompton: In terms of the first stage of our scrutiny of a Bill, for about six to eight weeks the Committee will undertake an inquiry into the general principles of the Bill. I don't believe that is the sort of process that the Bill Committee will go through. It will have—

Mr David Jones: Yes, but it does increasingly now.

Adrian Crompton: It will take some limited evidence from stakeholders, probably put forward by the Minister in charge of the Bill at the earliest stage. But in our system it is entirely within the Committee's gift to decide who it wants to hear from and what recommendations it wants to make to the Assembly for future revision of the legislation. I think that is a very powerful procedural feature in the Assembly that in part is driven by our size and the need to get things right first time.

Mr David Jones: Increasingly, Bill Committees at Westminster do hold similar consultations, by the way.

Dame Rosemary Butler: You are copying us, then—it is a good idea.

Mr David Jones: Yes, and, again, this is a matter of learning from—

Dame Rosemary Butler: Sharing good practice, absolutely.

Mr David Jones: But we still have the bicameral system at Westminster.

Adrian Crompton: That is a big bit, yes, you do. I am not arguing for unicameralism per se, I am just trying to explain how the Assembly itself—and the Scottish Parliament similarly—has to some degree altered its own internal operation and procedure to take account of the fact that they do not have second Chambers.

Q35 Kelvin Hopkins: I am intrigued by this question of numbers. It strikes me that the Welsh Assembly is smaller in numbers than some of the larger local authorities in terms of members. Small elected numbers means that bureaucracy officials have relatively more power, it would seem to me. I wonder also whether when the devolved structures were set up there was a sense that Westminster did not want to give too much away, and keeping it small was a way of making it more quiescent than it would otherwise have been. Has there been a great clamour for more Members and a larger Assembly, so that you could have a larger democratic opponent in the governance of Wales?

Dame Rosemary Butler: Can I make it clear that as we are at the moment we are managing and coping well and making good decisions? But as we get more powers it will become more difficult. As Presiding Officer I am in a unique position. I can see how difficult it will become, because as you say, remove the Government and there are not that many Back Benchers left. Of course, if someone is off sick, trying to find a replacement can be quite difficult. As we get more powers, that will be even more difficult. Therefore I strongly believe, as did the Silk Commission and the Richard Commission, that we need more Members. There is a general consensus now that we do need more Members. People say it is more politicians, but when you have had two referenda and we are getting more powers, if you want the best possible laws, the best possible Government and the best possible scrutiny of the Government, then you do need more Members here.

Q36 Mr Andrew Turner: Perhaps I am coming from the wrong angle, but it seems to me that we are trying to sort out what the formal construction should be when in fact the informal construction is more important at this stage. I am looking at what happened in the 1980s, when in the United Kingdom there were lots and lots of people hovering around—they were not Members of Parliament, but they pushed forward quite a lot of the things that were liked by Margaret Thatcher and her Government. If she wanted things she pushed them and pushed them into Government, and then the Government took them over. But if they were embarrassing it would be quite quiet on those things. Would you not be in a position to do that?

Dame Rosemary Butler: To replicate Margaret Thatcher?

Mr Andrew Turner: Margaret Thatcher is the person, but what matters is what is happening.

Dame Rosemary Butler: I am sorry; can you just rephrase the question slightly without Margaret Thatcher in it? Sorry.

Chair: Try to put it another way, Andrew, without the Margaret Thatcher.

Dame Rosemary Butler: Thank you.

Q37 Mr Andrew Turner: Let's look at the current Government. We have far fewer people outside the Government, it seems to me, than the previous Labour Government had. Tony Blair was encouraged to push things through the back door, if you know what I mean, and when they had found the way they could get the support of the Government, they moved on to the front door. It is better to do things at the back door first of all, and then what happens first of all is not the formal; it is the informal.

Dame Rosemary Butler: I prefer not to use the “back door” phrase, but I think you are saying what I am saying: you start off informally, which is already happening, but we need to encourage that more, and then you need to put it on a formal footing. I am not saying it should not be. The practicalities of doing that at the moment are a little difficult, and once you put it on a formal footing and there is a meeting in the diary, one will have a meeting whether it is needed or not. I think it should be on a case by case basis. David Jones has mentioned transport. That could be one of the issues that Members take forward. Again, it

is for the Chairs of the Committees; I cannot tell them what to put on their agenda, but I am quite sure they understand what is very important for Wales. If the Government are looking for something they need to get as much evidence as they can, and I am sure they will talk to Westminster if necessary.

Q38 Paul Flynn: The bicameral system does not always produce legislative perfection. Lord Butler produced a list of 75 Acts that went through in a period of 13 years that were never really implemented. They went through the whole system but they were either partially put into practice or not put into practice at all; examples of legislative futility with our bicameral system.

What you suggested was interesting—perhaps you would like to develop this—that part of it might be because in passing things to our Chamber there is a slight feeling of irresponsibility in the fact that if you do not get it right, the other Chamber will get it right for you. Do you think that the system we have at the moment, where it has to be got right in the Welsh Assembly—apart from the fact that we did seem to have a second Chamber in the courts recently, which challenged lots of the legislation—increases the sense of responsibility, because of the finality of decisions taken by the Welsh Assembly, and that in some ways it is superior?

Dame Rosemary Butler: Well, I love Paul Flynn dearly, Mr Chair, but you can't put words in my mouth saying it is irresponsible. No, it is something that we do take into account, and you have a system there. I am not saying you are irresponsible, but you can move things forward and they can come back if you don't get it quite right, whereas here we have to get it right the first time. Again, the issue of what is devolved and what is within our competence is crucial, because we do not want to be going to the High Court again as we have in the past. We do not need that kind of second Chamber. I am sure your Members are incredibly responsible, but it is something that we have taken into account. It is an extra workload, and we do have to make sure that we get it right.

To come back to the point that Andrew Turner was making—"back channels" is probably better than "back doors", but it is the same sort of thing—I think it is really important now that we have had the feeling that certainly this Committee is beginning to agree that we need more interdepartmental consultation, and I am sure it could happen. Again, it is down to every single one of us in whatever position we are in to keep pushing it until people agree that that is the way forward.

Q39 Chair: Dame Rosemary, Mr Compton, it has been our honour that you have come before us today. We very much acknowledge that we are your guests in your Parliament, and we have been made to feel very welcome. We are extremely grateful to you. If I may say so, I think it sets rather a good precedent that the only occasion a Select Committee should really ever finish up cross-examining a Presiding Officer of another Parliament is at your invitation in your own Parliament. Thank you very much indeed.

Dame Rosemary Butler: Thank you very much. I hope you take the opportunity to have a look at our fantastic building while you are here.

Chair: We have already, and we have enjoyed it very much.

Dame Rosemary Butler: Yes, and you will notice how many women we have here.

Chair: It is very impressive, and it shows that we have yet to learn how to achieve the same thing at Westminster.

Dame Rosemary Butler: Thank you very much.

Chair: Thank you.

Dame Rosemary Butler: If you wanted more information, then we will obviously put it writing for you.

Chair: Thank you.

Dame Rosemary Butler: Thank you.

Examination of Witness

Witness: **Sir Paul Silk**, former Chair of the Commission on Devolution in Wales 2011 - 2014, gave evidence.

Q40 Chair: Welcome to this session concerning inter-parliamentary and inter-governmental relations within the United Kingdom. Please could you identify yourself for the record?

Sir Paul Silk: Yes. I am Paul Silk and I was the Chair of the Commission on Devolution in Wales, which was established by one of your Members, and I produced my two reports to one of your other Members.

Chair: Very good. This is a fairly informal session, but we have a number of questions that we will ask fairly formally. If you can keep your answers fairly short we will be very grateful, and we will keep our questions short.

Q41 Mr David Jones: Sir Paul, as you said, you were the Chair of the commission of inquiry into devolution in Wales. You were also former Clerk to the Assembly and a Clerk of the House of Commons, and therefore you have a unique perspective, I would suggest, on how the various branches of the civil service, the Governments and the legislatures of Wales and the United Kingdom work together. What is your assessment of the extent to which they work well or otherwise?

Sir Paul Silk: The legislatures or the Governments?

Mr David Jones: All three.

Sir Paul Silk: That is a very big question. One of the things that struck us during the course of our Commission's work was that the relationships between the Governments—that was not an area where I had a lot of previous experience—was identified by many witness as needing more work done. We had a public opinion survey that suggested that was the case. We had evidence from a whole range of organisations that suggested that

what they wanted was to see the Government in London and the Government in Cardiff co-operating better. The evidence, certainly from the Welsh Government to the second part of our work, was that there were instances where the two Governments were not co-operating as well as they might have done.

On inter-parliamentary relations, there are obviously many informal contacts between Members of this place and Members of the House of Commons, which are particularly fruitful, I think, when a constituency AM and a constituency MP come from the same political party and usually work very well together. Institutionally there are things that ought to be done to improve the relations between the House of Commons and the National Assembly, and, I guess, also between the House of Commons, the Scottish Parliament and the Northern Ireland Assembly.

Q42 Mr David Jones: What sort of things might those be?

Sir Paul Silk: I personally was attracted to the idea of a devolution Committee, which my former colleague Bill McKay recommended when he produced his report on EVEL. There are other ideas. I believe I am right in saying the Scottish Conservatives at one stage recommended a standing committee of the Assemblies and Parliaments of the United Kingdom. There are ideas like that, which I think are worth pursuing a bit further.

The Welsh Affairs Committee has the power to meet concurrently with Committees of the National Assembly. I was here a couple of weeks ago giving evidence to them when they were doing exactly that, and that seemed to work very well. There is a difficulty inherently, in that there are only 40 Members of Parliament from Wales in the House of Commons, and having institutions inside the House of Commons that want to co-operate with Wales does imply some tolerance from Members who are not Welsh Members in being part of those sorts of institutions. Would a devolution Committee be made up entirely of Members of Parliament from the Scottish, Welsh and Northern Ireland constituencies, or what would be the interest in Members representing English seats being part of that? So there are some difficulties, I think.

Q43 Mr David Jones: We have just discussed the issue of a devolution Committee with Dame Rosemary Butler. I made the point that while that has its attractions, it would of necessity be rather broad-brush. I raised the issue of individual Committees working more closely together, and the obvious example is transport. Clearly most of the transport routes in Wales come from England, and depending on your perspective many of the transport routes into England come from Wales. Do you think that there might be the possibility of putting in place institutional arrangements that would cover, for example, the issue of transport, or other issues where at the moment there is very little liaison between the two legislatures?

Sir Paul Silk: That gets back to the problem identified before—I don't know what the current membership of the Transport Committee is, but I suspect that the majority of the Members will sit for English constituencies, and the interest that they may have in meeting with the transport committee in the National Assembly when they have a whole busy agenda of other issues might not be as great as—looking from the Welsh perspective—one would think desirable.

Q44 Mr David Jones: Indeed. That is why I asked you whether institutional arrangements should be put in place that made that obligatory. For example, I am thinking of electrification of the west coast main line to Holyhead. That passes through rather a lot of English constituencies, and it might well be that Members on both sides of the border would have an interest in that issue, for example.

Sir Paul Silk: The straight answer is that I think I would welcome that sort of institutional requirement, but I would not hold my breath before the House of Commons voted for it.

Q45 Mr David Jones: What about the workings between the various branches of the civil service? Did you look into that?

Sir Paul Silk: We had some evidence in the course of our work about that. I personally started my journey on this rather in favour of separating the civil service in Cardiff from the civil service in the United Kingdom. Our conclusion as a Commission was that the advantages of retaining the United Kingdom civil service outweighed the disadvantages. That is what we concluded. Part of the reason for that is the linkages. I think you are seeing Derek Jones later on today. Derek was in the Treasury before he came back to Wales. I think he would say that the advantage of having been an official in the Treasury before he became an official in the Welsh Office and then the Welsh Government was enormous. There are still those who go between Cardiff and London and bring experience back to Cardiff. You sit for a Welsh seat—we are a small nation and we have a danger of being too introspective in the way we look at these things. The more exchanges we can have with London, and indeed with Brussels, the better.

Q46 Mr David Jones: That was the conclusion, I think, that the Welsh Select Committee came to in 2010.

Sir Paul Silk: Yes.

Mr David Jones: I know it was, because I sat on that Committee.

Sir Paul Silk: Yes.

Q47 Chair: Sir Paul, you said you would not hold your breath to wait for the House of Commons to vote for a more formal institutional arrangement. I think that is what you meant. Why do you think the House of Commons would be so reluctant to enter into such an arrangement?

Sir Paul Silk: My concern would be that the majority of Members of the House of Commons represent English constituencies, and although there are English Members who are concerned about issues of devolution, why should it be top of the agenda for any English Member of Parliament when he or she has issues within England, and international issues, that they are concerned about? I know very well from my time in the House of Commons that you all have very busy agendas. If you were being required as a member of the Transport Committee or the Health Committee to work with colleagues

from Cardiff or Edinburgh, you might not think that was as important a priority as dealing with the issues concerning you as an English Member of Parliament.

Q48 Chair: How essential do you think it is that there is some institutional arrangement that has the commitment of all four Assemblies of the United Kingdom?

Sir Paul Silk: It is certainly desirable that that should happen. I entirely agree with that.

Q49 Chair: So not essential? I asked how essential.

Sir Paul Silk: Essential for what outcome? The outcome of the maintenance of the Union?

Chair: Essential for the proper functioning of whatever arrangements we have between the four Governments and the four Assemblies.

Sir Paul Silk: No, I don't think it is essential. It is desirable rather than essential.

Q50 Paul Flynn: There have been many developments since you reported, particularly the results in Scotland in the general election and the emergence of EVEL as a force in politics. How would these have changed your view as a Commission? Would you like to bring it up to date? Is there anything that has developed from there? Do you see your recommendations as still being valid?

Sir Paul Silk: Invalid?

Paul Flynn: Valid.

Sir Paul Silk: Yes, I think that our recommendations remain valid. We were conscious when we were doing our work that we did not at that stage know what the result of the referendum was going to be in Scotland, much less the general election in Scotland. I think the set of principles we enunciated in our reports is still valid.

I said to a Committee of the House of Lords a couple of months ago that despite the fact that some of the things we recommended were not contained in the draft Wales Bill, I understand that is a matter of political choice. Ideally one would like to think that the process of considering the constitution in Wales, or Scotland for that matter, could come to a halt, but I don't think it ever does. There are always going to be issues that come along and change people's perceptions of what is needed for the future, and that is a process that is clearly continuing. In that context the fact that the Secretary of State has published a draft Wales Bill, which is being vigorously discussed by all sorts of people, is I think entirely desirable.

Q51 Paul Flynn: It is a draft Bill. How could it be improved?

Sir Paul Silk: One of the areas that would concern me about the draft Bill is that there appears to have been rather a trawl of Whitehall Departments, and the question has been asked, "Where does the current cut-off come between what Wales is responsible for and what the UK Government is responsible for?" The Bill reflects that cut-off rather than

doing what we recommended in the Commission, which was to look more rationally at a principle-based idea of where the cut-off should come. Clearly there are some areas, like policing, for example, where a political decision has been taken that it should not be devolved, and I can see that there is a perfectly good argument for that. But there are other areas where—let's put it like this—the cut-off in the current Bill does not look entirely sensible. Fire safety is one of them. Mineral workings is another. The safety of sports grounds is another. There are many of these areas. The Secretary of State has said in evidence to the Welsh Affairs Committee that he can see that there are changes that ought to be made.

Q52 Paul Flynn: Your Commission recommended the creation of a Welsh inter-governmental committee by means of resolving disagreements and so on, outside of the Joint Ministerial Committee. Is this something you believe could be successful and a model for the rest of the United Kingdom?

Sir Paul Silk: Yes, we did. We accepted that multilateral relations are important—and each devolution settlement, as you very well know, is different—but we felt that bilateral relations could be strengthened as well. That is why we recommended this Welsh inter-governmental committee. One of the things we recommended that it should do is look, before the Wales Bill was published, at where the cut-off line should come in the devolution settlement. It is a matter of some regret that that has not so far happened. I still hold a candle for that Welsh inter-governmental committee, and as I understand it, it is still in play in the discussions between London and Cardiff and London, Edinburgh and Belfast.

Q53 Paul Flynn: What ideas do you have about the parliamentary scrutiny of such a body and those relations?

Sir Paul Silk: We felt that there was a job of scrutinising the work of that committee, and that should be a job that should be shared between the Welsh Affairs Committee and a Committee of the Assembly; presumably the Constitutional and Legal Affairs Committee of the Assembly.

Q54 Paul Flynn: We just heard from the Presiding Officer that she felt that the work of the Welsh Assembly was hampered by the small number of Members and the lack of Back Benchers. Is this something that you have a view on?

Sir Paul Silk: Yes. We concluded in our report that the Assembly was too small, that it needed more Members. We did not come up with a specific figure, but we said that the figures of 80 and 100 had been suggested and that was the right sort of area. We particularly concluded that because we felt there was simply not the number of people here to do the job of scrutiny as well as it ought to have been done. One of things we particularly emphasised was that scrutiny is the job of Members who represent the Government party as well as Members who represent Opposition parties. With so many Members taken out of the 30 who are members of the Government party to be Ministers and Deputy Ministers here in Cardiff, there are very few Government party Members who can do the job of scrutiny.

Q55 Paul Flynn: You appreciate the political difficulty of persuading the public that more politicians are needed at this particular time. Do you think this would be helped by the reduction of the number of Welsh MPs the Government is planning?

Sir Paul Silk: As you can imagine, the Commission contained nominees of the four political parties, some of them very active inside politics still, so it was an interesting discussion we had inside the Commission about this. What we said was that we noted that it was possible that the number of Welsh MPs was going to be reduced, and we noted that the number of Welsh councillors is likely to be reduced as well. That certainly diminishes the issue of politics costing more, but we were very well aware that a recommendation to increase the size of the Assembly was not likely to be very popular, and that was why we thought it was incumbent on us, as not a non-political Commission but a Commission that contained people who were not nominated by parties, to make that recommendation.

Paul Flynn: We are very grateful to you. Thank you.

Q56 Mr Andrew Turner: Your Commission also examined the issue of inter-parliamentary relations. What are your reflections on the existing level of inter-parliamentary relations between the UK's legislatures?

Sir Paul Silk: As I was saying to Mr Jones earlier, I think there are very good relations at some individual levels. Relations between Members from the same constituencies or the same party can be good, and indeed, as I understand it, the relations between individuals when they are not of the same party can be good as well. There are forums like the British-Irish Parliamentary Assembly, which are opportunities for Members from all the legislatures of the United Kingdom to meet together. The Presiding Officers meet together with the Speakers of both Houses at Westminster. So there are some formal mechanisms, but I think there is probably an opportunity for other mechanisms to supplement those, and the idea of the standing committee of the Parliament and Assemblies of the United Kingdom is one that might have some benefit if it were pursued.

Q57 Mr Andrew Turner: Your Commission recommended improvements to the existing inter-parliamentary relations. What steps could be taken to improve these relations?

Sir Paul Silk: Meetings of Committees jointly. Mr Jones has talked about transport Committees of both Westminster and here meeting together. Certainly I think that, having been a witness at it, the joint hearing of the Constitutional and Legal Affairs Committee and the Welsh Affairs Committee on the draft Wales Bill seemed to be a very productive way in which Members from here and Members from London could work together on a piece of the legislative agenda.

Q58 Mr Andrew Turner: Is that as high a priority as these things that you are trying to do that reflect more the legislative work?

Sir Paul Silk: If there is a piece of legislation, like when you have to look at a draft Wales Bill and try to improve that both from the Cardiff and London ends, you have a concrete

agenda in front of you. I think that there are other structures that will help people in London and Cardiff, and by extension the other parts of the United Kingdom, work together, respect one another and have esteem for one another. Those sorts of informal relations build up the opportunities for sensible, fruitful co-operation in the future. Dealing with a particular problem and having a timetable to report on it is one thing, but having structures that help establish mutual respect is another.

Q59 Mr David Jones: Developing the discussion we are having, it is of course the case that the Assembly has competence for a number of matters that directly affect England. I think you live on the border, so you will understand that. For example, there is competence relating to water, which does affect people who consume water on the other side of the border, but the competence resides here. Without wanting to appear someone who is obsessed with railways, it would appear that shortly there will be devolution of the Wales and Borders franchise, where of course passengers living on the other side of the border will have a direct interest in matters that are decided here. While Wales sends Members to Parliament, England does not send any Assembly Members here. How do you think that apparent democratic deficit could be addressed?

Sir Paul Silk: It was something that was brought to our attention during the course of our work. We had a very fruitful meeting with Members of Parliament from English constituencies that bordered Wales, and they pointed out to us that they did not have a voice in Cardiff, and indeed were not always listened to when they tried to speak to the Welsh Government. One of our recommendations was that just at the simple level of interchanges with the Welsh Government, Welsh Ministers should treat border MPs who wrote to them, or otherwise communicated with them about transport or issues, in exactly the same way as they treated members of the Assembly. It was something that was quite vigorously pursued with us.

Q60 Mr David Jones: That is a matter that affects Government. I am concerned about where the voice is for those individuals here in the Assembly. There is no one to speak for them.

Sir Paul Silk: You are right. I do not claim to have followed the new standing orders you have on EVEL, but I think there are particular problems that are going to arise on both sides of the border for the Presiding Officer in her interpretation and the Speaker in his interpretation. Sometimes those things are not perhaps going to match one another.

Q61 Mr David Jones: That sounds to me as if you have put it in the “too difficult” box.

Sir Paul Silk: I think it is going to be a “very difficult” box, but some decisions are going to have to be taken, so it is never going to be in the “too difficult” box.

Q62 Kelvin Hopkins: Before I ask my question about the civil service, it strikes me that if one Committee in the House of Commons was going to recommend increasing the number of Assembly Members, it would possibly be this Committee, as it is about constitutional affairs.

I am not suggesting that we would have that policy, but we have two former Secretaries of State for Wales, two other Welsh MPs and one other member with a Welsh surname but no known connection with Wales. We even have Welsh staff. So it is quite a strongly Welsh Committee, and it also has an SNP member. So the devolution component of our Committee is quite strong.

Your Commission recommended that a unified home civil service should be retained. Why did you recommend this?

Sir Paul Silk: Just to comment on the Welshness of the Committee, I think the devolution Committee proposed by the McKay Commission would have automatically put the Chair of this Committee on that devolution Committee as well.

Kelvin Hopkins: *Absolutely*. Quite right.

Sir Paul Silk: So even more of it.

I was persuaded in my personal opinion to move from rather favouring a Welsh public service to favouring the retention of the United Kingdom civil service by the strength of the arguments for the benefits that being a unified civil service brings. The relationships that there used to be between the Welsh Office and UK Departments before devolution were probably—or certainly—much easier because it was part of the United Kingdom Government, and the individual relationship between civil servants here and in London was much easier. There are now some difficulties in the relationship between civil servants who work for the Welsh Government and civil servants who work for the UK Government. But I think there is still a recognition on both sides that they are part of a unified civil service and some respect for where they both come from, which helps relationships between the two Governments and eases some of the problems there are in inter-governmental relations. There is also an enormous benefit for the development of individuals inside the Welsh Government, who can aspire to moving to jobs in London, and I hope it is also the other way round—people who work for the UK Government can aspire to work here in Cardiff. So the cross-fertilisation is very fruitful.

Q63 Kelvin Hopkins: I can see the argument, but there must be, I would have thought, some voices—the stronger voices for independence in Wales—who perhaps would see that as the UK taking back some of the power from Wales.

Sir Paul Silk: We had quite a forceful voice from Plaid Cymru on our Commission, and what I can say is that our recommendation was unanimous in the Commission. I think there are people inside Plaid Cymru who would accept that there are benefits in retaining the united UK civil service. There are also benefits the other way of having more interchange inside Wales between other parts of the public service, so that for those who work for local authorities and health authorities inside Wales, there should be interchange between them and those who work for the Welsh Government. That is also important. The position I was taking myself before I listened to the evidence was that there should probably be a Welsh public service separate from the UK civil service, as the Northern Ireland civil service is of course separate.

Q64 Kelvin Hopkins: If I am not mistaken you are English yourself, is that right?

Sir Paul Silk: No. No, I am born and brought up in Wales.

Kelvin Hopkins: There we are. Sorry, I do apologise.

Sir Paul Silk: Very close to the border, so I am often mistaken. I am not from the valleys.

Q65 Kelvin Hopkins: You have covered this to an extent already but how effectively does the home civil service reflect the realities of post-devolution Britain?

Sir Paul Silk: That is very large question. We met Bob Kerslake when we did our work, and we were all impressed by the extent to which he personally was committed to making sure that the civil service in London was aware of devolution issues and was not a London-centric civil service. There is always that difficulty and potential danger that the civil service in London is too London-centric. I was very glad to hear you have Welsh members of staff, because one of things that I was very interested in pursuing when I was working in the House of Commons was having people who work inside the House of Commons who come from different parts of the United Kingdom. It is not a good thing, I think, for the Houses of Parliament to be served only by people who understand the south-east of England. It is also true in a larger picture for the UK civil service to have people come from the regions of England, and of course from Wales, Scotland and Northern Ireland.

Q66 Kelvin Hopkins: My impression is, and you may confirm or reject this, that the relationship between Wales and the United Kingdom is somewhat easier than the relationship between Scotland and the United Kingdom. Is that fair?

Sir Paul Silk: Certainly the strength of feeling in favour of independence in Wales is much, much smaller than in Scotland, but also the daily cross-border movement of people is enormous, particularly in the part of Wales that Mr Jones represents, where the border does not look as distinctive as it does further down in Wales, but even in the south, where many people travel across to Bristol or to Gloucestershire to work. The way in which people shop across the border, the way in which crime moves across the border—all these things are very different from the position in Scotland, let alone Northern Ireland of course.

Q67 Chair: We should talk about the elephant in the room that we referred to in the previous session, which is of course the money. What kind of institutional machinery should exist for better negotiating a consensual agreement about the distribution of money throughout the United Kingdom? Is that something the Silk Committee considered?

Sir Paul Silk: No, we didn't, because we were specifically debarred from looking at the Barnett formula, among other things. We made no recommendations about the Barnett formula directly, but it was something that underpinned many of the discussions we had inside the Commission, as you might imagine.

Q68 Chair: How indefinitely can we regard the Barnett formula as a taboo subject?

Sir Paul Silk: I think a lot of people in Wales were disappointed on the day after the Scottish referendum when it was clearly announced that the Barnett formula was going to remain, because the perception in Wales is that the Barnett formula has not benefited Wales in the way it has benefited Scotland. How you achieve what the Welsh Government call “fair funding”, and how that is something that is acceptable to the people of England as much as it is acceptable to the people of Wales and Scotland—

Chair: And Northern Ireland.

Sir Paul Silk: And Northern Ireland. I am persuaded, and I think the Commission was persuaded, that in any union those areas of the country that are more prosperous will support the areas of the country that are less prosperous. That happens inside England as much as it happens between England and Wales and Northern Ireland and Scotland. Scotland is less prosperous than England. How you have a parliamentary mechanism to make sure that is done in a way acceptable to all parties, which I think was your question, I am not sure. I suppose if you were thinking real blue sky you would be thinking of a different sort of second Chamber, more akin to a Chamber where the states are represented equally, as in the USA or other countries. The difficulty we recognised so often in our Commission’s work was that England is 85% of the wealth and 83% of the population, or whatever those figures are. But you are so predominant in England that a federation of England, Scotland, Wales and Northern Ireland is not really a goer, and without any real desire for regional legislative government inside England I think a federation is off the cards.

Q69 Kelvin Hopkins: One quick question; one easy way of comparing Scotland and Wales, with the Barnett formula and so on, would be looking at health spending per head, for example in Scotland and Wales. If it is significantly higher in Scotland, that would suggest they are being more generously treated.

Sir Paul Silk: Yes. I am not an expert in this, and I hesitate to give too naive a view about this, but there are obviously other factors like sparsity of population and so on that make reading across between Scotland, and indeed Wales, and England not always as simple as just doing it on the basis of a headage figure, if you like. The part of Wales I come from, Powys, is very sparsely populated, and clearly the Highlands is extremely sparsely populated, and there will be costs in delivering public services that come as a result of that.

Q70 Mr David Jones: Of course, in your part of Wales many of those services are delivered in England.

Sir Paul Silk: Yes, indeed.

Q71 Chair: I think we have finished, but I am very grateful to you for spending your time with us this morning.

Sir Paul Silk: It is a pleasure, Chairman.

Chair: We are learning a lot. We hope we are spreading understanding as well as achieving it for ourselves. Thank you very much indeed.

Sir Paul Silk: Thank you very much.

Examination of Witnesses

Witnesses: **Rt Hon Carwyn Jones AM**, First Minister of Wales, and **Sir Derek Jones KCB**, Permanent Secretary of the Welsh Government, gave evidence.

Q72 Chair: It is a great honour to welcome the Welsh First Minister and the Permanent Secretary to this session of the Committee on inter-governmental relations and inter-parliamentary relations in the United Kingdom, as part of our two inquiries into how English votes for English laws will or will not work and, looking further ahead, how the UK constitutional settlement is developing. Could I ask each of you to confirm your identity for the record, please?

Carwyn Jones: Yes, I am Carwyn Jones, First Minister of Wales.

Sir Derek Jones: Derek Jones, Permanent Secretary, Welsh Government.

Q73 Chair: Thank you very much for being with us. The two sessions we have already had with the Presiding Officer and Sir Paul Silk have rather confirmed that the existing inter-governmental relations machinery is not achieving what it should achieve in the best of circumstances, being largely informal and reliant on good will and personal relations between Ministers from different Governments. First Minister, what is your experience of the way inter-governmental relations are working?

Carwyn Jones: There are three levels here: first, the inter-governmental machinery between the four Administrations of the UK; secondly, the bilateral machinery; and thirdly, individual relationships between Ministers. On the inter-governmental machinery across the UK regarding the four Administrations, that has declined in the last two years particularly. The JMC domestic group has not met for some time now. It was the case that that group would meet quarterly. JMC plenary is due to meet annually, though that has not met for 15 months now. There is an attempt to get a date in January for that meeting to take place.

In terms of bilateral machinery, then, that is fairly non-existent. The Silk Commission recommendation with regard to setting up an inter-governmental committee between the Welsh Government and the UK Government has not been taken forward, and it is probably fair to say we do not have regular contact with the Prime Minister, to the extent that letters are not always answered. The contact there is very minimal. I did meet the Prime Minister, I think, in June last. Then individual relationships between Ministers vary. Some are good and some are probably more formal, so there is no hard and fast rule as to how those relationships work.

Q74 Chair: What is the consequence of the declining importance of the four Administrations working together and the, as you describe it, almost non-existent bilateral machinery?

Carwyn Jones: The contact I have with the UK Government is via the Secretary of State for Wales, but there is no real machinery for a regular Heads of Government meeting. The JMC domestic provided that.

Q75 Chair: What is the consequence of this failure?

Carwyn Jones: It is not possible to discuss issues of importance. I will give you an example. The Wales Bill, which is on the table at the moment, is a matter I have discussed many times with the Secretary of State for Wales, but we have not had a response from the Prime Minister, for example, in terms of discussing the Wales Bill's fundamental importance to the constitution of Wales and indeed the wider UK. In the absence of a framework of regular meetings between Heads of Government it becomes more difficult.

Q76 Chair: How often do you meet with the Secretary of State for Wales?

Carwyn Jones: Regularly, probably on a monthly basis on average; but in terms of meetings with the Prime Minister, once a year.

Q77 Chair: Surely a regular meeting with the Secretary of State should provide for the institutional underpinning of the Welsh Office relationship.

Carwyn Jones: Not always. For example, the problem with the Wales Bill is the involvement of every Whitehall Department. The Wales Office only has a certain amount of influence across Government at UK level. There needs to be interest shown by the Prime Minister as the Head of Government. With such a wide-ranging piece of legislation as the Wales Bill, while the contact with the Wales Office is welcome, there does need to be contact on a Head of Government to Head of Government basis in order to ensure the Wales Bill is fit for purpose.

Q78 Chair: In the run-up to the Scottish referendum, and during the referendum campaign itself, there was quite a lot of policy development. How were you consulted about this?

Carwyn Jones: We were not. Conversations take place in different rooms, but the difficulty I see at the moment within the UK is that instead of there being a coherent and cohesive attempt to formulate a constitution for the 21st century, we have discussions where there will be bilateral discussion between the UK and Scotland in one room, as it were, us in another room and Northern Ireland in another room, without thinking about what the effect is of a particular policy development in Scotland compared to Wales.

I will give you an example. Air passenger duty has been devolved in Scotland, with no thought given at all to how this would affect Wales. When we pursued the same measure of devolution we were rebuffed, and still are being rebuffed. We tend to find there will be a focus on one part of the UK without thinking about what it means for other parts of the

UK, so there is no coherent approach, which I would very much welcome. So rather than saying Scotland gets this and we are not going to think about what the effect on Wales and Northern Ireland is, we need a far more coherent approach to the devolution of powers.

Q79 Chair: How should that coherent approach be carried out?

Carwyn Jones: First, the JMC domestic needs to be revitalised.

Chair: JMC domestic?

Carwyn Jones: The Joint Ministerial Council has a domestic committee, I suppose you would call it, which has not met for some time. The plenary meets annually—or is meant to meet annually. The JMC domestic, as it is called, is meant to meet quarterly. That was an opportunity for Heads of Government to discuss issues across the UK, but that meeting is not happening any more. That means the UK Government, in terms of Heads of Government meetings, has become far more distant than was the case before.

Q80 Chair: What kind of machinery would you wish to reinvigorate or create to make sure that kind of consultation takes place?

Carwyn Jones: Those quarterly meetings need to be reinstated. The finance quadrilaterals that took place between the Chief Secretary to the Treasury and the Finance Ministers of the devolved Administrations need to be reinstated. They have not occurred for two years now. The JMC plenary is useful, but having one meeting a year is not enough when it comes to raising issues of importance. There should also be, in my view, a regular series of meetings between the Heads of Government. I welcome the meeting with the Secretary of State, but there needs to be regular series of meetings with the Prime Minister as well.

Q81 Chair: How often should that Prime Ministers meeting take place?

Carwyn Jones: I think quarterly is reasonable.

Q82 Chair: Sir Derek, what would you add? We have been discussing the political, ministerial level; what would you add to this discussion at the official level?

Sir Derek Jones: As far as the Joint Ministerial Committee is concerned, there is good official-level collaboration. There is a joint secretariat, and senior officials from the nations meet to prepare to the papers for the committee, but it is politically led.

Q83 Chair: But how do your informal discussions and links with officials in the Whitehall Government and the other Governments of the United Kingdom take place?

Sir Derek Jones: Well, they are very frequent and quite regular. Permanent Secretaries meet most weeks on a Wednesday morning, so I attend that meeting, and I meet my opposite numbers bilaterally quite frequently as business requires.

Q84 Chair: So how often do you meet one on one with the Cabinet Secretary and Head of the Civil Service?

Sir Derek Jones: I can see the Cabinet Secretary pretty much any time I think there is business it be conducted.

Q85 Chair: How often does that tend to be?

Sir Derek Jones: Probably in the margins of the Permanent Secretaries meeting, I should think every two or three weeks, particularly at the moment when there is a lot of constitutional business being conducted. Other Permanent Secretaries as and when, and it is not just when I am in London. They come here too—my opposite number from the Home Office was here last week. FCO will be here next week, so those contacts take place.

Q86 Chair: What is the effect of having far more regular contact at official level that is not supported by the same degree of contact at ministerial level?

Sir Derek Jones: I think my contacts are constructive. I use those engagements to pursue the interests of the Welsh Government and our objective. My Permanent Secretary colleagues would not expect me to do anything else.

Q87 Chair: Thank goodness for the Civil Service, to be provocative.

Sir Derek Jones: Chair, I—

Carwyn Jones: I would leave it there.

Chair: What were you going to say?

Sir Derek Jones: I think these channels are useful—largely informal but useful.

Q88 Chair: On a railways question, for example, you would go and collar the Permanent Secretary at the Department of Transport at that meeting, and try to ventilate the discussion and resolve the issues that might exist between the Welsh Executive and the UK Government on railway franchising, for example.

Sir Derek Jones: Yes. The main thing is usually to make sure the issue, from our point of view, is understood at senior levels in Whitehall. We discuss, negotiate, argue. As I say, my colleagues would not expect anything else.

Q89 Paul Flynn: People might be surprised to hear that the Prime Minister does not reply to letters from the Welsh Assembly. Even for letters from mere MPs, replies are always sent. Sometimes he farms out the answers to his Ministers, but there is always a reply to them. Is this common? Would letters from the Scottish Parliament be treated in the same way?

Carwyn Jones: I do not know about letters from the Assembly or from the Scottish Parliament. As far as we are concerned as the Welsh Government, there has been more than one occasion when letters have not been responded to or been responded to very late, sometimes many months down the line. For example, when the issue of the Wilson convention arose I wrote to the Prime Minister asking for assurances that Assembly Members would receive the same treatment as Members of Parliament. I never received an answer. I received a copy of the statement that was made, but that was some months after the letter had been sent. Sometimes we get answers, of course we do, but there have been occasions where we have had to chase answers.

Q90 Paul Flynn: What do you think the Welsh Government could do if you had powers over air passenger duty? I have heard you mention this before, but why is it such a sore point?

Carwyn Jones: The fear of competition, I think. From my point of view I have said to the Prime Minister himself to his face, and to the Secretary of State, “Look, why not follow up the Silk Commission recommendation of long haul air passenger duty?” That is not a threat to Bristol Airport. Bristol would see the devolution wholesale of APD as a threat, no doubt they would, but not long haul, because long haul is not something that affects Bristol. You have huge opportunities for Cardiff Airport there, and it raises less than £1 million a year. We could do a great deal with it and it would not be much to the detriment of Bristol.

Q91 Paul Flynn: Do you think Wales suffers because of the relatively low status of the Welsh Office in London compared to the Scottish Office?

Carwyn Jones: I do not know what sort of influence the Scotland Office has in government. I have no personal animosity towards the Secretary of State at all. We get on quite well personally, but I do wonder whether the Wales Office has a huge amount of influence when it comes to influencing other Departments in Whitehall. What we see with the Wales Bill is a fairly dense mess that needs to be resolved, mainly because different Whitehall Departments have come forward with their own view on what the devolution settlement should be, notwithstanding the result in 2011 in some instances. I would have to be convinced that the level of influence that should be there is there. I do not attach blame to anybody as an individual on that basis, but it is not clear what influence the Wales Office has.

Q92 Paul Flynn: The House of Lords Constitution Committee seems to agree with the points you make. Its assessment of the Joint Ministerial Council’s plenary was to describe it as being ineffective and its domestic sub-committee as not appearing to serve any useful purpose. Do you agree with this, and do you think something should be done about it?

Carwyn Jones: I think the JMC plenary has its use. Mainly it is a way of communicating the views of the different Governments to the UK Government. It is not a collaborative body in that sense. It tends to be a body where there is a full exchange of views, if I can put it that way. But the JMC domestic has the opportunity to enable issues to be raised on

a more frequent basis, because what tends to happen now is that everything is reserved for the JMC plenary, and it tends to be quite a lively debate within that plenary.

Q93 Paul Flynn: A full exchange of views sounds as though they reach no firm conclusions.

Carwyn Jones: The problem is that the formal decision making process that exists in the JMC always leads back to a UK Cabinet Minister. For example, we could be in dispute with the UK Government over a funding issue and the ultimate decision is taken by the UK Government anyway, so it is a question of the defendant being the judge in that sense. It has never led to that. We have never had a situation where the dispute resolution process has proceeded to that extreme degree. Matters have been resolved beforehand, so it has never been a problem in practice, but it does illustrate the difficulty that exists when you have a dispute resolution process that does not have an independent adjudicator at the end of it.

Q94 Paul Flynn: The memorandum of understanding that underpins inter-governmental relations is currently being reviewed and updated. What would you like to see included in the updated memorandum of understanding?

Carwyn Jones: I would like to see more regularity in the Heads of Government meetings that take place. I do not think four a year is asking too much. That is one area where we should see changes. At the end of the day, the memorandum is useful but I do not see how useful it is in terms of bilateral relations. It is useful for the JMC, but in terms of bilateral relations between Governments, that is more difficult. How do you, for example, ensure that where a particular power is devolved to Scotland, full consideration has been given to what it means for the rest of the UK? I am not sure that happens.

Q95 Paul Flynn: The M4 relief road is regarded by most people as being an essential development to reduce congestion and disperse pollution. Is there a danger, do you believe, in the present situation of that project being postponed or slipping off the agenda because of disagreements? There seems to be a clear choice between a two route solution that will continue the congestion and possibly make it worse, and a three route solution that seems to be the ideal one. But there are signs now among certain parties that the enthusiasm for the M4 relief road is waning. Is there a danger, do you believe, because of the weakness of the Wales Office and our lack of clout in Government, that it could slip off the agenda?

Carwyn Jones: No. I do not think that would be right. That is a decision that has to be taken here. It is not a matter for the UK Government. It does need to be resolved. I suspect that a full resolution will not come until after the election in May, such are these things.

Q96 Mr David Jones: Perhaps I could raise the A55?

Carwyn Jones: I was going to come to that, because I know the A55 is an issue that the Member and I have spoken at length about in years gone by. The A55 is a hugely important road for the north. The reality is, it was built to a standard below the standard anybody would build to now. It is a dual carriageway with some very difficult tunnels, as

he will know, including the Conwy tunnel, and we are spending £42 million on the refurbishment of the tunnels at the moment. The Gateway Project around Deeside will be a substantial amount of investment as well. But in terms of the constitutional issues, the issues of the A55 and the M4 relief road are not caught up in the constitutional debate. The M4 particularly will be a decision that will have to be taken in the aftermath of the elections in May.

Q97 Paul Flynn: One very long-serving and respected AM has effectively been deselected by his party, and he says it was because of his enthusiasm for the M4 relief road. He has been put down the list based on that. Do you think these are worrying signs and that there is a clear message that the public should recognise in the next election?

Carwyn Jones: That is a matter for the party involved and not for me, but in terms of the constitutional issue I do not see that the issue of the M4 relief road is caught up in the constitutional debate. The issue of the Severn Bridge tolls is, however, because the current situation is that things remain as they are. When the bridges return to public ownership, the Department for Transport will control the tolls, and all the money will be used for roads in England. Nothing will be spent in Wales. As you can imagine that is not a situation we particularly welcome. We have taken a view that we should run the tolls, because in the main they are effectively a tax on coming into south Wales. Or at the very least there should be some level of joint control, but at the moment that is not on the table. That clearly is an issue for us, because we would be at the mercy of the Department for Transport in terms of the level of the tolls and seeing none of the benefit in terms of the profits the toll would generate.

Q98 Paul Flynn: You may recall the words of Harri Webb when the first Severn crossing was opened, “Two lands at last connected across the Severn wide, but all the tolls collected upon the English side”. Are we going to suffer the same feeling where the money stays in England?

Carwyn Jones: The toll booths on the new bridge are in Wales, but in highways terms they are in England, because the Highways Agency extends its reach into those tolls.

Paul Flynn: Truly alarming.

Carwyn Jones: There is an example there of an issue that needs to be resolved, because there is an issue about the level of the tolls, which are a significant issue for businesses in south Wales, and of course about where the money goes from the collection of the tolls, which takes us into inter-governmental relationship issues.

Q99 Kelvin Hopkins: Before I ask my question, it strikes me that the other devolved Administrations are very different from Wales, in that a crisis is never far away in Northern Ireland—we have just been through another crisis there—and in Scotland, the Government is going to be very nervous, because even though the referendum went the right way for those of us who believe in the United Kingdom, long-term independence is still not guaranteed. United Kingdom Governments are always going to be much more nervous about Northern Ireland and Scotland than they are about their relatively friendly relationship with Wales,

where that sort of crisis does not appear on the horizon. I just wonder if it would be to Wales's advantage to have a much more statutory relationship rather than the relative degree of informality.

Carwyn Jones: I think the concern I have is that the UK Government must not give the impression that it responds to crises, because otherwise the message that is being given is that we need to stir up a crisis in Wales in order to see the kind of concessions that are seen in Scotland and Northern Ireland. As somebody who believes in the Union and a strong devolutionist, I think that would be—if I can put it this way—the wrong message to communicate. But there does need to be an examination of the quadrilateral machinery, which we have talked about in terms of the JMC, but also the bilateral machinery. There was a recommendation, as I said, in the Silk report that there should be an inter-governmental committee. The Silk Commission was a UK Government Commission. It made its recommendations to the UK Government, but we have not seen progress with regard to that committee since the Commission reported.

Q100 Kelvin Hopkins: So putting inter-governmental relations on a statutory footing would be beneficial to Wales.

Carwyn Jones: Yes. It depends how it is done, of course, but I think regularity of contact between Heads of Government particularly would be very useful.

Q101 Kelvin Hopkins: It seems that it is not too bad a relationship on the official side, but the political side is less agreeable.

Carwyn Jones: There are bound to be tensions on the political side. That is inevitable when there are different parties in power in Wales and at Westminster. That said, the relationship between myself and the Secretary of State is one where we are talking, and where there is a lot of work between officials in taking the Wales Bill forward. Of course there is a lot of work done between officials, for example, so that if we have a particular set of regulations, it makes sense to bring the Welsh regulations and the English regulations in on the same day, particularly for environmental regulations. So that work does happen under the radar as well.

Q102 Kelvin Hopkins: Given the evolving nature of the different devolution settlements, with more devolution coming, how should the machinery reflect that development and that evolving nature of the devolution settlements?

Carwyn Jones: Much of it depends on what the final legislation looks like as far as Wales is concerned. The current legislation is, not to put too fine a point on it, a recipe for conflict. It would mean effectively that every single Bill that came through here would probably end up in the Supreme Court, which nobody wants, in reality, but that is what the current Bill would lead to. Also, of course, the current scenario introduces a situation where in order for us to pass Bills in this place, there are occasions when consent is required from a Minister of the Crown, even in areas that are wholly devolved. There are issues there in terms of what that means. Do we judicially review a Minister every single time the decision is not one that we like? What is the democratic scrutiny on that decision?

There is no vote on it. There are all manner of questions. I hear what the Secretary of State has said—that there is much work to be done to look again at the Wales Bill—and I take him at his word on that, but much of the machinery will depend on what the Bill finally looks like. At the moment, it is a recipe for conflict. There is no question about that in my mind.

Q103 Kelvin Hopkins: I must say, it strikes me as extraordinary that you have not had a formal consultative arrangement with the Prime Minister and Government on the Wales Bill, given that you are the First Minister for Wales.

Carwyn Jones: We have tried. I had a meeting with the Prime Minister either last June or July, certainly before the summer recess. I think it is important that there is an understanding on his part at first hand of the difficulties that are inherent in the draft Bill that has been put forward.

Q104 Mr David Jones: You have shone a light on some of the frustrations you have experienced in terms of inter-governmental relations, but clearly you do not often get the opportunity of doing that. How do you think, generally, the transparency of those relations could be improved?

Carwyn Jones: In terms of the quadrilateral relations via the JMC, there is no reason why more information cannot be given out to the public as to what has been discussed at the JMC. I see no difficulty with that.

Q105 Mr David Jones: Do you issue communiqués?

Carwyn Jones: Yes, we do, but they are bland, as you will know from previous experiences.

Q106 Mr David Jones: Frankly, given that, for example, committees such as JMC domestic almost never meet, there is no opportunity to issue a communiqué.

Carwyn Jones: I think there is a balance to be struck. Obviously in bilaterals it is important that there is a level of trust that can be exercised, and we would not want every single thing discussed in bilaterals released publicly—it is in no one's interests for that to happen. But the JMC is still not widely known of, and no one quite knows what happens. If you are a member of the public within the JMC, what tends to happen is of course that people come out of it and give their own view on what has happened in the JMC. But no, it is not a transparent meeting in that sense.

Q107 Mr David Jones: How would you say that scrutiny of those relations could be improved? Do you think it is desirable to have greater scrutiny, for a start?

Carwyn Jones: I have no difficulty with it. I have no problem in explaining what happens in JMC plenary in terms of what I have said—I do not regard it as a private meeting in that sense—and, indeed, what decisions have been taken. I do not see that as being an

enormous difficulty. But if you are talking about scrutiny on the parliamentary side, I would personally have no difficulty in giving evidence to a Committee about what has been discussed generally. In terms of there being parliamentary input, I am sure the Presiding Officer would have a view on how she would like to see it scrutinised, but it is right to say that at the moment there is no scrutiny of the JMC from the parliamentary side.

Q108 Mr David Jones: The JMC meets very rarely anyway. Clearly most of your relations with the United Kingdom Government are departmental, via the Wales Office and so on. Do you think it desirable that those relations should be subject to more scrutiny?

Carwyn Jones: I have no difficulty in principle with that. When I meet the Secretary of State there will be occasions when the two of us will discuss something in private. There will be other occasions when we have a meeting where notes are taken. There is no difficulty, to my mind, in considering whether an agreement can be found after each meeting to explain what has been discussed and decided.

Q109 Mr David Jones: You have floated the idea of a constitutional convention, and that has been your position for some time. What conversations have you had about that with counterparts in other devolved Administrations and also in the Westminster Government?

Carwyn Jones: I have discussed it briefly with the Prime Minister. He is not in favour of the idea.

Q110 Mr David Jones: How briefly was that?

Carwyn Jones: I discussed with him after the last meeting that I had with him and the Secretary of State. I have also discussed it in telephone conversations with him, but he does not seem supportive of the idea. As far as Scotland is concerned, before the referendum the answer to any question about a constitutional convention was, “We know what we want, and it is independence”. The message is a little more nuanced now. Northern Ireland, of course, is particularly difficult.

The reason why I floated it was because the UK is a Union of four nations. That is what the Prime Minister himself said. It is in effect a voluntary Union of four nations, because there is a right of secession, if I can put it that way—not something that I would want us to exercise here in Wales. But that needs to be reflected in the constitutional arrangements that we have. There needs to be more of an understanding that, yes, there is a UK Government, but nevertheless there has to be a better relationship with the devolved Governments as well.

For me, the convention would have operated on the basis of working out the structure of the UK, not where individual powers lie—that is through a different route. What does parliamentary sovereignty mean in the 21st century? Are we saying that all power stems from one place, or are there other alternatives, such as in Canada, where there is a system of pooled sovereignty, yet that offers constitutional stability? I do not suppose much progress will be made on this between now and May, but I think it is something that the

UK will have to wrestle with in the future. How do you keep together a union that is different—a common endeavour, but one that does not rely on a constitutional arrangement that is creaking at the moment?

Q111 Mr David Jones: Sir Paul Silk, giving evidence to us, just raised the issue that has been raised in other quarters of a senate of the United Kingdom, but then immediately seemed to dismiss it on the basis that England was so predominant in terms of population, in terms of economic power and so on. What are your views about a senate? Is that something that you have considered?

Carwyn Jones: As a replacement for the House of Lords?

Mr David Jones: Yes.

Carwyn Jones: I would prefer to see—it is my personal view only—an elected second Chamber. I am attracted to the idea of one lengthy term for Members, to move them away from party political pressure, because I think it is important to have a real Chamber. In the past I have expressed the view that it should be made up of equal numbers of representatives from the four nations to offset the difference in population, in the same way as the US senate does. Of course there are other questions that arise then, because if you have a senate composed along those lines, effectively you give a stronger voice to Wales and Scotland, particularly over legislation that does not affect Wales and Scotland—particularly Scotland—so there are a number of issues that would have to be resolved there. But the idea of a senate, to my mind, is to help try to balance the huge population advantage that England has.

Q112 Mr David Jones: One answer that has been put forward, of course, is a regionalised England and that the various regions of England should be represented within the senate, if we are going to call it that. The problem is that that has been put to the people of England, or at least part of England, and they have rejected it. Do you think that is a difficulty?

Carwyn Jones: The referendum in the north-east of England was to set up an assembly in the north-east of England rather than idea of a regionalised senate being put into place instead of the House of Lords.

Q113 Mr David Jones: The point that I was making, though, was that in the case of the north-east of England, regionalism was rejected on a popular vote.

Carwyn Jones: That is true, that form of regionalism was rejected, but—

Q114 Mr David Jones: Do you think it is realistic that England, with its massively disproportionate population and economic power, should have the same voice as Scotland, Wales and Northern Ireland?

Carwyn Jones: In the House of Commons, no, and that is reflected of course in the numbers of seats, but if we look at the situation that has existed in the US, we have of course the House of Representatives, which is composed of members elected on a

population basis, but the Senate has equal numbers from each state. It is not the same, because there are obviously 50 states rather than four within the UK, but I think there is scope there to try to secure more of a balance between the four nations. I am not averse to the idea of there being some kind of regional representation within England as well, to try to provide a level of balance, given the inevitable numbers in the House of Commons because of the different populations.

Q115 Mr David Jones: If a constitutional convention is off the agenda, which it would appear to be, at least so far as the Prime Minister is concerned, what steps short of that do you think could be taken to at least start to address the constitutional challenges that this country faces?

Carwyn Jones: It is difficult to see what can be done in terms of a halfway house. I think English votes on English laws in a UK institution is difficult, to say the least. What is an English law? A Welsh law passes through this place; a Scottish law passes through the Scottish Parliament. It is more difficult to assess what an English law is from our point of view, of course. Any law that applies only in England and yet affects our Barnett consequential, we would argue is not an English law. So while I can understand the desire in England not to have—as people in England would see it—a situation where Scottish MPs are able to prevent a law from coming into force in England, I understand the logic behind that. I think it is difficult to do it without some kind of institutional reform, and that means either an English Parliament—again, there are arguments—

Mr David Jones: There are all sorts of arguments.

Carwyn Jones: Yes, exactly. I know there are arguments for and against that, and that is off the agenda, I think you are right. Or there could be greater regionalism within England.

Q116 Mr David Jones: This place, of course, does pass laws for England, doesn't it?

Carwyn Jones: In terms of water?

Mr David Jones: For example water, and maybe shortly rail services too; the Wales and Borders franchise may well be devolved.

Carwyn Jones: The way it will operate with rail, of course, is that those routes that are mainly in Wales will be franchised from Wales and those routes that are mainly in England will be franchised from England, which I think is a sensible compromise. With water, I think the border should reflect the political border. I see no reason why the situation should continue.

Q117 Mr David Jones: Sadly, of course, water catchment areas do not follow the political boundaries.

Carwyn Jones: But we had this debate when it came to flood defence committees some years ago when I was the Minister for Environment. That point was put to us, that water did not follow the political border, which is true, but they have worked very well. I think there was a suspicion, if I am honest, at that time in DEFRA that somehow if we

controlled flood defences in the Severn Valley, we would do something to the Severn that would make it more likely to see the Severn flood in Gloucestershire. We are not quite that uncharitable.

Mr David Jones: A bit like the Abu Simbel dam.

Carwyn Jones: It has not proven that way, so I think it is perfectly possible to have the political border in place with water. It sounds like a perfectly sensible arrangement in terms of administration.

Q118 Mr David Jones: But to return to the principle, given that this place passes laws for England as we are now, how is the English voice heard in this place in practical terms?

Carwyn Jones: My preference would be that the way to resolve that is to put the political border in place for water.

Q119 Mr David Jones: Yes, I appreciate that, but how is it resolved now in practical terms, or is it not resolved?

Carwyn Jones: There is no resolution of it. The only resolution is to put the border in place.

Q120 Mr David Jones: What would you say are the implications of not holding a convention or some other constitutional forum to consider the future of the United Kingdom and its institutions?

Carwyn Jones: There is a danger that in time we will see fissures emerge. They will widen, and I think the UK could start to creak. The difficulty is that the constitutional settlement that we have at the moment is very ad hoc. Nothing, as we know, is written down, everything is done by convention. It needs to be more formal than that, and we need to have a constitution that recognises that there is more than one wellspring of power within the UK. What does that mean for me? That means that I do not think parliamentary sovereignty is right for the 21st century. There are ways of pooling the sovereignty so there is a better understanding of who does what. Canadians do this quite easily.

Q121 Mr David Jones: In your view, do we need to completely review the devolution settlement that was put in place in late 1990s?

Carwyn Jones: No, I think the whole structure of the UK. You cannot just take Wales on the one hand or Scotland on the other.

Mr David Jones: No, I mean across the board.

Carwyn Jones: In terms of the powers, no. In terms of the structure, yes, I think that will be true.

Q122 Chair: Why do you think the Prime Minister does not want any form of constitutional forum?

Carwyn Jones: I cannot answer for him. The answer he gave at the time was that it was something to do with academics, and he suggested that it was some kind of constitutional wonkery. Those are not the words he used, but that is what he suggested.

Q123 Chair: There is probably more to, or more behind, what he has said. I would just surmise that he believes in parliamentary sovereignty, and you want a constitutional convention to question the whole principle of parliamentary sovereignty. How do you get a meeting going to discuss something where you have already decided you are going to disagree about something as fundamental as that?

Carwyn Jones: He has not been warm to the idea of a constitutional convention of any form. I have offered you my view. That does not mean it does not have to be on the table and it cannot be discussed, of course.

Q124 Chair: No, but I am asking you that in as consensual way as I possibly can, and we had a very good discussion last night, a private discussion, with a number of academics and elected people about how we can promote more of a discussion about how we resolve these problems. I would put it to you that it is not about taking up pre-positions, as we politicians all tend to do. How could we get into a discussion where we could at least agree what the problems were, without having any preconceived notions about how to deal with those problems and what prescriptions would follow from agreement about how to deal with those problems? Wouldn't that be a beneficial approach?

Carwyn Jones: I think the structure should be that the JMC should be able to set in motion the wheels of a convention, because it has to be jointly owned, if I can put it that way—it cannot all come from the UK Government—and then put in place a convention process that would then report back to all four Administrations via the JMC for agreement.

Chair: That would be an inter-governmental approach.

Carwyn Jones: Yes.

Q125 Chair: What about looking at an inter-parliamentary approach that could circumvent some of the more sort of macho breast-beating positions that senior political leaders tend to adopt? Would you be interested in exploring a parliamentary approach at least as a kind of precursor to what you might want?

Carwyn Jones: It would be a process where the four legislatures would look to take forward a convention. They would then report back to the four legislatures rather than the Government?

Q126 Chair: I am thinking about something fairly unstructured, because don't we need to build up some trust and understanding—that is why we are here—that is not based upon preconceived solutions? I am sitting here with a very, very open mind, because I share your

concern that there are fissures coming as a result of the trajectory we are on, but what is evident is that if people stick to their preconceived positions, we are never going to get into the same room and have the discussion to try to forestall what will happen if we do not address these problems.

Carwyn Jones: I am more than happy to discuss the issue of a convention with the Prime Minister without any preconditions, but the point you raise—

Chair: With respect, that is a—

Carwyn Jones: I make that point, but the point you raise is, should the legislatures take the lead? I am open to that idea.

Chair: I think that is encouraging.

Carwyn Jones: I can see that that would have merit in terms of being able to take forward discussions about the constitution in a different way. At the end of the day, of course it would be for the legislatures to decide ultimately what the constitution should look like. I see no reason why then the legislatures should not come together and start thinking about how this might happen.

Q127 Chair: This Committee hosted a private discussion last night, and there will be more private discussion over lunch today. A private space is necessary in order to build up trust and understanding without necessarily being held immediately to account for everything you say or everything you hear. We are going to do the same in Belfast, we are going to do the same at Holyrood, and as a result of last night's discussion, I had rather concluded that we need to do the same at Westminster among the peers and Members of Parliament who are interested in these matters. Another idea that emerged yesterday is that we should look at whether the Council of the Isles might have a role in promoting this kind of discussion. How would you feel about that suggestion?

Carwyn Jones: The British-Irish Council, of course, includes the island jurisdictions and the Republic of Ireland, who would have a passing interest in the constitution of the UK. The British-Irish Council is not functioning as it should. In my time as First Minister, which is now nearly six years, we have not once had the Prime Minister there. The Irish Taoiseach is always there. As Heads of Government elsewhere, we always make the effort to attend, and as a result, it is not the high-level body that it was meant to be. It is a concern I have shared, but I do think that when the council meets that there should be, if not the Prime Minister, then somebody who is at senior level representing the UK Government at every British-Irish Council. The distinction between the JMC and the British-Irish Council, of course, is that the British-Irish Council is an international body, in effect, and internal UK constitutional arrangements are not really of any interest to it.

Chair: I think they are.

Carwyn Jones: The Republic will say, "Nothing to do with us" and so will the Isle of Man, Jersey and Guernsey, potentially. They are in quite a different position, whereas the JMC of course is a UK body, and solely a UK body, that offers the opportunity to look at these issues from a Government basis.

Q128 Chair: I am very encouraged that you are open-minded to a different approach that might lead us in a direction that you might favour or others might favour, but would at least get some discussion going.

Sir Derek, we have a few questions for you, but, First Minister, obviously you must have the option of butting in if you need to. When we were looking at the role of the civil service in the run-up to the Scottish referendum in 2013-14, we did at one stage look at the possibility of acknowledging that there was now a separation in the civil service between Scotland and England, notably because there seemed to be no civil servant in London who was prepared to enforce the Civil Service Code in the Scottish civil service, even though theoretically the Cabinet Secretary or the head of the civil service is the boss of the Permanent Secretary to the Scottish Government. We did not do that. What would have been the consequence if we had decided that there were separate civil services in each of the four parts of the United Kingdom?

Sir Derek Jones: It could be done. It has been advocated in Wales from time to time that there should be a separate—

Carwyn Jones: Not by me.

Sir Derek Jones: Not by the First Minister, but it has been advocated and it could be done. But my view is that as things stand, I can do a better job, or my civil service can do a better job, supporting the Welsh Government as part of the UK. It is usually the UK civil service: it is probably the GB civil service, and Northern Ireland is slightly different.

Q129 Chair: Does the Permanent Secretary from Northern Ireland attend the colleagues' meeting on a Wednesday morning?

Sir Derek Jones: From time to time.

Q130 Chair: What would we lose if we separated the four civil services?

Sir Derek Jones: It would depend on the terms of the separation. I suppose there could be a federation whereby some things were kept common. It is not always well understood the extent to which civil service matters are already effectively devolved, so staffing matters, pay, grading and all of those structures, apart from the senior civil service, are already devolved to the First Minister, who delegates them to me.

Q131 Chair: So what is the decisive advantage?

Sir Derek Jones: The consistency of the UK civil service comes more from fundamental values and ways of operating, which are statutory now in the Constitutional Reform and Governance Act 2010. Those establish the values of the service and core principles such as entry to the service only on merit. The things that are policed by the Civil Service Commission could remain the same, while still allowing for some further delegation.

Q132 Chair: It sounds like a bit of a fudge to me, but what is the decisive advantage of maintaining a unified civil service, at least in Scotland, Wales and England?

Sir Derek Jones: It helps to bind the UK. If the United Kingdom is going to continue, then I think we need a professional service that has the right degree of tight/loose so that civil servants can follow the political leadership of the nations, which is distinct, but do so on the basis of consistent professional principles, a good understanding of each other's challenges and high-trust communications across the borders.

Q133 Chair: I hear that. How much does that suggest that we should regularise the position of the Northern Ireland civil service, which is only separate for historic reasons, because the Irish civil service was originally separate?

Sir Derek Jones: I don't have a view, Chair, on that.

Chair: I am not surprised, but I am disappointed.

Sir Derek Jones: Things work pretty well in practice at the moment.

Q134 Chair: How often do you experience a conflict of loyalties between your obligations to the Welsh Government and as a member of what we used to call the home civil service?

Sir Derek Jones: I do not. My loyalties are very clear—to support the First Minister in the elected Welsh Government, that is what it says in my job description, and that is what it says in our version of the Civil Service Code. As I was saying a bit earlier, that means I argue for the interests of the Welsh Government in Whitehall, and nobody would expect to do anything else. The civil service allows for that. Insofar as I have loyalties to the service itself, it is to do with those principles that I was talking about earlier and the values of the service.

Q135 Chair: You have already talked a little bit about the regularity of contact you have with your colleagues in the United Kingdom Government. Who are the people you most talk to?

Sir Derek Jones: I should have mentioned the Wales Office. The head of the Wales Office is a frequent interlocutor.

Chair: I can imagine the conversation, "Do you realise what they have done now?"

Sir Derek Jones: The Treasury is probably next on the list, for obvious reasons, and over recent times, the Ministry of Justice, for particular reasons, and the Home Office, at least a little while back when devolution of policing was up for discussion.

Q136 Chair: How much is verbal and how much is written?

Sir Derek Jones: Can I just add the Cabinet Office?

Chair: The Cabinet Office, of course, yes. How much is verbal and how much is written?

Sir Derek Jones: Mostly oral.

Q137 Chair: Mostly oral. What advantages or disadvantages does that have, do you think?

Sir Derek Jones: I mentioned that it is a high-trust relationship, so I think a degree of informality is appropriate. We correspond when we need to. Can I just say that this is a very small amount of interaction compared with interaction between Welsh Government Departments and their opposite numbers, and between Welsh Government Ministers and their opposite numbers in Whitehall?

Q138 Chair: First Minister, how much confidence do you have in this relatively informal interaction?

Carwyn Jones: I have never had cause to think that there are divided loyalties among the senior civil service. The situation is that we have control over those outside the senior civil service, but the senior civil service is not devolved. We have suggested it should be, because it just creates a better fit—not to create a civil service that is different in ethos, but in terms of terms and conditions particularly. I have never felt that was a problem. When Derek was appointed, I never felt that somehow somebody was being appointed by Whitehall into Wales. That was never the case, so I have never felt that we have a problem of divided loyalties.

For me, I think it is useful that there are no barriers erected to the ability of the civil service to move around the three nations, because I think that helps with the level of understanding. I would not want to see a situation where it is thought that if you start in Wales, you will always spend every moment of your working life in Wales. We need to make sure that people have experience on secondment elsewhere, whether it is within local government in Wales, in Departments in Whitehall or in Scotland. So I suppose my answer would be that I have not seen anything that would cause me to be concerned about the current arrangements, and the advantages of being able to move expertise around much outweigh any disadvantage in terms of divided loyalties.

Q139 Chair: Sir Derek, we heard a few minutes ago from the First Minister that too often there are things being decided at a political level in Whitehall that have consequences for Wales, which are not consulted on in Wales at all. The Constitution Unit at UCL recently claimed the same for officials, saying, “Too many officials in Departments tend to treat the devolved Governments as an afterthought or like any other Whitehall Department”. How much do you share that view?

Sir Derek Jones: The afterthought point still happens, and it still happens too frequently. I think it varies enormously between Departments and between parts of Departments. Sometimes the experience is very good, so if there is a joint issue or a joint interest it is consulted on in good time, with productive discussion. We will not always agree, but at least it is understood that there is a devolution issue. Sometimes it is overlooked, and that is probably the most frustrating aspect of Cardiff-Whitehall engagement—when a devolution issue is overlooked in Whitehall so that contact starts too late, it is difficult to

rescue a good result from a late start. That does not happen all the time, but it still does happen and it is happening frequently.

Chair: Mr Hopkins, do you have anything to add to the question that I have inadvertently asked on your behalf?

Kelvin Hopkins: No, I am very happy that you asked the question, Chair.

Chair: Thank you. You are very tolerant.

Sir Derek Jones: Chair, can I add something to that, because it sounds entirely negative? There is now a serious and organised programme led by the Cabinet Office to improve devolution awareness and capability in the civil service across Whitehall. I would like to say that is the result of my advocacy over two or three years, but it has more to do with the Scottish independence referendum.

Chair: Very good. Thank you for that very honest answer.

Carwyn Jones: Could I come back on that, Chair?

Chair: Yes, certainly, First Minister.

Carwyn Jones: The understanding of the Welsh devolution settlement does vary between Departments in Whitehall. DEFRA have a good understanding of it, because they work regularly with us. The Ministry of Justice probably have the worst understanding of it and the Home Office not far behind, because they do not operate in that context. We have had occasions when they have not considered different structures in Wales, particularly with regard to responses to emergencies and so forth, so it does vary in that regard.

Chair: That is very helpful.

Carwyn Jones: From my point of view, one of the issues that we tend to find, which is an irritant to us, is what is done in Scotland without thought about what the effect then is on Wales. I will give you an example: the Barnett formula. This is not a governmental issue, but there was the famous vow that was made before the Scottish referendum, which was an all-party vow that we thoroughly disagreed with, frankly, because we were not supportive of Barnett. We think Barnett should be—

Chair: There was not much consultation in Westminster either.

Carwyn Jones: No, I am sure that is the case, but it is still happening now—there will be discussions about Barnett, and there are discussions ongoing between the Scottish Government and the UK Government with regard to tax without thought of what that might mean for Wales. We take the view that the Barnett formula should go and should be replaced by an up-to-date needs-based formula. My Scottish colleague would say something completely different, of course, but nevertheless Barnett was focused on in the run-up to the Scottish referendum, and it is still being focused on now in Scotland, as if there was no effect anywhere else. Of course, the English regions lose out as well because of the way Barnett is currently structured.

Chair: We are running over time a little bit, but if you can indulge us, we would be incredibly grateful. Kelvin Hopkins.

Q140 Kelvin Hopkins: Just briefly, is the different nature of relations with different Departments historic and cultural, or does it relate to particular Ministers and particular Permanent Secretaries? Do they change over time, or have they been fairly fixed over a period?

Carwyn Jones: In the main there can be changes if there are changes of Ministers, but you tend to find, for example, that where you have a Department like DEFRA, which is used to dealing with and having an understanding of the Welsh devolution settlement, the relationship tends to be better. A lot of work takes place between our Department and DEFRA. Where you have a Department like the Ministry of Justice or the Home Office, which understands devolution in Scotland but has no real understanding of the way devolution works in Wales, that is when it gets difficult.

Q141 Mr David Jones: Sir Derek, you mentioned the programme of devolution awareness that has just been instituted. I remember that five years ago, largely as a result of pressure from the Wales Office, a system of devolution champions was put in place across Whitehall. What does that say about the extent to which the home civil service is still aware of the realities of devolution?

Sir Derek Jones: It means that progress over those five years has been partial. The devolution lead officers do still exist in Departments, and the Welsh Government will host a meeting in our offices in London of those devolution leads—I will usually speak at it—to try to continue to promote awareness. But for the reasons that I have just mentioned, it is obvious that there is further progress needed.

Q142 Mr David Jones: What further improvements would you like to see in the way the civil service deals with devolved Administrations?

Sir Derek Jones: I am not quite sure how to answer that, apart from the things that I have mentioned about improving the general awareness, understanding and capability across the whole of the civil service. I do not think there is anything wrong with the way that we work. There is a lot of—

Q143 Mr David Jones: Except it is extremely slow progress, as you yourself have just said.

Sir Derek Jones: But contacts are frequent and largely professional. It is just that we would prefer to bump into far fewer cases of low levels of awareness.

Q144 Paul Flynn: When we were here a few years ago with a Committee that no longer exists and has been absorbed into this Committee, you were the only banner carrier, I think, for a constitutional convention. That was supported by the Committee, which might have accounted for its demise, I'm afraid. But isn't it too early to consign the idea of a constitutional convention to the flames? I say that because of the change that has taken place as a result of the vow—which was an act of political panic by all parties—and the statement made by the Prime Minister after the referendum; because we are going down a slippery

slope very fast for political reasons; and because of the pressure from English nationalism, which hardly existed before. There is now a stronger case for a constitutional convention, so we can look at this very complex matter in an orderly way that takes account of the interests of the four parts of the United Kingdom.

Carwyn Jones: I have not changed my view that that needs to be done, but I recognise that it is not about to begin. But you are right, because my worry is that there needs to be, as I said to David Jones earlier, an examination of the structure of the UK in order to get that right for the 21st century, rather than relying on ad hoc arrangements in different parts of the UK. I do not think that is going to stand the test of time in the future.

Q145 Paul Flynn: A final question: do you think that the emergence of English nationalism, red in tooth and claw and angry and resentful, and the result of it, which is EVEL, is more likely to lead to the break-up of the United Kingdom than any progress on devolution?

Carwyn Jones: Nationalism of any kind is a threat, to my mind, whether it is a threat within the UK or a threat to the UK's relationship with other institutions in Europe. But what worries me is that we end up in a situation where the tensions that exist cannot be managed and accommodated because of the current structure, and that leads to a break. That to me would be the ultimate tragedy, if the UK were to break. It has been flexible enough thus far, but I do not think flexibility is going to be enough for the future. There needs to be a far more formal structure of understanding what the UK Parliament does and understanding what the devolved Administrations do—the way they are set up and their relationships with each other.

The issue of powers is a different issue. I do not argue that we should have the exact same powers as the Scottish Parliament, but I just do not think that having conversations in different rooms is going to work in the future.

Q146 Chair: Devolution was famously described as a process and not an event. How should we arrive at the end point of this process?

Carwyn Jones: For me, it is not independence, clearly, but we do need to establish a system where powers can be devolved where those powers are needed. For example, let us take policing, which is not where we take a fundamentally different approach to the UK Government. There would need to be a structure in place where police devolution could occur without the need for separate legislation.

Q147 Chair: So it remains a process.

Carwyn Jones: That is true, but that is what you have in Northern Ireland. There is never going to be an end point in the sense of their—

Q148 Chair: So you do not look for an end point—but isn't that what we are all grappling with, the fact there is a different process going on in each part of the United Kingdom?

Carwyn Jones: The end point is a federal set-up. That is the end point in terms of it being stable.

Q149 Chair: That is interesting. I asked how we should arrive at this end point, and you have answered the question of what the end point should be. How should we arrive at a consensus around this end point?

Carwyn Jones: I think what you suggested in terms of inter-parliamentary arrangements is a good start.

Chair: Thank you very much indeed, First Minister and Permanent Secretary. We are very, very grateful to you. We have enjoyed visiting your Parliament—I shall call it such—and we look forward to coming again another time. Thank you very much indeed.