



# HOUSE OF LORDS

Revised transcript of evidence taken before  
**The Select Committee on the Constitution**  
Inquiry on

## **THE UNION AND DEVOLUTION**

*Evidence Session No. 19      Heard in Public      Questions 255 - 263*

THURSDAY 21 JANUARY 2016

11.15 am

Witnesses: Andrew RT Davies AM, Kirsty Williams AM and Leanne Wood AM

Members present

Lord Lang of Monkton (Chairman)  
 Lord Cullen of Whitekirk  
 Baroness Dean of Thornton-le-Fylde  
 Lord Judge  
 Lord MacGregor of Pulham Market  
 Lord Morgan  
 Lord Norton of Louth

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**Examination of Witnesses**

**Andrew RT Davies AM**, Conservative, **Kirsty Williams AM**, Liberal Democrats, and **Leanne Wood AM**, Plaid Cymru

**Q255 The Chairman:** Kirsty Williams, Leanne Woods, Andrew Davies, we are grateful to you for coming. We are late starting—not your fault, but our fault—but we have a full hour, so feel free to answer our questions as you think fit.

Let me start with a broad general one. We are talking about the union and about devolution. What do people mean by the union? How do you define it? Is it an abstract principle, or is it something with real specific benefits, whether in the social field or economic field or in some other way? What are the particular features that you think are important as regards Wales? Would you like to start, Ms Williams?

**Kirsty Williams AM:** Thank you very much for the opportunity to speak to you this morning, and I hope that you have a successful day here at the Senedd.

There are important reasons for Wales to remain part of the union, and there are aspects of the union that Welsh people value very much. It delivers advantages in terms of the economy, defence and security, a stronger voice internationally and an opportunity to have that voice heard in international bodies. It is important socially as well, as there is the opportunity to share social risk in terms of welfare and—perhaps you might come on to this later—there is the opportunity to share the risks economically as well through an element of redistribution across the union.

Depending on where you are in Wales, there may be to a greater or lesser degree a cultural sense of belonging. That may be felt at different levels, depending on which part of Wales you are from and perhaps differently even among the generations. I am not sure that the concept of the union is the same for my teenage daughter as it is for me, let alone what it is for my mother-in-law. Despite those differences, people often feel a value in being part of the union.

**Andrew RT Davies AM:** Good morning everyone, and welcome to Cardiff. It is a pleasure to come before you and support you in your evidence-gathering session.

Most of what Kirsty Williams has said, obviously, as a unionist, I would believe passionately in. I believe that there is a strong bond from Wales, Scotland, England and Northern Ireland on the principles of the union, which is a strength. Obviously, we benefit from being together. Especially from a Welsh perspective, it is economically important because of our land border and the way our economy has developed over the years. We have an east-west—or west-east, depending on which way you want to look at it—rather than a north-south, economic bond, as it were. Especially in north Wales, there is a huge economic footprint that is dependent on us having a strong bond as a union.

On the point that Kirsty introduced about age, for people of a certain age the union means different things. I get the sense when I go around, especially among young people, that Wales has far more grit in itself these days and an ability to determine much of what it wants to do via the devolved settlement. As someone who comes from a party that historically did not necessarily believe in this institution or campaigned actively against the setting up of this institution, I think that it is a good thing to see that change of mindset.

Looking around the rest of the United Kingdom, especially in England now, we see the devolution of responsibilities to cities and the creation of mayors. Bristol, for example, down here is an active economic competitor now, with the increased capacity that the mayor has brought to the city of Bristol. Very often, the representations that we receive here, particularly in south-east Wales, emphasise the way that localised decision-making has been passed down to regions and areas within England that have a direct economic impact on what is going on here in Wales.

The strength of the union is strong here in Wales. The belief in the union is very strong. It means a lot economically, it means a lot culturally and, obviously, for security as well it means a lot to people. We have a very strong connection with the armed services in this country, for which historically we have always provided over and above our population ratio vis-à-vis other parts of the United Kingdom.

The important thing to think about, when you are talking about the union, is that it is an age-related issue. If you ask certain sections of society, they would have a different view of what the union means to them, but I would suggest that, in each and every one of them, there is a clear majority that the union is good, it is beneficial for Wales and it is beneficial for all the component parts of the United Kingdom.

**Leanne Wood AM:** I would like to welcome you all to Cardiff as well. I see the situation slightly differently to my colleagues, as you would expect. Plaid Cymru's long-term vision for the nations of these islands includes a social, rather than a political, union for Wales, and for Wales to be an independent state within that context. In the more immediate term, we want the UK to function in the best interests of all the people involved on these islands. We want devolution to be equal between the nations that make up these islands. We also want to see changes to UK-wide institutions to better reflect the wishes and the needs of the people within the nations that make up the UK.

In practice, that would mean significant changes to the Wales Bill that is going through at the moment so that it more closely resembles for Wales the devolution model that we have in Scotland and Northern Ireland. At a UK level, we would expect the Joint Ministerial Committee to become a UK Council of Ministers, where those non-devolved issues could be discussed and debated. That could be a space where differences of opinion are accommodated.

**The Chairman:** Thank you very much. On that last point, this Committee produced a report some time ago on intergovernmental relations in which we called for a change in relation to things like the Joint Ministerial Committee and other vehicles for fair-minded negotiation and discussion between the different parts of the United Kingdom. We have not had a reply yet—it is still under consideration within the Government—but we are treating that as a positive sign that something useful may emerge soon, so we shall see. However, thank you for that general context, which is very helpful. We will move on to Lord Morgan's question.

**Q256 Lord Morgan:** Bore da i chi gyd. As you will well know, Scottish and Welsh history are very different and the starting points were very different. The enthusiasm for devolution in Wales initially was very much less than in Scotland, but, nevertheless, with the passing of time the movement has been much the same, leading to the St David's Day agreement of last year—that is to say that Scotland appears to be setting a pathway or example for Wales in a variety of areas. Do you all see that as continuing, with Wales continuing to follow that kind of progression, or do you think that there will always be constitutional, as well as linguistic, differences between Wales and Scotland?

**Andrew RT Davies AM:** I disagree with what you said about Scotland setting a pathway—and, obviously, that would mean I disagree with Leanne Wood on my right here—and I think that is a mistake. It is a very London view of things that “for Wales, read Scotland”. Wales is a very different part of the United Kingdom, as I said in my opening remarks, both economically and culturally. There is not this appetite, I would suggest, in Wales for what

clearly has a groundswell of support in Scotland, as we have seen in the referendum and the election of a considerable body of MPs and a Scottish nationalist Government in Holyrood.

There is an appetite for greater devolution here in Wales, but by that I do not necessarily mean greater powers for this institution as a parliamentary body. I actually believe that it is about pushing powers beyond this institution. The reason I used the example of mayors in England—in particular, Manchester, Bristol or any one of the other areas that you might care to pick up on—is that I do believe that we are moving into a new era of devolution, which should not just confine itself to talking about what goes from London to Cardiff or, in Scotland’s case, Edinburgh, or to Belfast. I think that, in Wales’s case, it needs to go on beyond Cardiff and actually empower, both economically and culturally, the areas of Wales such as north Wales, mid Wales and west Wales. It is interesting that, in the submissions that have come forward from many of the business organisations ahead of the Assembly elections this year, they, too, see it as an obstacle to economic growth that power is being concentrated here in Cardiff rather than in their own economic areas. Again, I refer back to north Wales as a good example of that.

I believe that there is an appetite for greater constitutional change and devolution, but I do not necessarily believe that that appetite and desire for change necessarily means that it all revolves around this place; I think it actually means moving beyond what we understood the settlement to be between 1997 and 2006, when the last Government of Wales Act came in. We have the Wales Bill going through Parliament at the moment. We have to look to try to push responsibility and powers out to other parts of Wales. That would hugely help to drive forward the agenda of decentralising the United Kingdom, while not unravelling the bonds that create the strong union.

**Leanne Wood AM:** There is nothing inevitable about Wales’s constitutional journey at all. It will be what people want it to be. It is the people who have the power in this, and that is absolutely right. But successive UK Governments have refused to treat Wales on the basis of equality with Scotland and Northern Ireland; that is why our settlements are different now. Plaid Cymru believes that our nations should be treated on the basis of equality. We think that could be best served through a written constitution for the UK that sets the framework for a more confederal model.

**Kirsty Williams AM:** Thank you. I think it is right that we have to acknowledge the history that has led us to the situation that we are in now. That has inevitably meant that the stages of devolution have been different for both our countries. That is why different levels of devolution were offered back in 1997. You are quite right to say that Scottish discussions

about devolving power were much more advanced than they were here; we have to acknowledge that. Is there something in the Scottish people that makes them innately more able to manage their affairs than the Welsh people? No, I do not believe that there is, yet we continue to see devolution being offered to Wales in a way that I believe sometimes suggests that we cannot be responsible.

Look at the difference at the moment between the approach being taken in Scotland and Wales: licensing and the sale of alcohol devolved to Scotland, retained to London in the draft Wales Bill for us; safety at sports grounds devolved to Scotland, reserved to Westminster for Wales; late-night entertainment devolved to Scotland but reserved for Wales. Health is a devolved issue, yet issues about abortion are to be passed to Scotland but reserved for Wales. To me, there has never been a serious or coherent argument about why that should be the case. It certainly has not been advanced in the current debates about the draft Wales Bill.

We have to acknowledge that public appetite for different levels of devolution is different between Scotland and Wales, and to understand the very practical difficulties of trying to just impose the Scottish model on Wales, which is another reason why we have problems with the draft Wales Bill. There is the issue of ministerial consents and the necessity test. It is written exactly as it is for the Scottish context, but of course we do not have a separate legal jurisdiction and the legal history that Scotland has. When you try to impose those words on the settlement for Wales, it does not work in the same way as it does for Scotland.

We have to acknowledge the different history that has led us to where we are and that there are different levels of support in Wales for greater devolution. I share Leanne's analysis. The powers this place gets should rest with the Welsh people and are derived from the Welsh people. We should not necessarily believe that everything that Scotland has is right for Wales but, at the same time, I do not think we should settle for having less than Scotland either. Whereas Leanne's party would look for an independent Wales, we would like the UK to develop along the lines of a written constitution that sets up a federal UK system, where it is very clear about where power lies within each of the nations, and which power the people of that nation offer up to the union because they believe that their interests in that area are best served by working across the UK as a whole.

**Lord Morgan:** Two of you have just mentioned the question of a federal United Kingdom. It is very difficult to visualise a federal system where 85% of the people would be in one part of that federation.

**Kirsty Williams AM:** I accept that that provides some challenges, but I do not believe that it is beyond the wit of us to create a system where power lies with the individual constituent parts

and power is then offered up to a federal system. It is not beyond the wit of us to do that, but it would need to be written down, codified and very clear. One problem that we have with the devolution settlement at the moment is that it is about as clear as mud to the people.

**Lord Morgan:** I agree. Let us move from the mud.

**The Chairman:** The mud is what we are trying to sort out in our inquiry, I am afraid, but Lord Norton may clear some of it away.

**Q257 Lord Norton of Louth:** To look at it from a different perspective, we have the Scotland Bill going through Parliament at the moment and we have the draft Wales Bill. Each of you has indicated support for further change, albeit different changes. Much of the discussion about what change will take place occurs at an intergovernmental level. How do we bring the public in? In looking at further change, is there a particular mechanism by which you can ensure that people's voices are heard, or will it be imposed top down and people then realise the system of government that they have ended up with?

**Leanne Wood AM:** It is crucial for people to feel a sense of ownership of whatever political project they are involved in and not feel as though they are having something imposed upon them. Following on from the last question, I would say that there are direct comparisons to be made between public participation in the last Scottish referendum and the last Welsh referendum in 2011. There was a big difference between the turnout numbers and the numbers of people involved. I think that is down to the question being asked. In Scotland, people were being asked a very big question which was going to have far-reaching consequences, whereas, in 2011, in Wales, it was very difficult to excite people about the prospect we were asking them to vote for.

We can be more innovative in the way that we involve people in Wales in the discussion. It has been quite a dry subject to date. I put forward ideas in the past for creating the Welsh constitution through public participation and civic engagement, much like the constitution that was created in Iceland following the banking crash, which was crowdsourced and online. That had a very large participation rate from the population in Iceland. I think that kind of innovation could make politics interesting for people.

**Kirsty Williams AM:** I think it is important, but how you create effective mechanisms to do it is more difficult. Even having created those mechanisms, how do you have a genuine response to it by all parties, rather than the usual suspects? If you held an engagement exercise in Wales, I could probably write down before the evening started the people who would turn up: the usual suspects. They are important people and important voices to be

heard, but it does not really get down to Mrs Jones in Tudor Street in Ystradgynlais. How do you get down to her? That is more difficult.

At a wider strategic level, my federal party included in its manifestoes in both 2010 and 2015 the need for a constitutional convention but, in the end, it comes down to real grass-roots work within communities, speaking to people where they are about issues and trying to make linkages.

The people who I speak to are not interested in constitutional issues until you make the linkages: how those constitutional issues translate into the ability to transform their economic prospects, the educational prospects of their children or their ability to see a doctor when they want to. I do not know whether we have been successful in making those linkages for people.

If we are constantly asking people small incremental questions about their constitution, as we have done in Wales, you do not get the enthusiasm that you saw in Scotland where there were high stakes and a very clear black and white choice, rather than the shades of grey that we constantly offer up to people in the Welsh discussion.

**Andrew RT Davies AM:** In the Scottish referendum, it was a simple enough question to understand—you were either staying in or going out—and that energised people. I take Leanne’s point and many other commentators’ points: it galvanised people to get involved in it. But it was a simple argument to put and some put it more effectively than others, in fairness. I do not think that is a fair benchmark to use, although it is an aspirational mark of turnout to try and get up to at election time. Assembly elections, historically, have at their highest achieved about a 44% turnout; at their lowest, I think it was about 37%. There is nothing on the ground indicating that we are going to break either of those ceilings. We will most probably be somewhere in the middle this time around as well. I came into the Assembly in 2007 and I can probably count on one hand the amount of people who have come to my surgeries to talk about constitutional change and the role of the Assembly, although when I come into this building the people within it, and those who inhabit the bubble outside it, could spend every minute of their waking day—and rightly so, because that is politics—focused on constitutional change and the journey of devolution.

I think that parties need to be bolder and braver in their manifestos and I appreciate that at election time a whole whack of issues are vying for attention. But I am a big believer in parties, once they have something in their manifesto, being charged with delivering it and getting on with the job, rather than using the comfort blanket of saying, “We need a referendum on this and a referendum for that”. We saw in the law-making powers referendum that there was a 32% turnout. It was a comprehensive yes but a 32% turnout—a third of the

electorate chose to vote. In the run-up to that, the commission that was looking into further law-making powers held curry nights and all sorts of incentives to try to galvanise people to come to its meetings and, as Kirsty said, you could literally have written on a piece of paper the people who were going to turn up to them. That just shows, in some respects, how comfortable people are in Wales with the union and with what we have got. They do not see a direct correlation with their everyday lives in the constitutional journey that we are going on. Equally, when they are asked whether they want more powers for Wales, the polls clearly show that they say yes to that. It is for us as politicians to be brave and bold enough to shape that and then put it forward in our manifestos at election time, rather than keeping on navel-gazing and talking among ourselves over the issues.

**Lord Norton of Louth:** So it is really both the mechanisms and, as you say, then getting people to use them and be engaged. Particularly when it is not a big-bang issue and is more incremental, it is about getting people engaged and having some input rather than waiting to see what the effect is on them. So I suppose that there is a challenge, in a way, for politicians in what you put over to people in explaining what the consequences are for them in practical terms—I think this was your point—rather than just discussing it in broad constitutional terms.

**Leanne Wood AM:** It is very difficult to ask people to vote for something, though, that is just a tiny change and is going to have very little impact on their life, other than possibly, “Three years down the line, a law might be passed that has an impact on you but we can’t even explain what that is at this stage”. That is the kind of debate we were having in 2011. As you know, I can get quite passionate about politics but I really struggled to make it interesting, if I am honest with you—whereas in Scotland, nobody can say that what went on there was not interesting.

**Kirsty Williams AM:** I would make a plea really. That is why it is so important that the draft Wales Bill is got right. The Secretary of State is on the record as saying that he wants to create a long-lasting settlement. My fear is that if it goes forward in its current form, it will not create that stability and clarity of purpose. We will be back again discussing these issues, which Andrew says we spend too much time talking about. We have got to use this opportunity that we have to get it right, otherwise there will be yet more debates in the next Assembly about the constraints that we find ourselves in.

**Lord Judge:** I just want to put a supplementary. Mr Davies, forgive me, you have given us some figures about turnout but what was the turnout at the recent general election?

**Andrew RT Davies AM:** Off the top of my head, I cannot give you the exact figure but I think that it was 65% plus.

**Lord Judge:** Yes, it is just to give me a perspective.

**Andrew RT Davies AM:** It is always about 20% more at the general election. I think that the lowest general election turnout was in 2001, and that percentage was in the low 60s. I believe that it was in the top end of the 60s this time around. Over the elections, there has been about a 20% gap. When you think about health, education, the economy, local government and rural affairs, if you asked people to list their top 10 priorities that they wanted a Government or legislature to deal with, I would suggest that nearly all of those would be in the top five.

If I could make one point on the last question, I think that this institution and devolution will gain more punch with fiscal powers, and in particular by having responsibility around income tax. That is why I have put so much political capital into this. I came into the Assembly in 2007 and, I have to say, was bemused that as an institution it, and the Government who were by extension from it, just existed to spend money and were not held to account for the money that they were spending. To me, that had to be a political priority. I most probably have on my back the scars from the internal debates and discussions I have had within my own party.

**Kirsty Williams AM:** Ongoing debates and discussions.

**Andrew RT Davies AM:** But I believe in the connection and I have learnt to put the vests on now. Ultimately, I believe that we will gain far more punch in Wales, and with the people of Wales, when they come to look at the combination of politicians who they want to send here at our elections. That has been a missing block in the devolution settlement which will ultimately drive greater participation at Assembly elections and greater interest in the journey we are undertaking here.

**Leanne Wood AM:** But we have some Conservative MPs trying to put a block on us having those powers as well.

**Andrew RT Davies AM:** Ultimately, there are discussions in all parties and it is the Government in London's view that they will be transferred without a referendum. That is the Government's position and it is going to happen.

**The Chairman:** I think that we will move on before we develop into an Assembly debate.

**Q258 Lord MacGregor of Pulham Market:** I just want to ask a question about the social union, which follows on a bit from what you have just been saying. The sharing of risks and benefits in the social union is seen as important to the union. The Scottish Government advocate full fiscal autonomy for Scotland, meaning that all but certain core functions such as macroeconomic policy, the currency, foreign affairs and defence are devolved. With that,

particularly in terms of social policy, welfare benefits and so on, if the Scottish Government decide to have higher welfare benefits or whatever else in the benefits area, they would have to raise the additional taxation to pay for them.

The Welsh Government believe that resource and risk-sharing in the interests of social protection for all UK citizens are at the heart of their understanding of the social union and would certainly not go down that way, as we have heard from the earlier evidence. What is your view?

**Kirsty Williams AM:** This is one of the most challenging aspects for somebody in my party who, as a Liberal Democrat, believes in greater devolution of powers. It is a very live issue at the moment. The Westminster Government have gone out to consultation on the devolution of attendance allowance to local authorities and proposals to hand that allowance to Wales. I am very cautious about doing so because of our experience with council tax benefit. We get the consequential from council tax benefit but we do not get the money associated with its distribution. Just as we have seen in Northern Ireland, money can come across but the costs of distributing that money and running your own welfare system can take a chunk out of the money that should end up in people's pockets. So I am very wary because of the experience that we have had to date and what has been happening in Northern Ireland on this issue.

For me, one of the strengths of the union is indeed that you pay into a national insurance system and get the same pension from the state, wherever you happen to live. If you lose your job and need to be supported while you find another, you get the same rate wherever you are. That is part of the contract which people feel they have when they pay into the system. At the same time, I believe in the principle of this institution being able to raise and spend some of its money. That is important for accountability; it is also a powerful policy tool. At the moment, there are no consequences to the Welsh Government whether their economic policy is a failure or fantastic, because we do not reap the benefits or the whirlwind if we get it right or wrong.

A dual system has an element of our raising and spending our own money, but we would still not divorce ourselves from a system that allows us to have redistribution in a Welsh context. It is slightly different for Scotland—maybe not so different any more, with the oil price collapsing as it is. But at the moment, I would be very fearful of a system that would cut Wales off from that because we are just not in a position to sustain our public services if there was not that element of risk-sharing across the piece.

**Andrew RT Davies AM:** I agree. We have a national insurance scheme, as such. The welfare state is one of the main bonds of the United Kingdom. Where one part of the union might find

itself in difficulties—where the individuals of that part of the United Kingdom might find themselves in difficulty with long-term unemployment, high levels of sickness et cetera—the union comes together and redistributes support on a collective basis.

However, I have to say that I wrestle with the journey that devolution is undertaking, and ultimately, with whether it right that the regional and devolved Governments should have responsibility in some areas of benefits and welfare. My ear is open to that discussion and debate, but before we go too far down that road, we need to get tax-raising powers and the ability for whatever Government comes out of this institution to decide how they want to raise money and to spend the money that arises from the decisions that they take. That way they could craft a welfare model that is specific to their particular area, or not, as the case may be.

We need to tread with caution in this field, albeit I can see that in five or 10 years' time, there will be greater fragmentation of the welfare state as we see it at the moment. That does not necessarily mean that I believe that that is the right journey to undertake, but I understand the logic of how that journey might begin and how it might end. Certainly, as we sit here today and for the foreseeable future, I believe it is in Wales's best interest to maintain the welfare state we have at the moment, which is a unified welfare state for the whole of the United Kingdom.

I take the point you made about Scotland wishing to get more responsibilities. It is going to get more responsibilities. It is playing quite a dangerous game of poker. Eighteen months ago, Scotland was fighting an independence referendum based on the extortionate revenue it was going to get out of a high oil price and yesterday, if my reading of the *Daily Telegraph* is right, oil was \$28 a barrel. Economies can turn very quickly indeed, and the vulnerable suffer in the end.

**Leanne Wood AM:** As I remember the debate, it was not dependent on what happened with oil, but let us park that for another time. Plaid Cymru believes that the best way to secure redistribution throughout the UK is by replacing the Barnett formula with a needs-based formula. That would end Wales's historic underfunding. here are historic reasons for the inequality of funding—heavy industry, rurality and so on are issues that need to be taken into account—but we are not equal now, are we? Wales's GVA is 72% of the UK's GVA. Currently, this redistributive system is not working for us in the way that it should. We also want to see greater fiscal devolution so that Wales can find economic and social solutions that best meet the needs of the people in this country. Securing distributive mechanisms can help to close inequality, and that would be more effective than insisting that all the nations

conform to exactly the same economic and social policies. We have different needs, so we should be able to tailor different solutions to those needs and problems.

**Q259 Lord Morgan:** I ask my question particularly of Ms Wood. I am very sympathetic to many of the individual points you make, but if you adjust the Barnett formula in the way that you urge, which I would agree with, does that not in fact make the bonds between Wales, the Treasury and the United Kingdom all the closer? It is a step away from independence, not a step towards it.

**Leanne Wood AM:** We have to get to the point where Wales is able to stand on its own two feet and is no longer reliant on handouts from the UK Government or the European Union, but we have a long way to go before we are able to do that. We have been at a funding disadvantage since the Barnett formula was introduced in 1978. In the interim, before we get to the point where we are able to stand on our own two feet, it needs to be addressed. We are now at a disadvantage, and we do not have the powers to shape our economy ourselves or the fiscal levers, so we are getting the worst of all worlds, which is why our GVA is stuck stubbornly where it is. We have no powers to affect that.

**The Chairman:** A committee was set up in the House of Lords six years ago to look at the Barnett formula and all the block grant and funding arrangements. I was a member. We reached a unanimous view that what you have just said is right. The Barnett formula is not fair. It is particularly unfair to Wales, but it is unfair to England as well, and Northern Ireland has special circumstances. We developed a needs-related solution which we believed was viable. I believe a similar exercise subsequently took place in Wales.

**Kirsty Williams AM:** I think you will find consensus among all Welsh political parties about the need to reform the Barnett formula. It is just about being able to convince the Westminster Government.

**Lord MacGregor of Pulham Market:** I think you will find a consensus in the same direction among a lot of us here. We have been advocating that for some considerable time.

**Andrew RT Davies AM:** The funding formula the Chancellor announced in his Autumn Statement is a step forward, but ultimately these debates around the Barnett formula will, regrettably, continue rather than be addressed. It is worth remembering that through the union Wales benefits from the Barnett formula with a greater amount of money coming in than leaving. One of the fundamental tenets of the union is surely that we benefit from it. We are not handicapped. We benefit from it.

**Leanne Wood AM:** But not to the same extent as Scotland.

**Q260 Baroness Dean of Thornton-le-Fylde:** Staying on the area of public policy on healthcare and welfare benefits, I am getting the impression from you that there should not be a set minimum. Devolution is taking place and there is provision in the Scotland Bill for a minimum that can be added to. Is your view that there should be a minimum level set which none of the devolved nations can go below, but can go above if they chose, so there is a basic minimum?

**Leanne Wood AM:** Who would decide that?

**Baroness Dean of Thornton-le-Fylde:** That is my second question. If that is the case, who decides?

**Andrew RT Davies AM:** Are we talking about welfare or funding in general?

**Baroness Dean of Thornton-le-Fylde:** We are talking about general welfare, social benefits and probably healthcare, too.

**Andrew RT Davies AM:** I refer again to the funding floor that will be introduced. The Holtham commission recommended a parameter of £114 to £117 of GB spend, and it has been set at £115. There is that floor for the first time in the overall funding that will come into Wales. That is set for the lifetime of this Parliament. I hope it will continued beyond it, but that will be for an incoming Government to determine. In relation to welfare, I repeat that I believe that the universal nature of welfare and the national insurance principle that we pay into a national pot serves Wales well. I do not believe we are at a stage where we should fragment the welfare system now, but I believe that as the journey continues, especially with income tax powers, a Government here will have greater fiscal flexibility, if they wish, to create different parameters in the welfare system.

**Baroness Dean of Thornton-le-Fylde:** So it could go down as well as up.

**Andrew RT Davies AM:** That would be for the Government to determine.

**Baroness Dean of Thornton-le-Fylde:** The Government being the Welsh Government.

**Andrew RT Davies AM:** Surely that is what democracy is about. People could vote accordingly then. I do not think we are at that stage at the moment. My view is that the universal nature of the welfare system we have in the United Kingdom serves Wales well at the moment, and we should protect it.

**Kirsty Williams AM:** As I expressed in my previous answer, issues around welfare are very complex. With regard to healthcare, it is a devolved issue and it is for this elected body in Wales to decide minimum standards for healthcare. Any rolling back from that would be a rolling back from devolution which I would not see as acceptable. In those areas where we have decided that national Parliaments are best placed to make decisions on behalf of their

people, it is for them to decide what the minimum is and to justify it to their populations. As I said, welfare is a different issue from health.

**Leanne Wood AM:** Clearly, my party is about maintaining the integrity of devolution and resisting any attempts to row back from it, so there should be clear delineation between the roles of the national Government and the UK Government. Having minimum provision in devolved fields dictated by Westminster would not give harmonious relations between the two Governments. We have also seen an erosion of the welfare state over recent years, since we have seen the cuts and so on. Nothing should prevent Governments in the devolved nations putting in place provision to ensure that there is a level of social protection for the population, but they should be determined by those national Governments, not imposed.

**Baroness Dean of Thornton-le-Fylde:** How would they fund that?

**Leanne Wood AM:** I go back to the last question about funding, which is clearly a huge one at the moment. Given the cuts, it is all very difficult and I question the need for this level of cuts at the Westminster level, but that is a completely different debate from the one we are having now.

**Baroness Dean of Thornton-le-Fylde:** Can I just press you on that? You said in your introductory remarks that you want devolution to be equal across the nations. That is a pretty clear and direct statement. You then said a few moments ago that actually, yes, we should stand on our own two feet, but we are so far away from doing it that it is going to take a long time to get to that position. What we are looking at is not a long-term solution, but at the changes which are taking place now. As we speak we have the draft Wales Bill and the Scotland Bill going through the House of Lords. In that period, changes are coming through in the provisions already in the Scotland Bill about which the Scottish Minister, Fiona Hislop, said that to have a minimum entirely opposes the principles of devolution because it is far too bureaucratic; they do not want it. That is not the view we are seeing from Wales, although I would accept that it is not necessarily your view. How do you see the situation as between now and the move towards the changes in Scotland—do you want the same as Scotland? What about the intervening period? Should a minimum be set before Wales could change?

**Leanne Wood AM:** I would oppose any minimum being set.

**Baroness Dean of Thornton-le-Fylde:** At any point?

**Leanne Wood AM:** Having it imposed by Westminster. If we want to create minimum standards here in Wales, that is a matter for the Government here, but having anything imposed by Westminster on the Welsh Government would be a roll-back on existing

devolution. My party is all about maintaining its integrity by extending it and not allowing it to be rolled back in any way, shape or form.

**Baroness Dean of Thornton-le-Fylde:** If the Wales Assembly sets the level and it is different from that set by Westminster, who funds the difference in the intervening period? Where would you get your money from?

**Leanne Wood AM:** Our funding is totally from the block grant at the moment. It comes from Westminster. There is an ongoing debate and disagreements within the Conservative Party as to the extent to which income tax powers are devolved, for example.

**Andrew RT Davies AM:** There is no disagreement; it is happening. I fail to see what the disagreement is. It is the Government's policy that it will be transferred.

**Leanne Wood AM:** That is good, but a number of MPs have just made representations for those powers not to be transferred.

**Andrew RT Davies AM:** That is part of democracy.

**Leanne Wood AM:** Fine, but there is a question mark over it. It is not absolutely clear what the Government's position is on that.

**Andrew RT Davies AM:** The Chancellor has confirmed it on the Floor of the House.

**Leanne Wood AM:** One of the reasons we want to have powers over income tax is so that the Government would have a direct incentive to create good-quality jobs. They would then see the benefit from that expenditure in the form of revenue coming back into the tax pot. That does not exist at the moment and has not existed at all since devolution. This gives us a new opportunity to shape things differently in the economy and to raise more revenue if the job creation side of things is done correctly.

**Baroness Dean of Thornton-le-Fylde:** I have finished my questions, but I notice that two colleagues wish to come back.

**Andrew RT Davies AM:** Perhaps I may make two points to clarify my answer to your opening question. I thought that we would continue on the welfare front, but you broadened it out to all services when you talked about minimum standards. From our point of view, once a system or responsibility is devolved, it is for this legislature, and by extension the Government, to set their parameters of working. I would be loath to have another legislature impose minimum standards because ultimately that is what devolution and democracy is all about. Going back to the point about how we would pay for it, two things have to be done. One, as I said in my earlier remarks, is the transfer of fiscal responsibility to this institution—a considerable responsibility, if I might say—to the value of £2 billion. That will be a game changer. Secondly, the Welsh economy and the Welsh nation have to start making more

money. It is as simple as that. I was and I am in private business because I am a farmer. I was self-employed before I came into this institution. If I did not make the money in the day, then basically I could not invest in my business or do the things I wanted to do. As politicians we have to have the same mind-set, which is that of actually making money here in Wales so that that money can be used to generate the services we want to provide or stimulate a growing economy by lowering taxes. That is the political argument.

**Baroness Dean of Thornton-le-Fylde:** You have said that you would like more control over benefits.

**Andrew RT Davies AM:** Yes. That is a genuine discussion which will continue, but I do not think that you can have fundamental change in the national structure of benefits and welfare—as I see it, national insurance—unless you have a considerable plank of fiscal responsibility such as income tax powers. But we are two to three years away from even getting them at the moment because it has to go through Parliament via the Wales Bill. In terms of implementation, we are talking about 2020 or 2021 at the earliest.

**Kirsty Williams AM:** Not all benefits are created equal, though. We can have a homogenous lump of welfare and benefits, but there may be elements within that which are easier to devolve than others. We have already seen it with council tax benefit. The decision to devolve it to local government meant that we have to do it ourselves now. Independent Living Fund money has been devolved to Wales and we have to administer it. There is merit, actually, in attendance allowance being devolved, given that we are responsible for social care here in Wales. So there is an issue about it and an argument can be made. The problem is this: how do you make a deal with the Treasury on the amount of money that would come with it? At present, because we do not have a needs-based formula that actually devolves money to Wales, the money that potentially would come to fund attendance allowance is calculated on a broad population basis, not on need. What we know in Wales is that we have an above-average older population; there are more old people who drive demand for that kind of benefit. Our nation is sicker than that of England. We have a high proportion of disabled people. All the drivers for qualification for that type of benefit are greater than potentially would be reflected in a broad distribution of resources. I do not have a principled objection to attendance allowance coming here, it is just that my experience of dealing with the Government over council tax and the Independent Living Fund makes me very wary. There are sound public policy and social care policy reasons why we might want to do that, but it is about the nature of the deal that you can agree with the Treasury. In my experience of dealing

with the Treasury as part of a coalition Government, believe me that that period of five years was one of the toughest of my political life. It is not easy dealing with the Treasury.

**The Chairman:** Let us move on to another easy question.

**Q261 Lord Judge:** The immediate response of the Westminster Government to the large influx of SNP Members of Parliament was to get carried away with English votes for English laws. In a federal system, of course, each of the four nations would have its own Parliament and its own arrangements. Can you give us some idea of how English votes for English laws looks to you?

**Leanne Wood AM:** Plaid Cymru is not opposed in principle to English votes for English laws as long as we get Welsh votes for Welsh laws as well. That would introduce the anomaly of England and Wales votes and laws, but I would argue that it could be done through strengthening Welsh devolution. A better way to ensure fairness for England is for there to be an English Parliament and for the UK Parliament to be the Parliament in which reserved UK matters are determined by a more equal agreement between the nations.

**Kirsty Williams AM:** What does it look like to me? It looks like a mess and a failure to get to grips with the fundamental problem about what should be done for England.

**Lord Judge:** In that case, what is the better answer?

**Kirsty Williams AM:** It is for England to get on and sort out a permanent solution to the issue for England. It is something that we have not talked about a great deal when we look at devolution. Scotland dominates the discussions while Northern Ireland and Wales get the dregs. But if you at the polling, in England there is a growing sense of “What about us?” and that needs to be addressed. I think that politicians continually forget to talk about England in the wider discussions. It is not for me to tell England how it should govern itself, but a mechanism needs to be found. Whether Parliament does that and you look again at the issues around regionalisation—depending on where you are in England, it looks more attractive or less attractive—there needs to be a proper debate about what happens to England in this changing constitutional settlement. If I was English I would feel aggrieved about the dominance in the discussion about the needs of Scotland, Wales and Northern Ireland. There has not been a proper debate about what English devolution would look like, and I do not think what we have come up with is adequate. For a start, what constitutes an English matter? Because of the confusion and lack of clarity about devolution, especially in the Welsh context—what constitutes England and Wales or England only?—it is impossible to decide in the current circumstances what is an England-only matter. I would argue that simply leaving it to the Speaker to decide whether something is an English matter is not acceptable. What

solution the English come up with for themselves is not for me to dictate, but they need to come up with something.

**Andrew RT Davies AM:** One thing that we have learnt in this institution is that there is nothing more resented than someone from another legislature or Parliament trying to tell you how to run your affairs and what you should be doing. It causes quite a bit of friction, to say the least. I go back to my opening remarks: you should not read Wales for Scotland. In mid-Wales, for example, where Kirsty comes from, there is no district general hospital, so virtually everyone would rely on an English district general hospital to provide their services. There are many other examples that you can highlight. In north Wales, cancer services, for example, are very often cross-border, as are maternity services and cardiac services in south Wales, which is a big economic area. A large number of people live here, with an extensive range of health provision, but there are very strong links between Bristol and south-east Wales, for example.

There is a key role and link for Welsh MPs to be participating in the discussions and votes in the House of Commons because that directly impacts on constituents here in Wales. I accept that they have a different arrangement from Scottish MPs, but the elephant in the room is what will happen in England over decision-making and how democracy will move forward there. The idea of assemblies was pretty comprehensively pushed out by the referendum in the north-east, I think it was, in the early part of the 2000s. The current Government obviously have a model of devolution revolving around directly elected mayors, and you have the police and crime commissioners, which have devolved a huge amount of responsibility on policing matters. It is a question of exactly what type of model will be adopted for the part of the United Kingdom that has 85% of the population. There is no easy solution because if I had it, I would most likely jack it in here and become a constitutional expert and charge a fortune for lecturing and delivering the model.

**Lord Judge:** You might do it for nothing.

**Kirsty Williams AM:** Andrew never does anything for nothing.

**Andrew RT Davies AM:** I have four kids. I believe that it is the beginning of the process of recognising the democratic deficit where decisions can be driven through on parts of the United Kingdom where other parts have no say at all. The way the devolution settlement is going between England and Scotland is dramatically different from what is going on here in Wales. The fundamental principle of the services that many Welsh people rely on in England really is the banker for Welsh MPs to be included in many of the decisions that are taken in the House that on the surface look as if they are exclusively English.

**Lord Judge:** What I think you are saying—correct me if I am wrong—is that there should be English and Welsh votes at Westminster for English and Welsh laws.

**Andrew RT Davies AM:** Surely the principle of democracy is democratically elected individuals voting on issues that affect their constituents. That is the bond; that is the deal. When you stand before your constituents you say, “This is what I will do on your behalf”. If you break that ability to execute that bond, you are attacking democracy.

**Lord Judge:** Forgive me, but as we stand today, devolution in Wales is not very far down the road; devolution in Scotland is much further down the road, quite apart from the fact that the roads are different. Where, as things stand, does the issue get addressed? Do you do it within the current government proposal—English votes for English laws, the Speaker certifies and that is it? Help us. You can sympathise with somebody who is English living in, shall we say, Norfolk, who is worried about the English laws question. What should be happening in Westminster now?

**Andrew RT Davies AM:** I think it is a start. It is not the end of the journey. I hear your point about separate roads. I would say that one is on a motorway, the other on a country lane. As I said, I am loath to put forward the solution because it should ultimately emanate from Parliament itself. We do not need to overcomplicate this. There are many examples around the world that you can look at, in Europe and across the world, and that can be taken. We are not inventing something completely new. As we move forward with devolution and responsibilities, that argument will continue, but I certainly do not have the silver bullet to solve the question.

**Lord Judge:** Do either of you ladies want to comment on how things stand now?

**Leanne Wood AM:** A separate legal jurisdiction would go a long way to resolve some of these issues.

**Kirsty Williams AM:** I think that the reason why England has perhaps not come up with the solution to date is that there is not a consensus in England that would satisfy people. Putting all the power into London would make people in the south-west, in Cornwall, feel very jumpy. If I was in the north-east I would be very worried about an English Parliament dominated by the interests of the south-east.

**Leanne Wood AM:** We have those issues in Wales, too.

**Kirsty Williams AM:** Yes, we have. We have not solved the English question because a consensus has not developed about what the answer to it is. Until there is that consensus, we will not get clarity. One of the things we could do is have greater clarity of the devolution system at the moment, which would at least assuage some of my concerns that Welsh interests

potentially could be overlooked under the English votes for English laws system. I guess that people in London think that health is devolved, but as Andrew rightly pointed out, for very many of my constituents their nearest district general hospital is an English hospital. Despite what Jeremy Hunt might think, we are not refugees: they do not go there to escape the Welsh system, but because it is their nearest hospital. We pay for them to go there. Having Welsh people in Hereford hospital helps to keep that hospital open. Some people might think that this whole issue of the negotiations over the contracts for junior doctors is purely a Department of Health, English issue, but my constituents had their operations cancelled, too. When you are the Speaker, perhaps you are sitting there thinking, “This is a matter that concerns only the English”. It does not. It concerns Welsh people, too.

**The Chairman:** We have five minutes left and two questions that we are keen to ask you. I hand the chair to Lord Cullen, because he wants to ask both of them. I should warn you that he is a retired judge, so he will get short, concise answers out of you.

**Q262 Lord Cullen of Whitekirk:** You have spoken before about the difficulty of creating interest in constitutional change among members of the public. I will ask you about a related matter, which is simply the public understanding of the relative responsibilities of the UK Government on the one hand and the Welsh Government on the other. Is there a similar difficulty in creating interest in this? Have you anything to suggest as to the way public interest could be stimulated—if you think it is a good idea to stimulate it at all? What should be done?

**Leanne Wood AM:** I will be brief on this. There is confusion, some of which is about the point made, say, about junior doctors. The way it is reported does not differentiate and make the point that the junior doctors’ dispute affected only England, with the caveats of the cross-border issues mentioned earlier. So few Welsh citizens get their news produced from Wales for Wales, and until that situation is addressed this confusion as to which institution is responsible for what policy area will remain. So it is a media question, largely.

**Andrew RT Davies AM:** I agree up to a point that this is a media question. In the last Cardiff University study on where people get their daily news, 80% plus said that they get their daily news from a London source. Other than maybe a footnote in one of the papers or on the late-night news, very much of what goes on here is not reported. Secondly, I agree about doing a simple thing such as changing the name of this place to a Parliament rather than the Assembly because in the early days, the Executive and the Assembly were one and the same. I had so many meetings and engagements where somebody said, “You lot at the Assembly have done blah blah blah”, whereas in fact the Welsh Government had done that. In the third silo, as it

were, is the huge mix of you who actually runs the services: is it Westminster or Cardiff? The BBC St David's Day poll last year or the year before indicated that 49% of people in Wales still believe that the health service is run from London.

When you have those sorts of numbers, I suggest that three issues need addressing. The media one is probably the most complex, because we have seen a collapse in the media footprint here in Wales. There is a real difficulty in punching out what this place does. I know that you want us to be brief but there is just one other thing. I was watching something on the Parliament Channel the other day and the only programme that the BBC under its charter is compelled to produce is "Today in Parliament". I never realised that that was in its charter. In a devolved United Kingdom, perhaps a simple step like getting some focus on what is going on in the other Parliaments and Assemblies of the United Kingdom might be one small way of getting greater awareness of what is going on. Again, I offer you those three examples. Slowly but surely we are chiselling away at it, but a simple thing like creating an understanding of the difference between the Government in this place—which is now a completely devolved, executive responsibility over at Cathays Park—and the legislature, us as the Assembly, would go a long way to helping people understand where responsibility lies.

**Kirsty Williams AM:** It is a massive issue. While broadcasting bears some responsibility, we are being naive if we think that suddenly broadcasters and print media will change their ways. In terms of media, there are some very interesting local media initiatives that are being funded by the Welsh Government that use online presence to try to develop very local news coverage. There is much more that we can do with political education, so that we are equipping our young people with the skills and understanding when they are in school to be active citizens. One of my great regrets is that this country is now the only country, I believe, that does not have a youth parliament. The Welsh Government scrapped funding for their youth parliament initiative, which was called Funky Dragon, and nothing has replaced it. My party would like to see a strong emphasis on political education for the next generation of voters coming through so that they know the difference between an MEP, an MP, an Assembly Member, a community councillor and county councillor.

**Q263 Lord Cullen of Whitekirk:** Finally, would you support a new charter or statute of the union setting out principles underlying the union and devolution that would assert the voluntary nature of the union and set out principles for the relations between the Governments of the nations of the UK? Some have suggested that it would not serve a useful purpose because of the differences between the different nations. What are your comments briefly?

**Leanne Wood AM:** You ask for brief comments when you have opened a huge can of worms. Plaid Cymru believes that there should be a written constitution setting out clearly the multinational nature of the state. We favour a confederal model, as opposed to a federal model. We argue that the confederal model is where the authority is determined by its constituent members, whereas a federal model would derive its authority from the centre—so confederal would be the preferred option. But we are concerned about the proposals that we have heard come forward from Lord Hain on this. I do not know whether the Committee is familiar with them. Lord Hain's proposal is for new Acts of Union. We would say that that proposal is divisive and that using such terms is intentionally seeking to exclude significant numbers of people in these islands who believe that sovereignty rests with the people and not with Westminster.

**Andrew RT Davies AM:** I will say two things there, if I may. The point that the Silk commission made about intergovernmental relations—because obviously that was the last part of the point that you put to me—does need to be addressed, and should be as a matter of urgency. It cannot be right that different Governments of different hues put different emphases on those relationships. There is little formal structure. It seems to me slightly ad hoc and to depend on whatever level of Minister happens to be available to go along to those meetings. There needs to be more robustness and structure around that engagement. Silk identified that and put forward recommendations about how that could be achieved. We have signed up to Silk II on that particular point. We would hope that, as we go forward now, all Governments will engage in that process.

Do we need a constitution, which I think is what you are aiming at here? As someone who is a big believer in small government and the ability of things to be flexible, I am not a big fan, as an individual, of that type of concept. I think that the United Kingdom has done pretty well to date and has been pretty successful in the way that we have run things. I do not necessarily see the need for such a move.

**Kirsty Williams AM:** As Welsh Liberal Democrats, and indeed as Liberal Democrats, we believe in a written constitution. Anything that sets down clearly and codifies the relationships between Governments would be welcome. We need a Welsh intergovernmental committee—an arbitration mechanism—for solving some of the issues that we have seen in relation to legislative competence. We support the proposed statutory code of practice for intergovernmental relations and a new Government of Wales Act. Ultimately, I think that this country needs a written constitution that clearly sets out the distinctions between nations and the relationships between those individual nations and the union.

**The Chairman:** Thank you very much. We have an extraordinarily interesting and informative session and it has been very stimulating having diverging views on some aspects but a degree of harmony on others. I think that you would recognise what we have long recognised, which is that we have a difficult report to prepare as a result of this inquiry. However, your contribution to it has been very useful and we are extremely grateful, so thank you very much indeed.

**Kirsty Williams AM:** Diolch yn fawr.