



Constitution Committee

Corrected oral evidence: English Votes for English Laws

Wednesday 14 September 2016

10.30 am

Watch the meeting

Members present: Lord Lang of Monkton (The Chairman); Lord Beith; Lord Hunt of Wirral; Lord MacGregor of Pulham Market; Lord MacLennan of Rogart; Lord Morgan; Lord Norton of Louth; Lord Pannick; Baroness Taylor of Bolton

Evidence Session No. 4

Heard in Public

Questions 46 - 58

Witnesses

[I](#): Rt Hon David Lidington MP, Leader of the House of Commons, and Rt Hon Baroness Evans of Bowes Park, Leader of the House of Lords.



Examination of witnesses

Rt Hon David Lidington MP and Rt Hon Baroness Evans of Bowes Park.

Q46 The Chairman: I welcome our two witnesses. You are both very busy individuals, Leader and Lord President, so we are very grateful to you for coming. We know that there is a great deal going on in the world and that, by comparison with some other events, EVEL is now a quiet backwater. Nevertheless, we are keen to fulfil the commitment we gave to your predecessor, Lord President, that we would produce a report on EVEL from the House of Lords point of view. That is where we are at the moment. We much appreciate it and will press on with the questions.

I would like to ask the first question myself. It is a rather general question. What are you hoping to achieve with English votes for English laws? What is the basis on which you will judge whether or not EVEL is a success? Would you like to start, Lord President?

David Lidington: Thank you, Lord Chairman. A one-word answer would be fairness. In recent years, there has been increasing resentment among a significant number of MPs representing English constituencies—to some extent, it is reflected in the country, too, although it varies from one part of England to another—that it was wrong that, while certain powers and decisions were reserved to the devolved Administrations, Members at Westminster representing those devolved constituencies should continue to vote on English matters and that, even when a majority of English MPs might come to one view, they could be outvoted by Members taking part in a Commons Division who could not vote on that matter as it affected their own constituents. That is particularly true in Scotland, but it can apply to Northern Ireland and even to Wales, in certain circumstances. How we judge it will depend on whether we have a situation in which there is greater content among English Members of Parliament and their constituents about the state of affairs, as well as just the safeguard of knowing that, when matters are devolved elsewhere in the United Kingdom and the legislation at Westminster affects England or England and Wales exclusively, ultimately there is a right of veto for Members representing the constituencies affected by that legislation.

The Chairman: The word “veto” is one that has not passed the lips of one or two previous Ministers on this matter. Nevertheless, it is an interesting statement. Thank you.

Baroness Evans of Bowes Park: I echo what David said. From the House of Lords perspective, it has not changed the way we engage with legislation. We remain in a revising and scrutinising role, looking at Bills as we did before. As David rightly pointed out, it was around constituencies and MPs wanting to be the voice of the people who elect them. From a House of Lords perspective, we remain in our role doing the important and effective work that we do. As you have heard, I do not think that EVEL has had an impact procedurally or indeed on how this Chamber does its work.



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The Chairman: We may want to pursue the nuances of the Lords situation later in the session, if we have time. In the meantime, I would like to bring in Lord Hunt.

Q47 **Lord Hunt of Wirral:** We understand that there is to be a review of EVEL next month. It might be helpful if you could share with us whom you will be consulting, given the Government's emphasis, particularly under the Prime Minister, on consultation. Will you be consulting the devolved legislatures and Governments? Will you attempt in any way to assess the impact of EVEL on public perceptions?

David Lidington: It will be a government review. There will not be public evidence sessions, but we will welcome representations from any interested party. In particular, we will be interested in the conclusions that this Committee reaches and in the conclusions of the House of Commons Committees on procedure and on Scotland respectively, each of which is conducting its own inquiry into the matter.

Baroness Evans of Bowes Park: As David said, we will be consulting for the review. Obviously the conclusions of this Committee will be important. I understand that other individuals—other noble Lords with an interest—can submit evidence as well.

David Lidington: Lord Hunt asked specifically about the devolved Administrations. Changes to the Standing Orders of the House of Commons do not have any impact on the procedures in any of the devolved parliaments or assemblies. If the devolved Governments or the devolved parliamentary institutions want to make representations, obviously we will treat those with respect and look at them carefully.

Lord Hunt of Wirral: The real question is whether or not this is just a procedural review, or are you going to address wider questions of whether EVEL is achieving its objectives?

David Lidington: We will publish the terms of reference for the review in due course—pretty soon, I hope, given the timescale we are looking at. Clearly, there will be aspects that look at the technical issues involved, but it is perfectly fair that it should also take stock of the success or otherwise, depending on people's opinions, of the EVEL procedures so far and of their scope. Personally, I do not yet detect a wish to alter the scope, but that is the sort of thing people are welcome to make representations on, if they wish.

Q48 **Lord Norton of Louth:** I should declare an interest, which is relevant to the question that I want to put. Some years ago, I chaired the Conservative Party's Commission to Strengthen Parliament. One of the tasks we were given was to come up with a procedure to deliver on English votes for English laws, and that we did. With our proposal, the emphasis was on English votes for English laws. The Government have brought forward something where EVEL really stands for an English veto over English laws. The emphasis is very much on that aspect, rather than



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on giving voice to the English dimension. I wonder what the rationale was for that particular emphasis and for adopting that procedure rather than one of the alternatives.

David Lidington: Lord Norton is quite right to say that, in effect, this is an English veto. When the last Government looked at the matter, there were a number of competing pressures. There was certainly a wish on the part of Members of Parliament representing English constituencies, in certain cases, for not quite an English Parliament, but a special arrangement whereby only English Members voted on matters that exclusively related to England. Against that, there was quite a strong feeling—not just from Members representing other parts of the UK, but from people instinctively of a unionist disposition—that they did not want to stop Members representing other parts of the United Kingdom participating in debates on English matters. There was also awareness that, in certain circumstances, it might produce some tricky problems when a Minister from one part of the kingdom was speaking on English matters, even though he or she did not represent an English constituency.

In the mind of the previous Government, there was also a question about the process involved. Self-evidently, it was a simpler, more straightforward matter to change the Standing Orders of the House of Commons, rather than to seek primary legislation. We had the McKay commission report in front of us. That had produced a menu of options, of different levels of complexity. The then Government looked to the devolution settlements and used the allocation of competences set out in those settlements as the framework within which we should devise the particular arrangements for English legislation at Westminster.

Lord Norton of Louth: The Conservative part of the paper produced by the last Government looked at the different options. The option we came up with in the commission was identified as having the advantage of simplicity, whereas what we have gone for is somewhat complex. You mentioned the McKay commission. In a way, the emphasis there was more on voice than on veto. I wonder whether you feel that what you have gone for on veto squeezes out the particular emphasis on voice.

David Lidington: On the second point, no, I do not think that it squeezes out voice. Self-evidently, it is perhaps a more straightforward operation in most circumstances when the Government in office have both a majority in the House of Commons as a whole and a clear majority among English constituencies, but I do not think that English MPs have been short of a voice. The current third party in the House of Commons has contributed to debates, quite properly, although the SNP Members are not able to take part in English Grand Committee proceedings.

I do not think that the arrangement we have now is excessively complicated. On current records, it does not take up a huge amount of time. I do not want to prejudge the promised review, but I would say that so far it has gone relatively smoothly.



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Baroness Evans of Bowes Park: On your point about squeezing out voice, I do not think that it has squeezed out the voice of this House, as regards its role. Anyone who was involved in the passage of legislation in the last session—including myself, as a Whip on a number of measures—can certainly say that the Lords continued its important scrutinising and revising role, in the way it always has.

Q49 **Lord Pannick:** When you take stock, as you put it, and review the way EVEL is working, will you look again at whether it is really appropriate for a constitutional change of such significance to be introduced and maintained by Standing Orders, rather than by legislation, which enables this House, as well as the other House, to look at all the implications?

David Lidington: Since the procedures affect the House of Commons only and not this House, it is perfectly proper in constitutional terms for them to have been addressed by Standing Orders. Nor is this the only occasion, in my experience, when changes to Standing Orders of the House of Commons have had quite important constitutional implications. Looking in particular at the development of Select Committees in the House of Commons, I would adduce in recent years the implementation of the Wright Committee recommendations for the direct election of House of Commons Select Committee Chairs. In my judgment, that has made a profound difference to the status of Select Committees and in how they are seen by the House as a whole and by people outside the House, yet that was just a Standing Orders change.

Baroness Evans of Bowes Park: As David said, it is about Commons procedure and Commons decisions, so I allow him to answer on that.

Lord Pannick: Do you have any concern that the ease with which Standing Orders can be amended by the Government in the House of Commons casts doubt on the permanence of the change? Obviously legislation can be changed as well, but it is very easy to change Standing Orders. Do you have any concern about that?

David Lidington: At the end of the day, a different Government who wanted to change Standing Orders would have to calculate the political cost of doing that. However, as Lord Pannick says, that is true of legislation as well. My view is that a change to Standing Orders that went back to the situation where legislation that affected only constituencies in England could be voted through, against the wishes of the majority of English MPs, by Members representing parts of the kingdom where those matters were devolved, would be seen very widely as unjust. Any Government who sought to do that would pay a political penalty.

Baroness Taylor of Bolton: I get the impression from what you have said, what other people have said and what you said in answer to Lord Norton, before Lord Pannick, that one of the reasons why you went for this particular solution was the ease with which you could make the change, and that that was really the main driver behind your decision not to go for other kinds of proposals. Is that fair?



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David Lidington: It is part of the explanation, as I said in answer to Lord Norton, but, as I also tried to say, there were principled arguments as well. There is very strong concern on the part of most members of my party, and certainly on the part of the Government collectively—this Government and the previous Government—to try to strengthen the integrity of the union. Therefore, the arguments about the potential risks of excluding Members representing parts of the UK other than England even from participation in debates on these matters weighed on the minds of the Ministers who were taking decisions on the matter under the previous Government.

There is—you will hear this in the House of Commons—a coherent case, which some argue, for a formal federal structure for the UK. There are all sorts of arguments both for and against that. That probably goes further than the terms and subject matter of this inquiry, but there are other approaches to this big constitutional subject. What we faced was genuine dissatisfaction in English constituencies and in the Commons about the previous state of affairs, but a wish not to exclude altogether Members from other parts of the UK from even taking part in a debate.

Q50 **Lord Beith:** You have described how the procedure satisfies one of the concerns. It is not possible for a legislative change to be inflicted upon England that the majority of English MPs reject. However, if the majority of English MPs, and the Government, believe that a radical change should be made in the way some England-only matter is dealt with, that change will still require the consent of the whole House—the double veto—so half of the problem we are talking about is not actually dealt with by the procedure that has been introduced. You can imagine a situation in which a legislative change for England would command the support of the majority of English MPs, but Scottish MPs taking part thought that it might set an unhelpful precedent for their Government's policies in the same area. You are left with half of the problem unsolved, are you not?

David Lidington: I do not think that Lord Beith's particular example in any way undermines the policy. There is, of course, provision in Standing Orders of the House of Commons for the Speaker, when deciding whether to certify a particular Bill or clause as subject to the EVEL procedures, to consider whether there are minor and consequential impacts on other parts of the kingdom. It is quite hard to argue that the EVEL arrangements should be abandoned, or an exception found, because a policy that commanded support from English MPs might set a precedent that, if successful, a Scottish Government or a Northern Ireland Administration would want to copy.

Lord Beith: That is the argument I am reminding you might be used to justify Scottish MPs preventing England, as represented by English MPs, from doing what it thought was right.

David Lidington: There will certainly be people on my side of the House—I suspect, some on the Opposition Benches in the House of Commons, too—who would like to have gone further than the current



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arrangements, and not only to have the current power of veto, but to give English Members the right to carry into law, against the wishes of an overall majority in the House of Commons, a question affecting England alone and devolved elsewhere. The judgment that the then Government made in fixing on this particular approach was that that would cause greater tensions in a union that we wanted very much to strengthen. So far, my judgment is that the arrangements we have work fairly well, but there are others on my Benches who would indeed like to have gone much further.

Lord Beith: In future, are you going to face the argument, "We cannot stop the Scottish Government banning hunting, but they can stop us legalising some aspects of hunting"? I give that just as an example.

David Lidington: In that case, there was a particular issue of certification, because the way the Bill had been drafted meant that the Speaker felt that he could not certify it. To some extent, the new arrangements require discipline and attention to detail on the part of Ministers and government departments to try to make sure that they take account of these procedures when they bring forward either primary or secondary legislation in the first instance. The argument that Lord Beith puts forward is the logic that lies behind calls for a more formal federal system in the UK. That is not where the Government are at the moment, but I am sure it is something that other Members of Parliament will continue to press.

Q51 **Lord MacGregor of Pulham Market:** We have been told by some that so far EVEL has had no impact at all on procedures in the House of Lords and how it might operate. You have hinted at that as well. Do you agree with that assessment? Some have suggested that there might be some political implications for the House of Lords, which I cannot myself see at the moment. Do you agree with the assessment that it is unlikely to have much impact on the Lords?

Baroness Evans of Bowes Park: The evidence so far is that that is the case. In his evidence to you, the Clerk of the Parliaments said that it has not had much impact on us with regard to procedure. As I said previously, I have not sensed around the House that it is having a huge impact on how Lords approach their important role. For instance, although the Housing and Planning Bill had some certified clauses under EVEL, it certainly did not make any difference to the rigour and scrutiny applied by Lords involved in those discussions, or to their willingness to put amendments in debate or votes. I do not feel that it has had a huge impact or that it is constraining the role of the Lords. We continue to play our important role.

David Lidington: With the current constitution of the House of Lords, I do not see that there are real implications. In the hypothetical circumstance that there was House of Lords reform that meant that there were Members of the House of Lords representing distinct parts of the



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United Kingdom, on some kind of constituency basis, it would be a different matter, but that is not where we are.

The Chairman: It used to be like that, years and years ago—elected from among their own number.

David Lidington: Indeed.

The Chairman: Those were the days.

Q52 **Baroness Taylor of Bolton:** That was an interesting hint about the future shape of the House of Lords. Perhaps we should not go there.

The House of Lords has no different specification for English Members, Scottish Members or anything else. You said that it was hypothetical, but it is quite easy—maybe we have had an easy parliamentary year—to see a situation arising where the Lords rejects amendments that the Commons has put in under EVEL, or we make changes to a Bill and end up in a ping-pong situation, which happens quite frequently. We could be in a situation of ping-pong where English MPs have decided one thing and Scottish, Welsh and English Peers have decided something different. There is a potential for aggro, conflict or making life more difficult all round, which could lead to calls for changes and reforms to the House of Lords, I am sure. That is a genuine problem that could arise. Mr Lidington, you said earlier that it had been a relatively easy process so far. I wonder whether you think it has really been tested.

David Lidington: It has been going for only one year.

Baroness Taylor of Bolton: Can you reach conclusions?

David Lidington: As I said earlier, when you have a Government who have a majority both in England and in the House of Commons overall, it is, by definition, more likely—I say this cautiously—to be an easier experience than if you have a Government who have a majority in the House of Commons but not among English constituency Members.

Lady Taylor is perfectly right in the illustration that she gives. I do not think that it raises any different constitutional principle from that which we face anyway in the normal course of exchanges between the two Houses, and during ping-pong, in particular. There are particular issues about what happens if the House of Lords changes the extent of a Bill, to make it UK-wide rather than for England and Wales only, but there are very clear procedures that guide the Speaker, in our House's case, on certification in such circumstances.

Baroness Taylor of Bolton: There have been quite a few instances when the Commons has been suspended while people make a judgment, have there not?

David Lidington: There have been a few, but they are normally of very short duration. If the Committee would find it helpful, I can probably



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write with some specifics on that. In my experience, one is looking at five or 10 minutes at a time, perhaps.

The Chairman: It would be helpful, if you find that it is different from that. Pursuing the same theme, I would like to bring in Lord Morgan.

Q53 **Lord Morgan:** It has been suggested that there might be a divisive effect among the different groups or a majority of Members of Parliament, in the sense that you could have legislation passed by the whole House of Commons, and, indeed, by the House of Lords, but it could nevertheless be blocked by a group of either English-only or English and Welsh MPs. Do you think that is a real fear?

David Lidington: Clearly, that is a possibility. The existence of the EVEL procedures in itself provides a disincentive for any Government to test that. If a Government know that they have to secure the consent of English Members, when a measure applies exclusively to England, or to England and Wales, as appropriate, that ought, in my judgment, to guide the Government in drafting their legislation in the first place.

Lord Morgan: Do you think that, in one rather important way, it diminishes the status of the devolved legislatures in Scotland, Wales and Northern Ireland? It might appear to conflict with the Sewel convention, to the extent that they could legislate freely in their own nations but nevertheless find decisions being taken about that at Westminster.

David Lidington: No, I do not think it does. The devolved Administrations, of course, have all been established by Act of Parliament here at Westminster. They are devolved centres of power. Nearly 20 years on from the settlements in Wales and Scotland, not only has devolution been accepted as a fact of life, but we have had measures—in respect of Wales, some went through the House of Commons earlier this week—that have added to devolutionary powers. In Scotland, there is an active debate about the extent of fiscal devolution. I do not think the evidence suggests that there is any rowing back on the devolved settlements. If anything, the contrary is true.

It is also the case that when Whitehall departments and Ministers draft new legislation for Westminster, they take account, as a matter of course, of the need for legislative consent Motions, where those are required. Without breaching government confidentiality, I can say to Lord Morgan that earlier this week I chaired a ministerial meeting where we were discussing future legislation and where the need for legislative consent from one or more of the devolved assemblies or parliaments was one of the matters discussed. I assure the Committee that the Secretaries of State concerned are fully cognisant of their responsibilities to respect the devolved settlements and to seek such Motions accordingly.

Q54 **Baroness Taylor of Bolton:** This question is in the context that it is the first year and that every potential pitfall or consequence has not yet



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emerged or been developed, and it follows from the last question. The Speaker can certify that a matter is devolved or reserved. There has been speculation that such a decision could be challenged in the Supreme Court. The basic question is: do you think that is likely? If it were, would very significant implications and difficulties not arise? Is it something that the Government and Ministers have thought through? Will you take account of the possibility of such things when you do your review?

David Lidington: Successive Speakers have over many years applied a certification procedure with regard to money Bills. Speakers also have to make judgments, on occasions, about the application of the Parliament Act and whether a particular Bill meets the tests required in that legislation. This is a further development of certification, but it is not a new principle. For the purposes of Commons procedure, the Speaker's decision is final. Given parliamentary privilege and the Bill of Rights, any attempted challenge in the courts to the Speaker's decision would be very unlikely to succeed; I do not think the courts would entertain it. There should be some certainty about that.

If, on the other hand, after a piece of legislation became an Act, we had a Supreme Court judgment that made a ruling on legislative competence, that is a separate matter from the procedure of the House of Commons. Clearly, in those circumstances, when you are looking at how to interpret a piece of law, rather than proceedings in Parliament, the Supreme Court would be the arbiter.

Baroness Taylor of Bolton: I am not the expert on this, but it seems that people are talking more about the potential for taking action of that kind. There has certainly been recent speculation. It seems to be something that needs to be taken into consideration.

David Lidington: It is a principle that has generally been respected over the years that the courts and Parliament are respectful of each other's particular roles in our constitutional arrangements. The courts have respected the boundaries laid down by the Bill of Rights and parliamentary privilege, just as Parliament has tried to be pretty strict with itself in observing sub judice rules.

Lord Pannick: For the reasons you give, I do not think the concern is so much that the Speaker's certificate could be challenged in the courts. The court would say, "This is a matter of parliamentary privilege and the Bill of Rights". The concern is rather that the certificate given by the Speaker may be shown to be inconsistent with a ruling that the Supreme Court gives on a similar issue in relation to the competence of a devolved Assembly. You are right to say that that may occur at a later stage, but it may occur contemporaneously. It may be that the legislative competence of a devolved Assembly on a similar issue is going through the courts and coming to the Supreme Court at around the same time. The concern is about a tension there. How will the Speaker deal with those matters? Will he wait until the court has determined, which may not be possible? Will he take legal advice? There is a tension and the possibility of an



unsatisfactory conflict.

David Lidington: It is a matter for the Speaker to take certification decisions. The Government provide information to the Speaker, through the Explanatory Notes on a Bill, on the Government's best judgment about territorial extent, which, of course, will normally have been informed by the Government's legal advice. If he wishes, the Speaker may ask the Government to provide additional advice or evidence. The Speaker has access to Speaker's Counsel, if he chooses to draw on that. I suppose it is open to the Speaker, if he so wishes, to draw on external legal advice as well. Those are entirely matters for the Speaker. My belief is that the Speaker will come to the best judgment that he or she is able to make, on the basis of the law as it is understood to be at the time of the decision.

If, through subsequent judicial interpretation, the law is found to operate in a different way, a future Speaker's judgments will take account of that reality, just as Ministers, in operating policy and preparing legislation, act on the basis of the best understanding of the law as it currently is. Successive Governments are well used to the idea that judicial reviews from time to time interpret the law differently from what Ministers had assumed the law to be.

Q55 **Lord MacLennan of Rogart:** I wonder whether you have addressed the issue of making Members of Parliament from Scotland, Northern Ireland and Wales second-class citizens. Would that not influence the thinking about support for the union?

David Lidington: Lord MacLennan is right to be concerned about the union, but, as I tried to say earlier in these proceedings, that was one of the reasons why the then Government came to the decision they did on this particular approach to the English question. I do not agree that Members representing Wales, Scotland and Northern Ireland could reasonably say that they have second-class status. They retain the right to speak and to vote on all legislation in the House of Commons. What the new rules mean is that English MPs, or English and Welsh MPs, must be asked to give their consent to laws not only that affect only England or England and Wales, but where equivalent powers have been devolved elsewhere. There are those two tests, each of which has to be met.

Previous to the EVEL rules being brought in, there was resentment among a significant number of MPs representing English constituencies that it was they who were being accorded second-class status. While they could not vote on health or schools matters in Scotland or Northern Ireland, Members from constituencies in those parts of the UK were nevertheless able to vote, and possibly even determine the majority, on schools or health matters that affected English constituencies only. The EVEL rules have redressed that imbalance.

Lord MacLennan of Rogart: Positively, Members from Scotland and Northern Ireland may make suggestions that are relevant to the



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legislation but have not been thought about by English Members of Parliament. Do you not think that would be a contribution to better legislation?

David Lidington: Not only is there nothing to stop Members from Scotland or Northern Ireland advocating improvements to legislation affecting England, but they have the power to move amendments to that legislation. If Members in English seats are persuaded that those are right, they will not exercise the power of veto that they have under the procedures and the amendments will go into law.

Baroness Evans of Bowes Park: In this House, all Peers can continue to contribute and vote. In that sense, the voice remains here. All Peers can be involved.

The Chairman: When I first became a Peer, I thought that I would enjoy the fact that I was a United Kingdom Peer, able to ask questions about all parts of the United Kingdom, but any question I asked about Scotland was referred to the Scottish Parliament. There we are. We move on to Lord MacGregor.

Q56 **Lord MacGregor of Pulham Market:** Is it realistic to state that all ministerial posts are open to MPs irrespective of the location of the seat they represent? For example, in practice, could an MP representing a Welsh, Scottish or Northern Ireland seat become Secretary of State for Health, given that much of the legislation by the Department of Health in the recent past applies only to England? I understand that it is very rare anyway—since 1999, I think there has been only one Secretary of State for Health or Education from Scotland and that all the rest have been from England—but should it be made mandatory?

David Lidington: I would not want to make it mandatory. These are matters that can and should be left to the judgment of the Prime Minister of the day. As was hinted in Lord MacGregor's question, following the devolution settlements, when the bulk of a department's responsibilities relate to England alone, that may weigh in the judgment of the Prime Minister. The Blair and Brown Governments had Members from the majority of seats in Scotland, but they chose not to appoint Members from Scottish constituencies in the Health Department, for example, once health had been devolved to the Scottish Parliament. Clearly, there are political judgments that will weigh in the mind of any Prime Minister, but making it mandatory would introduce an unnecessary bit of inflexibility to the system.

Lord Morgan: You say that it can be left to the judgment of a Prime Minister, but different Prime Ministers may form different judgments on these matters. It is by no means clear to me when a clear decision would be taken, or by whom.

David Lidington: In modern times, the appointment of Ministers is entirely a matter for the Prime Minister of the day. There is not really any



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uncertainty about that. Of course, different Prime Ministers may come to different decisions about this matter, but each Prime Minister will make those judgments bearing in mind not only the particular qualities of the men and women they have in the pool available, but how particular appointments will be seen by Parliament and by the public. In my time in the House of Commons, and even before that, every Prime Minister, regardless of party, has always had an ear that is very wide open to the views of the general public and an eye on the longer-term political implications of that kind of decision for the Government he or she leads. It is a matter of prime ministerial judgment, and we should leave it that way.

Lord MacGregor of Pulham Market: In practice, it is unlikely to happen.

David Lidington: In practice, history has established a particular pattern. It would be foolish to rule out the idea, let alone have a mandatory prohibition, of Members from, say, Scotland serving in a department whose business related mostly to England.

Q57 **Lord Norton of Louth:** Going back to something you touched on earlier in relation to the union, you indicated that one of the reasons for bringing in EVEL was to try to address the English question. There was a clear level of dissatisfaction in England, not least over the West Lothian question. We know from survey data that it was clearly one of the factors triggering that dissatisfaction, so you introduced EVEL to try to address it. You could say, "Well, we have brought it in. We have EVEL". Do you think that that really has helped to address the English question? I do not think that there is much evidence that people outside are aware of the Standing Orders and the effect they are having. How far has it gone towards addressing the English question?

David Lidington: Looking first at the House of Commons, it has largely done so. We will make an assessment of that as part of the review, but at the moment I do not pick up much evidence of dissatisfaction on the part of Members from English constituencies with the way the procedures operate. As regards public opinion, the fact that there does not appear to be huge dissatisfaction suggests to me that the procedures are working satisfactorily. There are parts of the country—by which I mean England, in this case—where one could have gone a couple of years ago and seen an audience get quite het up about the idea that Scottish MPs could take through a measure affecting only England, against the wishes of the majority of English constituency representatives. That has gone.

Lord Norton of Louth: Do you think that could be because they are deflected by certain other issues at the moment and that is focusing the mind, rather than public awareness of the procedures? You might be a victim of your own success. You said earlier that they were bedding in quite well and were not taking up too much time. That could have the effect that people outside are not that aware that they have changed.



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David Lidington: Of course, it is always difficult to prove a negative: had we not made those changes, what would the state of opinion be? A real and perceived unfairness has been removed; a cause of discontent and dissatisfaction has been removed. That is a good thing.

Lord Norton of Louth: Yes, but my point was about linking that to people being aware of it. If there is dissatisfaction, they have to be aware of the changes to address it.

David Lidington: People who have followed these matters are aware that this has happened and are not getting cross about the fact that things happen the other way, as they used to do from time to time. At a time when public confidence in the political system, whether left or right, is a bit frayed, to put it mildly, removing things that have caused public dissatisfaction is not a bad thing to have done.

Lord Norton of Louth: Yes. That was not my point; it was about the public being aware, once you have removed it, that it has been addressed.

Baroness Evans of Bowes Park: I would assume that where MPs, for instance, had quite a vociferous set of constituents who were unhappy about the situation, it would be very much in their interests to make sure that they were aware. To a degree, it is within the gift of MPs themselves to make the case to constituents who were particularly exercised by this.

Lord Norton of Louth: Yes. You make the point that Members are aware of it. It is about whether you go beyond that and whether your review will look at the perception of the process, not just how the process itself is working.

David Lidington: I will reflect on Lord Norton's points, but I am not immediately attracted by the idea of commissioning widespread opinion research, at significant cost to the public purse, on this. The absence of complaints is itself a useful measure.

Q58 **Lord Norton of Louth:** You might get it on the cheap, because quite a number of other organisations have been polling. That is how we know about the current satisfaction. It may be that you can tap it through that.

Can I follow up with some wider questions related to that? Two other things we have been looking at in the Committee are the union and devolution, and the extent to which there is not much joined-up thinking. Now we have decentralisation, with the northern powerhouse, but that is seen as a separate issue from decision-making in relation to the different parts of the union. Do you think that should be addressed, or do you see it as a discrete issue? What is to stop somebody saying, "Lancashire votes for Lancashire laws"?

David Lidington: Lord Norton tempts me on to the question of English devolution more broadly. There is an important distinction to be made. In the Acts of Parliament that established the three devolved



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Administrations and Parliaments or Assemblies, in all three cases, the devolution settlement involved conferring legislative powers on Scotland, Wales and Northern Ireland respectively. In the case of London and in what has been proposed for Greater Manchester and the West Midlands, we are not looking at legislative devolution; we are looking at, in effect, executive devolution, giving an elected chief executive of some kind, usually a mayor, considerable devolved executive power and having some kind of assembly or council whose prime function is to hold to account and question the mayor in the performance of his or her responsibilities. That is of quite a different constitutional character from the three devolved Administrations.

Lord Norton of Louth: It probably is now. Originally, Welsh devolution was closer to administrative devolution, but it has now moved to legislative devolution.

The Chairman: It is very much to your credit that your answers have been lucid, concise and extremely informative. We are nine minutes ahead of the deadline. This has also been the climactic session of our evidence-taking process. We shall now go through the difficult bit of putting it all together and coming up with what we will try to make a constructive and useful report. On behalf of the Committee, I thank both of you for coming. We know, genuinely, how busy you are and we very much appreciate it.

David Lidington: Thank you, Lord Chairman.

Baroness Evans of Bowes Park: Thank you.