

HOUSE OF COMMONS
MINUTES OF EVIDENCE
TAKEN BEFORE
JUSTICE COMMITTEE

DEVOLUTION: A DECADE ON

Tuesday 13 May 2008

RT HON JACK STRAW MP and MR JIM GALLAGHER

Evidence heard in Public Questions 648 - 699

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Oral Evidence

Taken before the Justice Committee Sub-Committee

on Tuesday 13 May 2008

Members present

Mr Alan Beith, in the Chair

Alun Michael

Mr Andrew Turner

Mr Andrew Tyrie

Dr Alan Whitehead

Witnesses: Rt Hon Jack Straw MP, Secretary of State for Justice and Lord Chancellor, and Mr Jim Gallagher, Head of Devolution, Ministry of Justice, gave evidence.

Q648 Chairman: Lord Chancellor, Mr Gallagher, welcome to both of you. Let me start by clarifying something. In your memorandum, you state that, whilst responsibility for devolution strategy now sits in the Ministry of Justice, the Cabinet Office has a co-ordinating role. What is this co-ordinating role?

Mr Straw: It does indeed sit within my Department and with me, so, amongst other things, I chair the Constitutional Committee of the Cabinet which handles certain devolution issues, but, as you are aware, there are also the three territorial departments for Northern Ireland, Scotland and Wales, and the Cabinet Office, and I will ask Mr Gallagher to say a further word about this, has a complementary, co-ordinating role.

Mr Gallagher: There are three things that central government has to do in relation to the devolved administrations. The first is to manage the individual settlements, each of which is different and, therefore, there are functions to be discharged in relation to the Scottish Settlement, the Welsh Settlement and indeed the Northern Irish Settlement and those are the responsibility of the territorial Secretaries of State and their Departments. Then there is, as the memorandum says, the strategy in relation to devolution which is pretty closely linked into the Government's approach to the Constitution as a whole, for which the Secretary of State is also responsible. Finally, there is the co-ordination of government business and indeed the co-ordination of business in relation to each of the devolved administrations and all of them together and that is what the Cabinet Office does; it both co-ordinates inter-departmental work inside the Government and it is also responsible for servicing the joint ministerial committees with the devolved administrations, so that is the division of work.

Q649 Chairman: Up to now, it has not been a very busy task.

Mr Gallagher: They are working up to it just at the moment, Chairman.

Q650 Chairman: So what do you do, Lord Chancellor, Secretary of State, in all of this?

Mr Straw: A lot, as it happens, just in case you think I am idle! As Jim said, there are issues about overall policy in respect of devolution and I am involved in those and the discussions. There are issues that come before the relevant Cabinet committees which will see the light of day in due course and obviously I am chairing the overarching joint ministerial committee towards the end of June which is meeting, by the way, on June 26 as well. Because of my constitutional responsibilities, I have a lot to do day by day with the territorial Secretaries of State. I do not look for work in this area any more than I look for work in other areas because I have got quite enough to do.

Q651 Chairman: We got the firm impression from our discussions, particularly in Edinburgh and, to some extent, in Cardiff, that the bilateral relationships had built up quite strongly and effectively, despite, in some cases, partisan differences, but that these were really valued and productive and that that began to make the role of the Scotland Office, in particular, and sometimes the Welsh Office more superfluous. It is an even more confusing picture when we have the Cabinet Office involved, your overarching involvement, but the real work appearing to be done in bilateral discussions. Could we not at least remove a separate Secretary of State for Scotland and a separate Secretary of State for Wales from this now very complex bunch of cooks?

Mr Straw: You will excuse me if I say that decisions about the machinery of government are for the Prime Minister of the day, but there have been suggestions around that that could happen and it may or may not be the case that such an arrangement will be decided on in the future, but, I have to say, having observed the work of the territorial Secretaries of State, I think there is a valuable job for them to do. Government is quite a complicated business, so the Cabinet Office has a role across government of co-ordinating what individual departments do and you have got these separate secretariats and you could say, "Well, what the overseas and defence policy secretariat is doing is duplicating the work of the Defence and Foreign Offices and their Secretaries of State", but it is not the case, they complement that, and it is also the case in the area of devolution. On the bilateral relationships, the first point to say is that, if you live in a democracy, you have to accept the decisions of electors and there will be times when the decisions of electors will be similar in the devolved administrations as they are in Westminster and times when they will not be, and that will be true decade by decade. It is the responsibility of the Westminster administration, the Whitehall administration and the devolved ones, regardless of the Party label attached to those administrations, to work co-operatively in the public interest, and I am glad you note that the bilateral relationship has been a good one and certainly there is a good deal of business between the Ministry of Justice and not so much the Welsh administration because they do not have responsibility for justice and criminal law, but the Scottish administration. The co-operation is good and, for example, we co-operate on JHJ matters, so on the latest Criminal Justice and Immigration Act, which received Royal Assent last Thursday, there was agreement by the Scottish Executive that the amendment to section 127 of the Criminal Justice and Public Order Act 1994, which relates to industrial action by prison officers, should cover Scotland, but with an order-making power which, in practice, would only be triggered by the Scottish Executive, and it suited them, although it is a devolved matter, to have that put into legislation and that was agreed and there was no problem about it.

Q652 Chairman: Is there any danger that the role of the Scottish Office will become one of dampening down, interfering with or undermining bilateral relationships because its purpose might be seen to be different? Does it become the tool of the Party in power at Westminster, making sure that the bilateral relationships do not get too friendly?

Mr Straw: I have seen absolutely no evidence of that and it is certainly also not the instinct, nor the practice, of the current Secretary of State, nor, I believe, of any future Secretary of State; it would be inappropriate and it does not happen.

Mr Gallagher: It is worth realising that of course the Scotland Office and indeed the Welsh Office have a task to do in the management of the settlements themselves. They have orders to make and they have constitutional machinery to maintain, so the Scotland Office, for example, since devolution, has started, has made, I think, something like 165 orders under the Scotland Act, and that is a function which they have to discharge which cannot, by definition, be discharged in bilateral relationships between departments.

Q653 Alun Michael: I wonder if I could ask about a specific issue that has come up in our hearings, namely the Civil Service Code and the Civil Service itself. We have heard Scottish and Welsh voices speaking about the importance of having a single Civil Service operating at the highest possible standards, irrespective of accountability which might be to a department in Whitehall or indeed an agency or to a devolved administration. If I understand it correctly, the fact that there are three Codes is a bit of a historical accident rather than something that was done by design. In view of your revision of the Code at the moment, would it not be an opportunity to embed those highest principles, which everybody wants to see observed by the Civil Service, in a single Civil Service Code?

Mr Straw: It is a thought for consideration.

Mr Gallagher: There is, I understand, a single Civil Service Code at present which makes clear that those civil servants who work for the devolved administrations owe their loyalty to the ministers of those administrations and that those civil servants who work for the UK Government owe their loyalty to ministers in the UK Government.

Q654 Alun Michael: The reason I ask the question is that there is a reference to three Codes, I think, in the White Paper, and our questions led to the suggestion that there are at the moment different Codes, but it was not as a matter of principle, it was just something that had happened.

Mr Gallagher: As a matter of fact, the Codes are the same in content. The Code is single and the same in content at present. The suggestion was that there might be the capacity to make different Codes which made it explicit that their loyalties were owed to different ministers, but that the content of these Codes would be uniform.

Q655 Alun Michael: But it would be possible, would it not, to make clear within such a Code the nature of loyalty to whoever is the individual or organisation that is being served?

Mr Gallagher: As indeed it is at present, yes.

Mr Straw: If I may reply to Mr Michael, I can see the point Mr Michael is raising, but I wonder whether moving from three Codes to one would be worth the candle, particularly where you would not produce any substantive change and it might arouse sensitivities, but, if you come to a contrary recommendation, I am sure the Prime Minister, in consultation with the senior ministers in these devolved administrations, would wish to consider it.

Q656 Alun Michael: I think probably it is not worth pursuing further than that. I think it was a bit of a puzzle to us as to why we are in the situation we are and the important point is the clarity of the same principles being applied wherever. Could I move on then to another issue which is the Barnett Formula. Again we have heard quite a lot of evidence, most of which seems to confirm, as Joel Barnett did in his evidence to us, that he had not realised that he was establishing something that was going to last for decades rather than a year or two and that, like democracy, the Barnett Formula has all sorts of failings, but seems to be better than all the alternatives. What do you see as the future of the Barnett Formula or of a potential review of it?

Mr Straw: Well, Lord Barnett should be pleased that his formula has worked out as durable as he!

Q657 Chairman: I do not think he is!

Mr Straw: Well, he was always a shrinking violet, but I am pleased for him! First of all, the specific answer to Mr Michael is that the Chancellor of the Exchequer, the Treasury, will publish factual papers about the operation of the Formula, I think, by the summer, and you have got the Calman Inquiry which is looking at issues of financial accountability and we will take both into account and anything that your Committee, Mr Chairman, says before coming to decisions about whether there are any changes that need to be made. The Barnett Formula is a population-based formula and that is a statement of the obvious, but it has shifted over time because I think that there is a myth about that the share of the population between Scotland and England and, in this case obviously, Wales was kind of fixed in aspic in 1978 and has not changed in the Formula in line with the relative changes in the population since then, but it has in fact changed over time. It was quite close to 11% of total spending of Scotland's share and, because the population of England has grown as Scotland's has not, is now down to 10.08, so that is an indication of the fact that it has an automatic adjustment within it to take account of population changes. There is then a much bigger issue, which of course was aired ten years ago in a report by the Treasury Select Committee and the response by the Government at the time, about the question of a needs assessment as well. It is quite interesting re-reading that report because I am not saying that forever and a day there should not be a needs assessment, but what is brought out there is the way in which needs assessments change each year and those of us who have had experience of dealing with, say, the old rate support grant needs assessments know that they carry with them ----

Q658 Alun Michael: Or police grant even.

Mr Straw: Or police grant, they carry with them their own problems and it may be better to have a formula which says, when you are dealing with such large numbers of people, as you are with the Scottish, English and Welsh populations, that it is population-based and then it is left to the administrations within those countries, in this case within their devolved responsibilities, to determine the relative allocation of need as they think best rather than, as it were, to do it twice over.

Q659 Dr Whitehead: Now that we are ten years on from devolution, perhaps one might say there has been a chance to have a look at a wider overview, and one of those was provided to us by Professor

Jeffrey who submitted to the Committee a statement where he said, "The challenges posed by the piecemeal approach to devolution by the new patterns of relationship between the governments of the UK and by England's weight vis-à-vis the rest of the UK can all be clustered under one overarching problem: the failure at the point of devolution, or since, to restate what the UK as a whole in its new part-devolved format is for; what the role of the centre should be; how the centre should relate to the different nations; and how the parts should combine to make a whole". Do you think that is a fair criticism of the ten years since devolution?

Mr Straw: No, I think it is almost entirely wrong, and it was not a piecemeal change, first of all. People may or may not have agreed with devolution in 1997/98, but it was something which, after all, had been discussed in public in Scotland, but also, to a significant degree, in England as well.

The Committee suspended from 4.37pm to 4.51pm for a division in the House

Q660 Chairman: I hope you have remembered what question it was you were answering and the sentence you were about to utter!

Mr Straw: Dr Whitehead had asked me about the views of Professor Jeffrey in his evidence to you and I was invited to say whether I agreed with him and I said I disagreed with him, and I was about to say that devolution had been hotly debated in Scotland for over 30 years. After all, the Labour Government passed the Scotland Act and there was a referendum there and, but for its failure to reach the referendum threshold required, it would have led to the establishment of a Scottish Assembly and we would have had devolution now for 30 years rather than for ten there. In terms of the Settlement that became encapsulated in the 1998 Act, that itself was the subject, as you know, Mr Chairman, of very great debate in Scotland through the convention and in former discussion over a period of about six or seven years before that, it was also discussed in the years preceding the General Election in the so-called Cook-Maclennan working party between the Liberal Democrats and the Labour Party, then there was a White Paper, then there was the Act and then there was a referendum. No settlement is perfect, but it was thought through very carefully and it was also, I have to say since I actively participated in all these discussions, the subject of very considerable debate inside government in the relevant Cabinet committee which met intensively as we were putting together the White Paper and then agreeing the legislation. I think it is a settlement that may need to be changed in the future, but it has stood the test of time and that is illustrated by the fact that I do not think there have been any amendments, or certainly no significant amendments, to the Scotland Act since then and the basic architecture has been accepted. On the other point of Professor Jeffrey's where he seemed to be saying, "Well, now you've got devolution, what's the Union for?", I frankly think it is a kind of banal question because there are many, many countries which are coherent entities as countries and members of the United Nations, but have degrees of devolution within them which may be very significantly stronger than that in respect of Scotland, even though that is a reasonably strong level of devolution, and still everybody recognises their common loyalty and identity with the country as a whole as well as within the individual provinces, states or, in this case, nations within that country. I can expand, if you want, on the purpose of the United Kingdom, but the short point is that we have learnt, I think, over the three centuries since the Act of Union that we are much stronger together than we are apart, that we benefit from the differences, but also from the commonalities there. The other thing I would say about Scotland, which was always one of the reasons why I was relatively relaxed about devolution, is that it was fundamental to the Act of Settlement of 1707 that there was built into that administrative, judicial and legal separation from 1707 and then certainly, from the establishment in the 19th Century of the Scottish Office, administrative devolution, so two-thirds of devolution had already taken place in practice. What

we were doing was adding the third legislative stage in ensuring that the administration for devolved responsibilities was based on the devolved administration and not at arm's length at Westminster, and people had got used to that and accepted that and accepted that it worked.

Q661 Chairman: The other part of the quotation of Professor Hazell's was about what the centre is for once you have created that system.

Mr Straw: As I say, I also think that is irrelevant. What does he mean by "the centre"? If he means, "What's the Union for?", I have already spelt that out. The British people over many centuries had a choice about whether to go separate ways, and particularly in Scotland there is no indication, notwithstanding the elections for the Scottish Parliament last year, that there is any strong sentiment in favour of independence in Scotland, and the British people as a whole believe that you can have multiple identities and that you can, in this case, have profound loyalties to your nation and the culture of your nation as well as to the United Kingdom as a whole. What is the centre for? The centre is to deal with reserve matters and to ensure good governance across the United Kingdom as a whole, if that is what he means by "the centre". I do not quite understand the point of his criticism.

Q662 Dr Whitehead: In your foreword to the recent The Governance of Britain - Constitutional Renewal White Paper, you stated, "Over the past decade, a major programme of constitutional reform has diffused power away from the centralised state. Devolution has transferred power away from Westminster to the devolved administrations in Scotland, Wales and Northern Ireland as well as to London's local authorities", and then you said, "but we need to go further". Then, when you actually look at the White Paper, there is nothing whatsoever in it that suggests where we go as far as devolution is concerned.

Mr Straw: Yes, I see what you are saying.

Q663 Dr Whitehead: Do you think that is a missed opportunity or is there more to come?

Mr Straw: No, I think it is poor drafting, for which I take full responsibility. We are talking about the general devolution of power, not only in the sense of devolving power to separate assemblies and parliaments, but devolving power away from Westminster and Whitehall to individual citizens as well, for example, from Whitehall to Parliament there has been a devolution to individual citizens through the great strengthening of their right to take government to court through a developed judicial review and the parallel of rights under the Human Rights Act, so that is what I had in mind, but I accept that the drafting could have been better, and I think it was mine.

Q664 Dr Whitehead: I imagine you do accept, however, that one of the outcomes of ten years of devolution certainly has been a renewed focus on what is generally called 'the English question'.

Mr Straw: Yes.

Q665 Dr Whitehead: Indeed you said, I think, on November 7 last year, "The phrase 'English votes for English laws' sounds beguilingly simple, but more than a cursory analysis reveals it has been completely unworkable. More than that, it would fatally undermine the Westminster Parliament and unravel the Union". Could you explain what you meant by that?

Mr Straw: I certainly can. The starting point for this is that devolution is asymmetrical, above all, because of the dominance of England in population and economic terms within the Union. There are very few other countries where you have anything like devolved arrangements or federated arrangements where the different nations or states have such striking imbalances in terms of their population. You could, if you wished, establish an English Parliament, and I happen profoundly to disagree with it, where you could say, "These items are a matter for a Parliament for England and then there is a federal parliament for the United Kingdom to deal with reserve matters", so that is one solution. It certainly does not recommend itself to my Party or to me and I do not think it recommends itself to the major Opposition Party. What all the evidence suggests, including historic evidence, is that, if you go down the route of trying within a single Parliament to have two classes of members and two classes of business, you end up with chaos in terms of the conduct of business and you also end up with chaos in terms of the conduct of the Government. That was a point brought out very tellingly by A J Balfour, Leader of the Conservative Party, when Parliament last looked in detail at this issue during all the interminable debates on the second Irish Reform Bill. Gladstone, he was under attack by those Members who were not in favour of Irish nationalism who asked him, "These Irish Members will be able to vote on" what were then described as "English issues, and obviously, by extension, Scottish and Welsh issues, GB issues, but we won't be able to vote on our issues", so Gladstone originally proposed this so-called 'ins and outs solution' which was exactly the same principle as what is now trailed as 'English votes for English laws'. Balfour dug in against this and he said on 12 July 1893, "I believe with every single gentleman who has considered this matter that the in and out clause must carry the most serious evils in its train. It must, in the first place, shatter or threaten the ordinary procedure of Parliament with many difficulties, it must, in the second place, lead to constant intrigue with the Irish Members and it must, in the third place, I believe and fear, shatter the Cabinet system" because how would you run a Cabinet if you never knew whether an issue was going to be identified as English-only or UK as a whole? The reason for that was underlined by Gladstone on the same day who finally said that really this will not run, and he said, "It was impossible or, to use my own old expression, it passed beyond the wit of man to frame any distinctive, thoroughgoing, universal severance between one class of subjects and another", and, the moment you start to look at this, you see the thing unravel. In a way, the best example of this is the higher education fees legislation for England and Wales which was debated rather intensely in, I think, 2004/05, but, around that time, the Scot Nats here had said that they would never vote on English-only issues, but they then said, "Ah, but we are voting on fees for English and Welsh students at English and Welsh universities, notwithstanding the fact that it does not directly affect what goes on in Scottish universities", and here I paraphrase, but I am accurate, it was Alex Salmond who spoke. They said, "What is behind this scheme is a greater reliance by English and Welsh universities on the private sector. Other things being equal, that will reduce the amount of public spending that is spent on English and Welsh universities and, therefore, it will reduce the totality of public spending and, therefore, under the Barnett Formula, the amount available to Scottish universities". Now, I can see the logic and, to a degree, he was correct. It was not obvious from the face of the Bill because the Bill said, "This applies to England and Wales", but that was his case and that was why he broke his own principle, and you would have those arguments at every stage. The other point I would just make, if I may, and I have looked at this with very great care, we do not have to look at the crystal for how this would work, but we can look at it in the book, and I entirely endorse the view of Sir Malcolm Rifkind who said in the FT in July of 2006, "This proposal of English votes for English laws is creating two classes of MP. It would be a constitutional abortion", he said. "Either you are a Member of Parliament or you are not. If we were to go ahead with this, you would have 100 MPs and clearly those from Wales and Northern Ireland for second-class Legislatures". The other point I would just make, because it is a rather important one, is this: that behind this suggestion is the implicit idea of a huge Party imbalance between the Conservatives, who, it is thought, always dominated England, and

the Labour Party who can only form a government because of their disproportionate representation in Scotland and Wales. I am very happy, Mr Chairman, to provide you with this table which goes back to 1945, but, when the Conservatives do gain proportionately more seats in England than they currently do in Scotland and Wales, although it is worth adding parenthetically that in the 1950s the Conservatives won half the seats in Scotland and half the votes and they were the dominant Party and there is no particular reason why that should not happen again ----

Q666 Mr Tyrie: We would agree with that, Jack!

Mr Straw: Well, you ought to do something about it rather than finding a dodge around it which smacks of defeat, but anyway that is all in parenthesis!

Q667 Chairman: This is becoming a very long sentence!

Mr Straw: I was going to say that, if you look at the record, when the Labour Government has had a working majority here, it has also had an absolute majority of English MPs and the occasions when we have had a majority of MPs for GB, but not an overall majority of English MPs has been when the majority, in any event, has been very small, like six in 1951, minus in February 1974, three in 1964 and so on, and in those cases, in any event, the prospects of getting controversial legislation or legislation in your face, for example, to an English constituency are, in practice, very limited and no sensible government tries.

Q668 Dr Whitehead: Could I be clear that what you appear to be leading us towards is a suggestion that either one might envisage an entirely separate English Parliament with then a UK federal Parliament sat above it or no change in the present asymmetrically devolved arrangements with one Parliament dealing one way or another with a combination of UK-wide laws, England-only laws and what one might call 'hybrid laws'?

Mr Straw: Dr Whitehead, I am wholly opposed to an English Parliament and I happen to believe that, if you went down that route, because England is so dominant, there would be little advantage seen by those in Scotland, Wales and Northern Ireland for maintaining the Union.

Q669 Chairman: Why does that follow?

Mr Straw: Well, because I think the argument would be, "Well, what exactly is in it for us?" I may be wrong about that, but all I would say is that, although I am opposed to it, it is coherent, it has a logic to it, a symmetry to it and you could do that, and I think the Liberal Democrats have from time to time proposed it.

Q670 Chairman: Not in my lifetime!

Mr Straw: Well, that is fine in that case because I sometimes hear that they talk about a federal system for the United Kingdom.

Q671 Chairman: Yes.

Mr Straw: Well, I do not know how it would work otherwise, maybe through elected assemblies. We have tried that one. As I say, I recognise its logical coherence even if, as I say, I am opposed to it in principle and it would have indirect consequences.

Q672 Mr Tyrie: So, just to clarify, you are opposed to it in principle because you think that the Welsh and Scottish communities would conclude that there is nothing in it for them? Is that correct?

Mr Straw: No, I am opposed to it in principle, full stop, because I happen to think that the current arrangements are better for everybody.

Q673 Mr Tyrie: Surely, the principle is based on some idea or thought.

Mr Straw: Because I think the current arrangements are to the advantage of every section of the United Kingdom. That is my view.

Q674 Chairman: None of our witnesses from Scotland and Wales has suggested to us what you are now suggesting to us, that they would see an English Parliament as a threat to the Union. On the contrary, almost all the witnesses from Scotland, when asked this kind of question, from whatever Party they come, have said, "It doesn't matter how from England they operate it".

Mr Straw: Well, that may be their view, but I take a different view.

Q675 Mr Tyrie: Since we are trying to establish what your view is, Jack, because you appear to be alone on this point ----

Mr Straw: Not for the first time!

Q676 Mr Tyrie: ---- is it because you think there would be nothing in it for the Scots and the Welsh if we had an English Parliament and also a federal United Kingdom?

Mr Straw: I think, over time, it would lead to, and it is not my principal reason for opposing it, let me say, but I just happen to think it would be a consequence.

Q677 Chairman: So what is your principal reason?

Mr Straw: My principal reason is that I see no good case for having a separate Parliament for England. I think the current arrangements work satisfactorily for England. I think the bigger issue within England is to see a degree of further devolution, as we have achieved in London, to local government units which does not in any sense undermine the integrity of the English nation or of the United Kingdom. I thought personally that there would be general support, for example, in the North East and the North West for elected assemblies, but it turns out not to be the case, so we have to go down other routes to the idea of elected mayors and so on, but I think that is the way that you deal with that. I am as in touch with my English voters as, I dare say, those who represent English voters here are and there is no serious sentiment for an English Parliament and I think people are content overall with the current arrangements. There is a separate issue which, I certainly concede, is raised from time to time about relative spending in Scotland and Wales, but that is a separate matter.

Q678 Chairman: But London involved significant devolution of previously centrally held powers ----

Mr Straw: It did, yes.

Q679 Chairman: ---- in both policing and transport, presumably based on the assumption that the area of London covered by the Mayor was a sufficient one for these powers to work coherently over that area, so are you arguing that that is an approach we ought to be looking further at, whether we should identify local government units which are of a sufficient area or coherence to have further powers devolved to?

Mr Straw: Mr Chairman, I used to argue that because I thought there would be a public welcome for regional assemblies in the North East and North West and Yorkshire.

Q680 Chairman: You said "local government".

Mr Straw: Yes, but regional assemblies would not be taking over legislative functions. They would have taken over local government functions, including over time over the police, but anyway, it became clear from the vote in the referendum in the North East, and you know the area, where we had always judged there was the greatest appetite for this, that people did not want it, so they do not want it, so we have to move on and see what people do want. In terms of greater democratic involvement in the police, you can do that both within the current police service boundaries and indeed at a more local level of the basic command units, and there are suggestions around for that.

Q681 Alun Michael: If I can just ask a supplementary question on the point you made about the regional issues in England, you referred, I think, three times to the vote in the North East having suggested that there was no enthusiasm, but, in the case of Wales of course, the referendum in 1979 was pretty comprehensively lost to the chagrin of those of us who had wanted to see that proceed, but it turned out to be much less than a generation before the issue was back on the agenda, indeed it was within a decade. Why do you think that the vote in the North East is so conclusive that this issue is closed for ever and a day?

Mr Straw: Nothing is closed for ever and a day, but I think that, judging particularly by what I know about sentiment in the North West, people have sort of moved on from there and they are more interested in ideas of strengthening the existing local government units and the development of what have been called 'city regions' based round, in our case, Manchester and Liverpool and then sub-regions or city regions in part of Lancashire. It is partly to do with identity, and the big difference, Mr Michael, between Scotland and Wales and parts of England is that there is this very, very powerful historic and cultural identity with Wales and with Scotland which does not have a direct parallel within parts of England. For sure, people are Geordies or they are Lancastrians and so on, but it is not as powerful a loyalty.

Q682 Alun Michael: So the comparison would be in the case of London, which of course is much larger in terms of population than either Wales or Scotland, that it is the identity which makes the difference, is it?

Mr Straw: Also, do not forget that there was a big democratic deficit in London because from the 1880s there had been county councils as well as borough councils in London, the LCC and Middlesex County Council until 1964 and then the Greater London Council, and then, post the 1986 evolution of the Greater London Council, you had a great many functions in London which could not be operated at a

borough level, a great overlay of inter-borough arrangements or, to pick up the Chairman's point, central government standing in the shoes of what should have been a tier of local government, and it plainly was not working. When I became Home Secretary, you were my Minister of State, so you will recall this, I was continuing the role which had been going on since 1829 that I, as Home Secretary, was the policy authority for London and it was a job which no Home Secretary could do effectively, though I did it to the best of my ability, and that was why I was very keen on the police arrangements in the London Government Act which did not lead to the total devolution of policing, but essentially to a partnership.

Q683 Dr Whitehead: The picture that you are setting out for us as far as ten years on from devolution is, as it were, the continuation of an asymmetric Parliament with the West Lothian question, I guess, parked in the car park for perpetually unanswered questions and a suggestion that local government may well, as it were, suck up some of the democratic deficit which, by your own statement a moment ago, applied in London, but also could equally be regarded as applying in English regions. Is that the formula or are there further plans which you think may tidy that up?

Mr Straw: The prior point about the so-called 'West Lothian question' is whether or not you accept that the United Kingdom's makeup in terms of its component parts is asymmetrical because of the huge dominance of England in terms of resources and of population and actually the resilience of its economy as well. If you do as I do and accept that, in the end, English Members can determine anything in the Union and, if we got together, we could completely dominate the Union if we wished, if we had a common purpose, as it were, against Scotland, Wales and Northern Ireland, but that certain consequences go with that, I am perfectly comfortable with those consequences because ultimately, whether a particular constitutional settlement is acceptable to all the peoples within it is not a matter of arithmetic, it is a matter of sentiment. I happen to think that this arrangement of the United Kingdom has served all parts of the United Kingdom very well for three centuries and can endure, provided each part of it accepts, as it were, a degree of self-restraint, and I think it is.

Dr Whitehead: Is not part of the consequence of an asymmetric settlement that parts of the asymmetry may decide they may quite like to be independent from time to time, and do you think maybe a referendum on that might be appropriate?

Q684 Chairman: Or was Wendy right?

Mr Straw: You asked me about the official position on a referendum. Well, I am unpersuaded that now is the time for a referendum in Scotland.

Q685 Mr Turner: What about England?

Mr Straw: What about England? Well, Mr Turner, independence from what - from Scotland?

Q686 Mr Turner: From the United Kingdom.

Mr Straw: Well, I am against that. As I say, my constituents are very much in favour of the United Kingdom. I get many, many questions about all subjects under the sun in the town centre of Blackburn, but having a referendum to declare independence from Scotland and Wales is not one of them.

Q687 Mr Tyrie: But, just to be clear, you disagree with Wendy Alexander that there should be a referendum?

Mr Straw: I have stated my position and the Government's; we are unpersuaded about a referendum.

Q688 Mr Tyrie: So you disagree with Wendy Alexander's view?

Mr Straw: Mr Tyrie, I have stated the Government's position. If you want to compare and contrast my remarks with somebody else's outside this room, please do.

Q689 Mr Tyrie: So I think we can take it that you do not agree with Wendy Alexander's view.

Mr Straw: Take whatever you want away from this, Mr Tyrie!

Q690 Mr Tyrie: I think we have made some progress there. Could I go back to the Barnett Formula. Actually, what Lord Barnett said was that the system that he introduced "cannot be right". Do you agree with that?

Mr Straw: No, I do not. It is a system, and I happen to have his words in front of me or I had his words in front of me ----

Q691 Mr Tyrie: Well, let me read it to you.

Mr Straw: No, I have got it here. None of these systems is perfect, but, let me say, nor are the alternatives, as those of us will recall the effects of needs- and resources-based formulae, and all of them produce problems as well as potential solutions. For all its imperfections, it is worth putting on the record that the Barnett Formula was regarded as good enough, not only for the Labour Government when Joel Barnett was an important part of it, but throughout the period of the Conservative Government for 18 years. I know the points that are made about it say that it is not the case that it is set in concrete, the relative shares of public spending shift as the population shifts, and it is also the case, and I had these figures earlier, that, for example, the growth of spending for health in England is significantly above the growth in spending in Scotland just at the moment because the Scots have decided to do different things.

Q692 Chairman: They get the money and it is up to them what they decide to do.

Mr Straw: Sure, but, when my constituents say, "Well, they are spending money on" whatever they are spending it on, I say, "Yes, and it takes less time to wait for a hospital bed in England than it does in Scotland, and NHS spending in England is rising at 4% in real terms each year for the next three years compared to 1.5% in Scotland".

Q693 Chairman: We are quite familiar with this. I think Mr Tyrie is trying to establish your views on the Barnett point.

Mr Straw: Well, my views are that, if your Committee comes forward with a formula, well, obviously it would be considered, and I am simply saying that the history of local government spending in England, Mr Tyrie, going back to the endless reviews that took place in the 1970s and on and, famously, the ones that the Conservative Party followed in the 1986 White Paper on local government

spending which led to the poll tax, there are no easy solutions to this problem of the allocation of resources, which is also associated with the 1986 solution, and how you raise the money.

Q694 Mr Tyrie: I am not asking you whether the system has survived the trials and tribulations of 30 years of politics under different governments; there are lots of things that have done that which we would think could be improved upon. I am asking you whether you think that the Barnett Formula is right. Do you agree with Lord Barnett that it is not right?

Mr Straw: No, I do not agree with Lord Barnett that it is not right. It is right and there is no point dismissing, Mr Tyrie, 30 years' experience because, if it was as wrong as I think you are implying, then there is quite a large question about why the devil the Conservative Government over 18 years chose to follow it. These issues, these formulae, it is not really a question of right or wrong ----

Q695 Mr Tyrie: I am not trying to make a party-political point, I am just trying to elicit from you what the Government think about Lord Barnett's conclusion that this current system is not right and needs to be fundamentally reformed.

Mr Straw: I both regard Lord Barnett as a friend and have very great respect for him, but it does not mean necessarily that I would agree with him on every issue. The issue of these formulae, it is not a matter of right and wrong, it is a matter of balance. There is no right or wrong to the needs and resources formula in the 1980s, the 1990s or now, it is about a matter of where the balance of advantage and pain lies. Until a better formula can be proposed which has the advantage of transparency, which Barnett also has, and it also has this self-regulating element within it in terms of shifts in the population, then it is appropriate to follow it.

Q696 Mr Tyrie: Is the Government engaged in looking for such a formula?

Mr Straw: I answered that question, I think, I am not making a point here, before you came in to say that the Treasury is going to publish factual papers about Barnett in the next few months and Calman is looking at issues of financial accountability and then we will consider the matter further.

Q697 Chairman: So is the Treasury paper intended to enable a discussion to take place with government about whether there is or is not a better basis, or is it intended to, as it were, close the matter down by telling us incontrovertible facts that will please us?

Mr Straw: Mr Chairman, it does not lie in the Government's hands to close issues down if people want to talk about them.

Chairman: It does as to whether to participate in discussions.

Q698 Mr Tyrie: Are you opening up a public debate as so often the Government appears to want to do, but does not want to do just yet?

Mr Straw: Mr Tyrie, the Government does not need to open up a public debate about this ----

Q699 Chairman: You often do.

Mr Straw: ---- because there is one. There is a public debate about this, so we do not need to open one up. It is not one of these things where, you know, we worry about stimulating discussion about them; we have just had an hour-plus about it. The papers themselves, Mr Chairman, are intended to be factual analyses about the system as is, but I am quite sure that they will stimulate further the debate.

Chairman: Can I thank Mr Gallagher for his help and we now move on to the other side of your responsibilities.