



# HOUSE OF LORDS

Unrevised transcript of evidence taken before

## **The Select Committee on the Constitution**

Inquiry on

### **THE CONSTITUTIONAL IMPLICATIONS OF COALITION GOVERNMENT**

*Evidence Session No. 7*

*Heard in Public*

*Questions 100 – 120*

WEDNESDAY 4 DECEMBER 2013

11 am

Witnesses: Rt Hon. Rhodri Morgan, Ieuan Wyn Jones, Rt Hon. Lord McConnell of  
Glenscorrodale and Lord Stephen

Lord O'Donnell, GCB, and Rt Hon. Lord Butler of Brockwell, KG, GCB, CVO

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Members present

Baroness Jay of Paddington (Chairman)  
Lord Crickhowell  
Lord Cullen of Whitekirk  
Lord Irvine of Lairg  
Lord Hart of Chilton  
Lord Lang of Monkton  
Lord Lexden

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**Examination of Witnesses**

**Rt Hon. Rhodri Morgan**, First Minister of Wales 2000–09, **Mr Ieuan Wyn Jones**, Deputy First Minister of Wales 2007–11, **Rt Hon. Lord McConnell of Glenscorrodale**, First Minister of Scotland 2001–07, and **Lord Stephen**, Deputy First Minister of Scotland 2005–07

**Q100 The Chairman:** Good morning, and thank you all very much for coming. Thank you, also, warmly for the written material you have provided for us, which has given clear indications of your different experiences in Wales and Scotland, and also some leads into areas that we want to discuss. We have read Lord McConnell's 10 tips for making coalition work, which was published in one of the Scottish newspapers. This meeting is being broadcast; if you would be so kind as to, when you first speak, identify yourselves, that would be helpful.

Perhaps I could put this inquiry into the Westminster context. During our inquiry we have talked to people who have been involved in the coalition here, and also people who were involved in earlier arrangements between parties in government, for example the Lib–Lab pact in the 1970s. We have discovered that there is debate within the Westminster system as to whether, when you have the kind of election results that you have experienced in Wales and Scotland—reflecting the PR systems that you have—within the framework that we have of parliamentary government, forming a formal coalition government is the best way

of dealing with that; whether a minority government is more appropriate; or whether even something more informal like a confidence and supply agreement makes life easier or is more appropriate within the parliamentary system. Those are some of the general questions that we would like you to address for us in the context of your experience. There are also practical questions about operating in a coalition government on matters that you have raised in your written material on collective responsibility in a coalition. Those types of matters seem to be relevant when looking at the potential formation of other coalition governments in Westminster.

It was clear that we were making it up as we went along in 2010 and, possibly, we continue to do so in some respects. Although the coalition has held together, there have been some rather extraordinary, in the context of properly understood parliamentary government, breaches of, for example, collective responsibility. Again, can we learn from what you have learnt from your experience in Wales and Scotland? That, in a way, is the primary question. What do we, at Westminster, learn from what you have experienced in coalitions?

**Rhodri Morgan:** I am Rhodri Morgan, ex-First Minister of Wales and leader of two separate coalitions: one for two and a half years with the Lib Dems, from the end of 2000 to 2003; and again with Plaid Cymru from 2007. I retired at the end of 2009 but the coalition lasted until 2011.

The point about what Westminster can learn is highly relevant. I can only speak for myself but I did think that in 2010, if Labour had been serious about trying to outwit the idea of a Conservative–Lib Dem coalition, they should have called in Jack, me, and possibly Henry McLeish, as three wise Celts, to give them the benefit of our experience. Indeed, it may be that they did call Jack but not me, I do not know; they certainly did not call me. I thought that was odd, in a sense that at the end of the M4 or the road to the isles, shall I say, we do have the ability to teach if we have experience. I learnt a great deal from Bertie Ahern, the

Irish Prime Minister and I rang up Helen Clark before forming the coalition with Plaid Cymru in 2007. I had a long chat to her.

**The Chairman:** Helen Clark in New Zealand?

**Rhodri Morgan:** The then New Zealand Prime Minister. She sent Pete Hodgson, the Health Minister, who happened to be in Europe, to Cardiff to meet the Labour Party Welsh Executive on a Saturday morning, after going, inevitably, to see Cardiff Blues versus Leinster at Cardiff Arms Park on the Friday night. It was incredibly useful to have the benefit of somebody who had been in a multi-tier coalition in Helen Clark's administration, with some parties fully in the government, another minor party in the government but not abiding by Cabinet collective responsibility and a third party, the Greens, who were in a supply and confidence arrangement. She had ripped up the Westminster rule book completely on Cabinet collective responsibility and survived quite happily. She had said, "Do not worry about *Erskine May*. Do not worry about all the previous rules. Just ignore them, do your own thing and you will probably find that you can make it work."

**The Chairman:** Was that what you took away most vividly, that you just tore up the rule book?

**Rhodri Morgan:** We did not worry about the rule book or Westminster precedent then. We pushed ahead, confident that, when you have PR, you are probably quite often going to have coalitions; if that is what the electorate tells you, then that is what you have to do and make it work.

**The Chairman:** Do you think part of the reason that you succeeded in doing as you wanted was because Cardiff is not quite as much under the spotlight in terms of expectations of things like collective responsibility as Westminster is?

**Rhodri Morgan:** No, it is simply because it is new; it is not hidebound. Westminster is hidebound, but we are not because it is a new body. New Zealand, likewise, likes to think of

itself as a model of democracy, but that does not mean it has to follow everything that is in *Erskine May*.

**The Chairman:** What would you have said to the Labour party, for example, had you been asked to come to Westminster?

**Rhodri Morgan:** It would have been very sad and nothing to do with our experience in Cardiff, otherwise that would have been bad for me, but I would have told Gordon Brown that he, sadly, had to go and that another Labour leader should be asked to take over. But the difficulty was what the Liberal Democrats had said about going with the majority party, however small that majority might be. Then it is how you do negotiations, and this is the point I made in my written evidence about keeping the alpha-males out of this because that is catastrophic.

It is not the party leaders who should do the negotiation. It is people with an ability to set the past aside and to be very non-tribal and try to move on. You have to try to outbid whatever the Conservatives are saying. For instance, when it was becoming evident that the Conservatives were going to demand the dropping of that famous Lib Dem commitment to students to have no tuition fees, could Labour have outwitted them on that? Because there are separate negotiations going on; we had experience of that in 2007. You have two games of chess going on: can you come up with a better offer?

**Q101 The Chairman:** I must ask Lord McConnell—because he has not yet said whether or not he was consulted—if he had been, what he would have said.

**Lord McConnell of Glenscorrodale:** I am Jack McConnell. I led two coalitions as well. First, I took over the leadership of a coalition that had existed from 1999 and did exist until 2003 between Scottish Labour and the Scottish Liberal Democrats. Then in 2003, I formed a new coalition with the Scottish Liberal Democrats, which ran for four years until 2007.

I was not consulted by politicians in 2010 but I was in contact with civil servants, which perhaps showed that they were a bit more attuned to experience elsewhere than the politicians were. There is a time and a place for other arrangements, either minority government or confidence and supply. But when the time is right, a coalition is a very workable form of government and this country needs to get used to it.

The two coalitions that I led were very different in many ways. The first coalition in Scotland between 1999 and 2003, I have always described as the “Add-the-Liberal-Democrats-on-coalition”, because, essentially, in 1999 there was a Labour programme for government that was being implemented. After the Scottish Parliament elections, there was a need to form a coalition to secure a majority in the Parliament and the Liberal Democrats secured a number of policy concessions in order to join the Executive. In terms of ministerial responsibilities and ministerial cohesion, it had some success, but with occasional difficulties, because no one had anticipated exactly how it might work in practice.

By 2003, we had learnt a lot of those lessons. We had a much clearer central purpose to what we were doing. Both parties had fought the election with manifestos that were partly designed for the possibility of negotiations afterwards. Negotiations were well organised. They were much more on an equal basis, although recognising the different strengths of the two parties. In four years, first with Jim Wallace as my deputy, and then Nicol Stephen, we had a majority of either four or five in the Parliament. For the whole of those four years, we lost no votes on government legislation and only on one afternoon, on one amendment, did the two parties in the coalition ever fall apart on a piece of government legislation. That was on a licensing amendment on a particularly horrendous day.

We would occasionally split in the Parliament when a matter that was not devolved was being debated. For example, if there was a motion from the opposition on a Westminster issue, we would agree to go our own ways. But on our own legislative programme, I do not

think we lost a vote in four years. That was because we had a central purpose and a degree of trust. I would regard those as the two key elements. If the coalition here can keep those together for another 18 months, they will see out the full five years. Trust and a central purpose are the two key things to any successful coalition.

**Q102 Lord Hart of Chilton:** In the essence of coalition, the electorate do not know what they are going to get until they have got it. In forming and tearing up the rule book, was there any reaction from the electorate as to what you had done?

**Rhodri Morgan:** I do not believe there was because, in a way, they were getting what they had voted for. To vote in a majority government is not easy to do under PR. I know Alex Salmond has ripped up the rule book; it is not exactly ripping up the rule book but it is achieving a majority with 40% plus of the seats in a list system, which is intended almost to prevent you getting a majority; that is a remarkable political achievement. Normally speaking, under PR it is very hard to win a majority, especially in Scotland—not quite so much in Wales, because only 33% of the seats are on the list in Wales. If people want to vote a majority in, they can, and if they do not vote a majority in, the implicit outcome that the people have chosen is going to be either coalition or a minority government, which has the potential to be very rocky, as we were in the first 18 months in Wales, where there were no arrangements. Then, when we formed a coalition with the Liberal Democrats, 40% of into that Assembly term, had the electorate voted for that? Not consciously. However, they certainly voted not to give Labour a majority, but to put Labour well ahead of any other party. That is what the electorate chose.

**Ieuan Wyn Jones:** I am Ieuan Wyn Jones. I was the Deputy First Minister in Wales during the coalition with Labour between 2007 and 2011.

The context in which you have a coalition also depends on the election itself. In the election in 2007, because the opposition parties had been working together a lot more in the

Assembly, there was an expectation among the media and the public that the 2007 election was likely to produce a situation where the parties would have to work together. In a lot of the political discussion around the election in March and April 2007, I was often asked as party leader, "Which party would you go into coalition with?" There was this general feeling in Wales. When the election result came, nobody was surprised; in fact, they were expecting the parties to talk together. In a sense, the public were ready for it.

**Lord Stephen:** I am Nicol Stephen. I was the Deputy First Minister, as Lord McConnell has explained, from 2005 to 2007 and the leader of the Liberal Democrats in Scotland at that time.

The expectation of coalition in Scotland in 1999 was very different from the expectation of coalition in 2003, because in 1999 the civil service were geared up to give support to Donald Dewar, who was Secretary of State for Scotland, and the Labour party, which was in Government. The expectation in the media was that all of this would be sorted out over the weekend. Famously, Donald Dewar gave two sides of A4 to Jim Wallace, which was general principles of working together, and hoped that the Liberal Democrats would sign up to it. The idea of a negotiation, and that negotiation being, first of all, about policies, and then only if there was agreement on policies, starting to discuss positions, ministerial portfolios and ways of working, was established in 1999 but there was no understanding of that in 1999.

By 2003, it was a far more developed, understood situation and we deliberately took more time in the negotiations, which followed the same procedure. We had much more detail about working relationships in the partnership agreement. I have printed it out. I had not looked at it for a long time. It covered issues such as collective responsibility; portfolios; the roles of the First Minister and the Deputy First Minister, roles which were, as I understand was also the case in Wales, pivotal to the coalition and working relationships; and partnership party support for the Executive and Parliament. It was all set down in quite a

succinct final page of the partnership agreement so the policies were the main part of the document. We followed that and it was a far more effective process supported by the civil servants in a much better understood way in 2003.

**Q103 Lord Crickhowell:** I want to ask about the role of civil servants in this. I was intrigued by what Rhodri Morgan said. He said that alpha males should not be involved in the negotiations. In my dealings with him, he was the Welsh alpha-male par excellence.

**Rhodri Morgan:** I was not part of the negotiations.

**Lord Crickhowell:** I was amused by that. He then went on to say that the teams should involve two key, trusted civil servants. Later, you say, “Do civil servants self-select ... some pro-continuity and some pro-radical change? Is that proper? Does it cross the line for neutrality principle?” Mr Wyn Jones, you have a great deal to say about the role of the civil service. There are certain things that clearly they are very useful in: how departments are constructed; whether things, in practical terms, will work. Yet you also say that many civil servants had great difficulty, initially, coping with coalition because they had been so used to dealing with one-party governments. So there clearly are difficulties.

In 2010, in Westminster, the parties decided not to use the civil service in the actual negotiations. We would like to hear your views about this and the practical difficulties that may arise in ensuring that the civil servants play a valuable, constructive role but do not become involved in the politics of the negotiation.

**Ieuan Wyn Jones:** My first experience of working with civil servants in Wales was in 2003 when Rhodri, as First Minister, wrote to me and said, “We would like you to consider whether you want to have a discussion with civil servants about manifesto commitments.” I took that offer up, and I built up a good relationship with him, in the sense that the then permanent secretary designated the civil servant to work with us. I was confident that none of the stuff I discussed with him would be discussed anywhere else. By the time we came to

2007, I was confident that, if I called on the civil servant to give me advice, then I would accept it.

It happened in two different ways in 2007. Prior to the election, we were given access to the civil service. They never get involved in policy options, but the two key things they discussed with us were affordability and deliverability. When we went into coalition discussions in the days after the election, we had three or four possible options. So the civil service was not involved. It would be impossible for civil servants to be involved in three or four discussions going on at the same time.

However, when we were in discussions with the Labour party, the agreement was that there would be one dedicated civil servant attached to Labour and one to Plaid Cymru. We would then discuss how you mesh together policy options that were quite similar but needed tweaking in order to write them into a coalition agreement. That support was invaluable. You have to remember as well that while Rhodri had been in government, I had not been. Therefore, I needed somebody to tell me whether the stuff that I was saying, what we wanted to include, was deliverable. Having that confidence was very helpful.

On the other point you made about civil servants, there is a distinction between civil servants at the top level, who understood what we were doing, and middle-tier civil servants, some of whom found it difficult. I quoted, in my written evidence, the example of turning up to answer Assembly questions and all the answers were the answers given to my predecessor—they had not really understood that there was a new government in place. I had to send them back and ask for new answers. That took a while, and I was a little surprised because there had been previous coalition governments in Wales.

**Rhodri Morgan:** To add to the difference between the Westminster situation in 2010 and what we were facing in 2007, it is a four-party system in Wales; in Scotland—there are also the Greens in Scotland, at the edge, making it five—whereas, here, it is three. In 2007, we

were by far the largest party. We had 26 seats but not the 30 that we had had in the 2003–2007 Assembly. We had dropped four, which was bad, but we were still twice as big as any other single party. We thought that we should attempt to lead a possible coalition government but the other three parties had been thinking about the possibility of a rainbow coalition, excluding Labour, if they got sufficient votes. They certainly had the votes. However, the Liberal Democrats were very divided as to whether they thought they were closer to Labour or closer to the Conservatives. It is always the big divide, as it was here in 2010.

Initially, we offered the Liberal Democrats the same deal that they had, roughly speaking: two Cabinet posts and so forth, policy commitments on this that and the other. At the same time, the Liberal Democrats, we were aware, were talking to Plaid Cymru and the Conservatives. That process took roughly a month and the Liberal Democrats, as an ultra-democratic party, had all sorts of executive board meetings, which would favour, then reject, then favour, then reject again, various deals. That took a whole month. It was only then that a deal with Plaid Cymru became a possibility, which took the month of June, right up until the party recall conferences which are incredibly important to give you credibility with your political parties, and which we had not done in forming a coalition with the Liberal Democrats a third of the way through the first Assembly term in 1999–2003. Recall conferences, which give the party an opportunity to express a view, are very important if you start off straight after an election. That, in all, took two months: the month of May, while the rainbow coalition and the less favoured Labour–Lib Dem coalition were being discussed in parallel; then the month of June was the drawing up of the agreement between Labour and Plaid Cymru, which was then approved in recall conferences on the Friday night and the Saturday morning, in Plaid Cymru's case, in the first week of July.

**Lord Crickhowell:** At which point does the civil service become really important?

**Rhodri Morgan:** I believe that there were some groups of civil servants who thought, “Here is an opportunity not to have a boring Labour government back in again, with or without junior partners. Would it not be nice to start afresh?” Many civil servants in Westminster probably thought it was time for a change in 2010 and put themselves forward to act as the support team to the negotiations of the rainbow coalition, excluding Labour. Then there were other civil servants who thought, “No, that is not what the electorate want. Labour have got 26; that is twice as many as others and we are supportive of continuity” and so on. It was not war between two lots of civil servants; I do not want you to think that. But it was a tricky situation to handle in terms of the permanent secretary, when some civil servants are keen on change and others want a tweaked continuity.

**Lord Crickhowell:** But you would have them involved.

**Rhodri Morgan:** They are the people saying, “Is this feasible? Is this affordable?”

**Q104 The Chairman:** We must put it to our Scottish witnesses that one of the things that David Laws said to us, in the context of the Westminster situation in 2010, was that the Liberal Democrats did not favour having civil servants present because of their experience in Scotland.

**Lord McConnell of Glenscorrodale:** I will let Nicol deal with that point. From the point of view of the Constitution Committee, the key point here is that there is continuity—consistency—between civil servants independently, neutrally and confidentially advising oppositions in advance of an election, as they do under existing agreements in Westminster and in the devolved administrations, and civil servants performing a similar role immediately after an election, should negotiations begin.

There are two benefits in that: one is that the machine knows what is going on and can prepare for government; they can also inform the politicians and their advisers on feasibility, costs and, at times, perhaps, suggest nuances that might be helpful. It also means—because

the civil service takes on the administration of negotiations, both working in teams, but also working to pull it all together at the end—that politicians concentrate on what is important, which is the building of trust and a central purpose for the coalition. There is a real advantage in this and, as long as there is a proper relationship where the politicians and their advisers deal with the politics and the civil service deals with support, administration and cohesion, I think it works in practice. It is also constitutionally consistent with the advice given to oppositions in advance of elections.

**The Chairman:** I will let Lord Stephen comment on David Laws's point.

**Lord Stephen:** In 1999, it was a difficult experience. The civil servants were learning very quickly, but still learning, the process of coalition. Civil servants, until then, in Scotland, as is the case in Westminster, were used to single-party governments. We were changing that for the first time.

David Laws was part of that experience in 1999 because he was part of the negotiations. He once famously requested a very senior civil servant to leave the room and arranged for him to be replaced by another civil servant who would be constructive to the negotiations. David Laws's experience of 1999, perhaps, coloured his view of what should be done in 2010. I do not know; I read his evidence and he still feels, instinctively, that it would be better were civil servants not involved. By 2003 the Liberal Democrats and Labour were very positive about the role of the civil servants in negotiation. They were professional, experienced and very supportive. We would wish that to continue, I am certain, if there were to be another coalition in Scotland; I cannot speak on behalf of my colleagues at Westminster.

**Q105 Lord Irvine of Lairg:** I am sure you have read the paper called *Northern Exposure*, written by Sir John Elvidge, a former permanent secretary to the Scottish Government. Can the point that all of you have been making really be made better than this: that civil servants assist the formation of coalition governments by providing facts and evidence during the

negotiations to prevent unworkable commitments being drawn up? Is that not what it comes to?

**Lord McConnell of Glenscorrodale:** That is certainly one of the key purposes.

**Lord Irvine of Lairg:** Is there any other key point that you would want to make?

**Lord McConnell of Glenscorrodale:** The capacity of politicians to manage this process and the time scales involved is enhanced by using the administrative capacity of the civil service to support the process.

**Lord Stephen:** In 1999 there were policies that the civil servants described as unworkable, which were enacted and delivered in the coalition government. 1999 was a difficult experience; by 2003, there was none of that negativity or misinformation. I will try to be gentle and leave it at that.

**Ieuan Wyn Jones:** There is another advantage: if you have had civil servants as part of the negotiating team—I am not saying that they negotiated policy but to give advice—once you are then in government, implementing it is a bit easier, because they have been part of the discussions. If they told you in advance, “You now have a policy that is workable”, it is very difficult for them to turn around and say, “You cannot do it.” So that was a tremendous help.

**Q106 Lord Irvine of Lairg:** I am addressing Rhodri Morgan. When I read his very helpful short paper, I found myself agreeing with the first two paragraphs to such an extent that I was nodding my head. But then I wondered whether Rhodri Morgan was being, perhaps, a little too prescriptive in wanting to exclude the leaders, absolutely, from negotiations. Could they not, for example, develop something that could be called a logjam, because of a difference on a major policy matter, which could only be resolved by bringing in the leaders? I wonder whether you would qualify the absoluteness of the first two paragraphs.

**Rhodri Morgan:** That is a failure of my English prose, I am afraid, in that I meant to imply that the negotiating should be done by people who are natural-born negotiators with a conciliatory mentality. Then, when logjams arise, they report back to the leader of one party and presumably to the leader of the other party or parties at the same time. They ask, “Can we give a bit of ground on this?” and they say “No”; “Can we give a bit of ground on that?”, and then they say “Yes” and go back and try to meet them halfway or whatever. Yes, there should be a report-back mechanism, otherwise you could finish up a month’s work and then one of the party leaders says, “I am not signing up to that. You never told me.” There has to be a report-back during that process of negotiating.

**Lord Irvine of Lairg:** Good, we are entirely agreed on that. I was wondering whether you were too absolute in, perhaps, implicitly excluding a face-to-face discussion on the logjam issue between the party leaders on the ground that they are alpha-males.

**Ieuan Wyn Jones:** The way we worked was that Rhodri and I met initially to agree that, if we could agree a policy agenda, we would have a coalition; that was the first meeting. Then the negotiating teams went about it and, by and large, agreed the policy content. Only on one or two occasions during that month did Rhodri and I need to meet, but we did, in order to just say “Yes” or “No” or “Sort it out”. But it was pretty rare and the negotiating teams just got on with it.

**Lord Irvine of Lairg:** Absolutely, but neither you nor Rhodri Morgan precluded?

**Ieuan Wyn Jones:** No.

**Rhodri Morgan:** Certainly not.

**Lord McConnell of Glenscorrodale:** When I was preparing for the committee last night, I had one eye on the TV, where there was a very interesting documentary on Machiavelli, which went through some of his key rules of power. One of the things that he said was that it was important for leaders to have those that you could deputise to in order to do some of

the difficult work. In many ways, that is what needs to happen in these negotiations. In Scotland, we had what became known in 2003 as the Cathy and Tavish show, which was Cathy Jamieson, MSP, now MP, who was my deputy, and Tavish Scott, who was deputised by Jim Wallace to lead the negotiations for the Liberal Democrats. They conducted, at the head of two teams, the negotiations. There were certain key points when the negotiations stopped and they came to Jim Wallace and me for a face-to-face discussion on resolving the logjams. It worked very well but it became, on a daily basis, known as the Cathy and Tavish show on the television as they gave an up-to-date media briefing on the progress of the negotiations. Machiavelli would have been proud of it.

**Q107 Lord Lang of Monkton:** All the details you have given us, both in answers to questions and on paper, have been fascinating. The difficulty I have is reflecting on the extent to which what you are saying has relevance to the situation at Westminster, were there to be another coalition government. The Assembly and Parliament that you are talking about were designed, almost, for coalition because of proportional representation. It is also the case that the areas of policy for which you have responsibility are not the really major national areas of policy that could cause intense difficulties, possibly of an existential nature. Perhaps you could indicate, in answering the question I am about to ask, whether you think the principles that you have enunciated still apply and to what extent they do. In particular, Lord McConnell, in your top 10 tips, one of them is, "Agree a clear policy programme and priorities now and stick to it." That is point 2. Point 6 is, "Use the agreed programme as a guide, not a straitjacket." There seems to be a conflict there.

I do not see anything in the top 10 tips referring to collective responsibility. That is what I want to ask, against the background I have described: to what extent was collective responsibility a fundamental principle of your coalitions?

**Lord McConnell of Glenscorrodale:** We had a very strong commitment to collective responsibility. If I was writing those top 10 tips today, rather than when I did at the beginning of this coalition, I would maybe highlight that more. I took it almost as read. That would be a key element of the coalition. While the current coalition in Whitehall has survived, and I think will survive until the next election, I do not think the breakdowns in collective responsibility here have been healthy for the Government or the country. Whatever happens here after 2015, that needs a bit more thought.

**Lord Lang of Monkton:** Did you ever experience the extreme flexibility of this matter, which we have experienced at Westminster?

**Lord McConnell of Glenscorrodale:** I will highlight a couple of examples. I think the Prime Minister has been significantly more party political at, for example, Prime Minister's Questions, than I ever felt able to be as First Minister in Scotland. I was always very conscious at First Minister's Questions that I was speaking on behalf of the whole coalition for that half hour every week. The Prime Minister seems consistently to refer to Conservative policies or the Conservative leadership of the coalition in a way that I did not feel able to. There is clearly an agreement that allows that to happen. That is one thing that has surprised me about the current coalition, and is definitely different from the way we operated in Scotland.

The other thing I wanted to mention, which I think is important, because there will be a lot of speculation about this over the next 15 or 16 months, is that we kept dialogue in place during the elections in 2003 and 2007. Although the coalition parties effectively went their separate ways at the beginning of the election campaign and we ran two completely separate campaigns on two completely separate manifestos, there are always going to be issues that arise during an election campaign that need the attention of government ministers with responsibilities.

We had one particular issue, I think in 2003, where a change in the taxation system, following the budget here, had an impact on the provision of a service in Scotland, for which we had not legislated. We had to agree administratively a budget allocation. Jim Wallace and I agreed, behind the scenes, a budget allocation during the election campaign that we then legislated for after the election. Dialogue between the two leaders in a situation where they are constantly debating with each other in public is still going to be important during the election campaign. That may have implications for the way in which parties, the civil service and bodies here operate, which would not have been foreseen.

**Lord Lang of Monkton:** Mr Morgan, did you have an agreed policy for collective responsibility, to which everyone was strongly committed? Did you have arrangements for setting it aside by agreement in certain circumstances?

**Rhodri Morgan:** No, not the latter, but it did happen from time to time. At times of party conferences, speeches of a more tribal nature are naturally made. Jack is absolutely right; relative to the present Westminster coalition, we had a tighter definition of Cabinet collective responsibility. It was one government with two parties forming it, not two separate parties in a semi-circus-horse element. It is this business that I refer to in my paper as claiming separate authorship of specific policies, which Jack said he would not have allowed. I agree; I would not have allowed it either, or thought it healthy. The present coalition Government here seems to live with each party claiming separate authorship of specific policies, either by agreement or by assertion. I am not clear which.

**Q108 Lord Lang of Monkton:** Thank you very much. Can I go back to Scotland then? Between 2007 and 2011 the Scottish National Party governed in a minority position without any formal coalition. Can you tell us how that happened and to what extent there were underlying agreements?

**Lord McConnell of Glenscorrodale:** As I understand it, they had an extremely informal understanding with the Scottish Conservatives that they would be able to continue in that position without losing a confidence vote. There was not a formal confidence and supply arrangement of any kind; I would not want to suggest that. However, there was an understanding that Alex Salmond had secured the most seats in the 2007 election, and in the views of some in the chamber, it was time to change. Therefore, he could confidently plan four years of government on that basis. Each year, when the budget came along, I think—Nicol was in the Parliament at the time and was more active than I was; I was there but I was not in a leadership position—the Conservatives never voted against the nationalist budget at any point in the four years.

**Lord Stephen:** That is correct. Certainly, they negotiated with the SNP at that time and were keen to try to emphasise Conservative wins from the budget negotiation process. It is not commented on a great deal in the media in Scotland, but if you look at the voting record, you will find, week in and week out, it was the Scottish Conservatives that allowed the SNP to win parliamentary votes.

**Lord Lang of Monkton:** Do you think it is a viable way of running a minority government, without a coalition? Do you think that the coalitions that you have described are the only way forward?

**Lord Stephen:** Clearly, it can be viable and it is particularly important as an option when there is a very small minority party. The reason that this developed in Scotland in 2007, although still a surprise to many of us, was because the Conservatives and the SNP had worked in opposition when there had been a Labour and Liberal Democrat coalition. They had got to know each other very well and co-operated in opposition. It depended very much on the circumstances of that situation.

As Rhodri Morgan has explained, some very unusual coalitions can occur. We need to get used to coalition government in Britain. We can be very fussy or certain about how it should work, but the truth is that coalition can be difficult and there can be a lot of surprising compromises made simply to maintain effective government and to avoid the day when coalition breaks down and you have a vote of no confidence or a collapse of the government and a general election. That keeps everybody's minds focused. There are situations that you expect to come up, but it is not always the minority party that is rebelling; sometimes the larger party can rebel. You have to have a situation where the First Minister and the Deputy First Minister can go into a room and be honest with each other that they are in a situation that is less than ideal. They need to ask, "Do we work together to resolve this and move forward or do we let it all come clattering down?" Over the years we have managed to keep it on track. That is the truth of it.

**Q109 Lord Cullen of Whitekirk:** I was going to ask about the provision for the First Minister to be nominated within 28 days. Do you see that as relevant to Westminster? Do you see it as useful? Are there drawbacks? I would be very interested to hear what your experiences are. They may help us in our deliberations.

**Lord McConnell of Glenscorrodale:** I have a unique experience of this. When my predecessor resigned in November 2001, and I was elected leader of the Scottish Labour Party, there was a general assumption that that automatically meant I would become First Minister by the Tuesday or Wednesday of the following week. The first thing that happened was I got a telephone call from the Liberal Democrats to say, "You do realise that there is a vote in Parliament next week and we have to vote for you. We may have been in coalition for the past two and a half years but we are not going to be voting for you unless you come and meet our group and talk to us about your commitment to the agreement that was reached in May 1999." I had to go from the elation of addressing my own party, and being

selected as a leader, to a committee room in the Parliament and sitting down with the Liberal Democrat group, three or four of whom were, at that point, very hostile to the coalition and wanted to know what I was guaranteeing to secure their votes. That process of the First Minister being agreed by the Parliament by a vote is very different from what would be the situation here.

**The Chairman:** But would it have relevance? We have had evidence suggesting that there should be a vote on a coalition agreement, which would be effectively the same thing.

**Lord McConnell of Glenscorrodale:** That would be a healthy arrangement. It ensures that the leaders have secured the support of their parties. It would be helpful for collective responsibility because, if there is a split in the Parliament, then it is easier to impose the rules of collective responsibility. In general terms, I would support that, recognising that it would be a big change for the UK Parliament to go down that road.

**Ieuan Wyn Jones:** The assumption I always had about the 28 day rule was that there was an assumption that there would have to be discussions; therefore you allowed 28 days. Whether it should be 28 days or six weeks is a matter of debate.

In our case, because of various difficulties, it took two months, although Rhodri had been nominated and was accepted as First Minister before our negotiations concluded. I cannot understand how you can bring a coalition together in a weekend; I find that difficult to accept. You are coming out of an election; the emotion is raw. Rhodri used to use the words, “Knock six bells out of each other” during the election. In a weekend you cobble up an agreement; I find that a bit difficult. It took us a while just to bring the parties around to the idea and to work out policy and governance arrangements. It takes a month; in my view, that is the minimum.

It is also important for the body to which you are answerable, which is the Parliament here or the Assembly in Cardiff, to have a vote to sanction that. It not only gives the First

Minister or the Prime Minister legitimacy, it also gives the coalition legitimacy because then you have the confidence of the body from which you have to work for the next four or five years.

**Rhodri Morgan:** The 28-day rule was critical in 2007 because when I was re-nominated we had not got anywhere near the coalition agreement that transpired a month later. What it did was bring to an end the rainbow coalition alternative to a Labour-led coalition. The mood music changed completely after I had been re-nominated. It came a day after the Lib Dems had finally decided at their executive in, I think, Llandrindod Wells that they were not going to support the rainbow coalition—that is, the “anybody but Labour” coalition.

**The Chairman:** The timing was valuable, then. The timeframe, as you have just pointed out, Mr Wyn Jones, was completely different from the Westminster experience.

**Rhodri Morgan:** Yes, it was not the end of the beginning but the beginning of the end. It certainly was not the end, but it came half way through and the mood music completely changed. That is when we started to eye Plaid Cymru across the dance floor and they were eyeing us back, as it were. It took another month before we got to the stage of forming a coalition.

**Q110 The Chairman:** I am going to ask one last question; I think it was raised by Jack McConnell. You said that after the first coalition agreement in Scotland, the manifestos subsequently were partly designed to look towards a coalition in the future. Do you expect that is going to happen in the Westminster election in 2015?

**Lord McConnell of Glenscorrodale:** Yes. The party manifestos in Scotland in 1999 were partly the creation of parties that were still Westminster-orientated, and then they drew up a Scottish manifesto as an aside. By 2003, the party manifestos were designed, created, written and agreed in Scotland by each of the parties, I think it would be fair to say, without any external engagement from the rest of the UK. However, each of us was conscious that

we would be going into negotiations afterwards. As Labour leader, I was preparing a set of demands in which I knew there were some red lines but there were other areas where I was prepared to negotiate. I was very conscious that I needed to have a manifesto that was relevant for those circumstances. I think the Prime Minister and the Leader of the Opposition would be foolish not to think on the same basis for 2015.

**The Chairman:** Although all their representatives who have given evidence to us adamantly state that it is a million miles from their minds.

**Lord McConnell of Glenscorrodale:** They will deny it.

**The Chairman:** Thank you all very much. It has been a very helpful session. You may think that the analogies between your experience and Westminster are not as close as we might have originally thought, but you have illustrated clearly to us that there are many things to be learnt, not least the questions of considering the history and thinking towards what may happen rather than making it up as we go along. Many thanks indeed.

### **Examination of Witnesses**

**Lord O'Donnell, GCB**, Cabinet Secretary and Head of the Home Civil Service 2005–11, and **Rt Hon. Lord Butler of Brockwell, KG, GCB, CVO**, Cabinet Secretary and Head of the Home Civil Service 1988–98

**Q111 The Chairman:** Good morning, Lord Butler and Lord O'Donnell. I apologise for keeping you waiting but, as you could see, we had four people in our previous session and we were not capable of keeping to time; at least I was not. I remind you that this evidence session is being broadcast so, if you would be kind enough, please identify yourselves when you first speak for the benefit of the television cameras.

We had a detailed discussion with the previous witnesses about the role the civil service played in Scotland and Wales in negotiations and in preparation for coalition. I think it is fair to summarise by saying that all the witnesses thought that in both situations the role of the civil service had been important, so we will want to talk about that in the Westminster situation.

Before we come to that, perhaps we could ask you about the evidence we have been given about the relevance of the *Cabinet Manual* or the draft *Cabinet Manual* as it was at the time of the 2010 elections. Lord O'Donnell, you have been given a great deal of praise for having thought so far ahead in drafting that as it related to some of the coalition questions that arose, particularly drawing on your experience of the New Zealand situation. The evidence we have been given in the past few weeks is that those *Cabinet Manual* references should be expanded and probably made more definite as to some of the issues relating to the formation of a coalition government and the existence of a sitting government, particularly a sitting Prime Minister. I wonder whether that is your reflection.

**Lord O'Donnell:** Gus O'Donnell, former Cabinet Secretary and Head of the Civil Service. Thank you for those kind words. On the importance of the *Cabinet Manual*, this was possibly the first coalition for a long time so we were coming up to a situation where there could have been great uncertainty, particularly with the public, about what the constitutional and legal positions and the conventions were. For example, does the Prime Minister stay in office even though he does not have the most seats or votes? In that sense, it served a very good purpose and it was helped by lots of constitutional experts being able to explain that to the public in an independent way. It was as much as we could have agreed in the time there was available. It is a creature of the Government and therefore it was as much as could be agreed with the Government.

There are certain issues that were left up in the air. For example, it is for the Prime Minister to decide when to involve the civil service in discussions with the parties. Some people have suggested that that should be accepted as a conventional norm. That is obviously for the Government. I think that the process of engaging with the opposition is a good one. The process of the civil service being there to facilitate discussions and it being for the parties to decide how much they want civil service involvement strikes me as a rather good place to be. There are other circumstances, and I would urge the committee to look at an excellent transcript that will come out of an Institute for Government seminar that happened on 50 ways to leave a coalition. It talks about the role of the civil service in countries such as the Netherlands, where it is much stronger than it is in the UK, and Germany, Sweden and Ireland. There is a lot of interest there, which will provide useful guidance about where you might go and how the Manual might be strengthened. However, that is for the Prime Minister to decide.

**The Chairman:** You must have ideas. For example, we have just heard that in Wales and Scotland it was valuable to have an extended period of negotiation. Do you think it would be helpful if that was formally part of the arrangement?

**Lord O'Donnell:** There is no arrangement about how long it should take at the moment, is there?

**The Chairman:** No, but do you think it should, perhaps, be formalised?

**Lord O'Donnell:** Germany had a clear election result and they still do not have an agreement. They are close but it will be subject to the views of one of the parties. I would be nervous about a precise time limit. A general principle I would strongly advise for next time is that little phrase you have at the bottom of those financial adverts: the past is not necessarily a good guide to the future. Because we have had one coalition, that will change things. Given that we had a coalition and it turned out that the world did not fall apart with a

coalition government, the markets will be much more relaxed about taking longer. Given that they have observed coalitions in other parts of the United Kingdom and on the continent, people will be more relaxed. I think there will be more time next time for parties to talk about it.

There will also be more complications because, this time round, I expect that the media will ask all sorts of questions of manifestos, precisely the sorts of questions that you were asking. “So, what of your manifesto is definite, and what is up for negotiation?” That may create more problems in negotiation. We were quite lucky last time in that all the parties had not really said much about it and therefore ended up in a situation where there was room for them all to negotiate.

**Q112 Lord Lexden:** How was the decision to construct a *Cabinet Manual* made? Did you propose it to Mr Brown, believing that a coalition government after the 2010 election was likely? Had, in the past, any attempt to formulate guidance, in however brief a form, been attempted—in 1974, for example? Was this an entirely novel development as 2010 approached?

**Lord O’Donnell:** That is one where we can safely divide up the answers. On your first question, Gordon Brown came in as Prime Minister and his first Cabinet was virtually entirely about constitutional issues and there was a big paper that was circulated to all members of Cabinet. He was very keen on exploring lots of these ideas, including the *Cabinet Manual*. It was with his approval that we started work on that. I submitted the draft of that chapter to the Prime Minister ahead of my appearance at the Justice Select Committee, saying that, given we had not produced the whole thing as there was not enough time before the election, I was keen that we tried to get that chapter out. He approved that I could put that draft out when I appeared before the Justice Select

Committee. It never became more than a draft before the election; the final *Cabinet Manual* was sorted out later.

**Lord Lexden:** How did the inclusion of procedures that should be borne in mind if a coalition were formed come about?

**Lord O'Donnell:** There is not very much in there about coalitions for that precise reason. There is an interesting reluctance among the two big parties to contemplate or talk about the possibility of not having an outright majority. Looking at the polling evidence, if the trends of the past continue and the vote share of the two large parties continues to decline, an unclear result must be more likely in future.

**Lord Lexden:** Would you recommend that the existing *Cabinet Manual* be expanded to include more on procedures if another coalition is formed? If more of that should be included, what form should it take?

**Lord O'Donnell:** There is scope now, having learnt from coalition, to put down some things that might be able to be agreed. For example, one might want to expand on how to manage collective responsibility in a world where there may be some agreements to disagree which were clear in that coalition agreement. I noticed that you discussed that at some length. There are some areas where we have learnt about how things work in practice, which could be incorporated; that would be one. There should be a discussion about the role of civil service in its interaction with all the parties ahead of elections.

**Lord Lexden:** May I ask Lord Butler whether, for example, in 1974, any advice came from the civil service to assist the possibility of constructing a coalition government then?

**Lord Butler of Brockwell:** Robin Butler, Secretary of the Cabinet from 1988 to 1998 and private secretary at Number 10 in 1974. Before the *Cabinet Manual* was produced, there were conventions that were understood and there were briefings and conversations with the leaders of the parties before general elections. It was immensely helpful that they were

put in writing before the 2010 election because, as Lord O'Donnell has said, that caused them to be much more widely known. 1974 is an interesting illustration of that because, although the conventions existed in 1974, when there was a hung result, Mr Wilson was able to represent it as a constitutional enormity that Mr Heath stayed in Government over the weekend and tried to form a coalition whereas, in fact, it was perfectly consistent with convention. If the *Cabinet Manual* had existed, Mr Wilson would not have been able to make such a populist point.

**Q113 Lord Lang of Monkton:** I am concerned about how the Cabinet government process and Cabinet committee decision-making process are bearing up under coalition. At the outset, you probably felt that the situation was under control and could be managed. A Coalition Committee was set up but that committee has not actually been used very much; instead, we have the Quad, which seems to me to have a slight flavour of sofa government but I may be wrong. Do you think that the system is working or do you think, looking ahead to any possible future coalition, one should prescribe some different mechanism to hold it together?

**Lord O'Donnell:** Given we had very little to work on—that is, no precedent of coalition government in the United Kingdom post-Second World War—things have worked out a lot better than I had expected. I said there would be a trajectory. If you think about the cohesiveness of government out of 10, you give them 10 on day one in the rose garden and then it goes down to X, where X is hopefully above zero but may not be that much above zero, on 7 May 2015. It was always going to be that trajectory. In a sense, the way the coalition is turning out is pretty much as I would have expected. I would expect it to carry on down that trajectory.

**The Chairman:** Ending up where—1 or 2?

**Lord O'Donnell:** That is an interesting question. Where it will end up will be very little new legislation and year 5 will concentrate on implementation and getting on with things that have already been agreed. That may not be such a bad thing, but it is what is likely to happen. On things that have worked, having Cabinet committees with a chair from one party and a deputy from another has gone very well. People forget all the things that are sorted out, and sorted out by Cabinet committees. Cabinet committees have done a lot more than previously, so, in that sense, it has been rather good for proper government. We thought we would need the Coalition Committee meeting two or three times a week. It has met twice. That role has been taken over by the Quad, which has turned out to be effective. Quads and bilaterals with the PM and DPM have been more effective. To me, that says that, whatever other matters we might put together in terms of formal structures for coalition, the personal chemistry between the Prime Minister and the Deputy Prime Minister and between those members of the Quad is hugely important. It is difficult to think about structures for that although it is important that we have civil service structures around both bilaterals and the Quad.

**Lord Lang of Monkton:** Lord Butler, do you have any observations on that?

**Lord Butler of Brockwell:** I have only been an observer from the outside of what has happened under the coalition. It seems to me that Cabinet committees have played a more important role, although under previous governments some Cabinet committees were very important. My only observation on it is this: it was often suggested that a proportional representation system, which produced coalitions, would be more likely to produce collective Cabinet government. I contested that because things are actually resolved in quite small caucuses and they do not necessarily have to go to Cabinet committees or Cabinet government. One does not follow the other, but it is the case that there has been more collective government under the coalition. I welcome that.

**Lord Lang of Monkton:** Nevertheless, there has been the occasional breakout in terms of collective responsibility of sometimes jaw-dropping proportions. Do you think that could have been provided for in advance or not?

**Lord Butler of Brockwell:** I agree. This has been a constitutional innovation. Individual Cabinet ministers have been able to disagree with government policies openly, in a way that, under the conventions on which I grew up, would have been unthinkable.

**Lord Lang of Monkton:** Perhaps the Quad has helped them to get over that because they have had to come face-to-face with each other afterwards.

**Lord Butler of Brockwell:** It has demonstrated how flexible the British constitution is, that ministers in that situation could stay in office.

**Lord O'Donnell:** Remember, in a sense, it was set up by the fact that there was going to be a referendum on the alternative vote early on, which meant they were openly campaigning against each other. It shows the strength and, as Lord Butler said, the flexibility, that having—to use the phrase that was used by your previous witnesses—“knocked six bells out of each other”, they could come together and then carry on in a collectively responsible way.

**Q114 Lord Crickhowell:** I want to come back later to the role of the civil service during the process of setting up the coalition, of which we had quite a lot of discussion in the previous session. There are some points that arise from what has just been said about Cabinet responsibility. Cheryl Gillan, giving evidence, spoke about the difficulty that sometimes arose in the present Government of knowing exactly what is going on in those areas where you are not involved, or, if you are in a department where there are no ministerial representatives, or they are at junior level, of knowing exactly what is happening; those things may affect you.

In my time as Secretary of State for Wales, I was on all the key Cabinet committees that covered the main areas that affected the Welsh Office. It is clear that the Secretary of State for Wales is not in that position. Sometimes policy statements, for example, have been made by the Deputy Prime Minister about which she was not consulted and which conflicted with what her understanding was of policy. Is there a difficulty, where you have some departments effectively under the control of one party, with the other parties only thinly represented, in getting the flow of information that is necessary? It has been suggested that this is one area where special advisers have taken a much more important and key role. Is there a problem here and is there anything we can do about it in future?

**Lord O'Donnell:** Yes, there is a problem. It was, in a sense, predicted that if you were to have a coalition of this kind, there would be departments where there was no minister from one of the parties, particularly the smaller party. The question was: how did you coalitionise policies? I remember writing a piece of guidance, which I am afraid did not get used comprehensively across the civil service, saying that there should be, in every submission, a section about coalition and whether you have coalitionised this, essentially. In departments where there were no Lib Dems, this tended sometimes not to happen. It would then get picked up quite late on at Deputy Prime Minister level, and then it would be quite difficult to unscramble and sort things out.

One of our proposed solutions was to increase the number of special advisers for the smaller party. Of course, the larger party found that a bit of a problem. Overall, that would mean increasing the number of special advisers, which has problems of its own. You need to try to set up machinery such that you can do that. The idea was that we set up arrangements whereby, if there was not a Lib Dem in there, there would be a notification to the Deputy Prime Minister's office quite early on that there was an issue coming up and, therefore, they needed to engage and hopefully engage early. We tried to do that through

the processes. It has not been perfect but, on the other hand, it is the nature of coalition with one very large party and one smaller party that there will be departments where the smaller party is not represented or not represented at a senior level.

**Lord Crickhowell:** Cheryl Gillan has suggested that the office of the Deputy Prime Minister, in a sense, could be the problem. The Deputy Prime Minister or his department could make policy pronouncements that had not been properly covered by the departments that were most affected by them. There is clearly a problem, and I wonder whether you could make some fresh suggestions that we could take up as to how this problem might be dealt with.

**Lord O'Donnell:** Certainly. The Deputy Prime Minister chairs one of the big committees, the Domestic Policy Committee, so it would be making sure that the representation on that committee is as complete as it should be and that the processes for clearing around departments are as good as they should be. If the DPM comes up with a policy proposal which, say, the Secretary of State for Wales did not know about, I would say, "Hang on", because almost certainly that would have been cleared by the Prime Minister either bilaterally or in the Quad. The question would be not for the DPM but why the Prime Minister or the rest of the Quad not done their job in making sure that all ministers who were affected by that decision were aware of it and had their chance to have their say.

**Lord Butler of Brockwell:** The problem that Lord Crickhowell described is not unique to coalition. It is really a failure of collective government. That can happen in a one-party government as it can happen in a coalition. It is perhaps a more difficult problem in a coalition, but it is not unique to it.

**Q115 Lord Irvine of Lairg:** I assure Lord O'Donnell that this question is inspired by sympathy for the predicament of the civil service in circumstances where, to a greater or lesser extent, a coalition government sets aside the traditional principles of collective

responsibility. We can think of examples: the reaction and responses to the Leveson inquiry is a good example. I ask this question to both of our witnesses. Suppose in a particular area there is no Cabinet consensus—and it is understood that there is no Cabinet consensus—but a particular minister whose views are well known on the issue comes to his permanent secretary and says, “I want to speak out on this issue. You know perfectly well that I am free to do so. There is no consensus. Would you, permanent secretary, please secure for me a briefing from my civil servants that will assist the presentation of my views to a wider public?” What should the answer from the permanent secretary be to that minister?

**Lord O’Donnell:** May I start off, because it is not a hypothetical question; it has happened quite a lot.

**Lord Irvine of Lairg:** Yes, I rather thought it might.

**Lord O’Donnell:** We decided on a way forward, which is that we will get the sanction of the Prime Minister and Deputy Prime Minister for civil servants to brief their different ministers in a way that will be known by both sides. Quite often in these cases, there are two opposing views, the Conservative and Lib Dem views, which are different. As you say, for various reasons there has not been collective agreement. The procedure we use is that we say to the Prime Minister and Deputy Prime Minister, “This is the situation. Will you sanction the civil service to support this Conservative minister in them providing advice on that particular policy option and will you allow us to do the same?” That will be kept to those particular ministers. That is the procedure that is used.

**Lord Irvine of Lairg:** Has the answer ever been “No, we don’t sanction it”?

**Lord O’Donnell:** Not that I am aware of but I left some time ago.

**Lord Irvine of Lairg:** I appreciate that. What in principle should the answer be to the question I just asked?

**Lord O'Donnell:** That is a sensible way forward. There is an issue, particularly as we approach the next election, when some of those answers are clearly about policies that I would call party differentiators.

**Lord Irvine of Lairg:** Which will feature in the campaign maybe.

**Lord O'Donnell:** They may well feature in the campaign. There is an issue then about symmetry between all parties, and that is an area where we need to think where this leaves the opposition party.

**Lord Butler of Brockwell:** I would answer your question of principle that the first loyalty of a departmental civil servant is to his secretary of state. Of course, it has not been unknown in the past that secretaries of state have disagreed with their colleagues on policy. What is novel about the coalition and the way the coalition is working is that they wish to come out publicly and say that they disagree. That is what requires the sort of sensible arrangements that Lord O'Donnell has described.

**Q116 Lord Irvine of Lairg:** Does it cause embarrassment to the civil service, as the permanent secretary in question is bound to know that the advice, which he has been authorised by both the Prime Minister and the Deputy Prime Minister to give, is a political hot potato? It will be inferred that the civil service has assisted the minister in question.

**Lord O'Donnell:** I would say: as long as the civil servants in question live by their values. That is a good place to go back to. If they give honest, objective, impartial advice and they use the same evidence base, and both will be happy looking at what the other had put forward, it is inevitable. This is the world we are going to be in and we need to be transparent about what is going on.

The area that I am worried about—and I would like the committee to give the answer to this question because I am very concerned—is taking it forward. Imagine a world where the election result has resulted in a coalition of Labour and Lib Dem. We have a convention

about papers of the previous administration not being open to the next administration. What do we do about that convention next time? I do not know what the answer to this is. There are various ways you could solve it. You could drop the convention; you could think about ways to do it. It is going to be a problem and it is the kind of problem that is much better sorted out now than waiting until we have the issue and then confronting it.

**Lord Irvine of Lairg:** You must have a view of what the answer to your own question ought to be.

**Lord O'Donnell:** No, I struggle with this. All the answers I have come up with have serious drawbacks, so I am still thinking. I do not have an answer, I am afraid, which is why I have said any help from you would be much appreciated.

**Lord Irvine of Lairg:** We will have to be the philosopher kings then.

**The Chairman:** In a way you have both been fairly relaxed about the abandonment of some of the conventions which, as Lord Butler rightly said, we have all been brought up with, particularly the one about collective responsibility. Why does this one particularly trouble you?

**Lord O'Donnell:** I have lived in a world where that has been one of the rules we lived by. I have found it a very sensible rule. I, therefore, abandon it with some trepidation. In the end, probably the answer, if I am pushed, is that we will have to abandon it.

**Lord Butler of Brockwell:** The danger is to the view that the parties take of the impartiality of the civil service. If confidence in that was damaged as a result of abandoning the convention that would be very important.

**Lord Irvine of Lairg:** That was what prompted my questions in the first instance.

**Q117 Lord Crickhowell:** That takes us back to the role of the civil service during the setting-up of the coalition, because this situation may almost arise at that point, particularly if there is a different coalition emerging as a strong possibility and seeking advice. We heard in

the previous session that there have been difficulties. Clearly there were in Scotland, at one point, which is why David Laws objected to civil service involvement in 2010, but we have heard of the practical advantages from our witnesses this morning. Ieuan Wyn Jones talked about some votes issues, how departments work, costings and so on. It seems to me there is a real difficulty if civil servants have been working for a coalition, have a view of government as it has been, in selecting civil servants to advise different potential partners—there may be more than one group involved—on the policy issues. I wonder whether you can advise as to what you think the role of the civil service, at that point, should be. How do you select the team of civil servants to deal with the different possibilities that may emerge in the future?

**Lord O'Donnell:** It is worth remembering that we did this last time. Every party, pretty much, had a person allocated to them. If there had been more parties involved, we would have been ready with a civil servant that the party leaders knew about who would be that interface. We managed to agree briefing guidelines as to how we would sort out difficult issues that were put to us by Conservatives and Lib Dems during that five-day period. We published that advice. You asked me about what could be in the *Cabinet Manual*; you could incorporate a lot of that document in the *Cabinet Manual*. That would be good. That gives you the answer to most of these questions. If somebody asks you a question about, say, the economy or the costings of a particular policy, then the civil service can provide that information, but it will also provide that information to the other parties. That is a sensible way forward, in my view.

**Lord Butler of Brockwell:** The novel aspect will be the lead-up to the election with two parties of government. I was impressed by the term “private space” given to the two parties in government, which I understand they had in Scotland. I would favour widening the powers of the civil service to advise the opposition party as well as the two parties in government,

partly in the interests of providing a level playing field between them. It is a good idea to have a point of contact for each party. I would not favour having separate teams of civil servants advising each party. I think that the parties ought to be able to go to the civil service, to the department, and get objective advice. To allocate separate teams of civil servants to the parties before the general election would be dangerous.

**Lord Crickhowell:** If you have two discussions going on, perhaps the Conservatives and Lib Dems on the one hand, Labour and Lib Dems, or—who knows?—the involvement of another party in the future, you can hardly have the same team sitting in on separate discussions.

**Lord Butler of Brockwell:** I think you can, with respect. Speaking as an individual, I was expected and did not find it difficult to advise the existing Government, before the 1997 election, and the Labour party and the Lib Dem party. The advice I gave was confidential to each, but that was perfectly possible. I do not see why that cannot be extended to civil servants who are being asked to advise on a particular aspect.

**Lord O'Donnell:** As Lord Butler said, we have an individual who does the liaison. That individual then goes back to the department. That is the right way to manage it. In terms of the teams that you refer to, that is something that obviously did not arise in 2010, because there were no teams and there were no civil servants in the negotiations between the parties. It is possible that, in future, the parties will ask for that.

**Lord Crickhowell:** That is what I am asking about, in the light of the experiences in Wales and Scotland.

**Lord O'Donnell:** Indeed it has. We were very aware of that and, in our preparations, we worked out, if we were asked to do that, how we might do it. Those teams did two things: they took a note of what was agreed, but they also provided advice generally in the form of wanting to go back. There were certain things; both parties might want to adopt a certain

policy, and the civil servants would know that, actually, the previous government had wanted to adopt that policy, but could not for one or two practical reasons. There are those kinds of things you can feed in. That means having one or two civil servants potentially in those meetings and they would refer back. They would use the whole of the civil service. I share Lord Butler's nervousness about big teams.

**Q118 Lord Irvine of Lairg:** Would you both agree that, no matter what the correct answer to some of these difficult questions is, the reputation of the civil service for political impartiality must not be sacrificed; it is an absolute?

**Lord Butler of Brockwell:** Yes.

**Lord O'Donnell:** I totally agree—honesty, objectivity, integrity, impartiality. That is what we do.

**Q119 The Chairman:** Does any member of the committee have something that they feel that they want to put that has not been discussed? Lord O'Donnell mentioned one point when I asking about extending the *Cabinet Manual*. You spoke about the need to be clearer about collective responsibility. Presumably that is a particularly tricky area in terms of political sensitivity, political disagreement, and so on. How do you imagine that being phrased, as it were?

**Lord O'Donnell:** There is the process of agreeing to disagree. In the past, if a Cabinet member disagreed on a fundamental policy issue, generally the view was, "Well, resign." Here, if you look at the issues we have dealt with—nuclear deterrent, EU, boundaries, House of Lords reform—there is a whole set of issues where there have been agreements to disagree. As Lord Irvine said, the Leveson Inquiry was an example of an issue that arose that was not thought about when the coalition agreement was written, where the parties came to a different view. It would be good if we had clarity about what constitutes the

sensible way when the two parties have a different view as to how to carry on. Agreements to disagree could be expanded.

**The Chairman:** If you look, for example, at the somewhat convoluted arrangement there was in 1975, ministers on the EU referendum were enabled to speak outside Parliament on different sides, but not to speak in Parliament and certainly not to vote on any motion, as it were, which demonstrated their disagreements. Could something like that be laid down in the present circumstances?

**Lord O'Donnell:** I am not sure that I would go with saying different things in Parliament and outside. I find that very odd.

**The Chairman:** That is why I was saying it was convoluted. It happened.

**Lord O'Donnell:** Indeed. There should be clarity that, on this particular area, there has been an agreement that the parties will disagree and will say different things. This is the way the Government will go forward or not, as the case may be. Here is how they will spell them out. Presumably, quite often with these decisions, you find that what happens, the way that they are resolved, is that the issue is given a good kick into the long grass post the next election. It will therefore appear in the manifestos and either will be resolved by one party winning outright or it will be something that comes out in the negotiations.

If I were doing the preparations for next time, I would take seriously preparations for a minority government. We did a little bit about that, but that is an area where I would say it is probably worth—

**The Chairman:** Supply and confidence arrangements?

**Lord O'Donnell:** Supply and confidence arrangements, yes; precisely how they might work and how one might manage government during a period of minority. Again, there is not much to go on, on that.

**Lord Butler of Brockwell:** May I add one point, which goes back to a point we discussed at the beginning? The British constitution has changed and should be allowed to change. It may be that it is wiser to take a little longer about coalition negotiations. But I do not think we should not envisage that the British system would go quickly to a German arrangement. There will always be pressure for a resolution to be fairly speedy. If you imagine a situation after the next election where both parties are negotiating and perhaps the Labour party has more seats than the Conservative party, there would be a lot of impatience if the existing Prime Minister stayed in power for days or weeks while the negotiations went on. The habit of the British constitution of expecting a new government to come into effect quickly would not be easily overcome.

**Q120 Lord Lexden:** I am sure that is right. If negotiations were protracted, the Queen's Government would have to carry on. What thoughts would you and Lord O'Donnell have on that possibly prolonged period dealing with urgent matters and on the role of the incumbent Prime Minister? Also, how should politicians prepare for the possibility of a longer period, at a time after an election when the press is likely to be clamouring for quick decisions on matters relating to the markets and the economy?

Finally, not related to those points, one got the impression from Lord O'Donnell that it perhaps is preferable to have issues of dispute resolved in a small gang of four or whatever, rather than in the Cabinet committee specifically set up for that purpose. I wonder whether you could comment a little bit more on that, but I am mainly thinking of the period between a general election and the formation of the new government.

**Lord Butler of Brockwell:** On that part of the question—I will leave Lord O'Donnell to answer the other part of it—the civilised approach, which I hope would be followed, would be that during that interregnum the parties would feel an obligation to consult each other. If the Prime Minister stayed on and major decisions had to be made, he would consult the

leaders of the other parties, in the hope of reaching an agreement. Even describing that illustrates why that period should be as short as can be managed.

**Lord O'Donnell:** It is interesting what we have seen in countries such as Germany. There have been lots of important issues in Europe and it has managed through this period. I agree with the sentiment of what you said. The British conventions are such that it would be one thing to say it might be a little longer than five days, but it would be another to go to Belgian proportions. I think that would be very hard. We had some big ECOFIN decisions about Greece and bailouts for Greece during that period. Everyone behaved very well and there was a lot of consultation between the parties, so that worked, but I would not want to stretch that too far. Hopefully these things could be done reasonably quickly.

**Lord Butler of Brockwell:** It would have been presumably more difficult, even in Germany, if it had not been clear that Frau Merkel was going to be the next Chancellor.

**Lord O'Donnell:** Yes, absolutely. As to Cabinet committee versus Quad, the thing to remember is that, ideally, everything comes through the Cabinet committee structure and that all works. The Quad is usually brought in when there is a really difficult problem, which cannot be managed by the normal processes. It is not that the Quad is taking over lots of other issues; it is taking over issues that you have tried in other ways and you are not getting anywhere, or there are very market-sensitive, budget-style issues. That is the kind of area where, in my day, the Quad was very active.

**Lord Lexden:** It is quite hard to see it that way as the gang of four has in fact decided so much and the Coalition Committee has met only once or twice.

**Lord O'Donnell:** It will vary a lot. Sometimes there is a decision on the Quad because they know where the Cabinet committee would be. Sometimes they are worried about confidentiality, which is always an issue the more people that are involved. I advised that you

should use things like the Quad as a fall-back when you have not managed to do it through the other proceedings.

**Lord Lexden:** There is a danger, and perhaps that danger has occurred under this Government, that four people get used to settling a large amount and an oligarchical state of affairs is created.

**The Chairman:** Oligarchy or sofa government—that is your choice.

**Lord O'Donnell:** I remember that even during John Major's prime ministership there was what was called the A Committee, the A Set. There are always informal arrangements where small groups of heavyweights get together.

**The Chairman:** Thank you both very much. The one thing that emerges strongly is the formality or otherwise of putting things in the *Cabinet Manual*. It has been very helpful to hear what you both had to say on that. Clearly, forward preparation is something which will help us, and that is something that the experience of the past nearly four years is going to inform party decisions, civil service decisions and ultimately government decisions. The British constitution may become a little clearer on this aspect. Thank you both very much. That was very helpful.