HOUSE OF COMMONS

MINUTES OF EVIDENCE

TAKEN BEFORE

JUSTICE COMMITTEE

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DEVOLUTION: A DECADE ON

Tuesday 13 November 2007

PROFESSOR CHARLIE JEFFERY, PROFESSOR ROBERT HAZELL

and PROFESSOR JOHN CURTICE

Evidence heard in Public Questions 1 - 45

Members who receive this for the purpose of correcting questions addressed by them to witnesses are asked to send corrections to the Committee Assistant.

4.
Prospective witnesses may receive this in preparation for any written or oral evidence they may in due course give to the Committee.

Oral Evidence

Taken before the Justice Committee

on Tuesday 13 November 2007

Members present

Mr Alan Beith, in the Chair

Mrs Siân C James

Jessica Morden

Julie Morgan

Dr Nick Palmer

Mr Virendra Sharma

Dr Alan Whitehead

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Witnesses: Professor Charlie Jeffery, University of Edinburgh, and Director, Economic and Social Research Council's Research Programme on Devolution and Constitutional Change 2000-06; Professor Robert Hazell, Director, Constitution Unit (UCL); and Professor John Curtice, Deputy Director, CREST, and Director, Social Statistics Laboratory, University of Strathclyde, gave evidence.

Chairman: Welcome, professors three. Before we start proceedings, we have to declare any interest that may be particularly relevant to this inquiry.

Julie Morgan: I am married to the First Minister in Wales.

Q1 Chairman: I do not think there are any other specific interests that are relevant to the inquiry. We are absolutely delighted to have three people with us who have given a great deal of time and

attention to the study of these things. Our inquiry into devolution is not of course primarily an inquiry into how it has worked for Scotland and Wales, because there are two other committees of the House which give a lot of attention to that, but how it is functioning for the United Kingdom as a whole and of course additionally the questions that arise from the position of England. There are many issues which arise from that, some of which I think we will develop as our inquiry continues, but what we wanted to do this afternoon, although we are doing it in a formal evidence session, but perhaps slightly less formally than usual, was to take advantage of the knowledge that has been built up both about the working of the system and about public attitudes to it. In that respect, I think Professor John Curtice is going to open for us with a presentation about public attitudes.

Professor Curtice: Thank you very much, Chairman, and thank you very much indeed for the invitation to give evidence to the Committee. I was asked by your secretariat to address three questions, so that is what I am going to focus on. I am going to do it very briefly in that I am just going to give you one or two headline findings and then doubtless you may want to expand on it in questions and answers. The three questions I was asked to look at were: first of all, what impact has devolution had on national identity across Great Britain; the second, what are the attitudes towards how Scotland and Wales should be governed not just within Scotland and Wales, but also within England; and, thirdly and conversely, what, if anything, does the public think should be done about England, and again not just looking at attitudes within England, but also looking at attitudes outside of England, particularly in Scotland? I need to say a little bit about the sources of evidence that I am using and also one or two limitations about what I can present to the Committee this afternoon. In Scotland, the Scottish Social Attitudes Survey has been charting attitudes towards devolution and national identity on more or less a yearly basis since 1999. However, some of the funding for this comes from the Scottish Executive, now known as the Scottish Government, and in particular some of the data for 2006 only enter the public domain next week and that for 2007 will not be in the public domain until next spring, so I cannot put that into the public domain at the moment. This survey, along with the others, the crucial attribute about it is that we have kept on asking the same questions from year to year, so whatever you might think about the merits of the questions, their great advantage is that it gives us some idea in analysing how attitudes have changed over time. The second source of evidence that I am going to use is what is known as the Wales Life and Times Survey which essentially has been done at election times since the advent of devolution in 1999. Many of the questions are actually similar, if not identical, to those which have been asked at the same time in Scotland. The third piece of evidence comes from the British Social Attitudes Survey which has been asking a number of key items on attitudes towards devolution in England again since 1999, with quite a lot of activity between 1999 and 2003 and rather sparser thereafter, and indeed here in a sense is the biggest hole of the afternoon which is that we do at the moment have a further project on attitudes towards devolution in England currently being conducted in the survey that is still in the field, so I do not have the results for that until some time next year and obviously, given that the debate in England has in some ways taken off in the last 12 months, it may be that that will show a somewhat different picture from what I am going to present to you this afternoon. I am also quite happy to talk about commercial polling data afterwards in questions and answers, but these, I think, are the sources of evidence that are best as far as looking at change over time is concerned. Let me take the first of the three questions, what impact has devolution had on national identity, which I am going to convert into: what changes, if any, have occurred in the distribution of national identity since the advent of devolution? Very simply, here is one piece of evidence where we actually forced people to choose one single national identity which would best describe how you think of yourself. In Scotland, the headline is that basically, whilst the creation of the Scottish Parliament may be regarded as a consequence of an increased sense of Scottishness in Scotland during the 1980s and 1990s, it is not clear that Scotland has come to feel any more Scottish since the creation of a Parliament in 1999; Scotland was already very heavily Scottish before that happened and, in truth, it can hardly get much more so. There are similar kinds of data for Wales.

There, in fact, there is not any evidence that the proportion of people who, when forced to choose, say they are Welsh rather than British or that anything else has in fact increased even since 1979; it is around three-fifths. Wales is less Welsh than Scotland is Scottish, but Wales remains as Welsh as it ever has been. Intriguingly, the one part of the United Kingdom where the distribution of national identity does seem to have changed since the advent of devolution is that part of the United Kingdom that does not enjoy devolution, England. As you will see, prior to 1999, when given this forced choice, people in England would prioritise their Britishness over their Englishness, in 1999 the two tied and, although subsequently a sense of Britishness seemed to becoming more predominant again, it never went back to the status quo ante before 1999. Then of course you will see, intriguingly, the figure for 2006 where all of a sudden the proportion that say they are English outnumbers those who say they are British. We are obviously, therefore, looking for the 2007 data with a degree of bated breath, although I should say that the one caveat I should enter about the 2006 data is that the fieldwork did take place at the time of the Football World Cup which may or may not have encouraged people in England to feel more English than they previously had done, though perhaps after the result maybe not. Let me then move on to the second question I was asked to address which is: what are attitudes towards how Scotland and Wales should be governed? Here, I have data through to 2007, although the Scottish data, I should say, are provisional, they are the first 1,300 cases of what will eventually be a 1,500 survey. The simple headline there is that there is no evidence at all of a consistent separate increase in support for independence in Scotland since the advent of the Scottish Parliament and support tends to bounce around the 25 to 30% level and indeed, intriguingly, in our most recent survey support for independence in Scotland is at a record low in our ten-year series, and this is in tune with all the commercial polling evidence in Scotland during the General Election campaign earlier this year where every single one of those polls which asked about attitudes towards the Constitution more than once uncovered a decline in support for independence. As you can see, support for some form of devolution is consistently the most popular option and, equally, you can see that virtually nobody in Scotland wants to go back to the status quo ante. The position in Wales, however, is one of a degree of change and it is one in the direction in which public policy in Wales has been going. Here, by "Parliament" I mean essentially a body that has legislative powers and by "Assembly" I mean a body that does not have legislative powers, ie, the Assembly as it was constituted before this year's election. As you can see, point one is that back in 1997, as reflected at the time of the referendum, 37% were actually saying they do not want it at all and that figure is now down to 16. Meanwhile, we now have 42% of people saying not so good, that they want an Assembly, but actually they would prefer a Parliament. Of course, the issues of how Scotland and Wales should be governed are not just, however, simply a question of whether in or out of the Union, but, as indeed already the Welsh data indicate, also issues about what should be the relationship between Scotland and Wales and the rest of the UK within the Union. Whilst it may be true that there is no evidence that in Scotland there is any increase in support for independence, there is plenty of evidence that people in Scotland may well back the idea of the Scottish Parliament having more powers than it has at the moment. Asked more generally, the people of Scotland, "Should the Scottish Parliament have more powers?", around two-thirds tend to agree. If you ask them whether or not, now that Scotland has its Parliament, services that are provided in Scotland should be paid for out of taxes raised in Scotland, as you can see, typically over a half in Scotland agree with that proposition. Finally, and in more detail, one of the things we did this time both in Scotland and in Wales is to ask people which of the UK Government or the devolved institutions should make the main, principal decisions about four policy areas, two of which at least in Scotland are devolved and two are reserved. These areas are the NHS, schools, welfare benefits and foreign affairs. What I am showing you here, first of all, if you take the first left-hand bar, it indicates that 63% of people in Scotland think that the Scottish Parliament should make the principal decisions about the NHS for Scotland and 26% say the UK Government. The second pair indicates that 61% of people in Wales think that the Welsh Assembly should make the principal decisions about the NHS in Wales and only 26% the UK Government, as you can see. For the most part, public opinion

in Wales and in Scotland on all four issues is rather similar and what you will also note is that both in Scotland and in Wales it is only foreign affairs and defence where you get a majority of people saying that it should be the UK Government rather than the devolved institutions that should take the principal decisions. As you can see then, there appears to be plenty of support in both Scotland and in Wales for increasing the powers of the current institutions. What did the English think of all of this? Well, so far at least, and here this is where the data only go through to 2003, the evidence appears to be that people in England are quite happy certainly for Scotland to have its own devolved Parliament, but, equally, they are not particularly keen on throwing the Scots out, and only around 17% or so support the idea of Scotland leaving the Union. That takes me to the third and final question which is: what, if anything, should be done about England? What I am showing you here are answers to a question that has been asked fairly regularly which invites people in England to choose between one of three options. The first is that the laws for England should be made, as now, by the House of Commons, the second is that there should be some form of regional devolution responsibility for things like health and education, and it was designed to mimic the Welsh Assembly as was, and the third is that there should be an English Parliament. Now, it is one of those things where you can decide whether the glass is half full or half empty and the first thing to say is that, when asked in this way at least, a majority of people in England would prefer to stay with the status quo. On the other hand, it is only just over half the people in England, and of course one of the complications about England is that there is a debate where, even if you are in favour of devolution for England, is it devolution at regional level or is it devolution to England as a whole, so the devolutionists, as you can see, are evenly split between those two counts. Together, they come to about 40% of the English population, but between them they are split. Of course, what you will also notice is that now, as regional devolution seems to have gone off the English agenda, so an English Parliament seems to have become the more popular of the two options. There is now, however, one important thing to say about attitudes in England which make them very different from the attitudes, for example, in Scotland. I earlier showed you how it appears to be the case that England is beginning to feel more English and less British, but we should not necessarily presume from that that, as a result of that, there is developing a wellspring of potential support for some form of devolution in England. What I am showing you here is how attitudes towards that three-pronged choice for England vary according to whether or not you say you are principally British or principally English, and what I invite you to note is that, whilst it is true that those who say, "Yes, I am English" when forced to choose rather than saying they are British, and they are somewhat more likely to favour the idea of an English Parliament; the difference is not very big. Perhaps it will make this even more clear if I do the equivalent analysis for Scotland where again, taking the three options posed there, it is broken down again by national identity. Now, even amongst those who say they are predominantly Scottish, only a minority support independence, but you can see that it is virtually only those who say they are Scottish who favour independence. Attitudes towards the constitutional question in Scotland are rather more clearly linked to national identity, so one of the intriguing things about England is that, although national identities may be changing, so far at least it is not clear that even those who feel English necessarily particularly feel that that Englishness needs to be reflected in distinctive political institutions. That, however, of course does not mean to say that England is necessarily satisfied, but there are our old friends of the West Lothian question and the Barnett Formula or, rather, the Scots having too much money allegedly, and what I am showing you here is just to give you an indication of how opinion both in England and in Scotland pan out on those two potential English grumbles. The first thing to say is that certainly, if you ask people on both sides of the border whether or not Scottish MPs should be voting on English laws, people in England say that no, they should not, and people in Scotland say, "Yes, we can think of something better for Scottish MPs to do than voting on English laws", and there is a majority of both sides of the Union that support that proposition, although I should say that on both sides of the Union also it tends to be agreement rather than strong agreement. On the other hand, the other grumble in England allegedly which is about public spending is not as obviously a grumble or at

least it is not obviously as salient a grumble as perhaps you might imagine. What we have done here with this question is simply to ask people, "Do you think Scotland gets more or less than its fair share of public spending?", and we asked it both sides of the border. We do not tell people, as most commercial polling evidence is done, actually what the difference in the level of spending is because that leads people and that makes it obvious to them what the difference is. Now, if you do not tell people in England what the difference is and, therefore, you get the indication of saliency, what you find is that there are 13% more people in England who think that Scotland gets more than its fair share than less than its fair share, but that is all it is, and most people in England, around 45%, say that it gets pretty much its fair share. Meanwhile, in Scotland, yes, it is true that rather more people think that Scotland gets less than its fair share than more than its fair share, but, intriguingly, that number is getting less over time, and people in Scotland at least as a result of the debate seem to becoming more aware of the fact that they appear to be relatively well off. Finally, what do the Scots want for England? This is in a sense partly also another way of looking at Scottish attitudes towards independence. For the most part, as it were, the three left-hand bars are showing you attitudes in Scotland to what they think should be the constitutional position of England and the intriguing thing that is seen there is that basically, if I were simply to give you the data without telling you whether it came from Scotland or whether it came from England, you would find it very difficult to tell the difference, ie, opinion in Scotland as to whether or not England should have its own Parliament or not or should have regional devolution is virtually identical to opinion in England, which is a majority, just, saying no and slightly more saying an English Parliament and regional assemblies. The two right-hand bars is a new question we asked this time which is asking people in Scotland what they think would be better for England, ie, is it better for England to be in the Union or outside the Union, and there is a clear overwhelming majority in Scotland that believes that England should remain within the Union and it is in England's interests so to do.

Chairman: Thank you very much, Professor Curtice, for your wonderful gallop through that, and we have got that material, I think, in paper form as well, so we can take it away and think about it, but we will be asking you some questions later arising directly from the public evidence and it is very helpful background. We want to work through a number of issues now.

Q2 Julie Morgan: The first ones are on the legislative process itself. How do you feel that the legislative process in Westminster has changed to accommodate devolution?

Professor Hazell: I thought you might look at me! The short answer is not enough. It has got progressively a little bit better. We wrote a book about this which was published in 2005 called Devolution, Law-Making and the Constitution, but I have not done any serious research on it since, so some of my comments may be slightly dated. Our criticism then was that the approach was far too fragmented and that, in order for devolution issues to be properly treated in Westminster legislation, there should be much stronger leadership at the centre of the UK Government, preferably coming from the Cabinet Office and, in particular, from the Legislative Programme Committee and that the Legislative Programme Committee should be the main gatekeeper and should deny Cabinet consent to introducing bills unless they observed some consistent minimum standards in their treatment of devolution issues. We also observed that it would help greatly if more bills were published in draft, and it is a general comment on the legislative process, and that, if the explanatory notes to bills contained more information about the devolution consequences at that time, there was a requirement only to comment on issues relating to Wales and no comparable requirement in relation to Scotland or Northern Ireland. Since then, in Scotland the Scottish Parliament's Procedures Committee has conducted its own inquiry, in particular, into the operation of the Sewell Convention, the convention whereby the UK Government and Parliament will not legislate on devolved matters without the consent of the Scottish Parliament, and they published a

report, from memory I think, in 2005 and recommended tightening up the procedures in the Scottish Parliament and, incidentally, renaming the convention where they said it should be called the Legislative Consent Convention. There was a follow-up inquiry down here by the Scottish Affairs Select Committee which, I think, made rather fewer recommendations about the possible changes to the procedures here and I do not know, forgive me, whether the explanatory memorandum accompanying bills now does properly flag up devolution issues relating to Scotland, whether it does properly tag bills which are, or might be, Sewell bills so that everyone is properly alerted, when a bill is first introduced or very soon after, as to whether it raises devolution issues in Scotland. In Wales, the difficulty is a completely different one and that is, as you will all know, that the Welsh Assembly has no primary legislative powers and that is going gradually to change under the procedures laid down in the Government of Wales Act 2006 where the primary mechanism for conferring legislative power on the Welsh Assembly will be Legislative Consent Orders, but the UK Government does not seem inclined to follow that primary mechanism, although it is early days, but it certainly does still confer legislative powers by ordinary legislation and indeed by a variety of other means, and there too there is a need for much greater consistency.

Q3 Julie Morgan: So you do not think that the mechanisms and the conventions are entirely appropriate at the moment, but is there anything that actually you want to add in terms of how they should be improved in the future?

Professor Hazell: No, I think I have offered as much as I want to at this stage about possible means of improvement.

Q4 Chairman: Do you think there is actually very much awareness, and perhaps we are in a better position to answer this than you are, amongst MPs who are not from Scotland of the whole Sewell motion issue and the need to consider it when looking at the legislation in the first place?

Professor Hazell: No, for an understandable reason which in effect you have suggested the cause of, namely that somewhere between 80 and 85% of Members of the House of Commons represent England and English constituencies, so it is only the Scottish or Welsh Members who might have a special interest, and that is why, in our view, the explanatory notes need to flag up quite strongly the fact that there is a devolution issue in a bill because, otherwise, it risks remaining hidden and being ignored.

Q5 Dr Whitehead: I was going to ask you at this point whether your proposals solve the West Lothian question, but perhaps that would take us well into next year! The way I would couch that instead is to ask you whether you could give us some of your thoughts on the strengths and weaknesses of the various options that are really current which are proposing, so they claim, to settle the English question, such as the question of an English Parliament, such as the question of English votes for English laws, an English Grand Committee perhaps and regional devolution within England. What are your views on the strengths and weaknesses of those various proposals?

Professor Jeffery: I am trying to pass the responsibility to Professor Hazell! The fundamental problem surrounding all of these proposals is the relative size of England vis-à-vis the rest of the UK, that 80 to 85% of one state requires special consideration of how that part of the state is governed in itself, but also, and in particular, how it impacts on the other parts. There are, I think, serious reservations about a number of those proposals because of the way that they connect with the other parts of the UK or impact on the other parts of the UK with devolved powers. It would be, I think, historically a unique situation to see an English Parliament with an equivalent set of powers to the Scottish Parliament, the Northern Ireland Assembly and, in evolution, the Welsh Assembly forming a federation or something like it when one of the units has 80 to 85%. There is a

presumption in that type of political system that there is equality of units and I suspect that entrenching a sense of equality across units ranging in size from less than two million to 50-plus million would be extremely difficult.

Q6 Chairman: Texas and Rhode Island?

Professor Jeffery: There are 48 others which range in between and which qualify that difference. We have a very small number of units and one which is so predominant would make the operation of that kind of system very difficult. There are a range of other issues attached to proposals on English votes for English laws or an English Grand Committee, in a more recent iteration, which presume that you can disentangle business for England from business for the other parts of the UK. Now, I will defer to Professor Hazell on this in the detail, but one of the issues is certainly that many of the bills considered in this House are England and Wales bills and not just England bills and produce various consequences for Wales, some of which Professor Hazell outlined. There are a range of other issues as well, not least finance. The financial allocations awarded to the devolved administrations are based on decisions on comparable spending programmes in England and I think, if you try to establish a situation where only MPs representing English constituencies are voting on such matters which have such consequential effects for Scotland, Wales and Northern Ireland, there is a problem, there is a kind of disconnect between the structure and the effect which points to the fundamental problem and that is that decisions made for England, because of its size, inevitably impact outside of England and I do not think any of the proposals for an England-level solution have properly addressed that problem. It would be less of a problem if you went towards a regional assemblies solution. I am reluctant to go into a full discussion of that, not least given the events in the North East in November 2004 which appear to have knocked that off the agenda for some considerable time. I really do not think it is an option, given the scale of rejection then and, remember, it took quite a long time for the rejection of a devolution scheme in Wales by roughly the same margin to return to the political agenda.

Q7 Chairman: I think the Committee would still be interested in your views on such a possibility, not least because someone might want to argue that, despite it having been rejected, it may be the only way of dealing with a particular aspect of the problem and to have certain weaknesses which we ought to be aware of before considering it again.

Professor Jeffery: Well, I could refer you to the report which I helped to draft by the then Committee on the Office of the Deputy Prime Minister which held an inquiry on the draft Regional Assemblies Bill which I think dissected its weaknesses in some detail. Let me draw out just a couple. One of them would certainly be the weakness of identification of the people of England with the regional units which were put before them, as it were, not just in the North East, but more generally. I think there is a problem of political mobilisation around those particular lines on the map, even in the North East, the region of England which, alongside London perhaps, is the one which we tend to assume has a very strong sense of regional identity. The other issue which I think really helped essentially to scupper those proposals was the reluctance in Whitehall ministries to consider ceding significant powers to the proposals for English regional assemblies, and in fact only one Whitehall ministry at the time did consider ceding significant powers and that was the Office of the Deputy Prime Minister, but no others did. I suspect that is both a problem in terms of selling the idea to the people of the North East, and there was a very strong perception in the public attitudes data that we collected that this was going to be an expensive talking shop which would not make any difference because it had no serious powers, but I suspect it also says something about governing mentalities in Whitehall and those governing mentalities have not changed in the interim and I do not foresee any particular change in the future, and that is the conception of governing England in a regionally disaggregated way and that conception is not there.

Q8 Dr Whitehead: Except of course certainly a number of other countries in Europe have simply declared regionalism, and I have in mind France, for example. Spain did it in rather a different way, albeit not with the same sort of double-lock referendum and consequent local government reorganisation that was attempted as far as the North East referendum was concerned. In the context of what we are discussing about the English question, is it, or would it be, your view that the issue is so unresolvable in terms of various democratic details that perhaps a resolution by fiat is the only way forward?

Professor Jeffery: That would certainly remove some of the obstacles. I suspect that we have probably established, in the very British way that we do make constitutional convention, that we have referendums on matters which appear to have constitutional impact, and it may be difficult to make that argument, but, if one were to take a very dirigiste, Jacobin approach and copied the French, I am sure it could be done by the powers of this Parliament.

Q9 Dr Whitehead: Do you think that the proposals that are presently current for regional select committees have any bearing on this issue or do you think it is in any way a pointer in a particular direction of the further consideration of regional devolution within England?

Professor Jeffery: Although I think that the institutional solution of moving to elected regional assemblies would be difficult to return to in short order, I do not think some of the problems underlying the proposals to introduce such assemblies have gone. We were able to do some detailed public attitudes research around the North East referendum which showed that, whilst people were absolutely unconvinced of the model put to them, the people of the North East were, in a clear majority, convinced that they were politically marginalised, that they did not have a voice at the centre in Westminster and Whitehall, but also that they were economically marginalised vis-à-vis other parts of the UK, and the lack of political voice and the sense of economic disadvantage were clearly very, very important issues. I think you could say much the same for other parts of England, the North West, Yorkshire and certainly parts of the South West as well, and I suspect that that kind of issue underlines the need for a disaggregated consideration and I think regional select committees offer one mechanism for doing that.

Q10 Dr Whitehead: Before I ask Professor Hazell a question about representation, could I just return briefly to your thoughts on the fact that England has 80 to 85% of the population of what might in the future be the federation. Does that mean, in your view, that ideas which relate to some form of constitutional relationship of England to other countries in the federation are inevitably swayed by that consideration or are there formulae which you consider could overcome that and, if you do not, does that inevitably, therefore, seem to point, however unpopular that may appear to be with the population, to some form of regional devolution within England?

Professor Jeffery: I think there are other ways of addressing the question, and let me name two. One would be to disaggregate in the working of government, not of Parliament, but of Whitehall ministries, England-only and UK-wide roles much more systematically and effectively than is currently the case and, on that basis, pursue a more systematic approach to the relations between the governments of the UK, that is the UK Government acting for the UK and for England and the devolved governments. I think there is a possibility of doing that and it may be fairly remote, but in that sense of taking the UK Government in its UK role slightly above the territories of the UK to perform a kind of arbitration function, and that may be one way, though it may be very difficult to achieve, but it may be one way of accounting for the weight of England in policy-making across the UK. One other route would be to pursue a solution which is not that uncommon and certainly it applies in Italy, has applied in Spain, although less so now, and also in some other places which

have further-flung island regions, and that is to continue to govern England as we govern England now and, as we saw from Professor Curtice's data, that appears to be what the English think should happen and what the Scots think should happen for England, but then treat the devolved territories in some form of special status which disconnects them more systematically from the work of this House and which in that way would control some of the spillover effects that an 80 to 85% unit has on the rest. That may not be an obvious consideration, and very few are proposing it, not least because it would raise concerns about the disintegration of the UK if you disaggregate it by special status in that way, but that may be one way.

Q11 Chairman: Is the main reason not the disproportionate role which the representatives of these somewhat separated territories would have in the distinct Government of England?

Professor Jeffery: In that case, I guess they would not have ----

Q12 Chairman: Sorry?

Professor Jeffery: If you were moving to a situation of special status, I think one of the corollaries is that you would reduce the input of representatives from the non-English parts in the Government of the centre, including the Government of England.

Q13 Chairman: So you are moving towards the English votes on English laws position in that argument.

Professor Jeffery: But with additional consideration of the distinctive needs of the devolved territories. This would presumably mean awarding them further powers and further fiscal autonomy beyond the very small amounts that are currently available. That is one way of dealing with England, and that is more comprehensively to demarcate the Government of England from the rest.

Q14 Dr Whitehead: Professor Hazell, the technical issue or one of the technical issues that has been put forward as a counter to the English votes for English laws is, as it were, the unitary status of the UK MP, the fact that it is difficult to have, as it were, a two-tier membership of the House of Commons. Would that in any way be met by securing the end of the alleged under-representation of England in the UK Parliament, in your view?

Professor Hazell: Yes, in terms of the electoral quotas I do not think it is quite right to say that England is under-represented. The territory which is over-represented is Wales. Since the changes in 2005, Scotland, which was over-represented with 72 MPs and now has only 59, has come down into line with the English quota, but Wales is still over-represented with 40 MPs when, if it were in line with the English quota, it should have only about 33, so at the very least, I think, Wales should have the same electoral quota as the other parts of the UK. However, there is an argument for going further, the precedent being what happened during the first Northern Ireland Parliament in Stormont between 1922 and 1972 when, as you all know, whereas Northern Ireland in population terms was entitled to 18 MPs, in practice it had 12, so there was a discount of one-third to take account of the lesser interest and workload which Members from Northern Ireland at that time had at Westminster because of the devolved Parliament sitting in Belfast, and similar arguments could now be deployed. We have done a little work on the reduced workload now of Scottish and Welsh MPs post-devolution and, no surprises, and there is nothing wrong in this, nothing shameful, they do on certain indicators have less work to do, and that is entirely what one would expect. They have significantly less in terms of incoming and outgoing correspondence, and we can show that in terms of the volume of their postbags, faxes and emails and in terms of the amount that they spend on postage going out, and they have less work in terms of constituency caseload, and no surprises there

because many of the constituency cases involve devolved issues which their constituents now take up with their devolved representatives. I think that is an issue which arguably should be addressed and it was not generally noticed, but it was in fact Conservative Party policy at the last General Election in 2005 to reduce the number of Scottish and Welsh MPs at Westminster by around about a third. If that were done, there would be about 40 Scottish Members and there would be about 22 Welsh Members.

Q15 Chairman: Surely the issue there is not just one of workload though, is it? I can imagine, especially having three Welsh Members of Parliament sitting here with me, that one could get into an argument about that! Was it not, by those who advocate that, a desire to reduce the influence of the representatives of areas where there is devolved power on the Government of England? Was it not quite explicitly for that purpose?

Professor Hazell: Well, it is a partial answer to the West Lothian question. The reason why the West Lothian question bites sharply in political terms is a two-fold reason, one of which is the number of representatives that Scotland and Wales should have, but the second, because of the way the first past the post operates, is the very heavy over-representation of Labour in Scotland and Wales in terms of seats to votes, so one answer to that, a generic answer which your Party, Chairman, might support and the other parties might not, would be to introduce a more proportional system of representation for this House. Another answer which occurred to me at a seminar we were all attending this morning would be to try and revive the fortunes of the Conservative Party in Scotland and Wales and I ----

Q16 Chairman: Well, we did by giving them proportional representation!

Professor Hazell: Well, I have a proposal in relation to party funding which is that Lord Ashcroft's fund should be increased and it should be especially directed towards Scotland and Wales and it should be called the 'West Lothian fund'!

Q17 Chairman: You forget the Laidlaw element in Scotland! Professor Curtice was shaking his head at me.

Professor Curtice: Yes, can I just make one technical caveat about the Scottish representation in this House. Scotland is in fact still over-represented in this House and there are two reasons, one, arguably, legitimate and one less legitimate. At the last Election, the average electorate of the average Scottish constituency was around, if I remember rightly, 65,000 and that of the average English constituency was around 70,000. Now, part of that is to do with the Northern Isles and the Western Isles and you may say, "Well, that's fair enough", but, beyond that, the problem is, because the population of England is growing more rapidly than that of Scotland, that, therefore, during the course of any redistribution the constituencies in Scotland are gradually getting smaller relative to those in England. There is also, however, a bigger issue here. The Scotland Act was, frankly, technically deficient in the way in which it cut Scottish MPs and what it did was to introduce a once-and-for-all cut in the number of Scottish MPs and the Act, as amended, the rules of redistribution, the quota in Scotland at the next redistribution will be whatever is the electorate in Scotland at the date of the next redistribution divided by 59, it will not be the English quota, and, given the way in which the Scottish Boundary Commission is now interpreting the rules for redistribution, actually you can probably anticipate that the number of Scottish MPs will gradually increase by one or two in the course of the next few redistributions and, therefore, the gap will re-emerge. The Scotland Act failed to say that the quota in Scotland should be the same as that in England at each and every redistribution and you have to do that to at least ensure that you catch up

with what is, frankly, something which, because of population movement, you are constantly catching up with to reach equality.

Professor Hazell: Just to go back to some of the matters which Professor Jeffery was raising in answer to Dr Whitehead, as you will all know, there is no perfect answer to the West Lothian question. The closest to a complete answer would be to have an English Parliament. There is no significant public demand for that, as Professor Curtice's data already have shown, and no heavyweight politician of any party has come out in support of an English Parliament, which is a huge contrast to the position in relation to devolution in Scotland and Wales ten or 15 years ago. It would, as Professor Jeffery has said, lead to a terribly unbalanced federation of the four nations of the UK and, finally, an English Parliament serving a population of 50 million people would, arguably, be perceived as being as remote and distant from their concerns as the Westminster Parliament is, so it would not necessarily be a solution in devolutionary terms. Secondly -----

Q18 Dr Whitehead: Presumably, you could, in theory, have a combination of both, that is, an English Parliament with devolution within that English Parliament structure?

Professor Hazell: Yes, and, if I may, I will come on to the other two possible solutions. On English votes on English laws, and again we have touched on this, it seems only logical and fair, and Professor Curtice's data show that it is quite strongly supported in England and, interestingly, in Scotland, but there would be huge, technical difficulties in identifying what counted as an English law for the reasons that Professor Jeffery has referred to and I think it could draw the Speaker into quite sensitive areas politically in giving rulings on what was and was not an English law when clauses in bills were being voted on, and there are very major political difficulties which we have also touched on in terms of the effective majority within this Parliament. I am in no doubt that over time what was introduced as, seemingly, a modest procedural change could lead to a Parliament within a Parliament and no one should be in any doubt that this would be a very big change indeed with potentially very grave, long-term consequences. Lastly, on regional government in England which you also asked about, as Professor Jeffery has said, following the defeat of the referendum in the North East in 2004, that is clearly dead for the time being, but I do not think it is necessarily dead for ever. Let us not forget that in 1979 the people of Wales voted by four to one against the then proposals for devolution, exactly the same ratio as defeated the proposals for regional devolution in the North East, but just under 20 years later the people of Wales changed their minds, so do not write off regional government in England for ever. As you will know very well, because I know some of your own academic work was on this subject, there has been a form of creeping regionalism over the years and over the decades and I suspect that it is likely to continue and in time growing public awareness of those regional structures and the powers which they hold over people's lives may lead to the re-emergence of the demand to democratise those regional structures.

Q19 Chairman: Would it be fair to say that successive governments have felt it necessary to create regional structures for the purposes of administration, whatever view they may have about whether there should be any democratic element in that structure?

Professor Hazell: Yes.

Q20 Dr Palmer: I wanted to probe Professor Curtice a little more about his surveying of public attitudes. First, on the fourth question, "Do you feel English or do you feel British?", I did notice that the number who said neither has increased quite markedly, that in the first point of your graph it was 4% and in the last point it was 12%, if I remember correctly. I wondered whether you had a view on the reason for that. Is it that they are people who are saying they are nothing in particular or they are European or they are Pakistani or what is going on here?

Professor Curtice: The question gives people about ten or so options which include Scottish, Welsh, Northern Irish, Irish, European, and that is pretty much the list, though there may be one or two others. The first thing to say is that a very small proportion of people say they are European, it is about 2 or 3%; it is very low. The second is that I suspect what you are picking up is, probably to some degree, what would be principally the ethnic minority/migrant population into the country, at least for the time being, not necessarily wishing to pick up either one of those two identities, but I can look a bit further into that for you, if you wanted.

Q21 Dr Palmer: It is quite a substantial number, 14%.

Professor Curtice: Yes, sure. Some of it is also people saying they are Scottish, and there are about 800,000 Scots living in England and, equally, people from Wales also.

Q22 Dr Palmer: How strongly did the public actually feel about this at all? My impression is that, if you ask people in almost any context, "Do you want a bit more power in the place where you live?", they will say, "Yes, go on", and, if you say, "Are you in favour of different services according to where you live?", they will say, "No, that's a bad idea", but in both cases I am not sure that they feel very strongly. What is your view?

Professor Curtice: Well, I certainly think it is worth bearing in mind that the answers that you get to questions about devolution and about the distribution of power do vary very substantially depending on how you ask the question. In both Scotland and in England, if we simply say to people, "Do you think that Scotland should be independent or do you think that England should be independent?", and I do not define what I mean by 'independence', in Scotland you can easily get at many points in time over half the people saying yes, they want independence, and there has been some work done in England at the end of last year and the beginning of this at around the 300th Anniversary of the Union with again around about half the people saying, "England, yes, it should be independent", but of course we do not know what they mean by that. That is an indication of possibly two things. One is that people do not necessarily immediately fill the word "independence" with all the resonance and meaning which perhaps most people in this room would do and, if you simply say to people, "Should Scotland be independent?", "Well, yes, we don't want to be run by England", that may be what they are simply telling us, but actually do they mean that they want it to be constitutionally independent and that may be another thing? The second thing is that, yes, therefore, it may well be true, but I have almost an indication that these views are not necessarily always that strongly held and certainly on a number of items, for example, on the West Lothian question in England and, equally, on more powers in Scotland, the mood tends to be one of agreement rather than necessarily of saying, "We strongly agree". You certainly are also correct that, if you ask people, for example, in Scotland, and we have done this in the past, "Do you think the Scottish Parliament should be allowed to increase, or reduce, the level of unemployment benefit?", they say no and that, if you ask, "Should Scotland decide what level unemployment benefit is?", they say yes to it, but then that is telling you something also. It is telling you, and a lot of this is about the importance of symbolism, that at the end of the day people in Scotland would like, it seems for the most part in many of these things, people in Scotland making the decisions, even if at the end they would also like it to be clear that those decisions are not disadvantageous vis-à-vis their counterparts south of the border.

Q23 Dr Palmer: Yes, this question of disadvantage is interesting because I think all of us would agree that, if you have devolved decision-making, the inevitable outcome will be differences in services, differences in health and the areas that they manage. My feeling is that people are really

quite averse to that, but what is your view? Have people who favour devolution really taken that on board, that they will sometimes have worse services and sometimes better services?

Professor Curtice: The answer to that is obviously not necessarily, but I think it is also worth saying that it also depends on the dynamics of the politics, and I think here there is a difference between England and Scotland. Obviously it has been true recently that some of the differences in public policy between Scotland and England that appear to advantage Scotland viz. free nursing care, students not paying tuition fees and in about four years' time free prescriptions, those have been picked up by particularly Members of the Opposition in this House, saying, "This is not fair". There are, however, examples of policy whereby provision in Scotland is, arguably, not as good as that in England, for example, whereas in England it is going to be true by the end of next year that it is meant to be only 18 weeks from initial GP appointment to treatment, Scotland has to wait until 2011 for that event. It looks as though we are going to see the school leaving age in England raised to 18 and there is no plan at the moment in Scotland so to raise it. Of course, the interesting thing there is that the Opposition, now the Government, in Scotland, but for eight years the Opposition in Scotland, who might want to say to people in Scotland and use the comparison with England as a way of criticising the incumbent administration, in the way that the Conservative Opposition has done here, did not do so because of course it is a nationalist party and the last thing that a nationalist party wants to do is to say, "Hey guys, what we want Scotland to be like is to be like England", so the degree to which these things get politicised depends also on, as it were, the perspectives of the opposition parties in the countries concerned and there is a crucial difference in the dynamic. It, therefore, means as a result, I think, that there is undoubtedly certainly more debate in England and, therefore, perhaps more public awareness of the ways in which Scotland has services that England does not which is the other way round, but, in truth, the other way round does also exist.

Q24 Dr Palmer: Were we to have either English votes for English laws or an English Grand Committee or any other such system was in the UK Parliament, the obvious difference from the Scottish arrangement would be the absence of an English executive. Is there potentially support actually for a parallel English executive?

Professor Curtice: Let me go back very slightly because it also goes back to some of the questions Dr Whitehead was asking. In a sense, looking from the perspective of public opinion, you have to ask yourself, "What is the English problem?" Now, so far as public opinion is measured in England so far, if there is an English problem, it is simply that they feel that where this place is dealing with just English legislation, it is not obvious why Scots and Welsh MPs should be voting on it. Otherwise, it is not obvious that the English think there is a problem. They seem to think, "Yes, it is fine for the Scots to have devolution, but no thanks, we don't want it for ourselves". There does not seem to be the same sense in England of feeling that a distinctive sense of identity, be that Englishness or to do with regionalism, has to be reflected in distinctive political institutions. We, therefore, as far as public opinion is concerned, have ended up with an asymmetric devolution settlement because we have an asymmetric state of public opinion, but that still leaves, as you have quite rightly said, the question of English votes for English laws. Now, I think insofar as you believe the English public opinion can be eventually driven by what we might call 'the anomaly perspective' which is, "Why haven't we got what the Scots and Welsh have got?" as opposed to, "Why haven't we got what is best for England?" which is, arguably, a different question, insofar as you think you can drive that, my own personal view is that English votes for English laws will prove to be a very unstable halfway house because, if at the end of the day the argument is that the Government of England should be treated in the same way as the governments of Scotland and Wales, then yes, first of all, the first thing to say is that devolution did not just give Scotland and Wales a legislature/assembly, but it also gave them a government. It would seem, to my view, not obvious at all why, for example, we might have a House with a majority of Conservative MPs but

we still have a Labour, English, Health and Education Minister with substantial freedom of manoeuvre to do what they want so long as it does not require Parliamentary approval. It seems to me fairly rapidly you move to the question: why does England not have a government? There are also other anomalies. The first and most obvious is that Scotland and Wales have systems of proportional representation, England does not. Indeed, arguably there is an even bigger English question than why is it that it is possible for an English majority to be overturned by the Scots and Welsh, and that is that the English plurality in the last election was overturned by the electoral system within England. The Conservative Party has the most votes, the Labour Party has a majority of seats. That strikes me as a pretty big English question. There is then in addition the fact that you have another anomaly remaining, which is that you would still have English legislation coming within the remit of the House of Lords yet Scottish legislation does not. This has had a practical effect. The reason why both fox-hunting and Clause 28 were got rid of in Scotland before they were in England was because the House of Lords was unable to block it. So if you are going to go down the road of "Hey guys, England should be treated in the same way as Scotland", there should not be any anomalies, it is not going to stop English votes for English laws. You are going to rewrite the constitution for England.

Q25 Chairman: Professional Hazell has an interesting quizzical expression. Do you want to address, from the standpoint of theory rather than of public opinion, whether you think English votes for English laws really requires the existence of some kind of English executive?

Professor Hazell: I wholly agree with what Professor Curtice has said that it is the beginning of a very long and slippery slope and none of us can say for certain where we would end up, but I think it is quite likely that we would end up with a parliament within a parliament and we would de facto have created an English Parliament. So it is potentially a huge change.

Q26 Chairman: That is very interesting. Can I turn now to the inter-governmental relations which exist within the system as we have it now, which are non-statutory, and both Professor Hazell and Professor Jeffery have expressed concern about this, or concern as to whether it is sustainable. Would you like to add to or perhaps briefly refer to the arguments that lead you to that conclusion?

Professor Jeffery: I am less concerned whether inter-governmental arrangements are statutory or non-statutory, formalised or not, written into a constitution or not. I think the question is much more a set of arrangements which are fit for the purpose before them. What we have is a set of arrangements which are not fit for purpose because they are the arrangements which were essentially used before devolution for the accommodation of the Scottish, Welsh and Northern Irish interests into UK government positions. That is a set of arrangements based on civil servants working together in a spirit of collegiality and goodwill across departments of a single government, as was, with any problematic issues or disputes ultimately being arbitrated by ministers in a single government, as was. Now we have different governments, we have civil servants responsible to different governments in managing relationships between those governments, and we have ministers from different governments and, after the election in Scotland this year, a new party political division has entered that equation. I think those arrangements are very, very difficult to make work in that situation when you have governments produced by different electrical processes throwing up different party constellations. We have something which was fit for 1997; it is not terribly fit now. I think there are a number of examples of the unfitness of those arrangements. Firstly, there are many examples in which legitimate devolved interests have not been considered adequately by UK Government because there are no regularised forums of communication which would make UK Government aware of those concerns. There is a problematic attitude towards differences of opinion, which are pretty much natural conditions of decentralised politics. We have seen rather more of them since May of this year in the Scottish-UK relationship than beforehand.

Q27 Chairman: They existed prior to then, not least because the Government was different in political complexions, a government of two parties, but there might have been some even if that were not the case.

Professor Jeffery: Yes. We have a particularly vivid expression of those now, and I think the problem both before May of this year, and especially since, is a sense of dramatisation of dispute. Before May this year this led to an exaggerated effort to keep dispute behind closed doors and not to carry out in a public sense what is in effect an issue of public interest, that is, one government produced by voters disagreeing with another government. What we have now is a rather more public version of that but also a sense of crisis attached to difference. I think we have to de-mystify dispute and accept that this is absolutely normal and governments need to work together when their constituencies coincide on the same territory to provide answers to disputes in a more considered way. There is a further problem which arises from the way we have translated the old system into the new system, and that is we have a very limited sense of using relationships between governments to define common interests and pursue them. This may well have happened in the pre-devolution situation, it certainly needs to happen now but we do not have that sense of regularised forums for interaction which would allow the definition of the pursuit of common interest. I think we have a whole series of failings which essentially reflect the way that these arrangements were transformed from pre-devolution to post-devolution contexts.

Q28 Chairman: Was there no mechanism, for example, whereby the Scottish Executive could secure the assistance of the UK Government in the successful bid for the Glasgow Commonwealth Games as an example where both governments might well think this is something in the UK's interests? Presumably they found some way of talking to each other about it.

Professor Jeffery: Possibly they did but we do not really know about it, and I suspect the lack of transparency in these arrangements is one of the biggest problems. When governments which are responsible to different electorates engage together in the resolution of disputes for the pursuits of common interest, I think there is an accountability issue. We really ought to know what positions were brought in to discussions, where the differences lay, because differences are legitimate, and what was done to address them. One of the problems of those relatively few occasions when we have had a formalised engagement of UK and devolved governments in joint ministerial formations, the commitment to communicating what happened in those engagements has very rarely been carried through. I think Professor Hazell will confirm there is actually a formal commitment to do so in relation to at least one of these formations on Europe which was made to a House of Lords inquiry. We just do not know what is happening in our name, and I think that is a problematic feature of arrangements designed for use within one government but now adapted for use between governments.

Q29 Chairman: Perhaps I can confess that during the foot and mouth crisis, the previous one, I found it easier to ring up the Scottish minister, who would tell me what was going on because he was attending the meetings which were taking place at UK level, because there was shared responsibility.

Professor Curtice: Nothing to do with party at all?

Q30 Chairman: There might just have been.

Professor Hazell: Could I just reinforce three of Professor Jeffery's points, one, that disputes are perfectly normal between governments post-devolution and only to be expected. They happen in all

devolved and federal systems. Secondly, the way to handle these disputes is, as Professor Jeffery said, through the machinery which was established at the beginning of devolution and is described in the memorandum of understanding that was negotiated and agreed between the UK Government and the devolved governments and that provides, at the very least, for there to be a meeting once a year of the plenary Joint Ministerial Committee between the UK Prime Minister and Deputy Prime Minister and the First Ministers and Deputy First Ministers from the devolved governments. In fact, no such meeting has taken place, I think, since October 2003 so four years have now elapsed with no plenary Joint Ministerial Committee being held, my understanding is because the UK Prime Minister has seen no need to convene such a meeting, but in a healthy system there would also be sectoral joint ministerial committees, of which the only effective example is those on Europe, that have been regularly held, and our understanding is they are very effective forums in which, in particular, before important European meetings the devolved administrations make their views and interests known to the UK Government, which will generally lead the UK delegation in these European negotiations. Thirdly, can I reinforce Professor Jeffery's points about the need to make the system more transparent and accountable, and to publicise when these meetings take place and to give some brief account, be it through formal minutes or issuing a communiqué, as to the main subjects that have been discussed and what has been decided. There were for a time such communiqués on the website of the old Department for Constitutional Affairs. They are no longer to be found, so this is a small "for instance" where the requirement on all government departments to be more proactive in publishing information under the Freedom of Information Act has actually taken a step backwards rather than forwards.

Professor Curtice: Can I just add a parenthetical point about rows and public opinion? One of the views I have come to quite clearly about public opinion in Scotland, and certainly one of the motivations as to the way in which people decide to vote in the Scottish Parliament elections is they seem to think it is quite important to have an administration in Edinburgh that they regard as standing up for Scotland's interests, and that does not just simply mean effectively and efficiently disposing of the devolved powers. It also means representing Scotland's interests within the Union. If that is correct, can I suggest to you that at least while it may be true that having a more voluble government in Edinburgh might persuade the Scottish populate that perhaps the Union is not worthwhile, it is also at least as plausible that a more voluble government in Edinburgh may actually convince people that Scotland is now being more adequately represented within the Union and that therefore as a result people may become rather happier with the devolution set-up than so far appears to be the case.

Q31 Julie Morgan: I was going to ask about arrangements in Whitehall. Do you feel that the present arrangements for the management of devolution policy in Whitehall are appropriate?

Professor Hazell: No, they are not yet ideal. The difficulty has been the fragmentation within Whitehall, where there have been several different centres responsible for different aspects of devolution, in particular, obviously, the three offices of the territorial Secretaries of State, the Wales Office, the Scotland Office and the Northern Ireland Office, and when there was an active policy of regional government in England there was a fourth centre in what was the old DETR and then the Office of the Deputy Prime Minister. There was a fifth centre with nominal responsibility for devolution strategy in the old Department for Constitutional Affairs and they had a division in their Constitution Directorate that was responsible for devolution policy. So there were five centres within Whitehall, each with an interest in devolution. In effect, there still are. We still have the three territorial offices. Regional policy in England has gone rather quiet as an active area of policy but there must be a part of the Department for Communities and Local Government responsible for regional policy in England, and the Ministry of Justice does still have an interest in overall responsibility for devolution strategy and indeed, very recently has appointed a senior official, Jim

Gallagher, at Director General level to be Director General responsible for devolution policy within the Ministry of Justice two days a week and two days a week in the Cabinet Office.

Q32 Julie Morgan: How do you think the situation could be improved?

Professor Hazell: Ideally, I think in the medium to long term I would like there no longer to be three separate territorial Secretaries of State. They are part of the pre-devolution structure and post devolution I do not think Scotland, Wales or Northern Ireland need any longer to have a privileged position in Cabinet through having designated Secretaries of State to represent their voice and interests because that voice and interests is now strongly represented through the devolved institutions. So over time I would like to see the merger of those Secretaries of State.

Q33 Julie Morgan: Do you remember when the Constitutional Affairs Department was set up there was an outcry, certainly from Wales, and I presume maybe from Scotland as well, because the implication at the beginning was that there was no longer going to be a Wales Office and a Scottish Office. There certainly was a great deal of concern about that. How do you think that sort of view can be overcome if you think the best idea is for the three bodies to come together?

Professor Hazell: I hope over time, as the devolution arrangements bed in, that in Scotland and in Wales there will be much greater confidence that they no longer need a Scotland Office or a Wales Office. Professional Curtice can tell us whether there was a similar outcry in Scotland. I am not sure that there was. To the extent that these interests do need to be represented, I think they should be represented in the Cabinet Office as a part of the central secretariat supporting the inter-governmental machinery. That is logically where they should be, at the centre of government, supporting the UK Government in its relations with the devolved governments, and that is where you find that machinery in other central governments in other systems.

Q34 Julie Morgan: So you do not think there is a role for Secretaries of State of the three different bodies?

Professor Hazell: No. Forgive me, but they are a hangover from pre-devolution days.

Q35 Julie Morgan: I do not know if you could tell us about Scotland, whether there was any feeling at that time?

Professor Curtice: There was a lead feeling. I am not sure anybody even bothered to ask the question in an opinion poll about the subject. Certainly in Scotland the Secretary of State now has a pretty low public visibility because he or she has usually got something more important to look after. It is the Parliamentary Under-Secretary; insofar as the role is a public one of speaking on behalf of the UK government to the Scottish media, it tends to be performed by the Parliamentary Under-Secretary.

Q36 Julie Morgan: Do you have anything to add?

Professor Jeffery: Just one additional point to that. I think that kind of reform would need to be seen as part of a package. There may be a sense of loss of voice for Wales or Scotland or Northern Ireland through the loss of a Secretary of State but if we move to a more systematic pattern of inter-governmental relations, including meetings of the Joint Ministerial Committee at Prime Minister/First Minister level, there is going to be a different route, and arguably a route more fitting for the current circumstances, for representing Welsh, Scottish and Northern Irish interests at the centre. I think one goes with the other. It is a balancing effect.

Q37 Julie Morgan: What about the context of policy making in Whitehall? How do you think that has responded to devolution and the differences that have emerged in policies?

Professor Hazell: In the early days of devolution certainly I think different Whitehall Departments were more sensitised to devolution in different ways, and there were some that were notoriously insensitive and, since their names have changed, we can name and shame them. The DTI was one and DETR, as was, was another. Those were both pretty hostile to devolution in Whitehall. Again, I think it was not helped by the different centres within Whitehall responsible for handling devolution relations. There was no single strong centre that could tell all the Whitehall Departments how to come to terms with devolution save for the Cabinet Office, which in the scenario I painted previously was a very weak player, except in the very early days when there was a Constitution Secretariat in the Cabinet Office that was primarily responsible just for putting the devolution legislation through. That capacity in terms of officials did not last very long and so the Cabinet Office has had effectively no devolution secretariat since the Constitution Secretariat was wound up, but it needs a stronger centre, I think, to ensure more consistent performance in awareness of devolution across all the Whitehall Departments.

Professor Jeffery: An addendum to that, if I may. I think we have seen waves of sensitivity which are often based around individuals or groups of individuals who build up relationships between Whitehall Departments and counterparts in the devolved administrations and, as those relationships develop, you get better sensitivities but, in the way of things, people move on. I think the problem lies probably at a civil service training level in mainstreaming devolution sensitivities right from the outset for all civil servants. We are in a situation where we rapidly lose gains when somebody moves on to a new job.

Q38 Mrs James: I wish to come to devolution and the governance of Britain now. You have already touched upon this slightly. The Prime Minister has started a debate about the British statement of values, et cetera, and one of the quotes that I have been very interested in is Vernon Bogdanor's, when he says that the question of Britishness is now a surrogate for the problem of holding together the post-devolution multi-cultural United Kingdom. What do you three think has been the role of devolution in bringing about the current focus in political debate on British identity and British values?

Professor Curtice: I am tempted to say "not much" because I think in truth the debate about Britishness is different in the four territories of the UK. The interest in Britishness as a multi-cultural concept that might be capable of being defined in such a way that all of the populations of England may feel able to sign up to it, including not least those from the ethnic minority communities, has clearly been quite important in England, and certainly, if you look at the polling evidence, it suggests that in England members of ethnic minorities find it easier to adhere to a British identity than to an English identity. It also seems to be true that those people who adhere to an English identity are usually adopting views that are somewhat less friendly towards immigrant populations or members of ethnic minorities than those who adopt a British identity. In contrast, in Scotland what you will discover is that the ethnic minority population there is relatively small but that population seems more inclined to adopt a Scottish identity than a British identity, and certainly when you look at the pattern of attitudes, you do not find the equivalent pattern in England, i.e. you do not find that those who feel predominantly Scottish are more likely to be hostile to immigrants or members of ethnic minorities than those who adopt a British identity. In Scotland, in other words, it appears that the identity that has been turned into a multicultural identity is Scottishness rather than Britishness. Certainly if you hear nationalist politicians talk, I think it is true that the First Minister of Scotland on the announcement that Glasgow won the Commonwealth Games said this was an

indication or a celebration of the multi-cultural nature of Scotland. So you can see how the nature of discourse is different. I will leave Wales because I am not so expert there but obviously there it is partly tied up the issue of the relatively high level of English immigration into Wales and that is a whole issue about language, but then obviously, in Northern Ireland Britishness is associated with one of two communities. In contrast to the other three parts of the UK it is seen as being largely antithetical to Irishness. For example, when I do the kind of research I do in any of the three parts of the UK, around 40% of people will say, if you give them the chance, "I am both English or Welsh or Scottish and British." In Northern Ireland only about 2 or 3%of people will say they are Irish and British. Britishness in Northern Ireland does not look like a form of identity that is capable of uniting the two principal communities, let alone anybody else. One of the problems that faces this idea of using Britishness as a way of bringing communities together is not necessarily that it divides Scotland from England or England from Wales or whatever but rather that Britishness has different meanings and associations within each of the four territories and that, to some degree at least, those meanings and associations are contradictory to each other.

Q39 Mrs James: So a British statement of values is going to open the debate?

Professor Curtice: My own personal view is that an awful lot of the debate about British values that has been instigated by our current Prime Minister was that in part it provided a mechanism for talking about his view of the world, before he was Prime Minister a view of the world that was sometimes subtly different from that of the then incumbent Prime Minister but, by putting it in terms of British values, this at least in part provided him with an uncontroversial way of doing so, because these are things that everybody is in favour of. Having said that, it is also obviously clear that the current Prime Minister does feel very strongly this idea that Britishness matters and Britishness is important and that probably, for him at least, it is also about an idea of a commitment to the Union but I think in truth, as you can guess from some of the data I have shown, his perspective is not a perspective which is relatively common amongst most of his fellow Scots.

Professor Jeffery: If I could add a couple of thoughts, one is that the Governance of Britain Green Paper was surprisingly silent on devolution and in that paper these issues were not connected to devolution although I think, as Professor Curtice has said, the inspiration behind that paper has a bit of previous on the matter and did present a series of speeches over the years which did connect the notion of shared values across the parts of the UK as one of the glues which might provide coherence for a post-devolution state. I would like to inject a note of scepticism about values in that setting. I think the values which were raised in those speeches and alluded to in the Green Paper are values which are just as good a justification of the union of England with Canada as they are with Scotland, because they are pretty universal values which are shared across western liberal democracies. There is nothing peculiarly British about them.

Q40 Chairman: Some would say that is because Canada owes so much to Scotland.

Professor Jeffery: I could have changed Canada for Germany and said Germany instead, and that probably would not work in the same way. I suspect that if you really want to build a sense of commitment to the Union, one needs to go beyond values. They might be important in a symbolic sense but I think there should probably be a rather stronger reference to the shared interests which union can deliver. For example, social security as a Union-wide policy, delivering benefits irrespective of location. I think that kind of concrete demonstration of the benefit of the Union, of sharing risk in as big a pool of people as possible, is probably an articulation of the benefit of the Union which has more grip on ordinary people than a loose statement of values.

Professor Hazell: If I may, I would like strongly to support that. I think Britishness depends on much more than values. The United Kingdom and the Union State rests on far firmer foundations than you might believe simply from reading the Prime Minister's speeches on values. It depends, critically, on the shared interests that Professor Jeffery has just referred to, of, for example, the tax and benefits system, which are both reserved functions fulfilled by the UK Government, and which lead to very significant redistribution amongst the whole population of the UK; shared interests of defence and national security; and you can go through all the list of reserved functions and show how they support shared interests of all peoples in the UK. Lastly, I would also mention common institutions, institutions like the BBC, like the armed forces, like this Parliament at Westminster, which are all British institutions and are fundamental to the governance of the UK, but also, I think, people's shared vision and understanding of what it is to be British. If you just talk about values, I do think you miss two very important pillars of Britain, the UK, which are the pillars of interest and of institutions.

Mrs James: Listening to what you said earlier and those responses now, it seems to me that it bears repeating, and repeating often, that we have these shared interests and that we have these shared pillars, because I feel that in the interest surrounding devolution we could have lost sight of those at times, how strong that does make us, in addition to the benefits of devolution. It is interesting to hear those thoughts. Thank you.

Chairman: That probably does not need a response. It was a statement.

Q41 Dr Whitehead: If I could reflect, Professor Hazell, on your last thought, is there not any sense in which, as the EU becomes a more secure economic framework within which to live, what it is to be devolved takes a different form in the public view, that is, you can actually have a "breakaway nation" without it making any difference whatsoever in terms of your overall economic and structural security? As we have seen recently, Belgium, at the heart of Europe, has existed apparently reasonably well without any government at all for 150 days, and it is conceivable it would break up into two constituent parts with no effect whatsoever on the economy and well-being of Belgium. Is that a factor, do you think?

Professor Curtice: The decision of the SNP in the late 1980s to go for independence in Europe is central to the whole debate. The point is that the kind of independence that the SNP is promoting is one that would not make any difference to the freedom of labour, to the freedom of capital; whether it would make a difference to the currency depends on whether it decides to stay with sterling or to go to the euro but, either way, Scotland is not going to have its own currency. It probably would not mean any change to passport controls because presumably you would have exactly the same arrangement as the Irish Republic has with the UK Government. It need not even necessarily make any difference to citizenship insofar as if the British Government is still prepared to allow people to have dual citizenship, and therefore those people in Scotland who wish to retain their British identity, British citizenship, can do so but at the same time, people are allowed to take up Scottish citizenship if they want to as well. Again, lots of people have both Irish and British citizenship. Yes, precisely. In other words, one of the reasons why it is possible for the Scottish National Party to put up a case in favour of independence is because independence does not necessarily mean as much as it once did. That is fundamental to the whole debate. Indeed, if you listen to a lot of the more serious debate about the subject, it is essentially a debate about what is the best way of positioning a relatively small country within a globalised world; is it better to be playing on the international stage as part of a big player or is it better to have your own team, albeit one that in some respects may not be so strong or have as big a voice? That is essentially what the debate is about.

Q42 Dr Whitehead: Is there then, putting it round the other way, a sense in which - not in Scotland; in England - the public's attitude, and we saw earlier constitutional preferences in England, which with substantial plurality is "What is the problem? Carry on as we are." Is that informed by the other side, in your view, of that particular debate, i.e. people think "Well, actually, what is the problem? We can continue to go on with devolution in this asymmetric way." I suspect if you went on the doorsteps and ask people "What do you think about asymmetric devolution?" you would get a rather short reply. Is it the case that they think "Well, we can carry on like this" or is it the case that the issue simply has not been addressed in most people's minds in England and, if it were addressed, they might come to different conclusions?

Professor Curtice: I think the answer is, leaving and awaiting the results of my 2007 research, so far the evidence suggests that people in England do not see the need for devolution for themselves. As I said earlier, they do not seem to feel the need for whatever distinctive identities they have to be reflected in having a distinctive body of politicians. Indeed, the argument that is used, and for example was used in the regional assembly referendum in the North East, is "Why do we want more politicians?" It is extra politicians we do not need as opposed to extra politicians that might symbolise our distinctive sense of identity. There is not that connection being made. Having said that, obviously, the open question is whether or not the apparent unfairnesses of the asymmetric situation so far as England is concerned mean that, while it may be true that originally England did not want some form of constitutional change - let us leave aside what it might be - maybe that opinion will change, maybe, for example, as a result of political parties campaigning on that issue and therefore politicising the issue, public opinion in England becomes more aware and begins to divide more strongly on this issue. All that one can say is that, as it were, those who wish to politicise this issue and to make it more salient have a task in front of them, which is that they are having to make an English audience which so far at the moment seems relatively unaware and relatively unconcerned about these issues more concerned than they have been so far.

Q43 Dr Whitehead: Professor Hazell earlier implicitly pointed to the emergence of various regional bodies - you did not say this exactly - which are essentially accountable to nobody and had been set up, or might be seen to be set up for the purposes of administrative devolution, perhaps coming into the public consciousness over a period of time and perhaps therefore informing that view that maybe something more needs to be done. Is that in any way in evidence in your polling?

Professor Curtice: I have not, in truth, asked about it since 2003 but certainly between 2001 and 2003 we were asking people "Have you heard anything about your regional assembly/chamber/regional development agency?" and I have to say that - I cannot remember the exact figures, but the proportion of people in England who said they had heard anything very much at all about those bodies in their region was absolutely minimal. The North East of England was the one that had the highest level of visibility but even there it was not that dramatic. The truth is that these are not bodies that have made that much impact on the public consciousness so far. You are right, of course. It may well be true that if we establish stronger, more visible regional institutions by fiat, that might help to encourage a sense of identification with these institutions, might persuade the public in England that they might want them, but I would again simply say to you, in exactly the same way as those who want to make people concerned about England's unfairness for Scotland have a task of persuasion to perform. Those who wish to try and promote a sense of regional identity and a requirement that that identity be reflected in distinctive political institutions also have a task of persuasion to perform.

Q44 Dr Whitehead: I ought to add, for the record, that I was not proposing that the regions should be brought into place by fiat. In terms of written constitutions or the moves towards the preparation of constitutions for Scotland, Wales and Northern Ireland, would that underline the asymmetric

devolution, in your view, or would that hasten perhaps the development of regional constitutions for the United Kingdom as a whole? Would the politics of catch-up perhaps develop?

Professor Curtice: I am not sure I am getting the force of your question. Scotland and Wales in effect have constitutions as provided by the Scotland Act and the Government of Wales Act and their subsequent amendments, so various aspects of constitutional procedure that are still largely a question of convention here or indeed of royal prerogative are laid down by statute in those two bodies. It is already asymmetric in that respect. I am not quite sure where your question was taking us.

Q45 Dr Whitehead: My question really is a thought that we have in the air, shall we say, some discussions about whether there should be a written constitution for the UK, which, one might say, could be a sinecure for that view of national identity, i.e. there is a constitution for the UK, therefore that binds the UK together, but in practice what has happened, as you say, is that you have a sort of constitution subject to the UK Parliament for Scotland, Wales and Northern Ireland.

Professor Hazell: Very briefly, I do not know of any country in the world which has codified its constitution in cold blood. Generally, there are pretty seismic political circumstances which force a country to write a constitution, or a new constitution. Those are, classically, following a revolution, like in France or the United States in the 18th century; following defeat in war, like the post-war constitutions of Germany or Japan; following the grant of independence; or following the complete collapse of the authority of the previous system of government, as we saw in South Africa post apartheid or in the Soviet Union post-Communism. There is polling when people are asked do they want a written constitution, they say yes by majorities of around 80%, but for me - John is the expert - it is the classic kind of cost-free polling question that Dr Palmer was referring to earlier; it is all upside and no downside and, asked without any context about what the consequences of a written constitution might be, namely greater power for the judiciary, much more difficult to change the constitution, possibly more frequent referendums, all the potential or likely consequences, I think you might get a much more nuanced response. Shortly, I do not see any growing demand for a written constitution, either as a consequence of devolution or indeed in general.

Chairman: Time is calling these proceedings to a close. I just want to say that there is one other issue which we have not got time to delve into today but which Professor Hazell and others have certainly commented on, which is of course the whole funding basis of devolution, the Barnett formula - not a subject I am going to open up at two minutes to six but we shall certainly be returning to it. I am very grateful to the three of you for your assistance this afternoon. Thank you very much indeed.