

HOUSE OF COMMONS
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JUSTICE COMMITTEE

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DEVOLUTION: A DECADE ON

Tuesday 26 February 2008

Radisson Hotel, Edinburgh

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Evidence heard in Public Questions 176 - 308

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Oral Evidence

Taken before the Justice Committee

on Tuesday 26 February 2008

Members present

Mr Alan Beith, in the Chair

Mrs Siân C James

Alun Michael

Julie Morgan

Mr Andrew Turner

Witnesses: Alex Fergusson, Member of the Scottish Parliament, Presiding Officer, and Ken Hughes, Acting Director of Clerking and Reporting, Scottish Parliament, gave evidence.

Q176 Chairman: This is a sitting of the Justice Committee of the House of Commons, at which we are very pleased to be able to welcome the Presiding Officer of the Scottish Parliament, Alex Fergusson MSP, and the Acting Director of Clerking and Reporting, Mr Ken Hughes, who are going to assist us with our inquiries into devolution ten years on. The emphasis of our inquiries is on how the system works as a whole rather than in the individual countries in which devolved powers exist, and questions around England, where obviously devolved powers do not exist except to a limited extent in London. I thought we might just start by looking at what might appear a relatively technical question but I think is quite an important one, which is around the Sewel Convention and the way in which the Scottish Parliament deals with legislation where it chooses to follow Westminster, or allow Westminster legislation to have an impact in Scotland within a

devolved area. Has there been any change either in the attitude to the Sewel procedures or, indeed, in the way they have been operating since the beginning of devolution?

Alex Fergusson: Firstly, thank you for your welcome, it is a great pleasure to be here, if I could say so, and welcome to Edinburgh. On questions of attitude to Sewel, the whole process of Sewel motions, I would have to say that the attitude to them is probably rather coloured by the political climate within a parliament at the time and, therefore, I would not be very happy commenting on that because that is not for me to do. The one thing I could possibly say is that since the last election evidence would suggest that the number of Sewel motions or Legislative Consent Motions, whatever you want to call them, that are being dealt with look to be roughly the same as was previously the case but, other than that, I do not think I would want to comment on the actual attitudes taken to them. There has been no huge desire or nobody has greatly come up with a demand that the whole thing should be revisited, so I leave that perhaps for you to ask later witnesses.

Q177 Chairman: Mr Hughes, did you want to add anything?

Ken Hughes: In terms of how procedures have developed, prior to 2005 the Parliament actually did not have any explicit or specific LCM or Sewel procedure and the Procedures Committee of the second session of the Parliament decided that they wanted to codify in some way the process as it applied to the Scottish Parliament because obviously they could not codify anything outwith it. It launched quite a major inquiry that looked into the procedures and what we ended up with was the Parliament agreeing to a new set of Standing Orders applied to the process of Scottish parliamentary scrutiny of Legislative Consent Motions. That did a number of things. In relation to the expectations of the timescales of when LCMs would be introduced to the Parliament, they future-proofed it in a certain way in terms of looking forward to a situation whereby governments would be different north and south of the border and put in procedures that would cope with that eventuality as well. We have ended up with procedures now that we did not have formerly and they still seem to be working well.

Q178 Chairman: One thing I do not quite understand about the procedures is whose job is it to be certain that a piece of Westminster legislation requires a Sewel motion, and can a situation arise in which the Scottish Parliament either thinks that it should have been a Sewel motion matter or discovers later to its cost that it should have been treated in that way but is actually now on the statute book?

Ken Hughes: That side of the process is almost purely intergovernmental. It is up to the governments north and south of the border to agree what provisions in UK bills could be affecting devolved matters. It is the relationship between the two governments that decides whether the Scottish Government then comes to the Scottish Parliament to ask for consent or provisions to be included in a UK bill. One can probably never rule out the possibility of something hitting the statute where it has just fallen through the net but, without wishing to pass the buck, in the first instance that would be a matter for the governments.

Q179 Chairman: Which government?

Ken Hughes: Both. Again, post-2005 what we have tried to do is have an early warning system in as much as when the Queen's Speech is made I believe there is contact at that point between the two governments and the Scottish Government comes to the Parliament to say, "Here is a list of bills in the Queen's Speech. Here are the bills that we would expect an LCM or Sewel procedure to apply to".

Q180 Alun Michael: Forgive me. I can understand that at a political level, and it is obvious that at both ends of the equation people will be looking to see what is the trigger, but at the end of the day, for instance it might be that it is a small part of a piece of legislation that has that requirement which is not obvious at the level of the Queen's Speech or even the Queen's Speech debate, so who is responsible for looking out for that at the Westminster end? Is it the parliamentary draftsman, is it parliamentary counsel that is meant to look out for that? At the Scottish Parliament end is there somebody who keeps an eye on legislation that is bubbling up in the House of Commons or the House of Lords in order to trigger off a dialogue?

Ken Hughes: Again, I cannot speak for how that works in reality because that is a matter for Whitehall departments and the Scottish Executive officials up here, that is where the role lies. Having said that, I have had previous experience of working in the Civil Service and in theory I do not think the issue has changed much pre and post-devolution because even if UK bills were being drafted in Westminster previously they would have had to come to the Scottish Office and Welsh Office, for example, to say, "Look, there are provisions in here that are going to affect your jurisdiction". I would have thought the first contact was in the drafting of legislation and I would have thought it would be official to official, but at what level and exactly who the officials are I cannot say.

Q181 Chairman: There is a very interesting case coming up, which is the provision in the Counter-Terrorism Bill which would allow cases to be transferred from Scotland to England for trial. Have you established so far whether that requires a Sewel motion or, indeed, whether a Sewel motion would be sufficient to allow such a provision to be passed? Who makes that assessment?

Alex Fergusson: Good question, but I want to think about it while Ken answers it.

Ken Hughes: To the best of my knowledge we do not know officially about that one yet. The other thing I would probably throw in the pot is when things may well contain controversial provisions there may be interested members in all parties of the Parliament keeping a watching eye on those things. There is absolutely nothing to stop them and probably good reason for some to take such an interest. That is another way of saying there is maybe less likelihood of things slipping through the net.

Alex Fergusson: Can I come in on that, Chairman. I think it might be worth pointing out that part of the new rules since 2005 allows any member of the Parliament to lodge a Sewel motion or Legislative Consent Motion. There are several beady-eyed Members of Parliament who would not want anything to slip through, or their attention might be drawn to it from other quarters. There are procedures in place since 2005 to try to ensure that does not happen.

Q182 Chairman: Is that something which re-engages in the Scottish Parliament, not like, say, an Early Day Motion in the Westminster Parliament which simply sits on the Order Paper? If I were a member and I felt there was a Sewel motion justified, can I secure debate on such a motion?

Alex Fergusson: The Parliament cannot refuse a motion that has been tabled on a Legislative Consent Motion, it has to hear it and, therefore, it has to go through the processes, which does allow parliamentary input and debate on that motion. It cannot be refused.

Q183 Mr Turner: Are the procedural processes at both the UK and Scottish Parliaments the most effective and appropriate means of passing legislation for Scotland in both devolved and reserved matters?

Ken Hughes: Can I just clarify that by asking whether you are referring to legislation in general or Sewel motions?

Q184 Mr Turner: General.

Alex Fergusson: General legislation. Obviously I could not possibly speak for Westminster procedures and practices. Would it be helpful if I just very briefly took the Committee through what our legislative processes are? It is probably of particular interest as we are, obviously, a unicameral chamber and, therefore, the question of scrutiny is important. Any legislation that comes to the Parliament will begin at the Parliamentary Bureau, which is a body elected and each party that has five members or more is entitled to a place on the Parliamentary Bureau. The Bureau meets once a week to determine the business of Parliament, and that is how we order our business. The bill will come before the Bureau, which will allocate it to a relevant subject committee. That committee will then investigate the bill that has been put up to it and draw up a report which will then be debated within the full Parliament at the stage one of debate, which is on the general principles of the bill, no amending will have taken place at that stage. Assuming that the bill passes it will go back to the same committee for stage two scrutiny, and this involves line-by-line scrutiny with amendments according to how much people feel it needs to be amended. It can be an exhaustive process. It will then come back to the Parliament at stage three, as amended, allowing a further process of amendment, followed as part of the same stage three process by a debate on the motion that the bill be passed. That is the process that we undertake with any legislation. It has had very little tinkering around the edges, mostly in terms of timetabling and as Presiding Officer I now have the right to extend stage three debate if more time is required. Very small timetabling tinkering, if you like, has been done around the edges, which would indicate, given that we have handled quite a number of bills now, that there is nothing to suggest this is not a perfectly efficient and sensible process within the context of this Parliament.

Q185 Mr Turner: That deals with (c), which was further down, but could you just help me a little on exhaustive examination by this committee. Is it genuinely exhaustive or does there come a point where it goes back to the House?

Alex Fergusson: I think it is exhaustive. Having been a convenor of a committee in the first Parliament which was dealing with a lot of contentious legislation at the time, it is certainly exhaustive in terms of wringing everything out of every relevant witness that can be wrung, if I can put it that way. The process of taking evidence at stage one and considering amendments at stage two is exhaustive, yes. Certainly it was in some of the legislation I was handling where we amended the original proposals quite considerably and considerable amendments then came back in at stage three from those that did not agree with the amendments that had been made at committee, so the whole Parliament then got the opportunity to debate not just the amendments that the committee had made but also the counterproposals from other people who had chosen to make those amendments. I think by the time you have got to the end of stage three and you actually enter the debate process, the final part of the legislation, you have had a pretty exhaustive process.

Q186 Mr Turner: You have had an exhaustive process rather akin to the UK Government up until, say, 2000 and 2001 or 2002?

Alex Fergusson: I guess that would be right, yes.

Chairman: I think it is a better process, but that is a matter of opinion.

Q187 Julie Morgan: I just wondered if I could ask, you started off by saying you were a unicameral body. Do you think there is any case for a second chamber?

Alex Fergusson: There are always cases for all sides of any argument.

Q188 Julie Morgan: Do you think the scrutiny could be improved?

Alex Fergusson: To be honest, we are heading into devolution settlement territory here which is not for me to answer.

Q189 Mr Turner: What you have said in your responses so far is you feel that the scrutiny is adequate?

Alex Fergusson: I have no reason to suggest, and nobody else involved in the Scottish parliamentary process, that it is not.

Q190 Alun Michael: In describing the scrutiny process there are different elements, and you have referred to them in passing. Do you think the balance is right between, for instance, evidence taking, which is clearly part of stage one, did I get that right?

Alex Fergusson: Stage one and stage two to a lesser degree.

Q191 Alun Michael: So at one, and to some extent two, you take evidence from witnesses who will be outside and then you will have line-by-line scrutiny in the committee stage and in the second stage when it is recommitted to the committee, is that right?

Alex Fergusson: You have line-by-line scrutiny in stage two once it has gone back to committee having agreed the general principles. Most of the evidence taking will take part in stage one. The committee may choose to hear again from either the same witnesses or others at stage two, they are perfectly entitled to do so, in order to allow the exhaustive process that you were referring to to be fully exhaustive.

Q192 Alun Michael: Are you finding that any conventions or rules have built up in terms of what sort of amendments can be brought at different stages or is it open season?

Alex Fergusson: I think it was effectively open season in some of the more contentious legislation that we had, particularly in the first Parliament when we were talking about things like what became known as the Hunting Bill, although it was officially known as the Protection of Wild Mammals Bill, and some of the land reform legislation. Forgive me, that is the stuff I know best because that was the committee I was chairing at the time. It was in the very early days of the Parliament. We needed an enormous amount of time to deal with everything that we had to deal with in those two bills in particular. We had that time, although the committee always felt under some pressure. We are now living in the days where perhaps one of the effects of the last election and the change of governing party - it is not the effect of that but the fact we have a minority government now - is we have probably a bit less legislation to deal with. The upside of that is it allows much more time for scrutiny by committee. I am not saying that the previous committees were unable to scrutinise properly, that would not be true to say at all, but there were some bills, certainly in the early days when we were passing a great deal of legislation, where there were time pressures felt, if I can put it that way. I do not think anybody has suggested anything other than the possibility of perhaps extending the length of time at stage three which can sometimes come under a little time pressure, but which we have now tinkered with to allow that time to be extended. I think most members

would feel the process is adequate certainly to deal with the legislation we now have and are likely to have in front of us.

Q193 Alun Michael: There are two other splits which any legislature has, one is the split between legislation and non-legislative debate, scrutiny of performance and delivery and so on, and the other is the split between plenary and committee activity, with obviously committee activity tending to be more detailed. In those quartiles of activity, if you like, where do you feel that it is settled and is it the right balance? Partly the question is because legislatures and governments have a tendency to legislate as the answer to anything, and it is not the answer to everything.

Alex Fergusson: I think the balance is probably about right. Our committees meet on Tuesday and Wednesday mornings and the full Parliament meets Wednesday afternoons and Thursdays, that is the three day parliamentary week that we undertake. To be honest, whether we have got the balance right or not depends on the amount of legislation that is being considered, I think it is almost as simple as that, because the more legislation, the harder the pressure on the committees. I do remember at the end of the land reform legislation my committee as it then was, the Rural Development Committee, were having to meet three days and nights a week on top of all our normal programmes for about the last couple of weeks in order to meet the tight legislative timetable that we had in front of us, but that was an extraordinarily complex and controversial piece of legislation so nobody objected to that but, I have to say, as convenor at the time I felt under some pressure just to make sure that we were getting this absolutely right.

Q194 Alun Michael: It is often the case, is it not, that if something is in the news, the non-legislative debates or pressures on a particular subject area will be very often at the same time as legislative pressures?

Alex Fergusson: Yes, that is probably absolutely right. What I would say though, just going back to my previous answer, is that I think we have learned a lot of lessons from those days. These were the early days of this Parliament and there was an understandable desire to process a lot of legislation in the very early days. We have learned a lot of those lessons, timetabling is now much more sensible and, although there will always be a lead committee on any piece of legislation, that committee can spread some of the scrutiny load out to other committees to bring forward their own reports, so that allows for a much more wide-ranging and time efficient use of committee time. As I say, I think we have learned the lessons on a sort of rolling basis that the early pressures put on us until we now have what I think most Members would consider to be a fairly satisfactory process.

Q195 Mrs James: You mentioned earlier when you answered the questions on the Sewel Convention about some aspects of inter-parliamentary relationships. What formal and informal mechanisms do you have to create that relationship, not only with Westminster but with Belfast and Cardiff as well?

Ken Hughes: If I deal with the official level and the Presiding Officer can do the political level. At official level there are annual gatherings at least, in fact more than one annual gathering, of clerks of the various parliaments and assemblies, which is a useful way to keep up contacts. Specific clerks do have contacts. The Justice Committee clerks will no doubt know your Justice Committee clerks to some extent. There are bilateral relations that go on. In terms of the Sewel Convention, I had contact very early on in the first session of the Parliament with one Mr Frank Cranmer. It was between us in the first instance and we wrote up an understanding whereby each of us would keep ourselves informed of Sewel motions going through the UK Parliament at the time. When the Scottish Parliament formalised things in 2005, that extended to a formal exchange of letters between the Clerk of the Scottish Parliament and the Clerk of the House of Commons confirming

that the Scottish Parliament had indeed just passed a Legislative Consent Motion. That does not detract from the official intergovernmental communications, but we thought it would do no harm to set up a parliamentary process to that as well.

Q196 Chairman: Could I just clarify that. Did that fully satisfy the Scottish Affairs Committee's recommendation about there needing to be a formal process from the Clerk to the Assembly to Westminster and vice versa?

Ken Hughes: I think it satisfied that. What I think is still an outstanding issue, and I do not know because, again, that is for Westminster, is the suggestion of tagging bills at Westminster once they had received consent, and I do not know if that happens or not.

Q197 Mrs James: What about Belfast and Cardiff? You talked about the relationship with Westminster, do you have formal relationships with Belfast and Cardiff?

Ken Hughes: Yes, exactly on the same lines as I explained. When these gatherings take place Belfast and Cardiff will be there as well and, again, there are direct links between appropriate clerks of the committees, et cetera.

Alex Fergusson: The Committee might also be interested to know there are a number of staff exchanges, particularly between the devolved parliaments and assemblies, which obviously strengthens all of these links, and I believe we are about to start doing staff exchanges with Westminster staff as well, which I would encourage from my own perspective. From the parliamentary point of view, we have a number of linkages. Probably the strongest with Westminster is through the BIIPB, the British-Irish Inter-parliamentary Body. We have the Commonwealth Parliamentary Association, and our branch in Scotland is very strong, and we have strong links with other devolved assemblies through that. From my own personal viewpoint as Presiding Officer, or Speaker, my counterparts in Wales and Ireland have agreed that we should meet two or maybe three times a year just to discuss items of mutual interest and plot how we can make life difficult for our members! I was very pleased to meet with the Speaker of the House of Commons and, indeed, with the Lords' Speaker. I was pleased to meet both at Westminster and to have welcomed them to the Scottish Parliament. There are a number of annual links and I have heard nothing to suggest that our relationships are not perfectly healthy, as you would expect them to be.

Q198 Mrs James: So maybe the next stage would be to formalise them in some way. At the moment you think what you are doing is enough?

Alex Fergusson: I do not see a great need to formalise them at the moment. Certainly from my fellow Speakers' points of view we now all know each well enough that if there was a need to get together that could be processed and put together fairly quickly. I do not know that it would be necessarily helped by a formal three times a year meeting or whatever, but if in the future there was a need to do that, I do not think that would be a problem at all.

Q199 Chairman: Would I be wrong to suggest that outside the pool of Scottish Members of Parliament to Westminster, Westminster MPs do not actually meet MSPs very much?

Alex Fergusson: I am sure they will do from an individual basis constituency-wise.

Q200 Chairman: I am not talking about those who share constituencies. I am talking about English MPs and, indeed, Welsh MPs as against MSPs in Scotland and there are actually very few occasions when they come into contact with each other.

Alex Fergusson: I think that is probably true on the whole, yes. There will obviously be gatherings and events and meetings put together by third parties whereby MPs and MSPs come together but I think from a more organised, procedural point of view that is probably the case, yes.

Q201 Chairman: Thank you very much to you both, we have much appreciated your help. I think we have all got a better understanding of how your system is working, so many thanks.

Alex Fergusson: Not at all, thank you very much indeed. I wish you well with your investigations.

Chairman: Thank you.

Witness: Sir John Elvidge KCB, Permanent Secretary, Scottish Government, gave evidence.

Q202 Chairman: Sir John, welcome. We are delighted to have you with us to give us the benefit of your experience. I cannot remember whether you were here at the beginning when I explained the scope of what we are trying to do.

Sir John Elvidge: I was indeed.

Chairman: Since you heard that, I can invite Ms Morgan to start.

Q203 Julie Morgan: Good morning. Could you tell us how the Scottish Civil Service has changed since devolution started in 1999?

Sir John Elvidge: I will do my best. Perhaps one starting point is to say that in a very literal sense the Civil Service has changed substantially in that around 40% of the people who work for us now did not work for us before devolution, so as a body of people a substantial number of them have not carried over from a pre-devolution existence to a post-devolution existence. Along with that has come an effort to bring a wider variety of skills and backgrounds into the Civil Service. We were the first part of the Civil Service, for example, to recruit generically into the Senior Civil Service from outside the Civil Service. We take people in cohorts rather than taking them to individual posts. That has enabled us to accelerate the diversification of skills and backgrounds. Like other parts of the Civil Service we have become more diverse in other ways, particularly at senior levels.

Q204 Julie Morgan: Just going back to the previous point, do you have many secondments?

Sir John Elvidge: We have a large number of secondments. I think I am right in saying that we are currently at the highest level of inward secondments that we have ever had. Inward secondments have proved a great deal easier than outward secondments. That is directly related to a core part of our working principles, which is the importance of working closely with our external partners at all stages of the government process, so not simply consulting around the delivery phase of government policy but working closely with our external partners at the policy formation phase. If that is the approach you seek to achieve then bringing people from outside into the organisation on secondment helps get that wider expertise embedded right at the beginning of the policy-making process.

Q205 Julie Morgan: Who would be the main partners?

Sir John Elvidge: Local authorities are a substantial partner. We have a lot of NHS secondees inside the organisation. The Third Sector also provides a reasonable number of secondees. The private sector probably makes up the smallest proportion of our inward secondees.

Q206 Julie Morgan: This has moved ahead very quickly since devolution, has it?

Sir John Elvidge: Yes. I would say there has been a step change in our use of secondments since devolution.

Q207 Julie Morgan: Has that been a deliberate policy?

Sir John Elvidge: Yes, for the reasons I outlined, because we believe it is important to bring that experience inside the organisation rather than simply engaging with that expertise still embedded in its various organisations. It is not an either/or, of course, but it is an attempt to deepen our understanding of the stakeholder perspective.

Q208 Julie Morgan: This has happened in England and Wales as well but you think it has happened more rapidly in Scotland, is that what you are saying?

Sir John Elvidge: I would not like to make a comparative observation about that. It has happened rapidly in Scotland compared to our own past practice. The approach in Wales, of course, is slightly different with bringing substantial parts of the public sector into the structure of government. The sheer numbers of people transferring their expertise into the heart of government in Wales must be greater than the sheer numbers here. I do not have an overview of what happens in Whitehall that would enable me to make that comparison.

Q209 Julie Morgan: Are there any other ways in which the Civil Service has changed since 1999?

Sir John Elvidge: We have changed structurally, although I never think that structural change is the most important part of changes. We went through one phase of moulding our structure more closely around the portfolios of individual Cabinet ministers. That phase one would probably be placed in time from 2001 through to 2007. We have recently been through another phase of change where we have made structural changes to emphasise the need for people to work together across the organisation. We have moved away from having a structure of departments that mirrors the way in which Whitehall is organised to moving our more self-contained units of business one level down to our 42 directorates and redefining the roles of those whose role was previously as a head of department so that their individual roles run right across the organisation and they are each responsible for driving one of the strategic themes of the new government.

Q210 Julie Morgan: That is a change that has been brought in by the SNP Government?

Sir John Elvidge: It is a change which evolved naturally from our thinking about the organisation and which aligned very well with the SNP's own thinking about the way in which they wanted to conduct their government. We had a very early discussion about whether they would support a radical change in the organisation of that nature and they were happy to do that.

Q211 Julie Morgan: This was something you had been thinking of within the Civil Service before the new government came in?

Sir John Elvidge: Yes, indeed. We had an external peer review, like the Capability Reviews in Whitehall, in the autumn of 2006 which had strengthened the case for moving in that direction. The way I normally express this when I am talking to people inside and outside the organisation is that in the previous four years, 2003-07, the coalition government had made 460-odd specific commitments to the people of Scotland and in our audit in January 2007 of performance against those we were able to demonstrate that we had delivered approximately 97% of those 460-odd commitments. That told me that we were hitting diminishing returns from doing the things that fitted neatly into a departmental structure. We had demonstrated that if you set the organisation tasks of that kind the organisation would deliver them. Nevertheless, there was a view, I think both internally and externally, that there were more complex issues facing Scotland that perhaps we were not being as successful at dealing with and I and a number of others thought that we would need a different way of operating as an organisation if, without sacrificing that ability to do things that fit into the boxes, we were to become equally good at doing the complex things. That seemed to me to require a fairly radical upheaval to the way the organisation thought about itself.

Julie Morgan: I am sure that will be picked up later.

Q212 Alun Michael: One of the things you have said is key to that is the development of the Strategic Board. How does that change things in terms of reflecting government's strategic objectives? You referred to the organisation, but what is the Board's role in that? Is it likely to be any more effective and accountable than boards in Whitehall departments, which you will gather from the question I am not terribly impressed with?

Sir John Elvidge: I certainly hope so would be the answer. The Board's role is very explicit, that is to focus on the totality of the organisation, not on the bits of the organisation. My explicit expectation of members of the Strategic Board is that they are there to think about the whole performance of the organisation, not to represent bits of the organisation. That was an important part of the journey that we were travelling on and I can talk for quite a long time about the way in which the trop structure of this organisation has evolved from its pre-devolution period through various steps until we reached this stage that suggested that we needed to be smaller, because I think the number of people around the table is a factor.

Q213 Alun Michael: The number is?

Sir John Elvidge: The number of members of the Strategic Board at the moment is six executive members, me and five directors-general, and I have two non-executives at the moment although I would normally have three.

Q214 Alun Michael: So the non-execs are meant to bring some outside expertise into the Board. What is the relationship between the Board, including its non-exec members, and ministers?

Sir John Elvidge: The role of the Board is to support ministers collectively, to support Cabinet, and to focus on that rather than a one-to-one relationship between members of the Board and individual ministers. That is a very significant transition from our past history and I would not claim that you would find a perfect transition there, but we have a Cabinet who place very considerable emphasis themselves, as I am sure ministers will tell you later, on collective working at Cabinet level, therefore it must be right that the organisation seeks to support that collective working through the responsibilities of the Board.

Q215 Alun Michael: How do you ensure that improves the ability of ministers to deliver rather than, if I can be cheeky, increasing the power of the permanent secretary?

Sir John Elvidge: Personally, I think the power of permanent secretaries is often overrated. That has to be a proof of the pudding question, does it not. If you look at the budget document that is the product of the Strategic Spending Review, if you look at the Government's economic strategy explaining how its single core purpose will be articulated through the organisation, and if you look at the radical new relationship with local government and the way in which that has been articulated you would see the fruits of the way in which the Board is concentrating on these collective products that support collective government.

Q216 Alun Michael: You referred a moments ago in response to my colleague about secondment in and out of the Civil Service in Scotland and I got the impression that was largely secondments in and out with other organisations in Scotland, is that the case?

Sir John Elvidge: Mostly, yes. Let me just think if there are examples that do not fit that pattern. Off the top of my head I cannot think of secondments either with the UK Government or the other two devolved administrations. I think there is a bit of a practical reason for that. It is quite domestically disruptive, obviously, to shift workplace across those distances. Particularly with Wales and Northern Ireland we concentrate on other mechanisms for sharing learning.

Q217 Alun Michael: That interdepartmental activity, as we have seen across Whitehall departments, can be very, very fruitful in getting people to think differently or more imaginatively, to look at different ways of working.

Sir John Elvidge: Yes.

Q218 Alun Michael: Is there a need to promote that in the interests of developing civil servants?

Sir John Elvidge: Yes. I did not mean to imply that there was not cross-fertilisation. A substantial number of those people who did not work for us before devolution have come to us from the Civil Service in Whitehall.

Q219 Alun Michael: So traffic is important and continues then?

Sir John Elvidge: Yes. There is more of a northward flow than there is a southward flow, I think it would be fair to say. For example, a senior member of the Crown Office team has recently moved to Wales to be the most senior official of the Crown Prosecution Service in Wales. We are seeing, and perhaps beginning to see, more of that cross-fertilisation but it is more in the nature of, if not permanent moves, quite long-term moves for people than secondments which typically are of shorter duration.

Q220 Alun Michael: I see the point that you are making. How do you see this developing in the future? Do you see the development of a separate Scottish Civil Service or do you think that cross-fertilisation is likely to continue to be part of the pattern?

Sir John Elvidge: Well, it is the current Scottish Government's policy that there should be the development of a separate Scottish Civil Service and it is clearly my duty to seek to deliver that but, of course, the Civil Service is a reserved matter and that could only happen by agreement with the

UK Government. Whatever happens, I think we will continue to see strong channels of mutual learning between the different administrations. My own view is that the UK has been a little slow to realise that it has such a potentially positive real-time experiment in comparative approaches to reasonably similar challenges for government in hand and that we have not always been as good at sharing the learning as we might have been. I think we are getting much better at that between the three devolved administrations. Getting that shared learning working between the devolved administrations and the UK Government is a slightly slower process, although I hasten to say that Sir Gus O'Donnell and my permanent secretary colleagues in Whitehall are as committed in principle to making that happen as I am.

Q221 Alun Michael: Does that not argue for a stronger relationship and strong links between the Civil Service in the devolved administrations and in Whitehall in order to make sure that all the institutions, including Whitehall, get the benefit of cross-fertilisation and mutual challenge, as it were?

Sir John Elvidge: I absolutely agree that it argues for strong links. You are tempting me onto ice I do not want to be on if you ask me to relate that to the question of whether there should be a separate Scottish Civil Service or not.

Alun Michael: I understand the political point.

Q222 Chairman: Can I move on to how the practical arrangements work, how the wiring operates. How often do you talk to your counterparts in Westminster? How often do your Strategic Board members talk to permanent secretaries? Is the wiring at the lower level and is it there?

Sir John Elvidge: The wiring is certainly there. I will try to tease that apart a bit. Since early in 2007 I have adopted a practice of going to London most weeks to meet with my permanent secretary colleagues through their regular Wednesday morning meeting. That was not possible before then because the Scottish Cabinet met on a Wednesday and that was not a very difficult conflict of priorities to resolve, was it. Now that the Scottish Cabinet meets on a Tuesday it is possible for me to be in London on a Wednesday and it is clearly a very effective way to concentrate my engagement at permanent secretary level into that on a Wednesday morning and I often do related business on the back of that. The degree of contact that my director-general colleagues have will vary significantly from subject area to subject area. Our education and health systems are essentially self-contained and although there is a structured dialogue about exchanging experience, particularly around education where the permanent secretaries from Whitehall and the relevant senior officials in the three devolved administrations do meet on a regular basis, there is a structure of periodic exchange of experience. I would not suggest that in those areas it is anything like week-to-week, it might not even be month-to-month.

Q223 Chairman: If you take those areas for a moment, there are some things where although they are separate systems and devolved, the GPs' contract was negotiated on a UK basis. How does the wiring deal with something like that?

Sir John Elvidge: At a lower level, that is the third level.

Q224 Chairman: Or maybe not very satisfactorily?

Sir John Elvidge: I would not say that. To take the doctors' contract as an example, colleagues here would be fully present during the processes around that, they would function not quite as part of the team, because we have to remember they are always accountable to ministers with a different

mandate but, nevertheless, fully embedded in the process. That is an extreme example. Yes, sometimes the degree of involvement that colleagues here who are engaging with single issues have with processes in Whitehall is a bit less fully integrated and less satisfactory than that, but there are very strong links on an issue-by-issue basis where there are clearly cross-border interests at stake. Whatever happens at the more senior levels rests on a bedrock of very frequent and close involvement at working level.

Q225 Chairman: Do you find you have to bang on the door? It reminds me of my childhood when I used to listen to radio programmes in which they said, "Scottish listeners now have their own programme". Sometimes the atmosphere in London seems to be one in which the Scots can go and do something different from time to time but there is not very much awareness of this fact. Do you have to bang on the door and say, "This is going to affect Scotland differently. We need a proper engagement between officials in both sets of departments"?

Sir John Elvidge: Yes. I think I would argue it has always been so pre and post-devolution. The risk that the different circumstances of Scotland, Wales or Northern Ireland will be overlooked is ever-present and it is part of my responsibility to try to make sure that does not happen. Yes, I am frequently the boy at the back of the class putting up my hand and saying, "Please, sir, there is another dimension to this".

Q226 Chairman: Is it by accident that you have not mentioned the Scotland Office?

Sir John Elvidge: No, it is not by accident. As the strength of bilateral contacts has grown, and I think to some extent as I have been able to re-establish the strength and frequency of contact at permanent secretary level, gradually the role of the Scotland Office has moved to different territory. I do not think of them as the key interlocutors in making contact work. They do play a part, I think, in helping avoid that problem of oversight by Whitehall colleagues. One of the advantages they have is that they see the internal flow of UK Government correspondence in a way that we do not. We can point out the Scottish dimension of something we are aware of, they will sometimes see things which we do not have sight of and they play their part in tapping their colleagues on the shoulder and saying, "I think you have missed a Scottish dimension here".

Q227 Chairman: The bilateral Concordats, of which I think there are 26, have they worked? Has the way in which they work changed with the change in Government?

Sir John Elvidge: It depends what you mean by "worked" really. One measure of them having worked in a sense is that almost no-one, I think, refers to them as "documents". They set a climate of expectation about what the working arrangements are, but by and large are a rulebook that people go to and say, "You have broken the rules". They have worked in the sense that they have set the right set of expectations about the standards that the relationships should reach. They do not stop things going wrong sometimes but that would be an unrealistic expectation of them. I suppose now we also have to reflect on the fact that they were written and tested in one era of political relationships and it is an open question whether they will prove as robust in a changing era of political relationships. There has to be an element of suck it and see about that.

Q228 Chairman: I imagine you would not want to endorse Professor Jeffrey's claim that current structures for intergovernmental relations within the UK are not "fit for purpose"?

Sir John Elvidge: Well, it is an observable fact that there are cobwebs on some of them. The JMC machinery, apart from JMC Europe, has fallen into disuse. There was a purpose behind the JMC mechanism to allow sharing of thinking at the most senior ministerial levels and to allow for some

preliminary exploration at least of intractable disagreements, which is not obviously being fulfilled by any other piece of machinery at the moment.

Chairman: Thank you very much indeed, Sir John. We are very grateful for your evidence. We are going to take a break and the Committee will resume at 11.15 sharp. Thank you.

Witness: Bruce Crawford, Member of the Scottish Parliament, Minister for Parliamentary Business, Scottish Government, gave evidence.

Q229 Chairman: We are a few minutes early but it seems a good idea to start as Mr Crawford is with us. We are very grateful to him for coming to give evidence to this sitting of the Justice Committee of the House of Commons. I thought I would start by asking you, Mr Crawford, whether you think that the processes which the Westminster and Holyrood Parliaments have in place for dealing with legislation where there is an overlap between the two systems are actually effective.

Bruce Crawford: Thank you. Thank you very much for inviting me along this morning, it is very kind of you to do that. I know you are only here in Edinburgh for a short time but I hope you enjoy your visit. In terms of the process that you have explained, Chairman, in regard to the differences, I guess you are talking about the Legislative Consent Motion process and how we resolve issues around that. Helpfully, before the Queen's Speech was made to the House of Commons last year, we had a reasonable heads-up from the UK Government about what legislation would be coming forward and what material in that regard might have an impact on a Legislative Consent Motion. So we were pretty well prepared for any areas where the UK Parliament might want to legislate in areas which were of competence in the Scottish Parliament. Obviously, as time rolls on other material will come out of the woodwork in terms of other legislation that is being formulated at Westminster and we get information in due course and as time goes by in that regard. I think I have got a pretty reasonable relationship with the Scotland Office, particularly the Minister, David Cairns, in terms of managing the process of LCMs. We are almost a decade on from devolution and inevitably we feel that things could be done in a different way and a more appropriate way in terms of the Scotland Office, but in terms of the relationship that is there just now, in terms of the structure that is there just now, I think that works pretty well.

Q230 Chairman: Has it been tested by your refusing a Legislative Consent Motion yet or saying that you would do if one was brought forward?

Bruce Crawford: It has been tested as such in that there is always discussion that goes on between officials bilaterally and between ministers bilaterally in regard to an LCM as it progresses and the need for it and discussion around it progresses. There is a recognition, I think, by the UK Government that if we do not intend to pass an LCM in a particular area then they will not necessarily prosecute that to the level that you might expect. There is an acceptance that Scotland sometimes might have a different perspective. It has not been tested yet because we have not had an LCM which we have had to put before the Parliament where the Government would not have supported it. Of course, it is always possible in the Scottish Parliament for the opposition to put forward an LCM, and they could choose to do that at some stage, although that has not happened yet. In fact, the only point of conflict that I am aware of came about as a result of a gentleman we were talking about earlier in the shape of Jeremy Purvis, a Liberal who put forward an amendment to the dormant bank accounts Legislative Consent Motion that caused a bit of a ripple but, nevertheless, at the end of the day we had a conjoined position with the Labour Party on that occasion and the Tories to make sure the LCM was passed in the way we thought was fit.

Q231 Chairman: In an earlier session this morning I referred to an example which had come up, partly to establish where the red lights flash in this system. It was an example of what is not covered by the Queen's Speech discussions. It was the Westminster Government's publicly announced intention in its Counter-Terrorism Bill to include provisions which enable cases involving terrorism to be taken out of the Scottish judicial system and tried in England, not necessarily with the consent of the Lord Advocate. Presumably there is some system where red lights flash and you say, "If we are going to do this we would have to agree to an LCM".

Bruce Crawford: Yes. That system is about a process of continual dialogue from the minute we know about a bill that exists from the UK perspective. That dialogue happens between officials on an ongoing basis and then between ministers and between departments in a bilateral way. Every second week I have a discussion with David Cairns at the Scotland Office about where the pinch points are, about where the issues are, and to date these have been resolved amicably. I do think, however, the need for that particular office to sit in the Scotland Office is not as strong as it was in 1999 and there could be better co-ordinated and strengthened arrangements bilaterally between ministers and, indeed, a role for a government minister much more at the centre of government to help with the trouble-shooting that is currently done between myself and David Cairns. I am effectively saying that probably time has run out for the Scotland Office as far as that is concerned.

Q232 Chairman: If that did not exist you would be talking to the leader of the House at Westminster and the minister in the particular example I quoted, the Justice Minister, would be talking to the Justice Minister and the relevant officials on the same lines?

Bruce Crawford: Correct. On the issue you raised, that discussion is already going on between the Justice Minister and the relevant counterpart at UK level. I think the Leader of the House still chairs the L Committee and that would be an appropriate place in terms of the legislative process for me to be engaged and a lot more effectively in terms of discharging business. Actually, it would remove a bit of the communication line that exists and allow a lot more discussion directly to the heart of Government. That is no disrespect to David Cairns, who has to work within the current system, and that works as well as it can for where we are.

Q233 Alun Michael: I am tempted to think there is a comparison with communication between government departments in Whitehall here. I remember inheriting one bit of a government department that came over which was able to do away with the bit that spent all its time working out what the other department was doing. Is there not a stage before legislation which very often comes at the end of an internal process which can be driven by an election commitment or it can be driven by a ministerial leadership, or it can be delivered by departmental ownership, if you know what I mean, so that there is a need for contact much earlier down the line? You referred to yourself and David, for instance, trouble-shooting and that is where something has reached the stage of development where it needs that last minute intervention to almost rescue a situation.

Bruce Crawford: There has not been much that has needed to be rescued yet but that relationship allows for that rescue job to be done if required. There is earlier discussion between officials on an ongoing, day-to-day basis and between ministers in a bilateral sense and an ongoing day-to-day basis. You would hope, and it normally does, that process would allow for the issues to be aired long before we get to the process of legislation being brought to the floor of the House of Commons but inevitably, because that is what government is like, it does not always work as smoothly as you would like and, therefore, there is always a bit of turbulence and bumpiness around as far as that is concerned.

Q234 Alun Michael: Do you feel that it is developing in a positive direction in terms of, if you like, rescues being less frequently needed at the last minute?

Bruce Crawford: I think it is because of the attitude we take to Legislative Consent Motions. We are not predisposed to bring anti-Legislative Consent Motions because we have got the settlement we have got. We might like to see Scotland as an independent country but we have got a system that has got to work within the confines of the current constitutional settlement and, therefore, inevitably people who have got the best will of the Scottish people or, indeed, the UK at heart will do their best to make the system work and that is what goes on on a general basis.

Q235 Alun Michael: You said in a recent article for BBC News Online that: "This is a new Scotland and it's a new politics". What did you mean by that? What is new about the politics?

Bruce Crawford: Part of my role is not only being, in effect, the equivalent of Leader of the House as far as Westminster is concerned, but I also happen to be Chief Whip for the Government in Scotland. Certainly one thing that has changed is that you can no longer rely on the number of votes that you have to secure your majority. Managing a minority government on a day-to-day basis is an interesting challenge.

Q236 Alun Michael: Tell me about it!

Bruce Crawford: It means since you can no longer rely on the number of votes that you have got, you have got to rely on the quality of the argument that you can put forward to build an alliance on a coalition with different partners on the issue on a day-to-day basis depending on the merits. That has been good for Scotland. Perhaps by default we have got to the position that the Scottish people wanted in 1999 in terms of the Scottish Parliament election result by delivering something that is a lot more open and accountable because it has to be by the nature of it. For instance, on the budget, which I am sure some of you certainly, if not all of you, are aware of, the Conservatives voted for a budget in the Scottish Parliament and others abstained. That was three weeks ago now. Last week we had a debate on the future of the Scottish water utility where Labour and ourselves conjoined to have a majority in opposition to the Conservatives. On that same day we had a position jointly with the Liberals and the Greens on penal policy and how effectively we can use prisons. It is a lot more mixed up here than you might imagine in terms of finding the right solutions, but that is because things are being argued through on their merits. I guess the most important thing of the lot is the issue of how we engage with wider Scotland, particularly in the longer term. Obviously when you come into government you have got your manifesto to put into place and you have got to try to deliver as much of that as you humanly can, but there will be a requirement upon any government in the minority position we find ourselves in, and it is already beginning, to build alliances across civic Scotland in a way that other governments have not been required to do. That is a good thing, not just because it happens to be the arithmetic of the Scottish Parliament but it is what we should be doing anyway. If you look at some of the experiences of other minority governments, Denmark, for instance, and they have had a minority similar to what is happening in Scotland there for a number of decades, they have had a process inbuilt for a longer period in terms of consulting with the stakeholders in their communities probably going past consultation into participation, which is really what we have to be about, how we involve people in the future. It is interesting that they get an 85% turnout in their electorate and there are 65,000 members of the largest party in Denmark with a population the same size of Scotland. There are probably some lessons for us all to learn there.

Q237 Alun Michael: It is very interesting that you are talking about participation but you started on the point of communication. Does the new politics that you have described require new journalism

as well? In other words, how does the type of approach that you have described as having to take get communicated by the media?

Bruce Crawford: I think the media found the advent of a Scottish Parliament/Government being in the SNP an exciting, new refreshing process for them because there is lots to report, as you might imagine, in the circumstances I have just described in terms of the way we have got to build majorities. I guess it is equally true of the media as it is of the politicians that it has taken a wee while for people to get to grips with the new reality of where we are. Some parties have been quicker at getting to grips with the new politics of Scotland than others and I guess that is the same for the media and understanding the processes. We have got a pretty forensic bunch up here in terms of the way they examine Scottish politics and the way they get into the detail and the majority are beginning to get there in terms of understanding the subtleties that are required to build majorities and keep a minority government on track. It has certainly given them lots to write about.

Q238 Julie Morgan: I wanted to go back to the relationship with the Scottish Office and to ask you do you think Scotland does need a voice at the Cabinet level in the UK Government?

Bruce Crawford: It certainly needs a voice at the centre of government in terms of the way it discharges business. This is one of the areas that the JMC, for instance, could be having a good look at, the JMC which obviously involves all governments from Wales, Ireland, Scotland the UK. There is a different view from Wales and Ireland in terms of where they see the future. Certainly the JMC mechanism, all of that mechanism, has to be looked at in the whole, whether it is the JMC, the Concordats, the Memorandums of Understanding or the issue of what standing an individual representing Scotland would have at a UK level.

Q239 Chairman: It has not met since 2002, has it?

Bruce Crawford: The JMC has not met since 2002. There was an expectation from the Memorandums of Understanding that it would meet on a yearly basis. I certainly think it could have met following the terrorist attack on Glasgow Airport. It could have usefully met to have discussed financial and Treasury matters. I think it could usefully have met to discuss issues around the foot and mouth disease outbreak that happened and some of the conflicts that existed between the UK and Scottish Government at that time. I think there is a real role for the JMC. The First Minister did write to the Prime Minister in August and to date we have had no response, but we have also had the recent appointment of Paul Murphy to be not only the Secretary of State for Wales but he also has got some responsibilities around the British-Irish Council and the JMC. There is other work that I think the JMC could usefully review at this stage. It could undertake a review of the Memorandums of Understanding and the Concordats. We think that there is an opportunity for a JMC Domestic to develop, for instance, where there would be an opportunity for wide-ranging issues to be discussed before any plenary session. I am aware that the Cabinet Secretary for Education and Lifelong Learning has suggested that there needs to be a JMC for families, benefits and employment. There is an opportunity for the JMC in a plenary organisation to review that sort of activity. There is also the UK Statistics Bill, which is a bit deep here, folks, forgive me, which I understand will have an impact on the Concordat that is being drawn up for the JMC Europe and, therefore, that will need to be reviewed anyway. So there is a bit of work that could be done by the JMC in that regard as well as looking at the general issue of overarching agreements of the Memorandums of Understanding and the Concordats after almost a decade of devolution. It can only be right that after that length of time we begin to look at them and review them. The whole thing needs to be done as a package to look at everything proper.

Q240 Julie Morgan: You would see that as replacing and developing the position played by the Secretary of State for Scotland?

Bruce Crawford: As I said earlier on, the office of the Secretary of State for Scotland, indeed the Scotland Office, we are now almost ten years on and if we can strengthen the bilateral arrangements we will have a much better co-ordinated and strengthened role at the centre and the need for the Scotland Office is fast disappearing over the horizon.

Q241 Julie Morgan: At the moment do the ministers in your Government have much contact with the Secretary of State for Scotland?

Bruce Crawford: The First Minister has the odd contact with the Secretary of State for Scotland.

Q242 Julie Morgan: Sorry, what did you say?

Bruce Crawford: The First Minister does have contact with the Secretary of State for Scotland.

Q243 Julie Morgan: Is that on a regular basis?

Bruce Crawford: The most recent thing they discussed, and I will talk about when I get the chance as well, if you do not mind, was the Gould Report into the Scottish Parliament elections. We have been arguing, indeed the Scottish Parliament has argued, that executive and legislative competence over the handling of the elections, and it is the unanimous position of the Scottish Parliament, should come to the Scottish Parliament and the Scottish Government to deal with. Why have we been arguing for that? Because right now there are about 18 different pieces of legislation affecting Scottish electoral law and there is a plethora of steering groups and other material below that. The Scotland Office is responsible for the Scottish Parliament elections currently, the Scottish Government is responsible for local government elections and, rightly, Ron Gould said there is an incredibly fragmented position and it needs to be resolved and recommended the Scottish Parliament should have responsibility for that. I know that the First Minister and Secretary of State for Scotland discussed that issue. That has not really been taken forward. This is part of my own bag as a Minister, so I have got an interest in it. I think it should have been in terms of the response from the UK Government and it just seems to me so much commonsense, pragmatic positioning. Forgetting all the politics around this, and I know you cannot do that because we are politicians, just to try to resolve that fragmented picture and make sure that the ridiculous situation that arose in Scotland in terms of the management and delivery of the election does not happen again, we need to get on with that work and get it done.

Q244 Julie Morgan: So you are saying there is deadlock over this issue, or there is no progress?

Bruce Crawford: The report that came out from the UK Government and its reference to this issue was the central core of a lot of the argument put forward by Ron Gould and it was paid scant attention to and was poorly addressed. I raise that particular point because if the Scotland Office is no longer doing that, and I am saying to you I think there is a strengthened way we can do it in terms of the relationship between the UK and the Scottish Government, that is another reason why the Scotland Office is no longer required. Whether that is part of their argument for not progressing it you would need to ask them, but you might suspect that if you were in my seat.

Q245 Julie Morgan: You said you have a very good working relationship with David Cairns. How often does the First Minister meet the Secretary of State for Scotland? How many times have they met since you formed a government?

Bruce Crawford: I am aware of at least a couple of occasions but I would need to make sure of my facts on that.

Q246 Julie Morgan: Fairly rarely they meet?

Bruce Crawford: It is not a regular occurrence, but I will make sure you get that information as a follow-up.

Julie Morgan: Thank you.

Q247 Chairman: On that particular issue, is there anything to stop you simply having a discussion with the Justice Minister about it? It is your ministerial responsibility and he has a ministerial responsibility for elections. Can you bypass the Secretary of State for Scotland or is there something that stops you from doing so?

Bruce Crawford: I am glad you raise that point because it makes my point for me in terms of how arcane the process is. The Justice Minister is responsible for elections at the UK level and the European Parliament, the Scotland Office is responsible for elections to the Scottish Parliament and the Scottish Government is responsible for elections to local government. You can see we have a pretty patchwork approach here and it is pretty clouded in terms of who is playing what. It needs a lot more clarity, certainly in Scotland in terms of the elections to the Scottish Parliament and elections to local government, so that there is one body responsible for this able to deliver an effective election on the night.

Q248 Chairman: Are you saying that the UK Justice Minister would say, "Sorry, I can't talk to you about this, this is the Secretary of State for Scotland's job"?

Bruce Crawford: Correct.

Q249 Chairman: Even though, of course, for some purposes the Scotland Office is part of the Ministry of Justice.

Bruce Crawford: I will let them justify that area. It looks like a bit of a morass to me.

Q250 Mr Turner: For the most part, ie England, there is one person responsible, so what are you complaining about?

Bruce Crawford: Sorry?

Q251 Mr Turner: There is one minister responsible in England for the whole lot.

Bruce Crawford: I am complaining that in Scotland there is no one person responsible. There are different bodies of government responsible.

Q252 Mr Turner: How can it be lower down the line because obviously something has to be at the top for the UK, does it not?

Bruce Crawford: The Scottish Parliament elections recently, the Scottish Parliament itself?

Q253 Mr Turner: Yes, but I mean in UK elections.

Bruce Crawford: Understandably that will have to be done by the Justice Department. I am talking specifically about the Scottish Parliament elections, I am sorry if I was not clear.

Q254 Mr Turner: Yes. Okay, I understand that. Your submission argued that the "residual functions" of the Scotland Office should be devolved to the Scottish Parliament. Is that all of these functions?

Bruce Crawford: In terms of the functions of the Scotland Office there is not a lot left there. Certainly removing the functions of Scottish Parliament, the Elections Executive and legislative competence over them from the Scotland Office and transferring them to the Scottish Government would mean there is not a lot left for the Scotland Office to do. That is what I am arguing. I am not going to put their argument for them, I will let them do that themselves.

Q255 Mr Turner: What is your view on changes to allow devolution to take place in England?

Bruce Crawford: There is an interesting debate that is going on in terms of that whole area, is there not, in terms of some of the tensions that are around as reported in the media, but how real they are I sometimes wonder. As far as the process for England is concerned, it is not up to me and the Scottish Government to provide a view about how the people in England decide that they want to have themselves governed, I think that needs to come from the processes that are available through politics and discussion and through Westminster itself about how to deal with the question of how England is governed in the future. I think it would be a bit cheeky of me, actually, to say how I think that could be done.

Q256 Mrs James: I want to go to intergovernmental relations now. Professor Michael Keating, and I have got quite a long quote here so I apologise for that, said: "devolution is about allowing policy divergence and a healthy competition among governments to innovate and respond to challenges". How accurately do you think this describes the culture of intergovernmental relations between Scottish and UK Governments?

Bruce Crawford: I think that is a reasonable reflection of where we are. The whole idea of devolution was to allow that divergence, and it might be that the people in Berwick are now demanding that they become part of Scotland because they see such a wonderful government in Scotland providing such goods for them.

Q257 Chairman: I do not think we will go down that route, at least not on the basis of a dodgy poll!

Bruce Crawford: As I said to you earlier, I am sure you would make a fantastic member of the Scottish Parliament, Chairman. Sorry, with that divergence in my head could you repeat the last bit of your question?

Q258 Mrs James: How accurately do you think it reflects what is happening?

Bruce Crawford: I think it is reflecting reasonably well what is happening. I do have some concerns, I have to say, in terms of some of the more recent soundings coming out, and, again, this is through the media and I cannot say how accurate it is, but no doubt there is some basis for where it starts. This week in the Scottish media we have had comment upon the issue of whether Scotland should have control over planning issues concerning nuclear power stations, for instance, and is it still germane in terms of the Scotland Act that it should be the Scottish Parliament and the Scottish Government that have that say. Obviously I would say yes, I think it is. If the argument is beginning

to move to a direction that says, "In areas where we have got a disagreement with the current Scottish Government then we need to look at where the powers lie", then I have got concerns about the future. I watched a discussion which Gordon Brown had on one of the Scottish political shows a couple of weeks ago when he mentioned animal health being one of the areas where there might be a consideration where that might become an area that could be looked at in terms of a two-way street of powers. It just so happens that this is one of the areas where we did have a bit of a falling out with the UK Government. It would be a pity if every time there was a divergence that ended up as perhaps you should take these ideas back. Whilst I accept the general premise of the gentleman you quote, I think there are danger signs out there, if you understand where I am coming from.

Q259 Mrs James: We have already heard about Professor Jeffrey's statement that the current framework for intergovernmental relations are not "fit for purpose". How would you respond to that?

Bruce Crawford: I think the structures can be improved. It has been said that we could strengthen the role, we could share much more bilateral discussion between ministers in Scotland and ministers at the UK level, that could be strengthened, and a stronger co-ordinated role at the centre of Government, whether that is through the Leader of the House for my purpose or otherwise. Obviously being a member of the Scottish National Party in a Scottish Government, we are of the view that independence is a way to sort a lot of these issues out and probably would sort a lot of them out and we would have a much healthier relationship in the future.

Q260 Chairman: Mr Crawford, thank you very much indeed. It has been most helpful evidence and we are very glad that you have spent the time with us today.

Bruce Crawford: A pleasure, thank you.

Chairman: Thank you.

Witness: Professor James Mitchell, Head of the Department of Government, University of Strathclyde, gave evidence.

Q261 Chairman: Professor Mitchell, thank you for joining us this morning. In view of your academic credentials we thought we would treat you in a more seminar mode than our previous witnesses and invite you to say a few things by way of opening and we will throw questions at you as the spirit moves.

Professor Mitchell: Okay. I thought I would start by talking about the achievements of devolution as I see them, because when politicians are asked about what does devolution achieve they normally list legislation and policy and such like. From my perspective, I think the key achievement of devolution is that the problem of legitimacy in Scottish politics has been removed. In the 1980s and 1990s I think there was a growing problem in Scotland, and it was also true in Wales but I will restrict my comments to Scotland here, that people perceived the government of Scotland by Conservatives through the Scottish Office as lacking legitimacy. That is not to suggest that people saw it as unlawful but there were questions as to fairness of policy, the sense of policy being imposed on Scotland against its will, and I think that was what fuelled the demand for a Scottish Parliament. There had always been support for a Scottish Parliament going back to the earliest polls in the late 1940s right through to devolution but what changed in the 1980s and 1990s was that this became a much more salient issue and it coalesced around particular issues. The Poll Tax is the one

that is most obviously spoken about but, in fact, it was many, many other issues from the early 1980s onwards. What I think devolution has done is to remove the issue of legitimacy. There are clearly differences across the parties in Scotland as to how Scotland should be governed, and we have just heard Bruce Crawford who obviously advocates independence and there are others who would extend devolution, others who would leave devolution, but no-one, I think, certainly none of the mainstream parties, and I cannot think of anyone even on the fringe of politics, who today believes there is a lack of legitimacy in the system of government. That is the thing that has been a clear achievement of devolution. It is one that we rarely talk about, we do not even acknowledge, but it is one that I think is very important. The other achievement that relates to that is the fact we have now tackled to some extent a kind of debilitating politics of grievance that Scotland suffered from over many, many decades in truth. There has always been that tendency in Scotland and it is often associated with one party but, in truth, all parties have tended to blame London for this kind of debilitating politics that took place. Peter Hennessy in the election here last year in Edinburgh remarked that there were three great institutions in the UK which were persistently successful in getting money out of the Treasury: the military, doctors and the Scottish Office. In a sense, I always thought that was a good thing from Scotland's point of view but, ultimately, it is a very debilitating form of politics. We have injected a degree of responsibility into our politics, not as much as we perhaps should, but I would say that is the other achievement. However, and I will finish on this point, resolving one problem of legitimacy has created a series of others, the so-called English Question, the West Lothian Question, the question of Barnett and finance. That is one of the great problems that we have today, that in a sense we have simply shifted the problem around within the UK and, whatever is proposed into the future, we should try and ensure if there are to be further reforms that we do not simply carry on shifting the problem around and particularly we should try to avoid encouraging the politics of grievance.

Q262 Chairman: It was you who produced the pass the parcel analogy, was it not?

Professor Mitchell: Yes, indeed, it was.

Q263 Chairman: You have passed the parcel to England because the legitimacy of government in England is seen as being undermined once it is possible for Scotland to decide to do other things while Scottish Members of Parliament decide different things for England.

Professor Mitchell: I would stress the potential for a growing problem of grievance in England, a problem of legitimacy is there. We do not have it yet, the issues around the West Lothian Question and, of course, Barnett, are not so salient as the politics of grievance in Scotland in the 1980s and 1990s, but one should remember the potential for grievances that we had in Scotland in the 1980s and 1990s had always existed and it is the context of politics that will determine whether those grievances will arise. The fact that Labour is in power in London has ensured that this kind of politics has not emerged very strongly. That said, I would take Barnett, for example, and my own research has shown if you go back to the early 1980s there was a tiny handful of us, anoraks you might call us, who were interested in the Barnett Formula which was restricted really to civil servants and the academic community but now, of course, the elites in sections of England are interested in it. It is not yet a popular matter, it is not a great problem, I do not think, but it could become one. I guess the issue that I would suggest has to be addressed is whether, if this is likely to arise, it is something that ought to be addressed now in the relatively quiet time of devolution or should we wait until it really does explode. My suggestion is that it is always best to meet a problem before it becomes particularly difficult.

Q264 Alun Michael: I think what you have said is very interesting because is it not the case that part of the problem is that the politics of grievance, as you have described, is fed by the journalism

of grievance and the continual feeding of bad news and there is very rarely very accurate analysis on which that grievance is based? For instance, the English Question quite clearly ought to be described as the "England outside London Question" in order to be anywhere near accurate as identifying something. How do you see the way that coverage of politics in Scotland has developed, both in terms of coverage of Scottish politics within Scotland and the coverage of Scottish politics in the wider UK in terms of the way that people understand the changes to which you have referred?

Professor Mitchell: There has been a big change in the media coverage of Scottish politics post-devolution. In the early years a section of the media, and it was a small section of the media, continued to campaign almost as if the referendum was still going on. The anti-devolution element was in the media. That seems to have long since gone now and certainly I think the media is more focused on the everyday issues, the bread and butter issues of devolution. There are occasions when there are bits in papers and we shake our heads and think, "Good God, what kind of coverage is this", but that is always going to happen. I think we have got very good media coverage of the Scottish Parliament and devolution. If I have one complaint about the media in Scotland it is that perhaps there is too much focus on the Scottish Parliament and I think there is so much more going on in Scotland beyond the Parliament and we are in danger, and it is not just the media, the academic community is probably more guilty of this frankly, of ignoring local government, for example, and politics beyond the Holyrood village. In a sense we are in danger, and I think we already have done this, of recreating the Westminster bubble, the media bubble that takes place down south, here in Scotland around Holyrood. That said, when one speaks to journalists there is an effort to move away from that. Saying that, I am certainly in no position to criticise journalists because there is at least some journalistic coverage of Scottish politics beyond Holyrood and I cannot think of very much, if any, academic research beyond Holyrood and Scottish politics. On the wider issue, ---

Q265 Chairman: Just before you leave that, was there not also in the early days following the first elections to the Scottish Parliament a media approach which said that coalition was impossible whenever any kind of dispute arose and it took quite some time for the media to settle down?

Professor Mitchell: I do not think that was a media problem. I think there was a public perception and an academic perception, which is a very British perception, that coalition is alien. Similarly, I think we have been afflicted by a sense that a minority government is alien and unworkable. That is a very British view of politics. One of the interesting things we have had with minority and coalition government in Scotland and in Wales is that we are learning a great deal about how this can operate. In a sense, we ought to look beyond the UK because there are examples, and Bruce Crawford when he raised the Danish one was interesting, where minority government is seen as normal. This is one of the consequences of the electoral system rather than devolution and that is certainly the case. I do not think the media can be blamed for that in any way, that is part of our political culture and we are all guilty of buying into that. The change has forced us to look at these things again. Certainly from an academic point of view, for people like myself who have been brought up very much within the British school of political science and are having to look again at the coalition theory, minority government and such like, it has been a very exciting and interesting thing to do. I really would not blame the media at all in that respect, it is part of our culture and we have to change our culture.

Q266 Alun Michael: The second part of the question was the coverage of Scottish politics in the rest of the UK which perhaps has a contribution to the way the England outside London grievance culture starts to develop.

Professor Mitchell: There is a lot less media coverage of Scotland in the UK. In truth, those who follow Scottish politics, all commentators, and in this I include academics, will know all the names and faces of the MSPs but in many cases we do struggle to know who the MPs are representing Scottish constituencies. Obviously we know the Prime Minister, but for the most part we do not and part of that is because there has been a turnover post-devolution. Nonetheless, I think there has been a greater focus on the Parliament, so less interest in what is happening at Westminster. I think it is fair to say, and I am sure I could be corrected, that the media has focused their attention more on what goes on in the Parliament. That is hardly surprising, it is a very important institution. That has happened and it has had the consequence that we are probably less informed as to what is going on at Westminster. One thing that is covered frequently, of course, is the clashes, the divisions, the differences, and perhaps we are less aware of what actually happens underneath the surface. My understanding is intergovernmental relations work very well in the UK between Scotland and London. Some of the expectations that there would be these great bust-ups with the SNP in power and so on just have not happened and the everyday workings are very, very good. Of course, the theatre of politics, the huffing and puffing of politicians, will invite media coverage, and rightly so, and perhaps the public at large have a flawed view of what really is happening on a day-by-day basis as a consequence, but that is always going to be true in politics. Clashes and so on, I suppose, will be the stuff of media coverage and people are not going to want to read or hear about the fact that civil servants speak to one another and so on. I am quite relaxed about that in as much as I know it works very well under the surface. I am also pretty sure that many of the public clashes are for public consumption, for media consumption, and it seems to work.

Q267 Julie Morgan: I was interested in the point you were making about the change in culture and the fact we are going to live in Scotland with coalitions and minority government. How widely do you think that is accepted now by political parties and by the public?

Professor Mitchell: The public seem to accept it. As part of our research study on the Scottish elections 2007, we did a survey at the end of last year, a third wave of this, and people seem to have accepted minority government and there is no question as to its legitimacy or anything like that. Some of the parties have struggled to come to terms with it, they have all struggled to come to terms with it in different ways, and that is inevitable. You can change institutions but cultures do not change overnight. There was some naïvety in the expectations of some supporters of devolution in the years leading up to the establishment of the Scottish Parliament in the sense that we would have this new politics and everyone would be consensual and such like. It was always very naïve, it was never going to be like that. Also, it takes time for things to bed down and for people to change. One of the interesting things about the Scottish Parliament is that most of the politicians in the Parliament are new to full-time politics so they have not brought with them perhaps the experiences, the socialisation of having been MPs, and that may make a difference. If the Parliament consisted largely of MPs I suspect the approach to politics of MPs in a much more confrontational arena would have made for a very different type of Scottish parliamentary politics. That has been very important. One of the interesting things will be whether over time, as I suspect will happen, as the number of politicians change as politicians who were socialised under pre-devolution politics give way to a new generation of politicians, then I think we will come to accept many of the inevitable consequences of devolution, the fact that there is difference and there is diversity. Baggio made that point on the English Constitution, that you can change the institutions of the state but unless you change the politicians who worked the old system you will not feel the full benefits of institutional change.

Q268 Julie Morgan: So you think the MPs' views are different, for example, from the MSPs' views about this culture change?

Professor Mitchell: Yes. Take those MPs who were elected post-devolution, their whole socialisation is within the Westminster model of politics which is quite different from the Scottish Parliament and I guess that leads to some interesting tensions. I do not think tension is a bad thing, it is a creative thing, a good thing. God help us if we all had the same experience of politics. It means that we can learn from one another and I think that has to be a very healthy thing.

Q269 Julie Morgan: What do you think is the future of Scottish MPs representing seats in Scotland when you look at the English Question and the wider issues?

Professor Mitchell: I think there are problems for Scottish MPs in trying to cut a distinct role. Research was done back in the 1970s on the role of the Scottish MP, it was Michael Keating's thesis in fact, and Michael showed very clearly that Scottish MPs then were very Scottish, focused on Scottish issues, much more so than English MPs on English issues. That is obviously going to have to change because many of the matters which were then the focus of attention of Scottish MPs have been devolved. I think MPs are going to have to come to terms with that, and they are. The obvious role for an MP from Scotland would be to focus on the retained matters. Some of them have difficulty with this, not least because their constituents expect them to have a view on health and so on and so forth. Some of my constitutionalist colleagues think it is wrong, for example, that the Speaker should dare to speak out on a health matter concerning his constituency. I have to say, I think it would be absurd for any MP not to speak out on such a matter whether or not the Parliament to which he is elected has responsibility. One of the roles of an MP is as an advocate and I think that will always be the case. I am probably a bit more relaxed than some of my colleagues on this matter.

Q270 Mr Turner: On the English Question, I must say my view is that in parts of the UK it is a very serious issue. Would you agree?

Professor Mitchell: I think it is a serious issue. Whether or not the public think it is an issue, I think it is a serious issue because it has the potential to create a politics of grievance, which I have to say from a Scottish angle is very worrying. It is a problem from an English perspective but it is also a problem from a Scottish perspective. If there is to be a backlash then Scotland could suffer, so I do think there is a problem. It is certainly the case that in certain parts of England it is more of an issue than in other parts. We tend to find that border areas provoke backlashes more than other areas, so it is no great surprise that the north of England has witnessed a great deal of coverage on this. In fact, it goes way back to the 1970s. The Journal in Newcastle was arguing against devolution then and played a very significant part in encouraging Labour MPs in the north of England to oppose devolution. There are issues there and it comes down to the West Lothian Question but also Barnett and the perception, and it is important that it is a perception, whether right or wrong, that Scotland gets more resources than is justified. That is likely to be a major problem. Over the last few years it has not become as salient as it is likely to become for two reasons. First of all, Labour has been in power in London, Wales and Scotland. Secondly, it has been a period when money has been freely available, we have had rising expenditure, and the question arises what happens when money is tight. I think that will be a more problematic area to work with than simply different parties in power. The financial dimension will create more tensions than anything else, and we are now moving into that period. That is why I think it is very important that we address this question now before it really takes off and becomes difficult. Having said that, I am not entirely sure how to resolve it, that is a difficult one. The only thing I would argue very strongly for is that any resolution has to be consensual, it has to involve all parts of the UK agreeing to any change and has to involve cross-party support. If anything is done which is perceived to benefit either a party or a part of the UK at the expense of another it will simply pass the parcel around. In a sense, what I think is important is what I call losers' consent has to be found. In other words, those who are

perceived to be the losers under any change have to recognise that they may be losing but they are losing because justice is being done, and we are nowhere near that position at the moment.

Q271 Mr Turner: You are saying the fact that Labour is in power in London makes it less likely, but presumably the change to a different government would make it more likely still?

Professor Mitchell: It would, but the financial regime is the key thing. If, for example, a Conservative Government was to come to power in London and if that government was to decide that it would throw money at Scotland, I think Scotland would be quite happy, there would not be the tensions. The problem is that the likelihood is that these two would go together, that if we moved into a period when a Conservative Government came to power, and that may happen because there are financial difficulties in the country and the Conservatives win for that reason, then we have a potentially explosive situation depending on what the Conservative Government does, of course. I do think it would be very important, whichever party was in power in London, to operate in a consensual way rather than simply pass the parcel. That is where I think English votes for English laws have the potential to simply pass the parcel around, although at this stage it is not quite clear what English votes for English laws would actually entail.

Q272 Mrs James: You said a little earlier that you had done a lot of work in the 1970s and 1980s on the Barnett Formula. I think the Barnett Formula has come as a great revelation for lots of people in different parts of Britain, whereas in Wales and Scotland we have been very au fait with it and the question is of people in the south-east of Britain realising this. What do you think are the pros and cons of the Barnett Formula? There is a review being undertaken currently in the Welsh Assembly on the Barnett Formula.

Professor Mitchell: The key attraction of the Barnett Formula is that it exists, it has worked, it is relatively easy to work and. in terms of changing it, bringing back some other thing is very difficult. Finding an alternative is the great difficulty. That is the key attraction of the Barnett Formula. The problems with the Barnett Formula go back to its origins. It was a quick-fix really. Contrary to much of the mythology around the Barnett Formula, it was not invented by Joel Barnett, it was not even invented when he was Chief Secretary to the Treasury, this is a great myth. When I wrote to Joel Barnett in 1985 and I was doing research on this subject to ask him about the Barnett Formula he responded by asking me, "What are you talking about, I don't even know what this is". I explained the formula, he recognised the formula, but he did not even know that we were calling it that, it was the academic community that called it the Barnett Formula. He said then that it was a civil servant, as far as he was aware, who had invented it, and he was right, it was a civil servant.

Q273 Alun Michael: Yes, but it was nailed down at that time as part of the proposition of the then devolution settlement going forward.

Professor Mitchell: It was and it was not. It came about before then, in fact. Even before February 1974 I came across a reference in Treasury files which showed that the 10/5/85 formula was used in certain circumstances.

Q274 Alun Michael: With respect, that is not my point. I suspect you are creating a new mythology that it was not ---

Professor Mitchell: I was going to come on to explain how it evolved from its origins when it was used as a quick-fix.

Q275 Alun Michael: The reason the Barnett name is there is that was the point when it became an accepted part of the ---

Professor Mitchell: Not quite.

Q276 Alun Michael: --- process towards devolution.

Professor Mitchell: It was originally used for bits of public expenditure and then in the 1970s it got wrapped up in some of the debates on what might happen post-devolution and then it was named the Barnett Formula in 1980 in an article by David Heald. In fact, its evolution is quite murky and in essence it was a fix. It was not anything other than a fix. Currently it is not based on need and it is something which I think provokes hostility in Scotland and in England. It is one of these odd policies which seems to have very little support. Having said that, the reason it continues to exist is because it is very difficult to find an alternative and if it continues at all I think that will be the reason for it continuing to exist. The very fact that it has become a symbol of the politics of devolution is important. The key change that came about with devolution was simply that this issue became more salient. The Formula had existed throughout the 1980s and 1990s, it really only took off as an issue because we started talking about devolution and that focused attention on territorial public finance in a way that it had not previously.

Q277 Chairman: Did it not become an issue in this sense, that devolution created a situation, which I personally would argue for, where the Government in Scotland had a totality of resource which you could then move about according to different policy priorities?

Professor Mitchell: Yes.

Q278 Chairman: Rather than simply having public expenditure which amounted to that amount mediated by different departments according to their own London decided policies. It is that ability to do different things with that set amount of money which has brought it into focus.

Professor Mitchell: Absolutely. That always existed as well. You can go back to the 1960s and the Scottish Secretary was able to reallocate within his budget. George Younger used to boast frequently when he was Secretary of State for Scotland that he did that and would give examples. He would put more money into education and law and order at the expense of housing. That certainly was happening. With devolution, of course, the public focus on this and the media attention given to this issue has grown. It is not as if there has been any great change in the policy, it is the perception of the issue that has changed and it has become very much wrapped up in the politics of devolution throughout the UK.

Q279 Chairman: You have not got a bright idea for what could be put in its place?

Professor Mitchell: Ultimately, I think that there has to be a needs assessment of some sort. That is a highly political thing and, of course, we will all disagree on needs, but at the end of the day at least there will be a transparent formula in existence about which we can argue. After all, this is what happens in terms of local government crown distribution, it is not as if we do not do this. It is the way that territorial finance operates almost everywhere else. I cannot think of another example of a formula such as Barnett operating anywhere in the world like this. A needs based formula would be a good thing. I have to say the probability is, of course, that Scotland would lose out and that makes me kind of unusual in Scotland. I do think it would be a good thing for our politics. There is something debilitating in politics which allows Scotland to have more generous public policies but not have to pay for them. That will encourage a politics of grievance south of the border

and we are seeing it in the north of England, it is understandable, who could really complain about this. Frankly, if I was living in the north of England I would be complaining about it. There is no problem with a part of the UK having more public finances if it is in response to greater need but I do not think that applies in Scotland, so I do think that needs to be addressed. The way I would square that circle is to give the Scottish Parliament powers to raise its own revenue in some measure. We would have to operate alongside a reform formula, I am not suggesting Scotland should only have its own revenues, I think there has to be a grant mechanism. All I am suggesting is the kinds of mechanisms that exist elsewhere in the world. This is not something radical or novel, whatever. Coming back to my point about the change in political culture and gaining the experience of a minority and coalition, perhaps we need to look beyond the UK because the kinds of things I am talking about here are common in intergovernmental systems of public finance.

Q280 Chairman: That prompts a question in my mind that Scottish governments and Scottish parties in every case have so far excluded the use of their limited existing tax raising powers. Are you envisaging a situation in which the Barnett Formula starts to work in reverse, and if you do not know anything about it that is to say if UK public expenditure starts to be reduced because of economic circumstances, then the expenditure of the Scottish Government at that point has to be reduced, not because the Scottish Government has decided to do it but because it is working to a formula. At that point is any Scottish Government going to have the courage to use its limited tax raising powers?

Professor Mitchell: It may have no choice given the commitments that were made in the early days of devolution. As was predicted by civil servants in the 1970s, in the first few years of devolution there would be all sorts of great policies invented and such like and it would be costly, and I think that is what we did in Scotland with tuition fees and care for the elderly. At some stage I think we are going to have to pay for these and unless we reduce our spending then we will need to find ways of paying for them. As I say, in a sense that is likely to happen anyway at some stage in the future and it will encourage a politics of responsibility which, though devolution has addressed to some extent, I do not think has been addressed sufficiently.

Q281 Mr Turner: Could I just remind you in a way that you are talking about concerns in the south as well as in the north, in the Isle of Wight, in Devon, in Dorset and so on.

Professor Mitchell: I do not think it has taken off to quite the same extent there yet. The other part of the UK where it has become a big issue is London. In each of the elections for the London Mayor the Barnett Formula has been raised. That is not to say it has been raised in an intelligent way or with full understanding of it, but that is part of the problem, Barnett is one of these things that is misunderstood and sections of the media misunderstand and so on and so forth, and the Daily Mail will play it up in a particular way. It is something we cannot stop but it does need to be addressed. While some of the media coverage has grossly exaggerated and distorted the operation of Barnett, there is a grain of truth in what they say.

Q282 Julie Morgan: I just wanted to go on to the issue of public opinion and independence. What evidence do you see for any greater appetite for independence since the new SNP Government has come into place?

Professor Mitchell: I do not think there is any at all that I am aware of. At the moment the evidence would appear to point to support the greater powers but not independence. I have not seen any evidence that shows support for independence has increased; indeed, there is evidence that it has reduced over the last few months. That is no great surprise, the SNP has hardly been making a great deal of its commitment to independence since it came to office or, indeed, during the election. The

SNP has transformed itself. Although it has independence as its long-term objective, and I am sure that others and if Nicola Sturgeon is around will challenge this, but in a sense I think the SNP has put it on to the backburner for the moment and have adopted a more pragmatic approach, a gradualist approach. One of the reasons they have done so is because that was the only way they had any hope of succeeding in becoming Scotland's first party. That has transformed politics. We often say that politics corrupt but, in fact, electoral politics tends to moderate politicians and mature politicians, and I think that is exactly what we have seen. It is the pursuit of the median voter, as it were, that has forced the SNP to moderate its position on that without entirely abandoning support for independence, but even when the SNP talks about independence it is not the independence that the SNP talked about in the 1970s, for example. As often as you hear a senior SNP politician talking about independence, he or she will talk about interdependence and different meanings of independence and so on, and that is all part of the changed nature of Scottish politics.

Q283 Julie Morgan: If the SNP has moderated its view on this sort of key defining issue, do you see there being less dividing lines between some of the parties in Scotland?

Professor Mitchell: Yes, I think so. I am not convinced these days that nationalist, unionist terms are terribly helpful, frankly. Look at the non-SNP main parties, they are nationalist with a small 'n', almost all of them now, and even SNP politicians. One member of the Government produced a book at the end of last year in which he talked about the need for a new union. A new union used to be the language that was used by people who were hostile to devolution, far less independence. Things are beginning to change. We do need a new language in Scotland in order to understand our politics and certainly the divisions between the parties are less. It is very difficult for the politicians to articulate that, they have to keep their party members happy and so on, but that is beginning to happen. One of the most interesting politicians around, or former politicians, is Henry McLeish. He has articulated some of the points I am making much more cogently than I can and he is in the luxurious position now of being a retired politician and Mr McLeish has probably seen the way Scottish politics is going better than most.

Q284 Chairman: Is there any emerging clarity about what greater powers might constitute that middle option which is much talked about but I do not have a clear picture of what the additional powers might be?

Professor Mitchell: There is no consensus on that. Talking about the public first, I do not think the public can be expected to have a very clear view on that and within the parties there are different views. At this stage I do not think we are anywhere near identifying clearly those matters which might be devolved. I do think the issue of finance and some measure of fiscal autonomy, not full fiscal autonomy, may be emerging as a runner and there are certain people in each of the parties who now advocate something like that but they do not all agree. That debate is just beginning, frankly. There is certainly no agreement on a range of other possible matters that could be devolved.

Chairman: Professor Mitchell, thank you very much indeed. It has been extremely helpful to have your evidence.

Witness: Nicola Sturgeon, Member of the Scottish Parliament, Deputy First Minister, Scottish Government, gave evidence.

Q285 Chairman: Deputy First Minister, welcome. We are very glad that you have given some time to this sitting of the House of Commons Justice Committee. We very much look forward to hearing

your evidence. One of our witnesses, Professor Keating, said that: "devolution is about allowing policy divergence and a healthy competition among governments to innovate and respond to challenges". Is that how the process is able to work?

Nicola Sturgeon: I certainly agree with Michael Keating that devolution and the new constitutional arrangements we have allow for policy divergence where that is appropriate and in the interests of, in our case, Scotland. What I would not want to leave Members with the impression of though is that the Scottish Government is out to be different for the sake of being different. We will judge every issue against a measurement of what is in the Scottish interests, what is best for the people of Scotland, and if that requires a different policy response then we will certainly not hesitate to give that response and there have been numerous examples of that over the years. Yes, that is what the devolution settlement allows. Because of the limitations of the devolution settlement there are other areas where policy divergence may be in the interests of the Scottish people but because of the particular constitutional settlement we do not have that freedom as yet. Most people would recognise that is a positive of the settlement, that we are able to do things in our own interests, and that is as it should be.

Q286 Chairman: If we have a look at the mechanisms for dealing with those cases where there are either differences or some engagement between the Scottish Government and the UK Government is necessary, one of the main mechanisms that was first put in place, the Joint Ministerial Committee, has actually not met in plenary format since 2002. I understand the First Minister wanted to see it operating. How do you see that process working?

Nicola Sturgeon: The fact that the Joint Ministerial Committee set-up does not really function and, as you say, the JMC in plenary session has not met since, I think, 2002 and, with one exception, none of the sub-committees have met since at least that time either, that is a huge missed opportunity. The working relationship between the Scottish Government and the Government at Westminster would be strengthened on a day-to-day basis if that machinery worked better than it does. That said, there are very good bilateral relationships at official level and increasingly at ministerial level on a range of issues and they work well most of the time on a day-to-day basis. I would hope very much we see progress on re-establishing the JMC structure sooner rather than later. The Secretary of State for Wales has now been given the responsibility of overseeing the JMC and the British-Irish Council, so that is probably the strongest sign we have had to date that that machinery may be reactivated, and we certainly hope to hear confirmation of that very soon.

Q287 Chairman: Do you see any dangers if it is not reactivated?

Nicola Sturgeon: First, to be positive, there are now signs that it will be. You mentioned the First Minister's approach to the Prime Minister in August last year, to which there has not yet been any official response, we do take the additional responsibilities given to Paul Murphy as a good sign and, therefore, we are very positive about the prospects. I think it is important that the JMC does become active again because it would provide a real opportunity to discuss reserved issues that impact on devolved areas or, vice versa, to discuss issues where there is difference to perhaps avoid disputes escalating more than they have to. I would rather see it as the positives we can get from the JMC being reactivated than dwell on the negatives. There is no doubt in my mind that there would be an enormous missed opportunity not to have the JMC working properly. We would like to have seen that being the case before now but let us hope it happens before too long.

Q288 Chairman: Under devolved government, does Scotland need a voice in the UK Cabinet in the form of a Secretary of State?

Nicola Sturgeon: You have just heard from Bruce Crawford. I did not hear Mr Crawford's evidence, but no doubt he will have told you of the day-to-day working relationships that he principally has with David Cairns. I think the Secretary of State for Scotland and, indeed, the Scotland Office is of a past era. Perhaps in 1999 the role was more obvious and more necessary. Although some of the functions of the Scotland Office would continue to be carried out, it is important that a reserved government knows what devolved government is doing and vice versa. It is important that there is co-ordination, but I think that co-ordination could be carried out in different ways through the co-ordination role of the UK Government, through the Cabinet Office perhaps, and through the JMC working more effectively than it does at the moment. I do not think there is a case for retaining the Scotland Office and the Secretary of State for Scotland as separate entities. On policy areas, while sometimes the Scotland Office appears as if it is presenting itself as Scotland's reserved government, in fact in policy areas it has next to no direct responsibility and the policy areas and relationships that count are the bilateral direct relationships between Scottish ministers or officials and UK ministers or officials. Almost ten years on, I think it is time to look again at the role of the Scotland Office and the Secretary of State. A critical examination would probably lead everybody to the view that its time has been and gone.

Q289 Chairman: You are confident that you are not cutting off your nose to spite your face, you are not getting rid of something which does not reflect the long-term aspirations which some people argue benefit Scotland because of the presence of that voice in the Cabinet?

Nicola Sturgeon: Obviously it is no secret that the Scottish Government thinks that Scotland should be independent and that is the best constitutional settlement for Scotland, but while we remain within a devolved set-up there is a real need to have good, constructive working relationships on a day-to-day. We have good day-to-day working relationships, but the question is does the Scotland Office add any value to that. On policy issues, Scotland's voice is the Scottish Government working directly in devolved areas on reserved areas, particularly where there is a crossover and an impact one on the other, and then the real voice of Scotland is the Scottish Government working with the UK Government directly. In terms of the day-to-day machinery I just question whether we need to have a Scotland Office and a Secretary of State for Scotland with all of the expense and bureaucracy that surrounds that or whether those co-ordination arrangements could just as easily and effectively be carried out elsewhere. Increasingly, I think they could be carried out just as effectively in other ways. I have mentioned the Cabinet Office and the Joint Ministerial Committees which if they were working properly, which they are not at the moment, could do a lot of that work.

Q290 Alun Michael: Could we have a look at one of those areas where obviously there is a need for good liaison, which is on European issues, European negotiations and so on. Is that working well in terms of Scottish interests being taken into account?

Nicola Sturgeon: I think you are absolutely right to say it is one of the areas that have to work well. One of the frustrations the Scottish Government has is that the UK Government tend to see European affairs as being a branch of international relations when in reality the decisions taken by the various arms of the European Union impact directly on areas of devolved responsibility. We have some good relationships, if I can run through the different aspects of the European dimension. We have got good relationships with the European Commission at official level and Scottish Government ministers have had a range of very constructive meetings and ongoing dialogue with individual Commissioners. We have got a good relationship with our Members of the European Parliament and as the European Parliament takes more of a role in European policy-making that becomes increasingly important. I suppose where I think there is most room for improvement and where the frustration of the Scottish Government would be greatest is in terms of our dealings via the UK Government with the Council of Ministers because the constitutional arrangement dictates

that we have to operate through the UK Government. Scottish ministers do on occasion attend Council meetings, participate directly in Council meetings, and there have been occasions when Scottish ministers have led for the UK in Council meetings. There are areas of policy, if we take fisheries, which is probably the best example, where I would be very confident that the expertise that we have in the Scottish Government on fisheries is far greater than anything that exists within the UK Government. Clearly our interest is much greater and I think we should be able to work an arrangement where on areas like that it is the Scottish Government minister who leads routinely for the UK Government. Another area where we do think there is real room for improvement, and it may be a bit unfair to say this since it is the only arm of the Joint Ministerial Committee that is functioning, is the European Sub-Committee. While it is good that it has continued to meet regularly, I think there is a real sense that it is not working as effectively as it should be. The Minister for Europe, Linda Fabiani, in the Scottish Government has raised this directly with the Foreign Secretary. It is very often a forum at which different departments of Whitehall sort out their differences rather than a forum at which the UK Government can properly consult the devolved administrations, and the European Scrutiny Committee of the House of Commons, I believe, has raised real concerns about the lack of involvement of the devolved administrations in policy formulation.

Q291 Alun Michael: Forgive me, there are two elements. You have made clear the policy position of the Scottish Government but in terms of practicalities - I am a little out of date but I have seen the way that works between the UK Government departments and Scottish Government representatives and the other devolved administrations - what would you see as the areas where it is working well in terms of delivering on Scottish needs at the present time?

Nicola Sturgeon: There are some examples. In the recent Treaty negotiations I think there was a good relationship between the Scottish Government and the UK Government on some aspects of it, the Justice and Home Affairs aspects for example. In other areas of that there was a real frustration that our concerns over fisheries provisions were simply not listened to by the UK Government and, therefore, were not reflected in the UK's negotiating position. My view is while there will be cases where things work better than in others, in answering the generality of your question there is a real need, and it is not just the Scottish Government that thinks this, as I mentioned earlier on the European Scrutiny Committee has made similar points, where the UK Government does not work hard enough to make sure that the devolved administrations are involved in policy formulation. You know my view and you know the Scottish Government's view that we would be better being directly represented in Europe. While we have the situation we have where so much of Europe directly impacts on our devolved responsibilities it is not good enough for us to be constantly knocking on the door and not always getting an answer when we should be integrally involved in these discussions at every stage, and in some cases we should routinely lead at the Council for the UK Government because it makes sense.

Q292 Mrs James: I want to turn now to Choosing Scotland's Future. We are aware that there is a national conversation going on based on the document Choosing Scotland's Future. How is that different from the Constitutional Commission that Wendy Alexander has announced?

Nicola Sturgeon: The working party, or review as it is now called by the Prime Minister, I believe, the national conversation, is a wide-ranging inclusive process. It was kicked off last August by the First Minister with the publication of the White Paper, Choosing Scotland's Future. In that White Paper, and I have no doubt you have looked at it, we, as the Scottish Government, very clearly set out our preferred option of independence for Scotland but we recognise that others have a different view; others want more powers for the Scottish Parliament short of independence; others want financial independence for the Scottish Parliament but not full independence. We have very

deliberately set out to have a conversation that allows all of these views to be expressed. That is going very well, it has generated a lot of interest, and I think the conversation is alive and kicking and generating a lot of enthusiasm in Scotland. It is interesting that when we started off just after the election we had parties like the Labour Party, for example, being implacably opposed to any more powers for the Scottish Parliament and now we have all parties arguing for some form of further constitutional change, and perhaps that is the biggest sign of the success of the national conversation so far. How it differs from the Commission/review/working party, whatever we want to call it, is very clear. I should say first of all that I do not think anybody in Scotland is particularly clear yet, not least some of the participants in the Commission, what form exactly it is going to take or what exactly its remit is going to be, how exactly it is going to go about its business. I have seen in the papers this morning some emerging signs of disquiet within the Commission about its future direction. I suppose the key difference is that whereas the national conversation is inclusive and invites all strands of opinion, the Commission expressly excludes consideration of one of the key options for Scotland, and that is independence. The Commission is not a substitute for the national conversation. At some point it may be able to formulate an independent view to independence that it can then feed into the national conversation but it remains to be seen whether or not it will ever get quite that far.

Q293 Mrs James: You have already mentioned the Prime Minister's comments on this. How do you respond to his comment that the review was not a "one-way street" and that some powers could be returned to Westminster?

Nicola Sturgeon: I suppose to be charitable, constructive and positive, first of all, it was good to hear the Prime Minister at long last acknowledge the fact that the debate about the constitution is ongoing, alive and dynamic in Scotland. Sometimes over the past few months it has been reminiscent of the dark days of the 1980s when the UK Government appeared to want to just stick its head in the sand and pretend there was no debate about constitutional change. That was not sustainable then and it is not sustainable now. That was the positive. It is certainly regrettable that the Prime Minister's first serious contribution to this debate seemed to focus more on taking powers away from Scotland than on doing what the vast majority of people in Scotland want to see done and that is have more powers devolved to the Scottish Parliament. I would suggest that demonstrates either that the Prime Minister is slightly more out of touch with public opinion in Scotland than even I would have said he was, or there is that, I suppose, I was going to say Westminster but that would include this Committee which is unfair given you are here showing this interest, old Whitehall tendency to try and get control of a process so that you can try and contain it. I suspect that is what the Prime Minister was trying to do by downgrading Wendy Alexander's Scottish Commission to a Westminster review. I do not think that is sustainable and I do not think that is what people want to see this debate taking the shape of.

Q294 Mrs James: It is interesting that the debate is going on, but clearly what is coming through in many of the pieces of evidence we have taken is that people are interested in powers and want to proceed but they are not interested in independence.

Nicola Sturgeon: I do not think I am grabbing any front pages by saying this, but I do not agree with you on that. I think there is very strong support for independence in Scotland. I am not saying there is not very strong support for other constitutional options as well. That is the interesting feature of the debate just now and it is what makes the national conversation so dynamic and inclusive because we want all of these strands of opinion to be openly discussed. We can trade any two politicians of any two parties, and we do this a lot in Scotland, we can trade opinion polls and say one option is more favoured than another but, ultimately, one of the big questions we have to face up to in Scotland is how do we ultimately settle the question of whether we favour independence or

more powers short of independence. The view of the Scottish Government is very clear, we think there should be a referendum that allows the Scottish people to settle that question. I am more than happy to take my chances in a referendum, I am pretty confident the people of Scotland would choose independence. For parties who do not support a referendum, the real question is how else do we settle the question because I believe passionately that this should not be a debate that is confined to politicians and the odd academic, since I suspect there is still one or two sitting behind me here, or to parliaments even. This is a debate that should involve the Scottish people and be ultimately settled and decided on by the Scottish people.

Q295 Julie Morgan: Our previous witness, an academic, said that the SNP Government had to put independence on the backburner. What is your view on that?

Nicola Sturgeon: I will have a chat with him later, once I find out who it was! I do not think that bears scrutiny. All along, what the SNP said before we were elected into government is we believe in independence, we campaigned for independence and we seek at every opportunity to advance the case for independence. Ultimately, it will not be the SNP that decides the question, it will be the people of Scotland in a referendum. Of course, we have also always said that we wanted to get elected to government in the Scottish Parliament so we could show what we were capable of by using the powers of the Scottish Parliament as they are better than they have been before, build confidence in the ability of Scotland and the Scottish people to govern ourselves and do things better when we have our own interests up front and centre. I think we are doing an extremely good job around that just now. I would say that, but I think that is a view reflected across the country. As we have seen through the national conversation and the White Paper, we continue to make the case for independence and use the success of the Government using the powers that we have now as a further argument for independence. As people see what can be achieved with limited powers, the appetite for greater powers and more autonomy up to and including independence becomes very strong.

Q296 Julie Morgan: As a party, have you moderated your views as a result of the reality of government?

Nicola Sturgeon: On what particular topic?

Q297 Julie Morgan: Independence.

Nicola Sturgeon: No, we continue to believe that independence is the best constitutional settlement for Scotland. I noticed one of the questions you posed in your remit was whether the asymmetric nature of devolution within the UK is appropriate and sustainable. I think emphatically not. Although we are keen to debate some of the other options, federalism, fiscal autonomy, they all throw up their own anomalies. All of the rational arguments point to independence as being the best outcome for Scotland. I should stress that independence is about giving Scotland political and economic power over the whole range of issues that other normal independent countries have. I also think it would strengthen the relationship we have with the rest of the UK as well because it would be a relationship of equals. We will continue to make that case as passionately and as powerfully as we have always done before and all of the evidence is it is a case that is gaining ground and winning converts by the day.

Q298 Julie Morgan: In the present situation that we are in, what is your view about the English Question?

Nicola Sturgeon: First of all, it is not for me or any member of the Scottish Government to try and answer the English Question. Just like the future constitutional shape of Scotland should be determined by the Scottish people, the future constitutional arrangements of England should be determined by the English people. It is of course too tempting for me not to say that independence at a stroke would solve the English Question. I see Andrew Turner shaking his head and to some extent he is right to shake his head, it would get rid of the English Question at a top level but clearly there are issues in terms of the governance of England as well which are for the people of England to determine. What it would get rid of is this rather bizarre and anomalous situation where you have the Westminster Parliament operating simultaneously as a Parliament for the UK and also a Parliament for England which I think does throw up a great deal of frustration in England and is a situation that is unsustainable.

Q299 Mr Turner: I would like to pursue this matter of asymmetric devolution. So far we have been giving your views the benefit, but let us give ourselves an alternative where people are enthusiastic about the current level of devolution but not terribly enthusiastic about the last jump, and that is equally likely. Do you not think then it will be necessary to have a pause and for England to get the opportunity to come up-to-date?

Nicola Sturgeon: What I do not think is that Scotland determining the best constitutional settlement for Scotland cannot somehow be put on hold for matters elsewhere in the UK to - to use your terminology - catch up. I think there is an opportunity already for people in England to determine what arrangements they want that best suit their interests. That is a process that is not constrained by anything that is happening in Scotland. It is a process that is ongoing, at least in terms of growing public debate in England. I hesitate to say too much about what I think the outcome of that should be because fundamentally it is for people in England to determine the best outcome for them.

Q300 Mr Turner: If we have got the level of devolution approximately right, which I realise you disagree with but is equally possible and, for instance, Wales does not have as much, Northern Ireland does not have as much, England has none, you would accept, I think, that people are prepared to bring those up-to-date or would you say, "It's completely irrelevant to me"?

Nicola Sturgeon: I take a very keen interest in developments south of the border. Scotland and England share an island, that is not going to change, and there will always be a very keen interest in what each other is doing. The point I am making is I think if there is an appetite in England to change the governance arrangements to have more devolution within England, and there have been some attempts at that in recent years that have not in every case come to fruition, then that should happen on its own terms regardless of what further devolution or what further debate there is about the constitutional arrangements in Scotland. It is perhaps simply underlining the point on asymmetric devolution that I made earlier on. It is inconceivable and unsustainable to argue that one part of the UK should almost put its own aspirations and advancing its own interests on hold while another part catches up. We all have to decide what arrangements best fit our own interests. Of course, there will always be a need to ensure, whatever our constitutional settlements are, that we work well together with whatever relationships we will have.

Q301 Chairman: If the Barnett Formula starts to work in reverse, as I would put it, that is to say if we enter a period in which public expenditure in the UK is being reduced and, therefore, Scotland's defined share of it is being reduced, will the reluctance you have shown so far, shared by all the other parties in Scotland, to use the limited tax raising powers you have, have to cease? Will you not have to use those powers at that point?

Nicola Sturgeon: We do have a Barnett squeeze and anybody who doubts that only has to look at the budget settlements this year which in Scotland's case was an extremely tight settlement, much tighter than south of the border. The Government has made a very good fist of the resources we have available but it was a very, very tight settlement. That process you talk about is already in operation. As you know, as well as I do, the Barnett Formula is in itself designed to bring about convergence. My position is that Scotland would be better served not in trying to respond through existing tax raising powers, which are pretty blunt instruments to that process, but by financial independence so that we are responsible for raising all of our own taxes and making the spending decisions that flow from that. I think that is the best arrangement for Scotland. I note that we are not the only party now which believes that and that is far more in our interests than trying to find imperfect responses to imperfect systems.

Q302 Chairman: Why are the existing tax raising powers a blunt instrument? They are a very limited instrument obviously in the amount of money they can raise but they flow from the existing tax system.

Nicola Sturgeon: They are blunt in two senses. One, because, as you say, they raise very small amounts of money but, secondly, because three pence on the basic rate of income tax is one tax power out of a whole panoply of possible tax powers that a normal parliament would have, so by definition it is a blunt instrument because most parliaments anywhere else in the world would have a whole range of tax options to use not just to raise expenditure but to grow their economy as well. Ireland is an example with their Corporation Tax and what it was able to do to boost economic growth. To have one very narrow tax power is a blunt instrument in both of those senses.

Q303 Chairman: So those powers are really a dead letter which you might as well not have?

Nicola Sturgeon: It is up to parties at every election to take a decision at that time depending on prevailing circumstances at that time as to whether or not they propose to use the tax varying power or not. It will not have escaped your notice, Chairman, that in the first election to the Scottish Parliament my party proposed using the tax varying power and we chose for very good reasons on both occasions not to do so in the subsequent two elections. Since we are talking about the Barnett Formula, although I have made clear what my preferred option would be, the current operation of the Barnett Formula is perhaps one of these issues that would benefit greatly from reactivated Joint Ministerial Committees. There is an issue just now, for example, around funding of the London Olympics where if we leave aside core funding for the Olympics, on the funding associated with the Olympics on regeneration, for example, a completely arbitrary decision has been taken by the UK Government to exclude that funding from the Barnett Formula where any other regeneration spending in England would be included. That has caused great consternation on the part of all the devolved administrations but it is the kind of issue that a Joint Ministerial Committee would be able to discuss and hopefully resolve.

Q304 Chairman: In the context of the constructive way you have addressed how you manage devolved government, notwithstanding your aspiration for independence, is there a greater degree of financial autonomy which could be accommodated within the devolution settlement?

Nicola Sturgeon: Of course, anything is possible. You know what my preferred option is, but one of the reasons we have cast the national conversation as inclusively as we can is to make sure that all of these different options, and there are a variety of possible different options, some of them of more merit than others, have the opportunity to be discussed and people who put them forward are able to do so. I think it is for people who advocate one of these many other options to put forward

what they are and what the benefits are. It is for me and my party to argue the case that we believe in and it is for others to do likewise.

Q305 Chairman: Do I understand from that that the Scottish Government does not actively seek greater fiscal autonomy within the existing devolution settlement but only as part of independence?

Nicola Sturgeon: If there is an opportunity for financial greater financial autonomy, of course the Scottish Government would welcome that. We welcome any new powers for the Scottish Parliament. The SNP campaigned enthusiastically for a Scottish Parliament. It was not quite the Scottish Parliament we aspire to, and on the basis that we will warmly welcome and campaign for any more powers for the Scottish Parliament then we would warmly welcome greater financial autonomy but that does not change the fact that we think the best outcome is financial and full independence for Scotland.

Q306 Alun Michael: Can I put that question another way round. If there were any greater financial autonomy for the Scottish Parliament, how would you want to use it?

Nicola Sturgeon: I am not trying to dodge the question but it is a huge question because obviously it depends exactly what would be on offer. For example, the power that would be of greatest advantage fiscally to Scotland just now is the kind of powers I spoke about earlier on, the power to vary Corporate Tax, because we have made growing our economy our top priority.

Q307 Alun Michael: Does "vary" mean cut or increase?

Nicola Sturgeon: From the policy perspective of my party in the Scottish Government that would mean cut. I cannot speak for other parties and other policy perspectives. There is real evidence from not just Ireland but a range of other European countries that cutting Corporate Tax actually grows your tax base because of the boost it gives to your economy. That would be one power that we would want. We have announced proposals that were in our manifesto to cut and in some cases abolish business rates for small businesses. That is a good move and I think it will make a big difference to a lot of small businesses.

Q308 Chairman: You would be happy to have the tax raising powers elsewhere to pay for that, would you?

Nicola Sturgeon: Like any government, regardless of what our arrangements are, we have to balance our budget, we have to make sure that our all of our commitments are affordable. The one I was talking about there is fully funded within our budget. What I was going on to say was while that is an important measure I would not for a minute suggest that is as powerful as what Ireland was able to do by cutting Corporate Tax, attracting investment, growing the economy and growing the tax base and tax take as well.

Chairman: Deputy First Minister, thank you very much for your evidence today, we have found it extremely helpful and we much appreciate it. Thank you very much.