

# Ministers reflect

Lord Wallace



December 2015

# Lord Wallace

## Biographical details

### Electoral History and House of Lords

2007-2010: Member of the House of Lords

1999-2007: Member of the Scottish Parliament for Orkney

### Parliamentary Career

2010-2015: Advocate General for Scotland

1999-2005: Deputy First Minister of Scotland

*Lord Wallace was interviewed by Jen Gold and Peter Riddell on 17<sup>th</sup> July 2015 for the Institute for Government's Ministers Reflect Project*

**Peter Riddell (PR): Can we start with Scotland? When you became a minister in 1999, given you were starting a new administration in every sense of the term, what support was available and how much had you thought about actually being a minister given all the run-up and everything?**

**Lord Wallace (LW):** In terms of support, it was Civil Service support. I think because I was Deputy First Minister I had a first-class Private Secretary. I can't remember now how many people there were. I mean I had a bigger private office than other ministers because I was Deputy First Minister and I was also Minister for Justice, so I was given a bigger private office which I think in later years got a bit bigger still. I had a Press Officer and a Deputy Press Officer who were partly for me, and partly for the Justice department, and after two, three months, I had a special adviser, and that increased over the period I was there to three. It went up to two, and then went up to three. Donald [Dewar], our Labour First Minister had nine.

**PR: Was there any sense when you took over of an induction process?**

**LW:** No, no. It was a real - the trouble with fax is that they actually fade, but I did keep the first fax that I got sent through to Orkney. We signed the Coalition Agreement on the Friday and then I went back to Orkney on the Friday afternoon. I then got this fax over the course of the weekend to tell me what was going to happen on Monday with all the new ministers, because they were all appointed after Donald and I had signed it. By that time I had become DFM [Deputy First Minister] to civil servants – all these acronyms. 'At 2.15pm, Mr So-and-So will be picked up by his car and be brought to Bute House'.

But what happened was, Donald and I had a chat and I met my principal officer, a civil servant - I can't remember what grade they were - Hamish Hamill, he was there to meet me and shake my hand after I came out of the room with Donald and that [happened for] every minister, and the head of department was there to greet them. And that was basically it. We were operating in Saughton House at that time at the Justice department. And they took me to the new ministerial office and told me they were ready to repaint it. And I said, 'Oh!' It was a mindset, you know, they said, 'We'll repaint it for you' and I said, 'There's nothing wrong with what's here, you know'. It wasn't repainted.

**PR: After taking office, what was the most surprising thing about being minister?**

**LW:** Well let's go back and answer your previous question; I hadn't really given it terribly much thought, because it was full-stage political campaigning and I don't know whether I didn't want to tempt providence by, you know, if you start thinking about being a minister before you got there, you might take your eye off the ball.

What was the most surprising thing? I tell you, the most surprising thing was I was extremely impressed by the extent to which they had gone through the Liberal Democrat manifesto and had briefings for me on just about any aspect of the Lib Dem manifesto, so it was very thorough. Maybe I shouldn't have been surprised; in retrospect I'm not surprised, but at the time I was surprised and impressed.

**PR: In a sense like all England ministers, many of your roles had been done by one person in the past when it was the pre-99 structure. So in a sense they were kind of breaking it down to many more...**

**LW:** Well that's right. We were virtually creating departments in something that had previously been a lot more of a whole. Well it still was, what's it called, the Scottish Home & Health Department, that was probably '94, '95, but we'd never had a Department of Justice before. I mean Henry [McLeish] who had done Home Affairs included aspects of the Justice Department, but it was the first time we'd actually had a Justice Department. And then of course we had two ministers; I was Justice Minister but I had a deputy, and that was replicated across the system.

**PR: Looking at how your day worked, how did you manage your time? Because this is where we'll come onto the contrast with London. Given that the Parliament had a very central role because of the committee structure, how did you allocate your time?**

**LW:** It was probably driven by events. I would probably be in the office, most mornings I'd leave the flat at eight, be there by about quarter past eight. So mornings tended to be in the department; in the first year, 18 months, my ... Justice Department was in a separate place from St. Andrews House, but I probably spent more time in Saughton House on a Monday morning when I flew down from Orkney because it was en route into the city so I spent Monday mornings there. And then when Parliament was sitting, each minister had an office in the Parliament building. In the first year, [in] what was the Midlothian County Council is now the Missoni Hotel... and then latterly when we moved into the new building, there was a ministerial block, a ministerial floor in the new building, and we had an office there. And you know you might be a departmental minister and meet people at Parliament, because that's where you were based, and then when I say 'driven by events', if you were giving evidence to a Parliamentary committee in the morning, then you shifted your office to the Parliament. So I suppose the answer to your question is we actually had offices in each [place]. Latterly the Justice Department – because a lot of refurbishment had been done at St Andrews House at the time – came into St Andrews House. When I was a Minister for Enterprise and Lifelong Learning it made life slightly more difficult because my departmental office was in Glasgow. You always wanted to spend time, but I couldn't do it the days Parliament was sitting. I therefore would probably do Mondays... I look back... more often Fridays, I was there Friday mornings - or you were going out and about, you were going for visits, that was the other dimension to it. You had quite a lot of visits out.

**PR: So you had your constituency over the weekend?**

**LW:** I had my constituency over the weekend, yeah.

**PR: Which you obviously knew very well anyway.**

**LW:** Well for the first two years I was still a Member of Parliament. So occasionally I would come down here; there were occasions when Donald and I stood on the steps of St. Andrew's House and said, 'This is daft, let's pair'. But I was also MP for Shetland. I was MSP [Member of the Scottish Parliament] for half, but for two years I was still the MP for Shetland, so that required, you know, going up to Shetland doing surgeries, meeting public bodies, people... it worked.

**PR: Was there anything unexpected about the experience?**

**LW:** The reason why I find that a difficult question to answer is that I don't know if I really knew what to expect. I did read Gerald Kaufman's book [How to be a Minister, 1980], which I found very good. I think I read it probably after I'd been in office for a short while, and I could see what he was saying. I mean it is, it's the same in Westminster, it's a tremendously paper-driven system. Everything's on paper and I still get the sense... there are some occasions when officials, as I say, I encountered it more as a Deputy First Minister rather than departmental minister, my departmental officials were pretty good at implementing things I wanted. There were one or two in other departments that I've tried who would just prevaricate or find ninety-nine reasons why it couldn't be done.

**PR: Can we just then leap on to 2010. When you became a minister then, how different was the experience?**

**LW:** Probably not greatly different because things were very much alike. I mean the biggest difference was being a Law Officer, because it was a different dimension, dealing with teams of lawyers, which I hadn't... Lawyers weren't the officials I'd had at Justice Department, but you know there was that difference of the work I was doing as a Law Officer, but it was the same manner of working. The other thing is it's true; you've got to be very careful, they will drive your diary if you don't work out where you are. I mean I used to really resent back-to-back meetings, you never got a chance to draw your breath, and it happened more often when I was in Scotland than it did down here, especially if I was just taking

a bill through Lords. They'd tie you up in meetings with bill team officials before you knew where you were.

**PR: Did you think the civil servants understood Parliamentary responsibilities?**

**LW:** They certainly did when I was in the Scottish Government. I think where they maybe didn't initially in my role as Advocate General was I had probably a bigger Parliamentary profile, involvement and activity than my two predecessors. I said to Nick [Clegg] when he appointed me, I said, 'I don't mind helping out with some of the constitutional stuff going through the Lords', I was doing that Parliamentary Voting System and Constituencies Bill, then we lost the referendum. All the late nights and early mornings that they spent on that! But no, actually when they woke up to that, I was given – I think my previous predecessors had not had a full-time private secretary – it was a sort of a private secretary cum-PA and the legal secretary was the principal legal adviser here on UK Government opinions and that, he did some of that work too. But they recognised pretty early on that I actually had a wider role than my predecessors, and they responded to it pretty well, and actually, latterly, in the first or second year, they actually rather liked it. It gave them something as well as just serving a law officer, you know.

**PR: You were different, with your background experience and the coalition as well.**

**LW:** But the Civil Service responded to that. They recognised that I was doing something a bit different and I had excellent support.

**Jen Gold (JG): In terms of the day-to-day reality of being Advocate-General, how was most of your time actually spent?**

**LW:** Nothing's ever typical. Suddenly you could find there was some urgent legal opinion that was required the day before yesterday and therefore you had to focus on doing that. For me, no matter whatever else I did, my core job was as a Law Officer, and if there was an urgent opinion which the Attorney [General] and I had to do, that took precedence. I mean I was probably at my desk most mornings before 8am and probably not away until after 8 or 9pm. And again I had an Edinburgh office so I used to try and spend at least one day a week [there], usually on a Friday having got back on a Thursday night and going to the Edinburgh office on Friday before going back to Orkney on the last plane.

What I probably didn't do as much of as my predecessors, was I only twice appeared at court. I appeared in the Supreme Court in the Imperial Tobacco case [Imperial Tobacco Limited v The Lord Advocate (Scotland)] and I represented HMG [Her Majesty's Government] at the European Court of Justice on the Kadi case [relating to whether United Nations Security Council resolutions should enjoy primacy over EU law], but most of my legal work took precedence. I guess I was also part of the Scotland Office team, so that was quite a heavy load in the last Parliament given all that was going on with the referendum. There was a Scotland Bill when I started and then all the referendum stuff, and there's a lot of legal work involved in that too. You've got to make sure all these documents we put out in terms of the Scotland analysis... I mean we had to make sure they were legally fit and make sure there weren't any howlers.

But I'd say no day was typical. You'd tend to be in Dover House [home of the Scotland Office] in the morning and [work in] the law officers' corridor in the afternoon. I'd tend not to go into [Oral] Questions unless there was something interesting or I was answering a question or it was one of the Bills I was doing. But I would at some stage in the day be in the House [of Lords].

**JG: When you first moved into the role, did you have a sense of priorities and what you wanted to achieve?**

**LW:** Yeah, some of it was reactive; you've just got to take what comes up. If a government department wants the Law Officer's advice on something, you'd do it. There were one or two things I was quite keen

on doing. One bit the dust in the Scotland Bill. I wanted to - at the moment, after Scottish Parliament passes a bill the Advocate-General or Lord Advocate or Attorney can refer the bill to the Supreme Court if they think it's beyond competence, and I wanted to try and change that, so you didn't have to refer the whole bill, if you thought three clauses were... you could just do it. And actually we did quite lot of work on that but when we managed to have the final agreement with the Scottish Government to get the bill through, that bit the dust, which I think was unfortunate because you hold up a whole bill over maybe two clauses. Maybe that was why it fell, I don't know.

But the other thing was that I wanted to make sure that the UK Government and government departments based in London remembered that they often had Scottish responsibilities; although they would say 'This is a reserved matter'. Yeah, but 'reserved' covers Scotland, and there could be Scottish legal issues arising out of that. It may be reserved but actually as far as it affects Scotland, it's Scots law. And when we were promoting legal services, I remember there was in fact three jurisdictions in the United Kingdom, and there was the Faculty of Advocates as well as the Bar Council, and there was the Law Society of Scotland as well as the Law Society. It was constantly nagging, but we made some progress. The last plan for growth for justice services did actually get proper recognition in Scotland and there was work I was doing towards the end trying to make sure if it was UK Government work in Scotland, Scots law would be the choice of law. So I did see that as something I wanted to do to make sure, because we weren't surprised that once or twice that there were blind spots, and we used to, as an office, we would do an annual promotion of the office to all the Whitehall departments, just to remind them.

**JG: And you mentioned that obviously quite a bit of your work was reactive, and I wondered if you could talk us through an occasion where you had to deal with an unexpected event and how you went about doing that?**

**LW:** Well I can't because if it was a law issue then I can't tell you what it was but let me give you a generalisation. If an issue suddenly came up, it usually was the case that the jungle drums had been beating beforehand, and my senior officials were aware that there was something in the offing, and probably my legal secretary had been talking to the Attorney [General]'s legal secretary and they'd been getting some response from the requesting department. So at senior lawyer official level they would put their heads together and work out a brief, and draft an opinion which would then be submitted to the Attorney and myself. That's very simple and you just have to apply your mind to it, sit down and grapple with it, probably have meetings, and if it was particularly problematic or particularly sensitive, it may well be the Attorney and I would meet. I have to say that in five years, I don't recall any occasion when we ever had anything you'd call a major disagreement, or even that much of a minor disagreement, either with Dominic [Grieve] and latterly Jeremy [Wright] [the former and current Attorney Generals]. I would just say that's how the Coalition worked.

**PR: Can I come onto that, because you are – the word 'unique' is over-used – but you are in the unique position of having served in two coalitions. What lessons can you share about how to work in coalition and how to make government work in it?**

**LW:** Yeah, one of the important things was that Nick [Clegg] was fully involved, and that caused quite a lot of work in terms of getting his office structured. It was the same for me really; if you were going to take responsibility for things, you actually had to have sight of it, and you had to have an opportunity to intervene. I took the view that should primarily be done at departmental level; there weren't many departments we didn't have ministers in and I don't think it worked quite as well as we'd want it to sometimes, it varied from department to department and usually personality's more important than anything else.

But my view was if you were the Minister of State, with a Conservative Secretary of State, and you're Lib Dem Minister of State at Department X, then you were the Lib Dem minister for that department. I know they allocate responsibilities within the department, but you were also the Lib Dem minister that should be looking at other things in that department that weren't necessarily your primary responsibility. So that if there's coalition issues, if there's a problem, you anticipated something, you could flag it up. I'm not sure that worked quite as well as it might have done; I don't think Conservative

secretaries of state always necessarily recognised that our... but there were always exceptions to that. Some were astoundingly good, but others, I must say, weren't bad, they just never thought about it.

It was important that Nick was ultimately the last word and that if there was a problem [he could] take it to the Prime Minister. I didn't anticipate the Quad and in fact the initial stuff that Oliver Letwin [then Minister for Government Policy] and I looked at on the day after the new Coalition Agreement was signed, we did anticipate more of a coalition committee through which things would go up after all other attempts at resolution. It didn't happen and of course the quad evolved. I don't think that's necessarily a bad thing actually, because it did mean if the quad made a decision that went quickly through Whitehall and everyone knew, there was no comeback, or only very rarely any comeback.

I did think, and I think I did something for you [Institute for Government] about the first anniversary [of the Coalition] on special advisers, and we were a bit slow off the mark. Special advisers... lots of things are said about them! One of the things they do is to 'oil the wheels' and the other thing is to make sure that – again, I would have said that it always happened - but I would, only in Scotland agree something with the Labour First Minister if I thought I could deliver it with my troops. It used to frustrate the Labour MSPs quite a lot, because clearly our MSPs knew a hell of a lot more about what was happening; I had to talk to them. There was no point signing up to something at the Cabinet, and then going back to the [Liberal Democrat] group and finding out it was completely un-sellable.

**PR: How different was operating in coalition in Edinburgh and London?**

**LW:** Size. I mean, the Scottish Government was pretty compact. I think in many respects the Government in Scotland, putting aside the present Government, governance in Scotland was in many respects easier; not that decisions are any easier, but the lines of communication are so much shorter. You didn't have to do write-rounds, that's an exaggeration, but you know, you could get things done, agreed far more quickly. You didn't have to go through the other team's processes, or a write-round is the word.

Also engagement – I hate the word 'stakeholders' but it's as good a word as any. Lines of communication were shorter. I mean I think if you looked, and you may have done that at the time of the foot-and-mouth outbreak, I think we were far more successful in the Scottish Government in handling that than the then UK Government was. But one of the reasons was that the then UK government had to deal with the NFU [National Farmers Union] which wasn't necessarily sure about the recovery of... Whereas in Scotland it was a very close-knit [community]. Sometimes there's a problem with people knowing each other too well but it was easy to sort things out and I think that was the biggest difference, its size.

[Also in Westminster] just the amount of bureaucracy to track a decision... The classic example is you're in the Lords, you're dealing with a bill, someone puts up an amendment from the backbenches that you think is eminently sensible, and the hoops you've got to go through to be able to be able to get clearance to say you'll accept it. Technically actually you could have just stood up and said, 'I'm accepting it' that'd be a minister saying it at their dispatch box and you're landed with it but there'd be all hell to pay. Even the simplest things are a real frustration. There's others that would cause frustration too, in terms of your handling of the Lords, because the opposition or very often your own backbenchers or Conservative backbenchers, couldn't understand why you couldn't just say [you'd accept the amendment] there and then. Maybe I was too lax with it. But you had to go back and get the clearance.

**PR: Looking at both periods, what would you regard as your biggest achievement in office and how did you achieve it?**

**LW:** Oh, hell.... There's a lot of things in Scotland. PR [proportional representation] for local government in Scotland was quite a major breakthrough, and I achieved it through taking it as far as I could with Labour in the first course, because we were never going to quite swallow it but we got things moved by enquiries and so when it came to the 2003 agreement, the Coalition Agreement, it was there and I was fortunate in having a First Minister, Jack [McConnell], who actually supported the policy too. But that was transformational too in terms of changing the whole system.

**PR: What you're hinting there Jim is that the crucial thing was to build up wider constituency support first.**

**LW:** Yeah. Well we were never going to get it overnight. The Labour Party conceded a hell of a lot on that. I'm told sometimes to get the blame for some of their present misfortunes – that I whittled away their local government base. I mean I know that's not the case, but it changed Scottish [politics]. I mean local authorities are far more responsive to their local communities. I suspect it is probably the biggest political change that we made.

**PR: It's a pretty big one! In terms of decision-making structure, how much does the collective decision-making process come into it?**

**LW:** Ultimately in that case, the negotiation of that Coalition Agreement in 2003, it was very collegiate in terms of both sides met, and by the end of the day there were about five issues that came up to Jack and I to sort out between us. But again, we were not taking that decision in a vacuum, you know. There was a lot of work in going to the point where this was the final decision and it's basically only you two that can come to that agreement.

**JG: And what you do feel was your biggest achievement in the last government?**

**LW:** I would like to think that we did succeed in... I think it's like painting the Forth bridge, once you finish you've got to start again...

**PR: World Heritage Bridge!**

**LW:** World Heritage Bridge, indeed! You know, it's still a Whitehall fact that Scotland did have responsibilities; it was a mixed success but there was work there that was quite important to do that. I mean there were bits of legislation – Marriage (Same Sex Couples) Act, I was heavily involved in that. Tina Stowell [then Leader of the House of Lords] led it. The Fixed-Term Parliaments Act – we'll see if that stands the test of time, I rather suspect it will actually.

**PR: No signs that the Tories have any desire to amend.**

**LW:** No. There's a review at the end of this Parliament.

**PR: Yeah, the end of this Parliament, after 2020.**

**LW:** Well I said it was nonsense doing it at the end of the first Parliament because it only came into effect halfway through. As a Law Officer you don't have great achievements in that sense. I like to think we got our advice right to government.

**PR: Looking at both your experiences, what was the most frustrating thing about being a minister?**

**LW:** Again this might be a personal criticism of myself, but not getting the diary right, the balance right, at times. You don't really get much time to step back and reflect, which I suspect was more important in the law offices than in Scotland. You did need that time and it wasn't always there.

**PR: And how do you think that ministers could be made more effective, and government more effective? What were your reflections on that? So you had, at the very beginning, you had a number of jobs when you were Deputy First Minister, departmental jobs, then you had the Law Officer job, much broader job here. When you look round on what you yourself judge to be effective, what were the keys to it?**

**LW:** There's no substitute for being at the top of your brief. You know, preparation, particularly in the House, and having the infrastructure in place in your office, particularly the support to make sure you can be on top of your brief. So I think preparation is very important. Frustrations... well I told you frustrations, the diary. How to make it more effective? I think if we could simplify some of the decision-making.

**PR: You mean the write-rounds and things like that?**

**LW:** I don't know if that is possible, because I mean the theory behind that is that is how you apply collective responsibility, so it's not a daft thing, but it does tend to make the system a bit cumbersome.

**PR: What advice would you give to a new minister?**

**LW:** Keep control of your diary, keep on top of things. If you're appearing in the House, the Commons or Lords, or Scottish Parliament, be well prepared; you know, have a response. I do think the role of Parliament of holding the executive to account is fundamental, but if you're going to be held to account you've got to be ready to be held to account, you know.

**PR: Both in Holyrood and here – and of course it's very different here because of the Lords – did you feel you spent enough time in both places gathering support and listening to opinion?**

**LW:** Probably not here, although, no, that's not true actually. I didn't hang around the bars or the tearooms trying to gather support and listen to opinion, but when we were having difficulties, probably even more so here we would actually invite Lords in, sit down and talk to them. And not just from my own party; I mean obviously there's a particular [dynamic] because of the coalition, not least with my own party to get them on side. But yeah, the Parliamentary Voting Systems Bill, I spent a lot of time with the crossbenchers trying to understand where they were coming from on different things. So when I think about it, we did actually have quite a bit of engagement. And then in Scotland, I think I was probably round Parliament more... it feels like that! Whether it was the case or not, I don't know. But then in the Scottish Parliament, I was the party leader, and therefore it was important that I was doing that stuff.

**JG: And you mentioned frustration that you didn't feel you got your diary right. But in hindsight is there anything else you would highlight in terms of how you would approach the role differently?**

**LW:** I'm sure there is... I would hate to give the impression that I did it perfectly or anything, far from it! I'm just trying to think what would be... something will probably be blindingly obvious that I'm missing, but if I think about it, it's really all a feature of time, the diary or whatever it is. You could be run ragged by the end of the day. The fact is it's one of the reasons I gave up and retired in Scotland. When every Sunday afternoon was being taken, as well as all the other times, and also I'd done it long enough. Yeah, I think it is just this constant... pressure's not quite the right word, there is a pressure there, but I don't think you necessarily perform at your best when you're under that. It's flitting from one thing to the next.

The other thing I would say, and it's up to others to judge whether I succeeded or not, but I always had great store in treating officials courteously and in a personal way. I think you get far more out of them than [by being] demanding. I think that's good advice to ministers, I would say, treat your – particularly your private office but also, generally, the officials – well. They are people!

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