



Scottish Affairs Committee

Oral evidence: [The Scotland Office Annual Report](#),
HC 751

Wednesday 05 November 2014

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Members present: Mr Ian Davidson (Chair); Mike Crockart; Jim McGovern; Mark Menzies; Graeme Morrice; Pamela Nash; Mr Alan Reid; Lindsay Roy.

Questions 1 – 87

Witnesses: **Rt Hon Alistair Carmichael MP**, Secretary of State for Scotland, and **Alun Evans**, Director, Scotland Office.

Q1 Chair: Secretary of State, welcome to this meeting of the Scottish Affairs Select Committee. I understand that you want to make an opening statement. For the record, would you introduce yourself and your colleague?

Mr Carmichael: I am Alistair Carmichael, Secretary of State for Scotland. To my right is the Director of the Scotland Office, Alun Evans, who will answer any technical or detailed questions on the management of the Scotland Office as it is reported to you and to Parliament in our annual report.

Q2 Chair: The difficult questions.

Mr Carmichael: I thank you again for the invitation to join you here today. Quite a lot has happened since I last appeared before the Committee. The annual report, of which you will no doubt have taken full consideration, outlines the activities of the Department in the year just ended. In particular, though, I would like to draw attention to the efforts of the Department in articulating the benefits to Scotland from remaining part of the United Kingdom in the run-up to the referendum. We did this on a factual basis in the production of a series of Scotland analysis papers. These were generally very well researched and very well received contributions to the debate which did put a factual basis into many of the issues that were considered to be important.

I would like to place on record my appreciation of the contribution made by my junior Minister, David Mundell, and indeed all the various officials of the Scotland Office in Whitehall and Edinburgh, who have put in an exceptional effort in the course of the past 12 months. As the Committee will know, on 18 September 2014, the people of Scotland voted by a margin of 10.6%—or by 55.3% to 44.7%—to remain part of the United

Kingdom. Over 2 million people made a positive choice for Scotland to remain in the United Kingdom. At a time when our elections have suffered from declining participation, the turnout across Scotland was nearly 85%. That is something that everyone has welcomed and adds special emphasis to the democratic result. People in Scotland voted to continue to be part of our family of nations. They voted to continue to work alongside people of England, Wales and Northern Ireland. They voted for us all to remain together as a United Kingdom.

It is important for us all to remember that the referendum was underpinned by the Edinburgh agreement. That agreement delivered its explicit content: a referendum that was legal and fair in its conduct and decisive in its outcome. The First Minister and his deputy made clear during the campaign that, in their view, the referendum was a once-in-a-generation event and perhaps once in a lifetime. Any talk now that backslides on this commitment and raises the prospect of another referendum in the near future, or the chilling prospect of a unilateral declaration of independence, is foolish talk. Now, it is important that everyone accepts this result. We should all move on from the 55% or 45% to working for 100% of the people in Scotland. That is my determination as Secretary of State for Scotland. That will be the focus of the work of the Scotland Office.

The vow that was made by the Prime Minister, the Deputy Prime Minister and the Leader of the Opposition during the referendum campaign is already being put into practice. The Smith Commission, chaired by Lord Smith of Kelvin, was up and running on 19 September and his work is now well under way.

This will be the first time in the development of Scotland's constitutional future that all its main parties are participating in a process to consider further devolution. It is a truly historic moment and one that I very much welcome. This process is not just about the parties. Lord Smith has provided an opportunity for people right across Scotland to feed in their views, with over 14,000 submissions received from members of the public and over 250 organisations.

By St Andrew's day, Lord Smith will publish heads of agreement. The Government are committed to turning these recommendations into draft clauses for a Bill by Burns night. That is work that will be laid by the Scotland Office. I am confident that with all five main Scottish parties working together we will reach an agreement that will provide enhanced powers to the people of Scotland and accountability for the Scottish Parliament while retaining the strength and benefits of being part of the United Kingdom.

Q3 Chair: Thank you very much. I am conscious that you have to leave at 3 o'clock so we want to cover some important issues with you. First of all, I want to ask about a subject that you did not touch on, which is the question of the living wage. As you will know, there has been a great deal of debate and discussion, both in Scotland and throughout the rest of the United Kingdom, about the ability of the Government to specify that payment of the living wage can or cannot be part of a contract let by central Government.

My understanding is that the Scottish Government say that European procurement rules rule that out, yet the Department of Energy and Climate Change has said that European procurement rules let that in. Can you clarify whether or not there has been any discussion with the Scottish Government about what the European procurement rules are and, in

particular, how it is that DECC and the Scottish Government seem to have contrasting legal advice?

Mr Carmichael: To answer the first part, as far as I am aware the Scottish Government have not come to us at any point to seek our views on that. The door is always open. This is one of those areas where government, between Edinburgh and London, does have an interface. I am more than happy, as ever, to assist colleagues in the Scottish Government if that ultimately delivers from Scotland's two Governments better government for the people of Scotland. We have had no approach from them.

What has happened in the Department of Energy and Climate Change is a good illustration of how these objectives can be delivered with political will, whatever objections there may be from the legal aspects. The Department of Energy and Climate Change's belief has been accredited as the first Government Department to deliver the living wage. It pays a living wage to all of its own directly employed employees, and it has an agreement with all its contractors that they will pay the minimum wage. That is a voluntary undertaking by the contractors that supply services and staff to DECC, but at the end of the day it delivers a living wage for everybody who is employed or is contracted by DECC. It is a good example of the fact that where you start out with a political objective, whatever legal objections there might be to a goal, ultimately you can achieve it.

Q4 Graeme Morrice: I listened very carefully there, Secretary of State. You suggested that DECC had "the political will" to do this. Would that therefore suggest that the Scottish Government do not appear to have the political will in relation to this issue?

Mr Carmichael: It is for the Scottish Government to say it for themselves. I would hope that other Government Departments across Whitehall might look at what has been done by DECC and see what else could be done by them. This is not something which comes from a narrow partisan point. Sometimes, legal advice gets used as a bit of a shield, if I can put it in those terms. If you have the political will and determination, which Ed Davey and his colleagues as Ministers in DECC clearly have, then you can still achieve the same end.

Q5 Chair: I want to go back a little. There is this striking contrast between the Scottish Government, which says that the European procurement rules do not allow it to enforce the living wage on its contractors, and DECC, who not only say that all their own employees will be paid the living wage but they are having it within the contractors. What I am not clear about is when you say there is a voluntary agreement.

Mr Carmichael: It is voluntary on the part of the contractors, as I understand it.

Q6 Chair: What happens if a contractor says, "I am not willing to abide by the living wage," and they put in a lower bid? Does that mean that they automatically get it, or can DECC rule that bid out on the basis that it does not pay the living wage?

Mr Carmichael: I would imagine that the same considerations would apply across the whole issue. There will be a whole range of considerations. Price is only ever one consideration that is taken into account when a contract is being let. A willingness of a contractor to undertake a voluntary agreement like that would, of course, be another

factor. It would depend on what any Department decided to do on a case-by-case basis. However, the Department of Energy and Climate Change has been very clear that this is an end it wants to achieve, and indeed it has achieved it, with the co-operation of its contractors.

Q7 Chair: What steps are being taken by the Scotland Office and other Government Departments to reach an agreement with their contractors that the living wage will be paid to all employees?

Mr Carmichael: The Scotland Office, as you will know from our discussions over the years, is in a slightly different position in that we do not employ or contract with anyone in our own right because we are part of the Ministry of Justice. I have made inquiry and I understand that there are a small number of contracted employees working within the Department who obviously earn above the minimum wage but below the living wage. That is something I will be discussing with the Ministry of Justice and the contractors involved.

Q8 Chair: In terms of services to the Scotland Office, you have catering, cleaning and all these sorts of services provided by the Ministry of Justice.

Mr Carmichael: Yes; everything we have is contracted through the Ministry of Justice. They are the contracting party.

Q9 Chair: Presumably, it would be open to you to ensure that the Ministry of Justice abide by the same rules then as when they are supplying services—

Mr Carmichael: Only in relation to the Scotland Office. Having made an inquiry, as I say, I have discovered that there are a small number of employees who are paid significantly above the minimum wage but still less than the living wage. For that reason, I am not going to specify how many or what is the nature of the work that they do because it would leave people open to being identified. That will be the subject of discussion between me and the Ministry of Justice.

Alun Evans: I would just add to what the Secretary of State has said. In Scotland, we do also have contracts which we get from the Scottish Government, and the same point applies about ensuring that they are paid the minimum wage. The Scotland Office does also have one contract in Scotland with its security guards and we do pay above the living wage.

Q10 Chair: Can I assume that if we meet again in a year—or perhaps your successor and my successor—you would be able to tell us that the Scotland Office is by then paying the living wage to all its employees, either direct or indirect?

Mr Carmichael: That would be my aspiration in this but, as I have said, this is not wholly within my control.

Q11 Jim McGovern: The Secretary of State has said that some people are employed on significantly more than the minimum wage but not quite the living wage.

Mr Carmichael: Yes.

Q12 Jim McGovern: What does that mean?

Mr Carmichael: I am not going to get into pay rates, but there is a gap. It is not just a couple of pence above the minimum wage. They are comfortably above it.

Q13 Jim McGovern: What does “comfortably above it” mean?

Mr Carmichael: It is more than just the few pence that would get you over the line. I am not going to get into specific wage rates, Mr McGovern. You will understand why.

Q14 Jim McGovern: No; I don’t understand why. Tell me why.

Mr Carmichael: You are talking tens of pence above the minimum wage rate rather than just single pence.

Q15 Chair: Perhaps you can give us a note privately so that it can help to clarify these matters. I understand the point about the numbers being so small that you do not want to identify individuals but, nevertheless, you can understand the assurances that we are looking for. Could you act here as an honest broker in terms of making sure that the experience of DECC is passed on to the Scottish Government? Clearly, DECC has the will to ensure that the living wage is paid to all contractors, but there seems to be something missing with the Scottish Government. That would perhaps be helpful and then we might follow this up with correspondence.

Mr Carmichael: Anything we can do to assist on that I will be more than happy to do.

Q16 Lindsay Roy: There were many healthy and heated debates during the referendum campaign, none more so than on North Sea oil and North Sea gas. First of all, what have been the main implications of the volatile oil price on the UK finances?

Mr Carmichael: Interestingly, you will know that we have recently seen a quite steep fall in the wholesale price of oil.

Q17 Lindsay Roy: It is now clearing around \$80 a barrel.

Mr Carmichael: It is now \$82 a barrel, in fact. That is something in the region of \$28 a barrel lower than the \$110 a barrel that was assumed by the Scottish Government in the preparation of the White Paper. That reduces their own forecast of oil revenues by a cumulative total—these are the figures I have just received from the Treasury—of £8.7 billion over the three years 2016-17 to 2018-19. That is something in the region of one third of the expenditure in Scotland on local government, for example, in every year.

It serves as a significant reminder that there would have been enormous risks attached to independence, had the people of Scotland voted for that; and that as a consequence

there would be, in an independent Scotland, significantly less to be spent on public services than the people of Scotland were led to believe from the White Paper.

Q18 Lindsay Roy: Can you give an indication of what kind of black hole there would have been had Scotland been independent and had control of their oil revenues or indeed had been completely devolved?

Mr Carmichael: What I can tell you is that Scottish oil revenues have consistently come in beneath the most pessimistic estimate from the White Paper by around £2 billion in 2012-13 and £3 billion in 2013-14. As I say, given the estimate for the period starting in 2016-17, if the oil price remains at \$82 a barrel for that period, that would mean there was a shortfall of something in the region of £8.7 billion over the three-year period.

Q19 Lindsay Roy: Can you give us any indication of the potential impact therefore on core business like health and education?

Mr Carmichael: Absolutely. It is very easy to think of this as being some sort of dry debate about oil prices and global commodity markets and all the rest of it, but it is not. This translates through in real terms to nurses, doctors, teachers and other public servants, on whom the public rely. It is the case that as part of the United Kingdom we are able to absorb that shock by spreading it out over a nation of 63 million people and not a nation of 5 million people.

Q20 Lindsay Roy: How is that shock being absorbed?

Mr Carmichael: As part of the UK economy, that is a much less significant proportion of the overall Government income than it would be in a nation of 5 million people.

Q21 Lindsay Roy: So it is by pooling and sharing?

Mr Carmichael: It is just by pooling and sharing of risk and resources that we are able to do that. As part of the UK revenue, this is something in the region of less than 2% of our overall economy.

Q22 Lindsay Roy: Can you give an indication of what commitment the Government have given to decommissioning costs? I understand that they are quite considerable.

Mr Carmichael: The Government have committed something in the region of £20 billion for decommissioning, as I recall. That is going to be a significant part of the oil industry's future profile and maturing resource. It also ties in with the work we have done with Sir Ian Wood in the implementation of his review. The setting up of the new offshore oil and gas regulator following on the Ian Wood review allows partnership working between Government and the industry and also a greater partnership working within the industry. As a result, that will mean you are able to maximise the exploitation of the resource not just in the North sea, where you have a mature resource, but to the west of Shetland, where you have a new resource which is being exploited but which comes in very challenging

geographical conditions. It is very deep water, where the margins for some of the companies that are working there are that much tighter.

Q23 Lindsay Roy: So the on-cost Government investment is very considerable?

Mr Carmichael: It is significant, yes.

Q24 Lindsay Roy: And in your view it is better shared across the UK.

Mr Carmichael: As part of the UK, that is a cost that we are able to share much more comfortably. It is part of the security that comes to the industry from being part of the United Kingdom.

Q25 Chair: I want to be clear, if I can. I do not want to go back to what the impact might have been in the event of separation because we have moved on from that. However, if oil revenue had been devolved and we had seen the price fall from \$110 to \$82, I calculate that is the equivalent of the entire transport budget being lost as revenue to the Scottish Government, or 25% of the health budget being lost. In the event that there was complete devolution of oil money, how would that be met? By borrowing or by tax?

Mr Carmichael: Once you move to handing over control of income from any source—be it from income tax, oil or gas revenues or whatever—then of course, if you do the right things, you will bring in more money, your take goes up and there are other opportunities that are open to you. The difference, though, is that you are dealing with a global commodity. No Government really controls the price of oil and gas. There are things that a Government can do that will stimulate productivity in industry, that will encourage more people to get jobs and that will generate revenues from corporation tax, income tax and a variety of other income streams. You will know that that stuff is pretty well within your control. The price of oil and gas, though, is a global commodity price and it is not really within anyone's control.

Q26 Lindsay Roy: Certainly, the reduction would not be forecast.

Mr Carmichael: Indeed.

Chair: No doubt Lord Smith, in his wisdom, will reflect upon the impact of a 25% cut in the health budget as a result of a fall in the oil price and come to an appropriate conclusion.

Q27 Pamela Nash: Secretary of State, I would like to now turn to the DHP and bedroom tax. It is my understanding now that the power to increase the DHP cap has been devolved to the Scottish Ministers. Would you confirm that that is correct and that process is over?

Mr Carmichael: As I understand it, in fact, there is a meeting of the Privy Council later this afternoon. My experience of that is that it is routine. I cannot think that there would be any reason why that would not be approved, but that is the final step in the process and the control of DHP at that point is wholly devolved.

Q28 Pamela Nash: So it is expected that that process will be later today.

Mr Carmichael: It is timely in that respect.

Q29 Pamela Nash: I am interested in your view as to whether this process to devolve the power to raise the cap was necessary. Is it your view that it was necessary for the Scottish Government to mitigate the bedroom tax through DHP, or were other options open to the Scottish Government to do it without doing that?

Mr Carmichael: DHP was the obvious mechanism by which the perceived difficulties could be addressed. For that reason, when we were asked if we could devolve it, although there are always other options available, within the framework in which we operate, that seemed like the most obvious. Indeed, the Scottish Government themselves welcomed the announcement when we made it.

Pamela Nash: You will understand that this Committee have already published a report on the bedroom tax. The information available to us showed that the DHP was not the best measure to use for a few reasons, one of which was that people still have to apply for it and it is not automatic. It was also the view of your Minister that DHP was not necessary. I am glad you have clarified that.

Q30 Chair: Leave aside the question of whether or not this was the best route to do it. We took the view that there were other ways in which the Scottish Government could have mitigated the entire effect of the bedroom tax had they so wished. It is a bit like the living wage; it comes back to a question of whether or not the political will is there.

Am I right in thinking that by tomorrow morning the Scottish Government, if they wish to do so, will have the power to write off all bedroom tax arrears that have accumulated?

Mr Carmichael: As I understand it, the people who would be required to do the writing off are the local authorities. Local authorities have a general duty to pursue any money that is owed to them. If they did not do that, then they would risk some criticism from Audit Scotland. You will know that there have been other suggestions recently about the writing off of historic debts by local authorities. It would ultimately be their responsibility and in any event, if it were to be done by local government, they would still need to get the money from central Government, if that were the wish of central Government to do it.

Q31 Chair: That is the point. In the same way that the Scottish Government have said that they want to see poll tax debts written off and have taken action to ensure that happens, with appropriate compensatory arrangements being made, here too the Scottish Government, if they wished, would be able to act via the local authorities to have all bedroom tax debts written off.

Mr Carmichael: If the Scottish Government said that they wanted these debts written off and were then to provide the money to local government to do that, then I would think, at that point, local government would be pretty well immune from criticism by any auditing body, given that they had been given money for a purpose and spent it for that purpose.

Q32 Chair: The second element of that, of course, is the issue of moral hazard, which we identified in our report. We were quite conscious that it was going to be a very difficult position if bedroom tax arrears were written off and yet there had been many people who had struggled but had actually paid. I am right in thinking, am I not, that the Scottish Government, equally, would have the power, if they wished to do so, to authorise local government to refund any money paid by the bedroom tax to the individuals involved and to compensate them? Again, it comes down to a question of political will.

Mr Carmichael: I am aware of no legal objection to that happening. They would need to make the case for that being the best use of public funds.

Q33 Chair: But they would need to make that case to themselves, wouldn't they?

Mr Carmichael: Indeed, yes. As you say yourself, Chair, it comes down to a question of political will.

Chair: Fine, thanks very much. Moving on to the issue of the Crown Estate, Alan?

Q34 Mr Reid: Secretary of State, as you know, the Committee has produced two major reports on the Crown Estate. In our recommendations, we called for the administration and the management rights of the Crown Estate in Scotland to be devolved not only to the Scottish Government but further on to local bodies within Scotland. Can you tell us what discussions you have had with the Scottish Government or other bodies in Scotland regarding this?

Mr Carmichael: In relation to your second report on the Crown Estate, I can tell you that I know we have not yet issued a formal Government response to that. That is still the subject of discussion within Government. It is still currently with the Treasury at the moment. I am hopeful that we will get back to doing that now.

The Department, though, has not been idle in the meantime. We have had the first of the inter-ministerial group meetings. The second of these is due to take place in January of next year. We do not have a date set for it yet, but again I would hope we will have a date set fairly soon.

You will also be aware that, in August, we concluded the islands framework, which was the United Kingdom Government's response to the Our Islands, Our Future campaign fronted by the Western Isles council, Orkney Islands council and Shetland Islands council. As part of that, we have set up a structure which facilitates engagement by the three island groups with the Crown Estate at a senior level and the Scotland Office also in the room with them. These structures are still in the process of implementation but, again, I would be keen to see that one up and running in early course. I know this is one of the principal areas of interest of the islands councils themselves.

You will also be aware, though, that a number of submissions have already been made on this subject to the Smith Commission. I would hope that the Smith Commission will be looking at the two reports of the Committee because I thought the mechanism that you devised, which was not straightforward devolution from London to Edinburgh but one which facilitated devolution to individual areas should they wish it, was a very creative

and interesting solution which is worthy of the sort of consideration it should get in the Smith Commission.

Q35 Mr Reid: As well as the three islands authorities, there are obviously other parts of Scotland where the Crown Estate is very important. There are the islands of Clyde, the Inner Hebrides and also the mainland. Have you had discussions with other local authorities on islands or coastal—

Mr Carmichael: I think you know I have because you were there for one of them at least. I cannot remember the date but it was round about the early summer when I met Argyll and Bute council and we had some of this discussion. You will recall, again because you were there, that I was back in Dunoon on Wednesday of last week taking part in what I thought was a very successful and very innovative conference on population levels and economic growth in Argyll and Bute. As we all know, Argyll and Bute has its own particular challenges because of its mix of small island communities and the distribution of its population around three or four main centres on the mainland. I made it clear to the convener of the council when I met him last week that I am open to talking to Argyll and Bute council in the same terms as we have discussed things with the three islands councils. They quite reasonably wanted the Our Islands, Our Future prospectus to be one which they controlled as island-only communities. I completely accept that, having offered a deal to Shetland, Orkney and the Western Isles, then the people of Arran, Islay, Jura, Colonsay, Mull and wherever else should have the same opportunities made available to them. Certainly, if Argyll and Bute council want to come and talk to me, and they tell me that they do, then they have a ready audience.

Q36 Mr Reid: As you know, if the Smith Commission was to recommend devolution of the Crown Estate to the Scottish Government, it would then be up to the Scottish Government to decide whether there was to be any further devolution to local authority level. Have you had discussions with the Scottish Government about whether they would be willing to do that?

Mr Carmichael: No, we have not.

Q37 Mr Reid: Are you likely to have?

Mr Carmichael: I obviously cannot initiate a discussion while it is not Government policy to devolve in that way. If they wished, either through Smith or by any other mechanism, to come and talk about it and to make the case, if you like, it is again fairly well known that I am a willing audience for that case.

Q38 Mr Reid: Are the UK Government making a submission to the Smith Commission?

Mr Carmichael: The UK Government are not making a submission to the Smith Commission. Obviously, we were responsible for initiating it. I myself identified Lord Smith of Kelvin as the most suitable person to undertake that work. The Prime Minister announced his appointment and appointed him on the morning of 19 September. The work is being led by the political parties and others beyond the political parties. The UK

Government, as well as the Scottish Government, have provided resource for the Commission. Both Governments have seconded civil servants to support it.

I have already been asked by Lord Smith to provide a background briefing on a number of areas, principally in relation to welfare and taxation but also in relation to other areas. We readily and willingly do that. We know that we have set Lord Smith a very tight timetable but we believe that he can meet it, he believes that he can meet it and we will do anything that is necessary to assist him in meeting it.

Q39 Mr Reid: In legislative terms, do you see any complications in devolving the Crown Estate to the Scottish Parliament?

Mr Carmichael: In legislative terms, if the recommendation comes from Lord Smith—and this is where I have to be slightly arm's length as a Government Minister because I am not going to second-guess or interfere with the work of the Smith Commission—I cannot see that there would be a particular difficulty, no.

Q40 Graeme Morrice: I want to take you back to the recent referendum. You will recall that quite vividly, I have no doubt. Without wishing to go through the arguments for and against, obviously, I want to focus on the UK Government's programme in the run-up to the referendum and specifically the Scotland analysis programme. You make reference to that within the annual report. This Committee considered the various papers that were published.

Do you think the process went well? Do you think that the Scotland Office role in this went well as well?

Mr Carmichael: I do think it went well, actually. The Scotland analysis programme was a series of 15 papers. We have probably put more detailed information about the workings of government in Scotland into the public domain than has ever been available hitherto on a whole range of different aspects. Was everything perfect? Did everything land ideally as I would have wanted it to? No. There were some things that landed more successfully than others. But what we did was what we said we would do and we provided a substantial factual basis upon which political argument could centre. That was a substantial piece of work for a Department the size of ours. Obviously, it brought in experience and effort from across the whole range of government and from across Whitehall. It is an achievement of which the Scotland Office in particular should be proud.

Q41 Graeme Morrice: Thank you for that. I want to ask you about the cost. Do you have any specific figures in relation to the cost of the Scotland analysis programme?

Mr Carmichael: Because it was done across the whole of Government and was using the time of officials who are already in full-time employment and doing that sort of research work, no, we do not have figures that we could put on that. Beyond the publication and dissemination costs, I do not think I could give you a figure on that.

Alun Evans: The answer is that the work was taken in addition to people's day jobs, so unless you make an assumption of the percentage of everybody's time that was spent on SAP, which would be very difficult to do beyond one or two people who were working

permanently on it, it would be such a vague estimate that I am not sure it would be of much value.

Q42 Graeme Morrice: There was an assessment of the cost to the Scottish Government of the White Paper and the subsequent promotion of that. It was in the region of £1.3 million.

Mr Carmichael: We can certainly provide the Committee with figures for publication and promotion. That would not be a challenge. I do not think I could give you a meaningful figure on the actual research and the compilation, any more than the Scottish Government could. The figure that was provided for the White Paper was only on the production and promotion. It did not provide figures on the actual staff cost.

Q43 Graeme Morrice: Are there any lessons to be learned by the UK Government in relation to the referendum? I want to pick up, in particular, on allowing 16 and 17-year-olds the right to vote. In my view—and this view is probably shared by most members of the Committee here—it was the right thing to do. What are your views on that? If you think it was a good thing to do and was successful, is it something that should be considered for other elections—in particular, general elections and the Scottish parliamentary elections?

Mr Carmichael: Yes. I think that the participation of 16 and 17-year-olds in the referendum campaign was a very positive experience. They brought another dimension of energy to what was already a very engaging campaign. Look, 16 and 17-year-olds were like people across the whole age spectrum. Some of them engaged more actively and more meaningfully than others, but I did not see their engagement as being anything less than would be expected of other ages. In many ways, because there was a degree of novelty about it, I felt there was a positive advantage to be had from it.

It would be very difficult in the future for people to now resist the extension of the franchise to 16 and 17-year-olds. It is not something that we can obviously do in time for the May general election. I think it will become a live issue in the next Parliament. It is not currently Government policy, as you know, but it is one that my party has long supported and I would continue to pursue this with some vigour and enthusiasm.

Q44 Graeme Morrice: We obviously support that too. Would I be right in saying that the Scottish Government already have the powers to introduce it for local authority elections in Scotland?

Mr Carmichael: They have for local authority elections. The power to introduce it for Scottish Parliament elections would remain here under the Scotland Act 1997. Mr Morrice, you asked about lessons that the Scotland Office learned from the referendum. I certainly take away some lessons of more general application. One of these lessons is that, when devolution came in 1999, the UK Government did not continue to insert itself into the political and public life of Scotland in the way that it ought to have done. In many ways, it left the stage.

The people of Scotland on 18 September said that they wanted to have two Governments. They want the United Kingdom Government to continue to have responsibility for the creation and the operation of single markets, for single regulatory

frameworks, for our foreign affairs, for our defence, for our overseas development budgets and for other areas besides.

As part of the referendum process, we achieved a very good level of engagement from senior officials and Ministers at Whitehall. That is something which now has to continue. I am not going to allow the United Kingdom Government in Scotland to fall back into old habits. We will continue to occupy the space that we constitutionally have in delivering public services in Scotland.

Q45 Graeme Morrice: That comment is certainly to be welcomed. I want to ask a final question in relation to the referendum. Obviously, on the ballot paper, the proposition was, “Should Scotland become an independent country?” and you ticked either a yes box or a no box. For those of us who were in the no camp, it was often seen as a negative, although clearly there was a positive case for Scotland remaining as part of the UK. In hindsight, is that something we should have looked at in greater detail—perhaps having two positives, where people could have ticked one of the positives?

Mr Carmichael: It was part of the Edinburgh agreement—

Q46 Graeme Morrice: I understand that it was part of the Edinburgh agreement.

Mr Carmichael: It was part of the Edinburgh agreement that the referendum would be regulated, administered and overseen by the Electoral Commission, which of course is an independent body. It is independent of Government here and in Scotland. They were the people who tested questions and who ultimately approved the questions. I am more comfortable leaving these things in the hands of independent bodies like the Electoral Commission. I hope, though, that they might now look at the experience of the referendum campaign and that that will inform their thinking for any future questions of the sort that they are required to adjudicate on.

I would merely say in passing that we can all speculate on what might have been. First, I do not think there was much doubt in the minds of anybody in Scotland what it meant to vote yes or no at the end of the day, so we achieved the clarity of purpose with the referendum that we sought to do. If you consider how this has been done in other parts of the world, we did it very well. I am reminded that when the people of Quebec in Canada went to a poll on the same subject they were faced with a question which I think ran to about 82 words. Compared with that, we had a model of clarity. Whether it had a particular bearing on the campaign, at the end of the day, it was up to the campaign organisations that were set up. I do not think we can blame the wordings of the question too much.

Q47 Graeme Morrice: That was 41 words in English and 41 words in French.

Mr Carmichael: It might have been.

Q48 Lindsay Roy: I take it, Secretary of State, that you will be expecting an evaluation report from the Electoral Commission.

Mr Carmichael: I think it is routine for the Electoral Commission to report on every election and referendum. They have done in the past and I would expect them to do so again.

Q49 Graeme Morrice: Part of the reason why I raise this is obviously looking to the future in terms of other referendums. Who knows, there may be one in the near future with regard to Europe. It is important that we get that right so there is a positive case on that issue.

Mr Carmichael: I know there are some in Parliament who favour that.

Q50 Chair: Indeed there are, of whom I am one. I just wondered whether or not the Government would be happy with whether the question “Should the United Kingdom become an independent country?” would be an appropriate question: yes or no. It is a serious point. Upon reflection have the Government formed any view, moving forward to a European Union referendum? Yes or no does not quite encapsulate the difference. You can quite clearly see, with regard to the European Union referendum, that there are two alternative visions, both of which the proponents would see as being positive.

Mr Carmichael: The one thing that we draw from this experience, and also from previous experiences, is that the question on the ballot paper is capable of influencing the outcome of a vote. For that reason, the last people who should be in control of it are the politicians. This is something that is best done and overseen by an independent body such as the Electoral Commission.

Chair: You have a touching faith in independent experts.

Q51 Mike Crockart: I want to ask one quick question about the Scotland analysis programme. I commend you and your Department for doing that because it was excellent work. There were 15 papers and I think each ran to around the 100-page mark.

Mr Carmichael: I used to have a paragraph in my stump speech about exactly how many pages it was. I confess that I have forgotten it already, but it ran to several hundreds.

Q52 Mike Crockart: While the executive summaries were certainly well used by politicians and journalists alike, I do not get the impression that they got right down to the general population. You probably found, in much the same way as I did when campaigning on doorsteps, that the cry we heard over and over again was, “We don’t have enough information,” whereas my feeling was that we had more than enough information and in actual fact too much information. Has anything been learned from that to figure out how to make complex information digestible and accessible to enable people to make these decisions?

Mr Carmichael: The Scotland analysis programme was just one part of the public information programme that we undertook. There was then a series of factsheets that we produced called “In the know”. There was a website as well called YouDecide. That took the key points from the executive summary of individual papers and produced them in a much more accessible way. I have to say that these were very well received. We used MPs and other public bodies to disseminate them. Generally, they were very well received.

There was then a summary paper or a small booklet that ran to a number of pages which brought all that together. Of course, we did two door-to-door deliveries in the course of the campaign, the first of which ran to a number of pages and took the main points of public information that people told us they wanted. It signposted where more detailed information would be available in the event that they wanted it. The second was a further distillation of that.

In terms of using public funds for public information, as distinct from a campaigning content, there was not a great deal more that the UK Government could have done than we did.

Q53 Mike Crockart: I accept that the Scotland analysis programme was a small part of the overall campaign, but I did get the feeling that a lot of it was made up on the hoof because we had not been through this process before of fighting a referendum.

Mr Carmichael: What do you mean by “made up on the hoof”?

Q54 Mike Crockart: There was doubt about whether there was going to be a door-to-door delivery of the information that we wanted and whether that would qualify as being more akin to campaigning. It did feel as though we had to make up the process because we had not been through it before. It is just to make sure that we have learned from that and that, should we have to go through this or a similar process again, it is clear what is acceptable and legal.

Mr Carmichael: The Scotland analysis programme was fairly well mapped out from the start. We knew the areas that we would cover and we covered them in turn. The decisions to develop that into the “In the know” leaflets, the summary paper and then the door drops were ones that we knew we would have to take, but we were not going to take them until we knew exactly the context in which we would be taking them. We got out the analysis papers and saw the response, we produced the “In the know” papers and saw the response, and we produced the website and the door drop. To set a timetable that you slavishly adhere to when there was, as you say, an evolving landscape, would have been pointless, frankly.

Q55 Pamela Nash: I would like to now turn to the Smith Commission and ask you to enlighten us on the process. First of all, I was interested to know what resources have been made available from the Government to the Commission.

Mr Carmichael: The process is down to Lord Smith. He has requested two nominees from each of the five political parties. Each party has provided them and he meets with them on virtually a weekly basis. That really is down to Lord Smith. We gave the job to Lord Smith because he is a man that I hold in very high regard. Part of that regard is formed on the understanding that he will do things in the way that he considers to be best. Having given him the job, we are letting him get on with it. From everything I hear, it is proceeding well. Whether he gets agreement is ultimately down to the political parties, of course.

In relation to the resource, he has a team of 15 civil servants drawn from the UK and Scottish Governments and also from the Scottish Parliament. The first time I met Lord

Smith after he had been appointed by the Prime Minister on 19 September was the following Monday. I said to him in terms that we appreciated that he had taken on a substantial piece of work and a challenging timetable, and that any resource that he needed to do that job and meet that timetable would be provided if it was in any way within my gift. As I say, we have provided him subsequently with a fairly substantial amount of information, and that information provision continues.

Q56 Pamela Nash: That will be very much welcomed by everyone here. You have mentioned that the timetable is challenging. Was it necessary to have such a short timetable for such a big task?

Mr Carmichael: I think it was. It is politically advantageous, having all the political parties at the table, that we do it at a time when the memory of the referendum is still very fresh in everybody's mind and when we are all mindful of the fact that we have been given a mandate by the people of Scotland to do this. This is how we make the United Kingdom work in the future. The people of Scotland have told us that they want to have a United Kingdom. I think it would be just as difficult if you left it for another six months or another year. I do not think that the difficult issues become any easier. In many ways it takes us back to the point that the Chair was making right at the very start. What is required to overcome these difficulties is political will. I think that political will is strongest in the period following the referendum.

Q57 Pamela Nash: You touched on this earlier, but could you explain more about the Scotland Office's role in this and the relationship with the Commission?

Mr Carmichael: The Scotland Office provided a number of the civil servants that are supporting the Smith Commission. In many ways, the Scotland Office remains the clearing house for any requests coming in and making sure that the information is provided in a timely and sensible manner by other Government Departments, when it is sought. Of course, we will be the body that receives the heads of agreement come 27 November. It will be the responsibility of the Scotland Office to then take the heads of agreement that are presented by Lord Smith and to formulate them into draft clauses for presentation by January 25.

Alun Evans: I would add that, as part of that process, the Scotland Office co-ordinated going through all of the proposals from the five political parties and gave a factual summary to Lord Smith and the implications of each of these, were that to be part of his decision to devolve it. There was no comment about what the UK Government thought of those proposals, just a factual statement.

Mr Carmichael: The Command Paper.

Alun Evans: Yes.

Q58 Pamela Nash: Is it your view that whatever recommendations Lord Smith comes up with will be automatically accepted by the Government and the Scotland Office?

Mr Carmichael: It is not just the Government; it is all political parties. That is the whole point of having agreement; so yes.

Q59 Pamela Nash: And the Scotland Office will have sole responsibility for implementing the recommendations?

Mr Carmichael: We will be the lead Department when it comes to producing the draft clauses. After the general election, I would expect it to be in the first Queen's Speech and we would be the lead Department taking it through Parliament.

Alun Evans: The Treasury will advise on the fiscal clauses as well.

Q60 Pamela Nash: Do you have any idea how long it will take to implement the recommendations?

Mr Carmichael: No. You are taking me beyond a point where I can give you even an educated guess. You are asking how long it will take to implement heads of agreement but I do not yet know what is agreed. However, if you look at the implementation of the 2012 Act, you know that it will be fully 2016 before that is implemented. It might be—

Q61 Pamela Nash: That was my concern.

Mr Carmichael: Yes. I would expect it to be possible to do that more quickly this time. The Scottish Government have been, in relation to the 2012 Act, required to start the infrastructure of government from the ground. There was no Scottish revenue collector. There was no Scottish Treasury in that sense of the word. What I anticipate will come from Lord Smith will obviously expand that quite significantly. It is a question of extending a Department which, by the time it gets the powers, will already be there. You will not be building from the foundations up. If you take the analogy of a house, we are talking about building an extension rather than a new build itself.

Q62 Pamela Nash: That is a good analogy. In terms of process, were there any restrictions given to Lord Smith and the Commission as to what powers he could consider devolving? Indeed, were there any restrictions at all?

Mr Carmichael: Lord Smith himself has made it clear that his work will be consistent with the decision of the people of Scotland on 18 September and that it will respect the fact that the people of Scotland wanted to retain a United Kingdom. If you have a look at the Command Paper, it endorses the principles that were undertaken by the Government in relation to the 2012 Act. Lord Smith has himself now published a list of seven principles that underpin the work that he is carrying out and that is signed up to by all the parties that are around the table at the moment. Beyond that, no, there is no constriction.

Q63 Pamela Nash: So there is a set of self-imposed rules by Lord Smith.

Mr Carmichael: It is self-imposed rules by Lord Smith. I do not think that anybody who embarks on this process without having proper respect for the decision of the people of Scotland will find a great deal of support or sympathy for them.

Q64 Mark Menzies: Secretary of State, in relation to Lord Smith and the 2012 Scotland Act, is there any condition set on Lord Smith when it comes to varying income tax rates or thresholds? Does he have the power to recommend the establishment of new tax bands if the Scottish Government wished to go down that path?

Mr Carmichael: That is for Lord Smith to decide. As a starting point—and it is no more than that—he has the proposals of the parties that made the vow originally. There is the Strathclyde commission from your own party, the Campbell commission from my own and the Labour party’s commission. He has not been given any remit that says, “You can go this far but not that far.” I have no doubt that as his work progresses—and in fact I know this to be the case—he will come back to us, and to Treasury in particular, and say, “What would be the implications of doing A, B or C?” Whatever outcome he constructs, and whatever agreement he then gets on it, will be one which is properly informed. That is the responsible way to go about it.

Q65 Mark Menzies: It is fair to say that Lord Smith is approaching this from the perspective of doing what is right for Scotland—

Mr Carmichael: And the United Kingdom.

Q66 Mark Menzies: And the United Kingdom, and there is no political pressure or constraints being placed upon him by Westminster.

Mr Carmichael: If you have met Lord Smith you would know that this is not a man that you put political pressure on. It is why he was ideal for the job.

Q67 Mark Menzies: Again with that in mind, if he does come up with recommendations in relation to income tax, bearing in mind that the Scotland Act 2012 gives the Scottish Parliament greater power over income tax rates, would there be a requirement for the 2016 powers to be suspended in any way, or would you be looking to bolt any recommendations that Lord Smith came up with on to the powers that already exist?

Mr Carmichael: That is for Lord Smith to say. Looking at it afresh, I do not see why he would, but if that was what he decided, then that would of course require the agreement of the political parties. I would be surprised if that were to happen. I do not see why it would be necessary. I think the work on the implementation of the 2012 Act continues apace and I do not see why it should be disrupted by the coming of new powers, bearing in mind in particular that there is time for these draft clauses to become clauses that go into the Queen’s Speech and go through the whole scrutiny process of both Houses here and then to have the implementation of it completed. I would be surprised if that was the case, but again that is for Lord Smith to decide.

Q68 Pamela Nash: On income tax and the changes that are already coming in April, what is the formula that has been agreed between the UK Government and the Scottish Government in terms of the impact of that on the adjustable block grant?

Mr Carmichael: That is something which is still subject to discussion between the Treasury and the Scottish Government. I have no reason to believe that it will not be

agreed, but it is still being worked out between officials and Ministers in the respective Departments.

Q69 Pamela Nash: It causes me a great deal of concern that that has not been—

Mr Carmichael: It is for 2016, of course, and not 2015. This is new, and it is very important that we get it right. This is not something to be undertaken lightly. At the moment, I have confidence that it will be completed in time. That is why we allowed time. We knew it would be difficult. We knew that it would be detailed and complex work that required being undertaken. I hope now that with the referendum behind us there can be a renewed focus on that work by Treasury and Scottish Government officials.

Q70 Pamela Nash: There was a principle of no detriment enshrined within the Scotland Act 2012.

Mr Carmichael: Yes.

Q71 Pamela Nash: What is the interpretation of that? Can it be guaranteed that that will apply if we do not yet know what the formula is and how the block grant is going to be adjusted?

Mr Carmichael: Once you see the formula yourself, and once both Governments sign up to it, because obviously it is going to require the agreement of both Governments, I am fairly confident that you will see that that principle has been honoured.

Q72 Pamela Nash: I am not going to be confident if it does not exist yet.

Mr Carmichael: No; but I cannot offer you confidence on the basis of something that has not yet been agreed.

Q73 Pamela Nash: I understand and I appreciate that those changes are not coming in until 2016. However, they will have an impact on the decisions that are being made in the Smith Commission now and representatives of all parties have to make decisions, along with Lord Smith, on what should be devolved. If we do not know at the moment what the impact of the current changes is going to be, how on earth can they be expected to make those decisions for the future and for the devolution?

Mr Carmichael: I would only say that Professor Calman managed that job in 2008. You are talking about a fairly detailed level of technical negotiation. I would not expect Lord Smith to have to be responsible for that.

Q74 Pamela Nash: I also wanted to touch on every Scottish politician's favourite subject: the Barnett formula. Do you think that the success of the recommendations of the Smith Commission, and indeed the further devolution of powers already planned, will be dependent on the changes in the block grant and how that is calculated?

Mr Carmichael: I am sorry; I do not quite follow your drift there. Obviously, once you start devolving responsibility for tax raising, then, yes, there is a commensurate reduction in the proportion of the budget for the Scottish Parliament that comes from the Barnett formula. That is to be expected and indeed to be welcomed. Ultimately, it might serve to remove some of the political heat out of the Barnett formula if it is, in cash terms, responsible for less of the money going to Scotland than was previously the case.

Q75 Pamela Nash: But the Government have already said that there will not be a change to the Barnett formula.

Mr Carmichael: There will not be a change to the Barnett formula, but, within the Barnett formula, as is the case already, you are not going to pay the money twice.

Q76 Pamela Nash: I understand that. Do you think it is politically sustainable in terms of not just Scotland but the UK context as well to say that there will not be a change to the Barnett formula?

Mr Carmichael: The Barnett formula has been with us now for 40 years. Everybody knows some of the issues that arise from it. Knowing the issues that arise is one thing but actually changing it is quite another. You have a clear statement from the three party leaders that the Barnett formula will not be changed, and I see no reason and no prospect of departing from that.

Q77 Chair: We should at this point mention the passing of Lord Barnett who contributed so much to Scottish political discourse. It may be that in due course we have a Carmichael formula as a variation on that, depending on how these agreements proceed.

Mr Carmichael: That would require me to be Chief Secretary to the Treasury. I do not think that is something that anybody really wants at the moment, is it?

Pamela Nash: The Alexander formula.

Chair: There may be vacancies in due course.

Mr Carmichael: The Alexander formula has a ring to it.

Graeme Morrice: You never know, there may be the Davidson formula, God help us.

Mr Carmichael: Now you are scaring me.

Chair: I am very glad you are all scared.

Q78 Graeme Morrice: I want to mention the Scotland 2012 Act again. We had some discussion on that earlier. Obviously, in terms of what may or may not be the outcome of the Smith Commission, that is going to impact on what is going to happen in the future. Nevertheless, we are looking at your annual report, where you state that you have continued to make good progress in the implementation of the Scotland Act. What are the challenges that lie ahead with regard to that, and in particular the preparations for the Scottish rate of income tax which is due to be introduced in 18 months' time?

Mr Carmichael: The lead Department on that is obviously Treasury because they are the people who are best qualified to do so. It is not easy, it is technical and, from time to time, it will no doubt require ministerial intervention. The work continues and nobody has yet come to me and said this is not going to be completed in time. I have no reason to believe that it will not be, but obviously it is still in negotiation.

Q79 Graeme Morrice: In terms of implementing the Scottish rate of income tax, you mentioned in the report that, where there is a cost to that, it is estimated between £35 million and £40 million. Clearly, there is a cost to devolution.

Mr Carmichael: There is a cost to everything.

Q80 Graeme Morrice: Indeed, but obviously to devolution in particular. There is a question mark about who is going to pay for that—whether it is the UK Government or the Scottish Government. Does that flag up financial constraints in relation to further devolution?

Mr Carmichael: No, I do not think it does. It would be pretty well unthinkable that the Government would ever turn round and say, “Well, we know that this is what we ought to do for devolution but for the sake of whatever the figure is going to be we cannot afford to do it.” I cannot imagine the circumstance in which that would arise.

Q81 Pamela Nash: I would like to ask an additional question on that point. Do you think there could be a detriment to Scotland if there was full devolution of income tax?

Mr Carmichael: No, I do not. I have heard some in the House—Gordon Brown in particular—advance this. I understand his concerns, but, ultimately, the Budget setting is going to remain something that is the responsibility of the UK Parliament, within the House of Commons as a whole. We already accept that the setting of the Budget is treated differently. It is something that the House of Lords does not have a role in, for example. On the devolution of income tax, if that is what Lord Smith ultimately proposes—it is what the Conservative Party have proposed in their commissions—I think that is something that Parliament would be capable of dealing with.

Q82 Pamela Nash: You alluded to Gordon Brown’s speech, but there is a much wider spread of concern over this.

Mr Carmichael: Of course, yes.

Q83 Pamela Nash: Indeed, the National Institute of Economic and Social Research have just published a paper and have submitted it to the Smith Commission.

Mr Carmichael: Yes, and this is why we have all parties around the table. My party has made its view clear, as have all parties. This has not been a process that has ever rested solely in the control of any one or even all the political parties. It will be necessary, at the end of the day, I suspect, for everybody to compromise in order to get a deal. The deal must be one which is in the best interests of Scotland and which respects the constitutional integrity of the United Kingdom.

Q84 Graeme Morrice: Just taking that to its logical conclusion, if we saw a situation of devolution of 100% of income tax, the counter-argument coming from some quarters in the UK Parliament is that Scottish MPs should not be allowed to have a say on determination of income tax for the rest of the UK. What are your comments on that?

Mr Carmichael: My view is that the Budget stands or falls as a whole. The Budget would continue to be voted on by all MPs. There is a distinction between that and other matters, whatever else happens in relation to other matters.

Q85 Chair: That is right, but just as no Parliament can bind its successor, then any commitments given on that at the moment are not necessarily binding in the future.

Mr Carmichael: If you want to know my view, it is that we are now embarked on a road the logical conclusion to which takes us to a federal structure for the United Kingdom. I fully accept that that is some years off. Once you have agreement from Gordon Brown, Michael Forsyth, the *Financial Times* and the Liberal Democrats, it can only be a matter of time before it becomes a reality.

Q86 Graeme Morrice: Is this the answer to the West Lothian question?

Mr Carmichael: Federalism is the answer to the West Lothian question.

Q87 Chair: There are no other questions from us. Are there any answers that either of you had prepared to questions that we have not asked?

Mr Carmichael: No. I come as well briefed as ever, or certainly substantially briefed. Thank you again for the invitation. It is some months since I have been before the Committee. I very much value the work that you did in the run-up to the referendum campaign in the various inquiries that you carried out. In the same way that the Scotland Office had a job of work to do in putting information into the public domain, you complemented that work in a political and robust manner, as you would have expected. I think the work of the Committee was valuable to the campaign as a whole. I very much look forward to being back with you at the next opportunity.

Chair: Thank you very much.