



Scottish Affairs Committee

Oral evidence: [The Smith Commission: Proposals for Further Devolution to Scotland](#), HC 835

Tuesday 16 December 2014

Ordered by the House of Commons to be published on 16 December 2014.

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

Questions 164-273

Witnesses: **Rt Hon Alistair Carmichael MP**, Secretary of State for Scotland, and **Laura Crawford**, Head of Constitutional Policy, Scotland Office, gave evidence.

Q164 Chair: Perhaps we could make a start. You have already been incentivised to finish by 4.30. We will see if we can get through all that. Secretary of State, would you like to introduce yourself and your member of staff for the record? I understand that you want to make a brief opening statement before we go on to discussions about the Smith agreement.

Mr Carmichael: Good afternoon, Chair, and to the members of your Committee. I am delighted, as ever, to be back with the Scottish Affairs Committee. To my right I have Laura Crawford, who is the deputy director in charge of constitutional affairs within the Scotland Office. I have a very short opening statement for the assistance of the Committee, and with your leave, Mr Chair, I will proceed to deliver it.

People in Scotland were unequivocally clear on 18 September that Scotland should remain, and retain the security of being, part of our United Kingdom. The Smith Commission's remit was clear: to set out proposals for further devolution within the United Kingdom. This remit was signed up to by all parties participating in the process.

The Government are committed to ensuring that Scotland and the whole of the United Kingdom continue to prosper from our single domestic market, our social union and the strength that comes from the pooling and sharing of risks. People in Scotland voted on 18 September for the jobs and opportunities that are created by being part of a larger United Kingdom, with one currency, no borders and more money to spend on public services in

Scotland. People in Scotland want to keep the advantages of our UK pound, UK pensions, UK armed forces and a strong UK voice in the world.

We are now well under way with taking the agreement forward. The UK Government will produce draft legislation by Burns night, 25 January. This is what we promised to do, and we will do it. A team from across UK Government Departments is working to get the draft clauses together. As the Prime Minister made clear yesterday, we will do all we can to ensure that 16 and 17-year-olds have the vote for the Scottish Parliament elections in 2016.

We are delivering on the vow that was made to the people of Scotland. Scotland will have more powers. What the Scottish Government choose to do with those powers will be of significant interest to people across Scotland, as doubtless it will be to you and I.

Q165 Chair: Thank you. At our last meeting when we had Lord Smith with us we were discussing the fact that this is the biggest transfer of powers to the Scottish Parliament in the history of the world. I think it is fair to say that. We also have to recognise that this is not independence and was never intended to be.

Mr Carmichael: Indeed.

Q166 Chair: And therefore many of the complaints about it are that it is not what people failed to persuade the good folk of Scotland to vote for in the referendum. We also have to recognise the development of a grievance industry. In the recent past, since the referendum, there has been the development of a deliberate strategy of complaint and so on. It is pretty clear that the Smith agreement is delivering the vow and it is very welcome to hear, from both the Prime Minister and yourself, that the timetable that was indicated early doors is going to be met throughout.

Mr Carmichael: We have actually improved on the timetable. The publication of the Command Paper was, I think, two and a half weeks ahead of the final delivery date. We were some three or four days ahead of the timetable for the publication of the heads of agreement. I am optimistic that we might meet the delivery date for the draft clauses within a similar sort of time frame.

Chair: Even as you speak I am sure that cybernats who have heard that will be saying that delivering those documents ahead of time is a betrayal, since they were promised on certain dates, and these commitments have not been specifically met as indicated and have been done in order to catch people unawares.

Mr Carmichael: I cannot exclude that possibility, but I will live with it.

Chair: Nevertheless, moving on, I turn to Graeme to ask a question. Sorry, no; in fact, I am asking Mike—it shows the lack of rehearsal, doesn't it? Mike Crockart.

Q167 Mike Crockart: Putting a little bit of professionalism on it. Where do you think that the new powers for Scotland place it in a league table in comparison with other devolved Parliaments?

Mr Carmichael: League tables of that sort are few and far between. There is an OECD one which I believe puts us third in terms of spending and legislative competence and fifth in terms of control of the budget. It is difficult to see why anybody would doubt a body like the OECD. That would certainly concur with my own knowledge of these things across the world. It establishes it. It puts to rest once and for all the lie that somehow or other the Scottish Government through the Scottish Parliament do not have the power to change Scotland for the good. They have the powers. They are getting more powers. It is now for them to get on and use them.

Q168 Mike Crockart: Very helpfully, Professor Bell has done a graph of decentralisation ratios in OECD countries, which certainly seems to back up what you are saying; we have moved from a position of about 50% of expenditure share up to closer to 60%. The big change in the last few years, with the Scotland Act and the Smith proposals, is moving the revenue share from just under 10% up to closer to 40. That seems like a major move forwards.

Mr Carmichael: That is a significant share. For the first time—this comes back to the delivery of the vow—the majority of the money spent in Scotland will come directly from Scotland. That is healthy and positive for Scottish politics. Since we set up the Scottish Parliament in 1999, the political debate in Scotland has been almost exclusively about how you spend money. It is not focused on how you raise money or on what sensible levels of taxation are and how you might, for example, as we have done here, use devices such as the raising of the personal allowance to give more money back to people who are working, especially at the lower end of the income scale. It also means that you do not focus on the other things that you do within the economy to generate business growth, which then generates the jobs to pay the taxes to fund the public services that we value. That is normal politics and that is what we should be getting back to.

Q169 Mike Crockart: Indeed. Going back to Professor Bell for a second, in an article he wrote about the Scottish budget under the Smith proposals, he ended up by saying that the Smith proposals put them at the extreme end of the spectrum of devolved fiscal powers among OECD countries. How do we get to a point where you have someone saying that, and then you have the Deputy First Minister saying that it is continued Westminster rule? Surely it cannot be both.

Mr Carmichael: On the one hand you have sound academic analysis from somebody who has no skin in the game and who is being objective about it, and by that I mean Professor Bell. At the other end you have a politician who is talking to her own core audience, as indeed all politicians do from time to time. I was disappointed by the response of the First Minister to the Smith Commission, but I think any fair analysis would say, as the Chair has already said, that this is a delivery on the vow and it should now allow the people of Scotland to accept that the referendum conclusion is one that has to be respected, and the political debate should move on from the delivery of these powers to what we use them to do. Powers in themselves only take you so far. It is what you choose to do with them that

really matters in politics. The truth of the matter is that in tackling the objectives that the Scottish Government profess to wish to tackle—many of which I would share—there is now very little reason why they should not be able to achieve everything they want.

Q170 Mike Crockart: There is absolutely no doubt in your mind that the Smith agreement meets exactly what was set out in the vow, which were extensive new powers.

Mr Carmichael: The terms of the vow were extensive new powers, especially over taxation and welfare. This gives the Scottish Parliament a welfare budget of something in the region of £2.5 billion to £3 billion—that has to be substantial in anyone’s analysis—while retaining the integrity of the United Kingdom as a constitutional unit. You retain the benefits of a single market across the United Kingdom and the single system of regulation that comes from that because, at the end of the day, that is what the people of Scotland voted for.

The Smith Commission was given a very clear remit. Yes, he had to produce heads of agreement that would deliver the extra powers that there was a real mood to have delivered in Scotland, but at the same time he had to respect the outcome of the referendum, which was that we want to remain part of a United Kingdom. He took on a demanding task in that, but in my mind there is no doubt at all that he has done what was asked of him.

Q171 Chair: You mentioned that we were third in one thing and fifth in the other. It would be helpful if you could give us a copy of the list in order that we can publicise that.

Mr Carmichael: Yes, we will get you that. It will not be a problem.

Q172 Graeme Morrice: Following the questioning from my colleague Mike Crockart with regard to what was contained in the vow, he quite accurately stated that it said extensive new powers. Do you not find it somewhat disappointing, and indeed bizarre, that John Swinney from the SNP in the Scottish Government sat on the Smith Commission and, having signed it off, came out publicly and said it was a promise broken?

Mr Carmichael: Yes, I was a bit disappointed by that. John Swinney was part of that process. He took part in the negotiations and played an active and very constructive role. I saw his press conference, along with Sir Robert Smith and the other party representatives. He looked as if he could not get off the platform quickly enough once he had said his piece. I very much regret that John was not able to bring his party colleagues along with him. I think that would have been more representative, and would have demonstrated better respect for the process of which he had just been an important part, but it does not change the fundamental truth, which is that the heads of agreement, which will be turned into the draft legislation, represent a fulfilment of the vow.

Q173 Mr Reid: In the list of powers the Smith agreement proposes devolving, which powers can be devolved without primary legislation?

Mr Carmichael: You will have seen in the press in the last week or so that we are going ahead with devolution of the power to change the voting age ahead of the 2016 Scottish

Parliament elections. That is something we will be doing by section 30 order. I anticipate that we will be publishing an order early in the new year, which will allow it to be considered and debated on the Floor of both Houses, as I would wish. We would then be able to have that passed and the power devolved before Parliament prorogues at the end of the session. Beyond that, we are working to a pretty demanding time scale, as I have already said. I really think that to start picking bits out all over the place and trying to prioritise some parts risks the time scale for delivering the package as a whole. My priority is that we get ahead and come forward with draft clauses that represent delivery of the package as a whole, and that is then dealt with on the other side of the general election. It is difficult to see how in practical terms you would do much else.

Q174 Mr Reid: When all this draft legislation has been produced—there will be other things in addition to the voting age that could be devolved by a section 30 order—will it contain one section 30 order to devolve all of them or a series of section 30 orders, or will it all just be put into a Bill for after the election?

Mr Carmichael: As much as I can promise and guarantee, I think we will have a package that will go through as primary legislation, with the exception of the 16 and 17-year-olds. My mind is not closed on this. We have undertaken quite a substantial task in turning the heads of agreement into draft legislation by Burns night. That is the priority now for delivery in the Department. If it is possible to do anything extra beyond that, I am open to suggestion, as I said, but realistically you have to look at what time remains in the parliamentary session once you are into February, which we will be then. In practical terms I am not going to offer you false hope.

Q175 Mr Reid: Would you be open to suggestions that once the draft legislation is published, if a case were to be made for one particular power to be devolved more quickly, it should be put through by a section 30?

Mr Carmichael: Absolutely. The door is not closed on this. I am certainly not going to be dogmatic about it, but at the same time, given the scale of the task we have undertaken, it would be wrong of me to raise expectations beyond that at this stage.

Q176 Chair: Could I raise a point that has been raised with me by a number of youngsters in my constituency? They are saying, “We want to be able to vote in council elections as well, but we do not have the ability to do so at the moment.” Can you clarify whether or not the legislation will allow participation in council elections by 16 and 17-year-olds, or is that a power that the Scottish Government have at the moment?

Mr Carmichael: That is a good question. I do not think they have that power at present—not the voting age. We will look at that, because I am aware of it as an issue. I would have thought it was something that was capable of being done in the Bill that comes after the next general election. If you have already extended the franchise, you have dealt with the electoral registration issues that come from that in time for the 2016 elections. It would then be a matter of sense that you should be able to do it for the 2017 elections, but if it is necessary to bring it forward earlier to achieve that end, we are again open to that. That is the sort of thing about which we should sensibly be having a discussion with the Scottish Government at the moment.

Chair: Maybe you can try to clarify that position for us.

Q177 Jim McGovern: Secretary of State, could I ask you to clarify that? Is it a matter of fact or a matter of opinion that the Scottish Government do not have that power?

Mr Carmichael: It is a matter of fact. That is strongly my opinion.

Jim McGovern: You have just been told that, yes.

Q178 Chair: I think it is strongly Ms Crawford's opinion.

Ms Crawford: The franchise currently for local government, for the UK Parliament, for European elections and the Scottish Parliament elections, which is predicated on the local government one, is all reserved to the UK Parliament. What the Scottish Parliament can do is set a franchise for things like the health boards that they have introduced—elections they create within devolved competence such as health boards. I think they have elections for the Crofting Commission as well. They can decide the franchise for those elections but not local government elections, Scottish Parliament, UK or European. The Smith proposal is very much for all the powers in relation to elections for the Scottish Parliament and local government elections to be devolved, so that will include the franchise.

Q179 Chair: There are two additional points. One is the question of the Crown Estate, but we will come to that later on. We are very keen to see double devolution. It may very well be that some things could be done to help that process that could be looked at earlier. We hope you could have a look at that.

The second element is fracking and related issues, where there is an intention to transfer powers. I am sure we could find a way of the powers being utilised by the UK Government in line with what the Scottish Government would wish before we actually have formal powers transferred. Maybe you could take that away.

Mr Carmichael: I will certainly take that away. As a general principle I can tell you, as I told the First Minister when I met her, that we are now in the period when we know the areas where competence will be transferred from Westminster to Holyrood. There is going to be a period when we know that the powers are going to be transferred before they are actually transferred, and that is where it is going to be important that the two Governments work closely together. In that regard you will have seen yesterday the announcement by the Prime Minister following his meeting with the First Minister that we will have a joint ministerial working group in relation to welfare issues. That seems to me to be eminently sensible. It is a demonstration of good faith on our part that we want to make the transfer of these powers as smooth and as effective as possible.

Q180 Graeme Morrice: What do you think will be the most challenging aspects of the Smith agreement to be implemented?

Mr Carmichael: I hesitate to predict because predictions of that sort are almost inevitably shown to be false by experience. I would have thought that the transfer of the taxation powers will probably be the most substantial area of work that we have to do, principally

because it is different from all the powers that we transferred before the 2012 Act. It will require the growing of a different arm of government than we have in Edinburgh at the moment. Whatever challenges there are from any areas of the Smith Commission, I think they are all manageable with good will. If we are to respect the views that were expressed by the people of Scotland on 18 September, that good will absolutely has to be there, and I am determined that it will be.

Q181 Graeme Morrice: You mentioned the Scotland Act 2012. Of course that went through Parliament in 2011 and obviously received Royal Assent in 2012. In terms of its being implemented, it is not going to be fully implemented by 2016 so it is clearly taking quite a while. I know that the Scottish Government have already taken some decisions with regard to their budget for the coming financial year, because the first aspects of the Act come in on 1 April next year. With regard to a new Scotland Bill, would you anticipate that the time lines for agreeing a Bill and its implementation would be much shorter than we saw for the Scotland Act 2012?

Mr Carmichael: I would anticipate that they would be shorter, because from the 2012 Act there was a need to grow an infrastructure within Government, if I can put it in those terms. The creation of Revenue Scotland and the administrative structures needed for that probably contributed to the length of time it has taken for complete implementation of the Act. Inevitably, some aspects of the agreement will be implemented much more quickly and easily than others. I would take the view that, as soon as the Bill becomes an Act, we should be looking to implement it as quickly as possible. Again, I hope that there will be better and closer joint working between the two Governments now that the referendum is behind us.

Q182 Graeme Morrice: We have touched already on the issue of trying to fast-track some of the issues of the Smith agreement—reducing the voting age in relation to 16 and 17-year-olds for the next Scottish Parliamentary election. The Chair mentioned fracking and small aspects of reserved powers that we want to see transferred as quickly as possible. In your view, how long do you think it will be before the Bill becomes an Act?

Mr Carmichael: We have a general election in May next year, and we will have a Queen's Speech, I would imagine, by the end of May. I would expect, given that we have had early publication of draft clauses, that there will be public scrutiny of these draft clauses following their publication. I see no reason why this could not be what the Whips would call an early starter. Granted it will be quite a substantial piece of legislation and, being a constitutional Bill, it will need time on the Floor of both Houses, but given that it will have been in all three parties' manifestos in May that there should be no barrier to smooth passage, I would expect this is one that you should be able to get through both Houses by the turn of the year. That is an educated guess at the moment. It would certainly be done in the first session.

Q183 Graeme Morrice: And implementation would certainly be done.

Mr Carmichael: Implementation starts then.

Q184 Graeme Morrice: It would be a lot quicker than the implementation for the Scotland Act 2012, so not four to five years.

Mr Carmichael: Yes.

Q185 Graeme Morrice: What steps are you taking to ensure that the disagreements over the mechanics of the devolution of stamp duty under the Scotland Act 2012 will not beset the implementation of the Smith agreement?

Mr Carmichael: On that point I understand that the Chief Secretary to the Treasury and the Scottish Finance Minister, or the Deputy First Minister, had discussions in the margins of the Joint Ministerial Council yesterday, and we seem to be making good progress on completing that arrangement. What arrangements can you put in place? The best arrangement that you can put in place is to have the political will, and the commitment from the very top of Government, to ensure that you have a speedy and faithful transformation from one Parliament to another. You can put the best structure in the world in place, but if you do not have that political will, then, yes, there is always the chance that you will hit difficulty. Of course, political will has to come from both ends of the country.

Q186 Graeme Morrice: It is my understanding that the UK Government are liaising with the Scottish Government in putting together draft clauses that will be published in January.

Mr Carmichael: Yes. The ultimate responsibility for production of the draft clauses lies with the United Kingdom Government. That work is being led by Laura and her team. We understand the realities of this. We are committed to working closely with the Scottish Government in the preparation of these draft clauses. Where they have a view, I would hope to accommodate it if at all possible, respecting the terms of the agreement and the decision of the people in the referendum.

Q187 Graeme Morrice: How do you anticipate that this will impact directly on the Barnett formula?

Mr Carmichael: We already have some experience of this. It is an adjustment to take account of the fact that money that was previously coming in because taxes were paid to the Treasury in Westminster is now being removed. It should be an adjustment. It will of course mean that the Barnett formula is a less significant proportion of the budget of the Scottish Parliament. That is a matter of arithmetic rather than anything else.

Q188 Chair: I very much admire the way in which you passed responsibility for the detail of the legislation on to your member of staff, presumably on the basic principle that all credit is yours and all blame will be somebody else's.

Mr Carmichael: As you well know, Mr Chair, it works the opposite way round in politics.

Q189 Chair: But you made a good effort, I thought.

Mr Carmichael: I would imagine that the Committee would be happier to think that Laura was in charge of the drafting of the legislation than I was.

Q190 Chair: That probably goes without saying, which is why we will not say it. Surely the most challenging aspect of the legislation is not the drawing up of the clauses, which will be done by your staff, but the very big sums that are going to be required. If we have difficulty about clarifying the consequences of the devolution of stamp duty, surely when we come to questions relating to income tax there are some horrendously complicated sums. It comes back to the point I made at the very beginning about the manufacture of grievances. One side in these discussions has a vested interest in manufacturing grievances. Therefore, the potential for quarrels over financial allocations and the big sums involved is surely infinite and could be used to poison the well over the whole debate and discussion that is going on. How do you intend to overcome that?

Mr Carmichael: The potential is there; nobody is going to deny that, but I would caution anybody who thought that they could play that sort of game and get away with it. Let me put it like this. The people of Scotland are not stupid. They would see that game-playing for what it was, and they would see that it was the sort of game-playing that would not respect the decision that the people of Scotland took on 18 September by a fairly substantial margin. I cannot guarantee how anybody outside my own Government will act in relation to the delivery of this, but anybody who tries to play that sort of game risks paying a very heavy electoral price at the end of the day. That is the best guarantee there can be of sensible communication.

Q191 Chair: I want to clarify the extent to which, in order to make it clear who is responsible for disputes about this, the figures will be made publicly available. Clearly if we have the light of publicity shining on the alternative visions of how the sums add up, that will help people be reasonable.

Mr Carmichael: Indeed. Sunlight is the best disinfectant in these matters. Every party signed up to the principles behind the Smith Commission. One of the most important principles is that there should be no detriment as a result of Scottish or UK Government policy decisions post-devolution. Also, the fact that neither part should be better or worse off at the end of the day should be a fairly easily established conclusion.

Q192 Chair: That is a very optimistic view.

Mr Carmichael: I am nothing if not an optimist.

Chair: We will possibly come back and discuss this with you in due course. I think there are substantial anxieties about how the calculations will be undertaken.

Q193 Jim McGovern: Last week I believe you gave evidence before the Devolution Committee, at which point you said that a stakeholder group would be set up. Who would be members of that stakeholder group, and what would be the terms of reference?

Mr Carmichael: On the stakeholder group and the terms of reference, I announced the stakeholder group and the creation of it at the point when I made the statement to the House. I did undertake at that point to keep the House informed of its progress. What I would suggest, if I may, is that I give you the detail of that in a letter, which I will also place in the House of Commons Library. In that way I will have met the commitment to keep the House informed.

The stakeholder group itself has been constituted with representatives of something in the region of 19 different organisations, including unions, student groups, voluntary groups, Citizens Advice Scotland and organisations of that sort. It is official-led, so it is not a ministerial group. It is there to draw on the very rich vein of experience in those sectors, in the third sector in particular, in relation, for example, to welfare benefits, but in other areas as well, in order that the practical implications of devolving these areas might be properly attended to at the earliest possible stage. That is the purpose of the stakeholder group. I will give you the detailed remit and the membership in the letter to the Chair.

Q194 Chair: Let me come back to the question of the grievance industry. I seem to remember that there were some organisations in the voluntary sector, when it was announced that there had been an extension of the contract for the Work programme, who were describing this as a betrayal and all that sort of flowery language. It would appear that some organisations are minded simply to look for betrayal. Can I clarify the extent to which this will be solely a discussion about implementation of decisions, as distinct from a question of people second-guessing or inserting their own observations about what should happen?

Mr Carmichael: Absolutely. The stakeholder group is about better informing the construction and implementation of the heads of agreement. It is not about giving anybody a second bite at the cherry. It is not about reopening these discussions. It is purely about the practical implementation of the heads of agreement.

Q195 Mr Reid: I want to move to income tax. As you know, the proposal in the Smith agreement was to devolve income tax, but there was a reservation as far as the personal allowance is concerned. Could you confirm that, in practice, the only power that will not be available to the Scottish Government and Parliament is the power to reduce the income tax personal allowance?

Mr Carmichael: In practical terms, yes, it would be, because of course, you can achieve the same end by setting zero bands if you choose to. If you want to take the first however much out of income tax, you can do that by a zero rate band instead of the personal allowance. The only thing that would be achieved by devolving control of the personal allowance would be to allow the Scottish Parliament to cut that and effectively then to raise the tax bill of income tax payers, especially those on lower earnings.

Q196 Mr Reid: Suppose the Scottish Government were to use the powers over income tax to have a zero rate higher than the personal allowance set by the UK Government for the rest of the UK; that would obviously mean that workers resident in Scotland would be paying less income tax. Would they lose tax credits or Universal Credit as a result of that decision?

Mr Carmichael: I have to say that the detail of that is still in implementation with the Treasury. You would really need to refer that to the Treasury. I am aware of the issue, but we do not yet have a firm conclusion on it. The interaction between tax and benefits on that is quite complex. Of course, it is made more complex because we are now moving on to the implementation of Universal Credit as well.

Q197 Mr Reid: You may give me the same answer to the follow-up question, but I will ask it anyway. If there was a saving or an extra cost to the UK Government as the result of a tax decision taken by the Scottish Government—

Mr Carmichael: Do you mean post-devolution?

Mr Reid: Yes. Does the UK Government then incur the extra cost or reap the benefits, depending upon what that decision was, or would those costs or benefits be passed to the Scottish Government?

Mr Carmichael: I imagine that this comes under the provision in Smith that, first of all, there should be no detriment to either part, but there should be no automatic offsetting either. I think in practical terms that would probably deal with the query you raised. Again, it is something that is still under consideration by the Treasury.

Q198 Chair: Again, surely this comes under the heading of very, very big sums. The question of offsetting and so on, and consequential impacts is immensely difficult and there is huge scope—

Mr Carmichael: This is potentially complex and difficult work. It will require good will on all parts to do it. Not to bring that good will risks failing to give proper respect to the decision of the people of Scotland.

Q199 Chair: I want to follow on from Alan's point. We have identified that it is available to the Scottish Government effectively to increase personal allowance by introducing a zero rate band. Presumably the same then applies to the UK Government for the rest of the UK. The introduction of a zero rate band is presumably more attractive to the UK Government than raising the personal allowance across the board, because, were they to raise the personal allowance across the board, they would presumably be required to compensate the Scottish Government for loss of income to the Scottish Government. If they raised the personal allowance across the UK as a whole it would apply in Scotland, and that would therefore result in a loss of income to the Scottish Government, which would require a consequential compensatory payment.

Mr Carmichael: That is not my understanding of how it works. Once you have devolved control, or indeed retained control, that is the point of disjunction.

Q200 Chair: I see. We would then potentially find ourselves in a position where, supposing for the sake of argument the UK Government introduced a personal allowance of £30,000—although it is unlikely—it would mean an enormous loss of income tax income to the Scottish Government.

Mr Carmichael: And indeed to the UK Government.

Q201 Chair: That's right, but it would be their choice. The Scottish Government would have had no say in that.

Mr Carmichael: But we are still part of the United Kingdom.

Q202 Chair: In your view, there is no consequential payment in circumstances where the UK Government unilaterally changes the personal allowance.

Mr Carmichael: That is my understanding, yes.

Q203 Chair: Maybe you could have a look at that. Can you clarify for us again why the savings and dividends aspect was not devolved, and whether or not upon reflection you believe that the practical difficulties are perhaps resolvable?

Mr Carmichael: That was the decision of the Smith Commission; the parties together reached that conclusion. You will see in Smith that income tax is still described as a shared tax. You would need to get the commissioners—the party representatives—and Lord Smith himself to account for the reasoning behind that decision.

Q204 Chair: I want to be clear what the Government's view is on this. Am I correct in thinking that the entirety of the costs of introducing the system of collecting income tax in Scotland are to be borne by the Scottish Government, who are also then responsible for any slippage of the timetable or escalation of costs?

Mr Carmichael: That, as I understand it, is the case, although the actual work will continue to be done by HMRC.

Q205 Chair: But I want to be clear that it is refunded.

Mr Carmichael: Yes.

Q206 Chair: Following up Alan's point, my understanding was that, if the Scottish Government made changes of a financial nature in either tax or benefits that it had under its control, the intention was that the UK Government would not claw any of that back.

Mr Carmichael: If the power is to be meaningful, that has to be the case, doesn't it?

Q207 Chair: Absolutely, which was why I was slightly surprised by what I thought was the answer you were giving. I thought you were indicating that perhaps that was to be further looked at and examined, and that further detail had to be provided.

Mr Carmichael: I am not quite sure how you make the link between the two. The Smith Commission itself is very clear. It says, "Any new benefits or discretionary payments introduced by the Scottish Parliament must provide additional income for a recipient and

not result in an automatic offsetting.” I take that to be an instruction to the UK Government as much as to the Scottish Government.

Q208 Chair: Would that loss under offsetting apply to individuals as well as to Government?

Mr Carmichael: Yes.

Q209 Chair: I want to clarify a further point about the Government’s understanding. We have heard in the past about unhappiness in the Scottish Government that in terms of enhanced spending by them on childcare, which allowed more women in particular to enter the work force, the return from more people in the work force paying more tax would not go back to the Scottish Government. That will not be the position under this new mechanism, will it? They will get all the income from that.

Mr Carmichael: They will get the income tax, and indeed they will get a share of the VAT receipts as well from the money that is spent from any increase of income generated.

Q210 Chair: The final point on tax relates to tax dodging. As you will probably be aware, quite a substantial number of people who expressed strong views during the referendum presently choose not to pay tax in Scotland. Are any steps being taken by the Scottish or UK Governments either separately or together, in the event of the Scottish Government receiving income tax receipts, to encourage these people to pay tax in Scotland in the future?

Mr Carmichael: What the Scottish Government do post-devolution will be a matter for the Scottish Government. Clamping down on tax avoidance and the ending of some of the more egregious schemes has been something that the Treasury has taken very seriously in the last four years, and indeed have brought in a significant amount of extra revenue as a result.

Q211 Chair: I chose the term carefully. Avoidance is illegal.

Mr Carmichael: No; avoidance is legal but evasion is not.

Q212 Chair: Sorry. Whichever one is illegal, there are some people who have moved abroad deliberately to avoid paying tax in Scotland, but it did not stop them coming back to campaign for a Yes vote. I wondered whether or not any steps were being taken to encourage them to pay tax in Scotland once Scottish income tax is paid to the Scottish Government.

Mr Carmichael: That would really be for the Scottish Government once they have the power to do so.

Q213 Mark Menzies: Under Smith’s proposals for Scotland to receive the first 10 percentage points of VAT, does this mean that they will receive the entirety of VAT on items which attract the 5% rate?

Mr Carmichael: Again, that is something which is still to be determined by the Treasury in consultation with the Scottish Government. It is a level of detail on which at this stage we are not yet able to give a definitive answer, quite honestly. We are aware of the issue.

Q214 Mark Menzies: The Treasury are aware of the progress.

Mr Carmichael: Yes.

Q215 Mark Menzies: The other point is also on specific taxation—air passenger transport duty. As someone who represents constituents in the north-west of England with an airport, this is something I am conscious we should get right. Does the principle of no detriment mean that the Scottish Government would have to compensate the UK Government for any loss in revenue from air passenger transport duty from airports in northern England?

Mr Carmichael: No. This is the beauty of devolution. If it causes an issue for airports in the north-east and the north-west, that would be for the Department for Transport here at Westminster to address. It will be for the Scottish Government to decide what they want to do and what they want to achieve.

There are those who were on the Smith Commission—Scottish nationalists—who saw the devolution of APD as an opportunity to cut it and get rid of it completely. There were some in the Greens who saw it as an opportunity to increase it, and achieve in that way, they thought, some environmental end. That is for them to decide once they have the power. No, I do not think there is the sort of detriment that you are indicating. If you try to rebalance every decision that is made by Government in one end of the country or the other, frankly there is no point in having devolution in the first place.

Q216 Mark Menzies: Could the UK Government, if it so chose, devolve air passenger transport duty immediately?

Mr Carmichael: There are some challenges around the transfer of taxes in the middle of a tax year. We have a budget and a spending round for which figures have already been set. I do not think that just to wave your wand, or even your section 30 order, and say, “That’s it, APD is now devolved” would be particularly good government. It might be that it is something that could be done ahead of other issues. It certainly stands on its own, but for the moment we have to assume that we are doing it all as one Bill.

Q217 Chair: I want to take you back to the issue I raised earlier about income tax, but now relate it to VAT and clause 95(4)(a), which is about where the UK or Scottish Governments take decisions which have impact on the other. In relation to VAT, if the UK Government decide to either halve or double the element of VAT that they have under their control, it is likely to have an impact upon the take of VAT that the Scottish Government experiences. Is it your understanding that there would then be compensatory payments from one to the other, depending upon what the consequences were?

Mr Carmichael: No.

Q218 Chair: In that case how can you square that with what is actually in paragraph (a)? Presumably if the UK Government, for the sake of argument, doubled its share of VAT, so that it went up to 30%, 40% or indeed 50%, that would surely result in a decrease in spending simply because goods would become more expensive. That would then have an impact on the absolute amount of take from the 10% that was reserved to the Scottish Government. If clause (a) is to mean anything, that surely is a policy decision that affects “the tax receipts or expenditure of the other”?

Mr Carmichael: Yes, I see the argument but I still come back to the fact that the whole point of devolution is that you cede control, and you are not constantly trying to compensate for decisions that you have devolved. The whole point of devolution is that you take your powers and deal with them.

Q219 Chair: You are absolutely correct. The Scottish Government would have responsibility for the powers that it received, but in circumstances where an allocation or an assignation had been made—the same point would apply to the base rate of income tax—somebody else, the UK Government, would be taking a decision which impacted upon the income of the Scottish Government without the Scottish Government having any opportunity whatsoever to affect it. When we met Lord Smith, he was less clear than yourself on it, and certainly inasmuch as he expressed a view, he expressed a contrary view to your own.

Mr Carmichael: I will leave Lord Smith to speak for himself. I come back to the point that this is all about devolution and the creation of political accountability. Each Government has to be accountable for the way in which it exercises the powers that it has under the constitutional settlement that we give them.

Q220 Chair: That’s right, but surely you would accept that, if the UK Government doubled, tripled or quadrupled VAT, it would have an impact upon the VAT take in Scotland for which the Scottish Government could not reasonably be held accountable.

Mr Carmichael: There are of course other things that affect their tax take.

Q221 Chair: Can I come back to the question of the adverse impact? I want your view on clause 7(5), which says “not cause detriment to the UK as a whole nor to any of its constituent parts”. This is coming back to Mark’s point about air passenger duty and the impact on the north of England. Clearly this would have an adverse effect upon the north of England, which appears to be directly contrary to the principles-based approach outlined in the report. How does the UK Government intend to deal with that, or would the Scottish Government be responsible for compensating the north of England for the adverse consequences?

Mr Carmichael: No. I just cannot envisage that that would be the situation. Remember that it is about the creation of the package; when taken together it should not create adverse impact, or detriment, which I think is the term used there. You are talking about the creation of the powers, not about the exercise of them.

Q222 Chair: Presumably there will be some compensatory mechanism devised for the adverse impact upon the north of England.

Mr Carmichael: That would be for the UK Government to decide, in much the same way as they would have to decide in relation to decisions to change taxes in other parts of the EU or wherever. None of us stands in isolation.

Q223 Mike Crockart: I am going to go back to John Swinney's reaction to the announcement after the Smith agreement, when he bemoaned the need for the ability to shape a welfare system that helps rather than hinders the path to employment. You could argue that the Smith agreement is aimed more at delivering the revenue rather than the expenditure. If we look at the benefits part of it, it is certainly an extensive devolution of further expenditure powers.

Mr Carmichael: Yes. We reckon it is between £2.5 billion and £3 billion.

Q224 Mike Crockart: Absolutely. As I understand it, if we look at paragraph 54, it gives fairly extensive powers to create any sort of new benefits that the Scottish Government would choose, but also to top up any that are reserved. Surely that gives a fairly wide remit to do anything you like on the welfare system.

Mr Carmichael: It gives very wide powers. It is obviously up to the Scottish Government to decide how they are going to fund any piece of provision that they decide to bring forward.

Q225 Mike Crockart: But you would agree that—

Mr Carmichael: This is a substantial set of powers. It comes on top of the powers that the Scottish Government already have. They have direct control over the economic development companies: Highlands & Islands Enterprise and Scottish Enterprise. They have massive control over their own capital programme for infrastructure projects. They have control over the skills agenda, for training, for colleges and apprenticeships. They have control over a number of different areas that have an impact on getting people into the workplace, such as childcare, for example. Those powers are already all there and they are going to be complemented. To characterise the constitutional settlement as one that leaves Scotland without job-creating powers is frankly disingenuous. It just makes me wonder how they are able to keep taking credit for improving jobs figures if they do not have any control over them.

Q226 Mike Crockart: In a similar way to the question asked earlier about income tax, effectively the only power that is not there is the ability to cut personal allowance. Are we basically in a similar situation for benefits? The only power the Scottish Government now do not have is the ability to cut a reserved benefit.

Mr Carmichael: Yes, that would be my understanding of it, bluntly put.

Q227 Chair: I want to be clear. After the Smith agreement is implemented, would the Scottish Government have the power to double, if they wished, every single benefit and would they also have the power, if they wished, to double pensions?

Mr Carmichael: The pension is reserved, as in control of it, but if they wanted to top it up, I suppose the same principles would apply. They would have that power.

Q228 Chair: The winter fuel allowance could, for example, be increased to £10,000 a year or whatever the equivalent of the pension is, or any other sum that the Scottish Government wished to choose, thereby effectively increasing the pension by double or any other proportion that the Scottish Government wished.

Mr Carmichael: I would say that sensibly the Scottish Government would be best advised to focus their effort on administering and funding the commitments for which they have primary legislative responsibility under the devolved settlement, but you can see the terms of the heads of agreement themselves; if they choose to do otherwise and top up, they have the power to do so.

Q229 Chair: It is a question of trying to provide information for the public about what powers the Scottish Government will have under Smith. I just wanted to be absolutely clear that the Scottish Government would have the power to double, treble or quadruple any benefit, and the same for the state pension, should they so wish after the implementation of Smith.

Mr Carmichael: If they then want to make the corresponding saving elsewhere, or raise people's taxes.

Q230 Chair: Similarly, that means that effectively the Scottish Government would have the power to break the UK welfare cap in terms of the individual amount to people. They would be able to break it because they would have the power to increase any benefit that they wished and would not be bound by the welfare cap.

Mr Carmichael: De facto, that would be my understanding.

Q231 Graeme Morrice: Could you also clarify whether Scottish Government success, or failure, in managing the Work programme will impose benefits or costs on reserved elements of the UK Government welfare budget?

Mr Carmichael: Impose benefits or costs on the benefits budget? Sorry, what do you mean by that? Do you mean by getting people back into work?

Graeme Morrice: Yes.

Mr Carmichael: I suppose it would be a saving to the UK Government if they are not paying benefits any more, but it is also of benefit to the Scottish Government because they are getting the income tax that comes from the employment.

Q232 Graeme Morrice: When we spoke to Lord Smith a couple of weeks ago, he told us that there would have to be a mechanism to agree a “shared evidence base” for working out the effect of the devolved Work programme on the block grant. What do you think such a mechanism will look like?

Mr Carmichael: You are back to an area that will have to be agreed either by memorandum or by other means between the Treasury and the Scottish Government post-implementation.

Chair: It is the principle of this that is important and which we want to try to establish. That is what we wanted to establish with Lord Smith.

Q233 Graeme Morrice: Would you agree, Secretary of State, that it will take a great deal of co-operation between the two Governments for the crucial elements of the Smith agreement, such as devolution of the Work programme, to work?

Mr Carmichael: Quantifying some of these benefits and costs will not be straightforward. There is no doubt about that.

Q234 Chair: We are trying to ensure the principle is clear that if the Scottish Government, or in due course the local authorities to whom we hope this responsibility is passed, are much more effective in getting people back into work, that will potentially represent a substantial saving to the UK Government. If there is compensation for that going back to the Scottish Government, it will be agreed and implemented. We agreed earlier that part of the logic of Smith is that people get the benefit from the decisions that they themselves have made.

Mr Carmichael: Yes.

Q235 Chair: Similarly in terms of the Work programme, if it does not work, there would potentially be a compensatory payment to the UK Government because they will have additional costs due to people not coming off benefits and into work.

Mr Carmichael: A lot of that may actually depend on the terms of the contracts under the Work programme.

Chair: Indeed.

Q236 Mr Reid: The Smith agreement calls for responsibility over the Crown Estate to be devolved to local authorities where local authorities have called for that. Would the Government’s intention be to devolve the Crown Estate’s powers directly to local authorities or would it be to devolve to the Scottish Government and leave it up to the Scottish Government?

Mr Carmichael: On the Crown Estate, you will see that the Smith agreement envisages devolution in the first place to the Scottish Parliament. Then it says, “following this transfer”, so it mandates that. I would have thought that in practical terms it would be sensible for us to be talking now to the Scottish Government and to communities who have coasts or who are islands about the onward transfer. I would hope it would be

possible with good will to see direct devolution from Westminster to the local authorities listed there, and indeed any others that qualify. It would require the agreement of the Scottish Government, of course, if we are to be faithful to the terms of Smith. If they choose not to go ahead in that way, they would doubtless need to be prepared to explain to their coastal and island communities why they were not prepared to do it.

Q237 Mr Reid: Currently the Queen receives an annual sum equivalent to 15% of the Crown Estate profits, under the terms of the Sovereign Grant Act. How will this be handled after the Crown Estate's devolvement to the Scottish Parliament?

Mr Carmichael: The marine estate is a very small part of the Crown Estate as a whole. As I understand it, the Scottish Government and the Treasury have both said that there will be no change to that by whatever mechanism they agree.

Q238 Mr Reid: We are talking about devolving the Crown Estate's powers over the seabed. Are we talking about 12 miles or 200 miles?

Mr Carmichael: My understanding has always been that the jurisdiction of the Crown Estate in relation to the seabed extended to the 12-mile limit. We have heard others suggest that it was 200 miles. Our territorial waters are 200 miles, but that is different from ownership of the seabed. I have asked for legal advice from the Treasury and the Crown Estate themselves. I would have thought this would be fairly easily identified. If the Crown Estate think they own to the 12-mile limit, that is pretty good evidence of the fact that they do.

Q239 Mr Reid: If the Crown Estate's remit only extends to 12 miles, is your understanding of the Smith agreement that the Smith agreement only extends to 12 miles?

Mr Carmichael: The principle in law is that you can't give what you don't have: *nemo dat quod non habet*—when I was a boy.

Chair: You spoke Latin when you were a boy? What an exciting life you must have led. You had a good Islay education.

Mr Carmichael: Indeed. I had the benefit of a good Scottish state sector education.

Q240 Mr Reid: What is your understanding of what happens to the seabed between 12 and 200 miles?

Mr Carmichael: As far as I am aware, it is outwith the ownership of the Crown Estate. Whether there is any ownership or not at that point, I do not know. That is why I sought legal advice on this. My understanding has always been that the Crown Estate owned to the 12-mile limit, but if I am wrong in that, it will doubtless soon become clear.

Q241 Mike Crockart: I want to turn to the back page, the "Additional issues for consideration", to understand how the UK Government are going to take forward those additional issues: for example, a review of the functions of the Health and Safety Executive

in Scotland. Is this something that will be set aside while the main part of the Smith agreement is delivered in draft form, or is it going alongside? What is the process?

Mr Carmichael: It covers a quite remarkable range of different issues. There are some, for example, “MSPs being able to represent directly to UK Visas and Immigration and Immigration Enforcement their concerns with respect to devolved matters affecting their constituents,” where I confess that I have never understood why that should not be the case. It seems to make perfect sense to me. That is not something that would be particularly difficult, although it is not within the gift of my Department. Then there is the question of health and safety, for example, and—

Q242 Chair: I want to clarify my understanding of why that was agreed. It was that a number of MSPs were making promises to asylum seekers about presenting their cases and telling them what the results of their cases would be, when they were not in a position to deliver. It caused an enormous amount of unhappiness, concern and misinformation, and eventually the UK Government said that they would no longer entertain applications on behalf of asylum seekers by MSPs.

Mr Carmichael: I remember the circumstances, but I still have to say that it is an arrangement that I think is ripe for review. On health and safety, for example, the Health and Safety Executive has managed for as long as there has been a Health and Safety Executive to accommodate the fact that you have a different system of criminal prosecution in Scotland from the rest of the United Kingdom. In Scotland, prosecutions are brought at the instance of the procurator fiscal or the Lord Advocate. In the rest of the United Kingdom, the HSE acts as its own prosecuting authority. Frankly, I do not see a problem to solve there. Health and safety regulation as a whole is clearly something that falls into the single system of regulation and the single market that we have as part of the United Kingdom that people in Scotland chose to keep. There is a whole range of different considerations. Some of this is fairly easily manageable and some is outwith the terms of the agreement.

Q243 Mike Crockart: But the question concerned the process for dealing with these things. They are in the report. It is not saying exactly how they are going to be delivered or if indeed they will be delivered; it says “explore the possibility of”. What is the process for actually carrying out what is in there?

Mr Carmichael: There will be two strands. The first is that Smith says in the early part of his report that there needs to be a revisiting of the formal structures for co-operation between the reserved and devolved Administrations. That was work commissioned yesterday at the Joint Ministerial Council, and it will now go ahead.

Smith also says that there is greater scope for co-operation and joint working between the Parliaments, which has always been the missing link since devolution. A point I often made when I was member of this Committee myself in the last two Parliaments was that there needed to be better interparliamentary co-operation, and not just intergovernmental working. That is the mechanism we will use. In practical terms, I would expect a lot of this to be the subject of normal dealings between Ministers in Edinburgh and London.

Q244 Mike Crockart: I accept your answer, but it does not tell me how we are going to move forward. There is a fair number; for example, (4) relates to immigration and (2) relates to allowing international higher education students graduating to remain in Scotland. That is a major one in my constituency because getting students from Edinburgh, Napier or Heriot-Watt to stay and contribute to the local economy would be a hugely powerful job-creating power.

Mr Carmichael: That would still need to be done within the context of a single immigration system across the whole of the United Kingdom.

Mike Crockart: Indeed.

Mr Carmichael: We tried this in the past with the Fresh Talent initiative, for example. It worked up to a point but it also brought some challenges with it.

Q245 Mike Crockart: I am looking for some sort of feeling that someone has responsibility for moving these things forward, even in introducing them as a discussion point in some meeting somewhere.

Mr Carmichael: As Secretary of State for Scotland, I have responsibility for implementation of the heads of agreement as a whole. While this is outwith the framework of the full agreement, if it is identified as an area on which we should be working, the Scotland Office, as the United Kingdom Government's voice in Scotland, will take that forward.

Q246 Mike Crockart: So if I submit parliamentary questions over the next few months we will see some progress.

Mr Carmichael: I am confident that you will.

Mike Crockart: Excellent. Thank you.

Q247 Chair: Picking up the last point about the question of overseas students, it is certainly one of the issues on which we as a Committee have sought some degree of flexibility from the UK Government. In that context, if you are discussing with the universities the need for a degree of flexibility to accommodate their not unreasonable requests in this area, you might also want to group that with the Committee's concern about the practices of the universities in relation to zero hours contracts and the way they deal with some of their staff. If they are dealing with Government to seek something, it may be that they are prepared to concede ground on some reasonable issues about which the Committee has expressed concern in the past, but I am sure you understand that point.

Mr Carmichael: I quite understand what you are saying.

Mike Crockart: I think that is quid pro quo in Latin.

Q248 Chair: As they used to say in Islay. Did they speak English there as well? The conversations weren't entirely in Latin, were they?

Mr Carmichael: No, indeed.

Q249 Chair: I want to turn to clause 61 and clarify a couple of things on the question of abortion. First, how do you intend to take forward the desire to have a process “established immediately to consider the matter further”? Secondly, will there be a clause as part of the draft legislation in January which will then allow something to be done? It will not necessarily be specific but it will allow a space to be booked on the question of abortion.

Mr Carmichael: The provision on abortion is quite remarkable in many ways. You have the indication: “The parties are strongly of the view to recommend the devolution of abortion and regard it as an anomalous health reservation.” They go on to say, “They agree that further serious consideration should be given to its devolution.” From my point of view, I would not anticipate bringing forward clauses on 25 January to deal with the devolution of abortion. The heads of agreement are framed in such a way as quite clearly to suggest that this is taken outwith the other provisions of the agreement.

How do we then decide whether we should do this or not? It will require fairly careful engagement, particularly with the health service and with the various groups that have an interest. I would suggest that this is a prime candidate for the first piece of joint working between the UK Parliament and the Scottish Parliament.

Q250 Chair: That is a nice kick into the long grass. They did actually say that a process should be established immediately. I thought that was giving an indication that perhaps they saw it as something more urgent. Can I come back to the question of the legislation? Without committing yourself to what the outcome of the discussions might be, given that the draft clauses are going to be produced in January but they will not be voted on for some time thereafter, surely booking a place would be quite important as an indication that the recommendation is being taken seriously? Having something saying, “There is going to be something in this Bill about abortion but we don’t know what it is yet”—

Mr Carmichael: A place marker, if you like.

Q251 Chair: Whatever the Latin term is.

Mr Carmichael: A place marker might well be possible, but you proceed in this area with some caution. We have always treated it differently in legislative terms. We have always treated it as a matter of individual conscience. I would think that this was one area where there was benefit to be had from building consensus about the right thing to do before you start down the route of legislation.

Q252 Chair: This Committee will pick up the point you made about linkages between the Parliaments. One of the points I would ask you to reflect on, when you indicate the joys of parliamentary working, is that you will be aware that at the moment the Scottish Parliament will not allow this Committee into the building. They have refused to let us meet there. They will not let us take witnesses there. As an indication of mutual respect, it might perhaps be something you could pick up with them next time you have the opportunity to meet them. We

will reflect further on the extent to which we can have somebody joint working with them on this and other issues.

Mr Carmichael: If it is a question of joint working, I would have thought it was obvious that the facilities of either Parliament should be made available to parliamentarians. That is how it has always worked here when you have Joint Committees of both Houses.

Q253 Chair: That is not how it works at the moment.

Mr Carmichael: You are talking about the work of the Select Committee taking evidence in Scotland.

Q254 Chair: That is right.

Mr Carmichael: But this would be some joint working of a Committee involving MSPs and MPs.

Q255 Chair: I accept that. We are in the paradoxical situation where the Scottish Affairs Committee has been able to take evidence in the Welsh Assembly building, which is in Wales, but we are not allowed to have it in the Scottish Parliament, which is in Scotland. That seems a rather bizarre situation, but hopefully they will reflect upon that.

Could I pick up a couple of other points? I am sure you have seen *The Guardian* today, where it suggests that when the Prime Minister made his statement, immediately after the referendum result, about English votes for English laws, he did not consult Alistair Darling or indeed the Liberal Democrats or yourself over that statement. Is that correct?

Mr Carmichael: I was aware that the Prime Minister was going to make a statement relating to that area in part of his comments following the referendum. I did not know the detail of what he was going to say.

Q256 Chair: Did you agree with it?

Mr Carmichael: Did I agree with what the Prime Minister said? I think the Prime Minister was right to identify the issue that constitutional reform was going to have to come across the whole of the United Kingdom as a result of the referendum. It is no secret that my party takes a different approach to that. Indeed, you will see from the Command Paper today that the parties' positions that are outlined include different options from the Conservative party. This is still an area where there is a fair degree of work and thinking to be done. It is not an area in which there is Government policy.

Q257 Chair: Were you informed or consulted?

Mr Carmichael: On the form of words that the Prime Minister used? No, I was not.

Q258 Chair: Neither informed nor consulted.

Mr Carmichael: I was aware, but I was not directly involved.

Q259 Chair: Do you accept that the way in which this was done greatly contributed towards the sense of grievance that developed among those who lost in the referendum?

Mr Carmichael: That is something that is difficult to quantify. I would not have done it myself.

Q260 Chair: I want to seek clarification on a couple of points. It comes back to the financial point about detriment and consequential and so on. If a mansion tax is introduced in the UK as a whole—presumably it would not apply to Scotland in those circumstances—the money would come disproportionately from London and would go into the Treasury and then appear in spending budgets. Is it your understanding that some of that money would be reflected in enhanced spending on Barnett, or would it be retained entirely within England, Wales and Northern Ireland?

Mr Carmichael: A new tax introduced solely within the boundaries of England—a mansion tax, as you call it? There is nothing in Smith about that. I would have thought the logic was that if a new tax was implemented in England only, or even in England, Wales and Northern Ireland only, it would not form part of the Barnett formula. Is it genuinely a new tax or is it a tax that replaces an already existing tax? That is the sort of thing that would need to be determined.

Q261 Chair: The Treasury has never been keen on hypothecation, has it? Presumably you would have to have the money that came from that. For the sake of argument, let us say it was a completely new tax and was not replacing anything else. You would have to see that followed through into some spending that presumably was not then allowed for the purposes of Barnett calculations.

Mr Carmichael: That would be the logic, but you are inviting me to speculate on a hypothesis which, without a hard and fast example, is always going to be dangerous territory.

Q262 Chair: I presume that you or your staff will have to take these issues into account when drawing up the legislation, and also in discussions with the Treasury about how any big sums are going to be worked out.

Mr Carmichael: Indeed. That is going to be one of the considerations that Government always have to make as we go forward in the new world in which we find ourselves.

Q263 Chair: I have one final point before I ask my colleagues whether they have anything else. You mentioned the need for parliamentary scrutiny of this process, and it has been

mentioned on a number of occasions. I hope it would be agreeable to you that the Scottish Affairs Committee would obviously see itself as the main link from Westminster in a lot of this. It might very well be that we want to have either further formal or informal sessions with yourself, your officials and also Treasury officials who are working out some of these big sums. Obviously other Parliamentary Committees will be involved with specialisms, but we would see ourselves as the main focus for that liaison work.

Mr Carmichael: That would be very much my attitude. Obviously if the Treasury Committee, for example, wants to look at the financial aspects, I would expect that to be the case. I would not think it is ever sensible to have two Select Committees looking at one area at the same time. I would expect to be talking to you on a fairly regular basis, be it formally in Committee or informally. Should you or your members want access to officials to have a better understanding of how the work is proceeding, I am more than happy to facilitate it.

Q264 Graeme Morrice: I think the Secretary of State will be pleased to hear that I have the last question before we adjourn for our festive Irn Bru, clootie dumpling and potted hough.

Mr Carmichael: Oh, clootie dumpling as well as the haggis crisps. Great.

Chair: Haggis crisps and Tunnock's shortbread and teacakes, as well as a variety of other condiments.

Q265 Graeme Morrice: Lord Smith in the Smith agreement alluded to the fact that he felt there was weak public understanding of devolution. We have touched on some of these issues in relation to fracking, where in effect the powers are devolved to Scotland but there is a misunderstanding among some people that it is really down to Westminster to give the go-ahead or not to allow fracking to take place in Scotland. Also, during the referendum campaign, the Yes camp were using the Scottish health service as part of their arguments for independence and that did cause a bit of confusion. I certainly came across some people who did not appreciate that it was already devolved. We all understand there is a whole range of things that are devolved that people are not fully au fait with. Lord Smith suggested that there needed to be some kind of public awareness campaign in relation to this. Do you recognise that as an issue, and are you looking at the UK Government doing something about it in terms of raising awareness of what is already there? As a final point on this, we have touched on the Scotland Act 2012 and I raised it with Lord Smith when he gave evidence previously; there do not seem to be many people out there who know this Act has been passed and that it means a bucket-load of new powers being devolved to Scotland next year and the following year.

Mr Carmichael: Some of which are already being implemented.

Q266 Graeme Morrice: Some of which are already being implemented, as you rightly say. That is before Smith kicks in. What is the UK Government going to do about raising public awareness of the whole issue of devolution in Scotland?

Mr Carmichael: We recognise the need. We have to be realistic in our expectations. There is probably a role for this Committee. This is not something that can just be left to the Government information machine, if I can put it like that, albeit that there might even be a role for it in some way. If what we have achieved through the referendum, and I hope this is the case, is heightened political awareness and engagement in Scotland, that in itself will help improve understanding. If they see the Government in Edinburgh acting in relation to health, education and transport, and the Government here dealing with welfare benefits, taxation, defence, foreign affairs, currency and whatever else, that is the best way for people to get a proper understanding, but there is no silver bullet.

Q267 Graeme Morrice: It would help if we also looked at this in a different way, not just simply in terms of devolving powers from London to Edinburgh but pressing the Scottish Government to decentralise within Scotland. I get the impression that the SNP Scottish Government is one of the most centralising Governments on the planet.

Mr Carmichael: Yes, I very strongly have that impression. I think you will find that it is not just me who has it, but just about all my constituents as well. We see a Scottish Government, for example, that has created a single Scottish police force. That now means that the policing priorities across the country do not match the individual needs of different communities. There is a widely held perception that now the whole of Scotland gets what Strathclyde previously had. That was no doubt fine for people in Strathclyde, but I know from my own time living in the north-east and representing the northern isles that we have different policing issues in those areas that we want to see addressed. It is a frustration that the creation of a single police force has made that much more difficult. You could go right across the board. Systematically, power and accountability in Scotland have been sucked up from local communities to the centre in the last seven years. That is something which is now a growing realisation, and I do not think people will tolerate it for much longer.

Q268 Jim McGovern: I want to go back to the Prime Minister's statement about what has become known as "Evel"—English votes for English laws. You said you were aware of it but you were not consulted.

Mr Carmichael: I was aware that the Prime Minister was going to be making a statement.

Q269 Jim McGovern: You were aware of it but not consulted. The Prime Minister laid out certain options which would exclude Scottish MPs from voting, but he did not consult the Secretary of State for Scotland.

Mr Carmichael: He was outlining the views of his party that progress needed to be made. He was not actually bringing forward a whole raft of policy proposals. I was aware that the Prime Minister was going to make a statement; you would expect that. I was also aware that the Prime Minister, in the course of that statement, would refer to other things beyond Scottish devolution, and that would be one of the matters he would raise.

Q270 Jim McGovern: But you were not consulted.

Mr Carmichael: Did he ask me if he could make the statement? No, he didn't; that is not how it works.

Q271 Chair: Thank you very much for coming along. Are there any final points that you want to raise yourself, or Ms Crawford?

Mr Carmichael: No.

Q272 Chair: I would ask you then, if you wish, to stay for a moment and join us in a glass of Irn Bru and some shortbread or haggis crisps.

Mr Carmichael: It would be a very swift glass of Irn Bru for me because I have an engagement with a constituent elsewhere in London. I am opening a pop-up shop for a young Orcadian.

Chair: On that happy note, Order, order.