



Scottish Affairs Committee

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

Tuesday 03 February 2015

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Members present: Mr Ian Davidson (Chair), Mike Crockart, Jim McGovern, Graeme Morrice, Sir James Paice, Mr Alan Reid

Questions 395 - 524

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

Q395 Chair: Secretary of State, welcome to this meeting of the Scottish Affairs Committee. As you know, we have been taking a great interest in the work of the Smith Commission and the progress of the Smith agreement. Could we start off by you and your colleague introducing yourselves for the record?

Mr Carmichael: We can do that for the record. I am Alistair Carmichael, Secretary of State for Scotland. I am accompanied today by Laura Crawford, who is a director for constitution in the Scotland Office—or assistant director.

Laura Crawford: Either is fine. I am deputy director. I have just been promoted.

Chair: She is here as a director, assistant director and deputy director.

Mr Carmichael: She is a very clever person, which is all that the Committee needs to know.

Chair: This is a department of one, is it? She also makes the tea.

Mr Carmichael: No, no, no.

Q396 Chair: I digress. Can I ask whether or not the clauses in the agreement have the support of all the main parties at Westminster? The Smith agreement, as I understand it, was

agreed by all the main parties, so I want to check, first, whether that is still the case and, secondly, whether the draft clauses have a similar degree of support.

Mr Carmichael: The Smith agreement, as you know, was signed by all five parties who are represented in the Scottish Parliament: Liberal Democrats, Labour, Conservative, Scottish nationalists and the Greens. You may recall that on the day of signing there were various degrees of enthusiasm, but all five parties signed in respect of their agreement to it. Bearing in mind that the clauses are in draft, there have been some public reservations from the Scottish National party who have sought to invent vetoes where, candidly, none exist. You will also be aware that your colleague Mr Murphy sought to extend slightly the Labour party position in relation to some of the welfare agreement. Beyond that, as far as I am aware the agreement stands as it did.

Q397 Chair: Can I clarify whether or not the Scottish Government were consulted during the process of putting together the draft clauses?

Mr Carmichael: Yes. Essentially, the process followed was that after we received the heads of agreement on 27 November, we set about the task of drafting instructions for parliamentary counsel, which was done within different departments of the UK Government. They were then passed to parliamentary counsel. Once the draft clauses were back from parliamentary counsel and we had sign-off for them within the UK Government, at that point they were all shared with the Scottish Government.

In fairness, I have to say that some of the more complex clauses were shared quite late in the day, but I do not think there was anything that was less than 48 hours ahead of publication. As you have heard me say before, the time scale we are working to in this exercise is a tight one. Some of these matters are complex and technical, and I think that all concerned across Government, and between the Governments, have done a remarkable piece of work to get the clauses into the shape in which you find them.

Q398 Chair: Taking into account that Scottish politics at the moment is bedevilled by an obsession with process, maybe you will excuse me if I carry on with this for a moment. When you say “shared with the Scottish Government”, what does that mean exactly?

Mr Carmichael: They were shown them. In some cases they would come back and say, “Have you considered this, that or the other aspect?” It might be fairly technical, at which point we would be able to agree with them. In some areas they would express a wish to take a different approach, but there was nothing that was the subject of substantial disagreement between the Governments.

Q399 Chair: There was nothing that was the substance of substantial disagreement between the Governments.

Mr Carmichael: The basis of substantial disagreement.

Q400 Chair: You said they came back with observations. This was a process of consultation, which presumably was not a statutory one but was nevertheless undertaken willingly on both sides. Presumably, there were amendments or rewordings they suggested that you accepted, and some that you did not.

Mr Carmichael: On occasions there were a number of fairly minor amendments, or technical drafting matters, of the sort common within the drafting process before a Bill hits the House.

Laura Crawford: In advance of instructions being issued to parliamentary counsel, there were discussions between officials to ensure that we both shared an understanding of what Smith said and that we understood the policy outcomes; we had a policy discussion as well as discussions on some of the legal and technical drafting. The Secretary of State has flagged that, because of the time scales we were working to, some of the legal drafting was necessarily towards the end of the process. We now have draft clauses that everyone can see. Those discussions are ongoing, so we are into the next series of meetings with them to talk about any technical and policy issues they may have.

Mr Carmichael: And not just with the Scottish Government but other interested parties throughout Scotland—pressure groups, business organisations and private citizens—who have a legitimate interest.

Q401 Chair: I understand that there would be those who want separation, and therefore would be unhappy with the entirety of the report, but in terms of the dialogue with the Scottish Government am I to understand that the only disagreements were of a minor drafting nature? I am trying to clarify whether there were any serious issues of substance on which there was a divergence of view between yourselves and the Scottish Government on the subject of whether or not this was a genuine and accurate translation of the intentions of Smith into draft legislation.

Mr Carmichael: There were no such substantial disagreements, no.

Q402 Chair: If at the stage you were consulting with them there were no substantial, or anything other than minor, disagreements, can you clarify why there seemed to be substantial disagreements afterwards? Surely, if you are having a dialogue in a consultation, that is the point at which any disagreements should be raised.

Mr Carmichael: In a word? Politics.

Q403 Chair: You surprise me.

Mr Carmichael: The response of the Scottish nationalists on the day of publication was a nakedly political stance. You heard them speak about vetoes. We can go through the text, if it assists—

Chair: We will get to that in a second.

Mr Carmichael: But there are no such vetoes. They have sought for political reasons to suggest that the construction of the clauses does not conform to the contents of the heads of agreement. They have come forward with no evidence to that effect.

Q404 Chair: I want to be clear that none of this was raised while these were in draft form; it has been raised only subsequent to their publication.

Mr Carmichael: It is fair to say, in the interests of completeness, that the final political discussion, perhaps more at ministerial than political level, was on the Friday before the publication on the following Thursday. I had a telephone conversation with John Swinney at that point about the delivery of the remaining outstanding clauses. There wasn't any further ministerial discussion ahead of publication, but had they identified any area which was a substantial departure and had they come to me, I would certainly have taken it on board. You have heard me say before that I am determined that the legislation that will follow the heads of agreement will be a faithful replication of that, and that that agreement in itself is a faithful replication of the vow that was made in the course of the referendum.

Chair: Maybe we have spent enough time on obsession with process. The other main leg of Scottish politics is perpetual grievance. In that context, maybe we can turn to Mike to ask about the vow, the veto and so on.

Q405 Mike Crockart: I will try to do it in a context of perpetual grievance. The substance of the substantial disagreement which seems to have come up since the announcement of the draft clauses, even if it did not come up prior to it, is the question of whether a consultation or a permission ever constitutes a veto. Are there any draft clauses which, if enacted in their current form, would allow the UK Government to impose restrictions or veto decisions made by the Scottish Government?

Mr Carmichael: No, there are not. In a number of places, there are areas where consultation must take place; for example, on any action relating to Universal Credit there is a duty to consult that goes in both directions. Therefore, any changes envisaged by the Scottish Government must be the subject of consultation with the UK Government, but the same works in the opposite direction. Any changes anticipated by the UK Government must be the subject of consultation with the Scottish Government.

In relation to the commencement of any change in that particular regard—Universal Credit—there is a requirement for the two Governments to agree for practical purposes. The practical purposes envisaged there would be, for example, the turning off of computer services or anything of that sort, and that envisages that the Scottish Government will be using UK systems in any event. Of course, if they choose to set up their own systems, as they have done in some areas of devolution already, that is entirely a matter for them. In relation to the duty to agree, you will see in clause 21(3)(b) “such agreement not to be unreasonably withheld”. That is a term of art designed specifically to bring the actions of Ministers within the ambit of judicial supervision, so it would not be possible for any future Secretary of State to withhold agreement capriciously.

The only other aspect I would bring to your attention where there is a duty to consult, and indeed to agree, relates to energy efficiency matters. The reason for that is that the energy efficiency provisions have implications for the United Kingdom's international obligations in relation to carbon reduction. For that reason, it would obviously be sensible that agreement should be reached between the parties before any changes were made there. That was also in Smith. Smith said that nothing done by the devolved Administration would adversely affect the United Kingdom in relation to her international obligations.

Mike Crockart: We are going to come back to that.

Q406 Chair: To be clear, you are saying that is an example where the Smith agreement itself specified that the sort of provision here described as a veto should be in the legislation.

Mr Carmichael: Yes.

Q407 Mike Crockart: The one you mentioned specifically—Universal Credit—was one of the ones I was going to ask about. As you rightly say, everything hangs on the word “agreement”.

Mr Carmichael: Yes.

Q408 Mike Crockart: In (3)(b) it says that “the Secretary of State has given his or her agreement as to when any change made by the regulations is to start to have effect”, so it is not an input to the policy itself; it is just the implementation of it.

Mr Carmichael: Indeed. Any lawyer looking at this will see that the term “consult” is used in relation to the first half of that sub-clause, and then “agreement” relates to the very narrow area that is the commencement date. Anybody who wanted to be really mischievous about it could say that you could hold it up on a technicality and the day would never be right. That is why the provision is in there, to say that agreement will not be unreasonably withheld.

Q409 Mike Crockart: The Deputy First Minister talked about 12 other clauses that he said would demand consultation with or permission from the Secretary of State. A lot of them are to do with energy company obligations, and there are road speed limits, traffic signs, elections and Universal Credit. What is the level of consultation required? As to the word “permission”, is there anything there that specifies that permission is required?

Mr Carmichael: No. The permission was drawn from the examples I have already offered you. I have to say that it was not a particularly helpful approach. Personally, I was quite disappointed to see the Deputy First Minister, for whom I have a high regard, conflate the two issues in that way, as if somehow consultation and permission were the same thing when manifestly they are not. The degree of consultation would be routine, I suggest;

consultation of some sort will be required to happen, but consultation should happen in any event. This should be routine; it should never be the subject of dispute.

Q410 Mike Crockart: If I can take the most high-profile one head on and ask you to respond, the Deputy First Minister has stated that “under the current proposals” the Scottish Government would “not have the independence to take action to abolish the bedroom tax”, for example. Is that the case?

Mr Carmichael: Nonsense. The Scottish Government have been boasting for months that they have already done exactly that, and now they say that because we have given them more powers they cannot do it. It just does not make sense.

Mike Crockart: As unequivocal as that. Okay.

Q411 Chair: Can I ask for clarification? I have just looked at clause 27, which is headed “Roads: traffic signs etc.” John Swinney said that “the UK’s proposals would hand a veto to UK Ministers”, and this is one of the sections he referred to. I cannot find anything in there that looks to me like a veto. There is a section saying that “the Secretary of State must consult with the Scottish Ministers”, and “the Scottish Ministers must consult with the Secretary of State”. Do some of these sections have a meaning beyond normal English, or is there something that I am missing?

Mr Carmichael: If you are missing it, Mr Chair, I am afraid I’m missing it too.

Q412 Chair: But is John Swinney missing it? That’s the question. Has he spotted something that we have not?

Mr Carmichael: What John Swinney has done is what I have already outlined to Mr Crockart. He has sought to conflate two different things: agreement and consultation. This is clearly a consultation.

Q413 Chair: Is it necessary to have this in the legislation at all? As I indicated earlier, given that a number of our colleagues in Scotland live in a state of perpetual grievance, surely it should have been foreseeable that anything that gave the opportunity for complaint would be seized upon. Is it absolutely necessary to have this in at all?

Mr Carmichael: In an ideal world where both Governments respected the constitutional integrity of the position of the other, no, it would not be, but we do not live in an ideal world. You have seen how the Scottish Government in recent years have used the machinery of government to draw a wedge between the two Governments that Scotland’s people have said they want to have, and accordingly have sought to generate those grievances and divisions. I wish it was not thus, but the presumption has to be that reference to consultation within the draft clauses would be necessary. You can see how, if you did not have the duties to consult, somebody who wanted to generate grievance, and

to create a system that was not designed to work but was designed to generate friction between the two Governments, could easily do it.

Q414 Mike Crockart: Surely, having a clause that says that the two Governments should consult is just good governance, is it not?

Mr Carmichael: It is good governance, yes.

Q415 Mike Crockart: It is something that should happen on a normal basis and you are just putting it down in legislation.

Mr Carmichael: If both parties were acting in good faith this would not be necessary, but when I sign off these clauses I have to look at what is the worst possible situation in which we could find ourselves in the future. I cannot, in all honesty, assume that the Scottish Government in the future will act in good faith.

Q416 Chair: Could I ask that you respond to us in writing on the 12 vetoes, clarifying your understanding of the position and the extent to which there is a requirement to consult?

Mr Carmichael: I can respond now if you want. The 12 vetoes are not vetoes. That is a good starting point.

Q417 Chair: I think we want it to be slightly more detailed than that, if we could—on a one-by-one basis. It would also be immensely helpful if you could compare that with records you have about what was being proposed, for example, about the operation of a shared currency in the event of separation.

Mr Carmichael: Indeed.

Q418 Chair: My understanding was that there were provisions for joint consultation. It would be helpful if we had that drawn to our attention, because I am not quite clear whether or not there are distinctions in the wording about the consultation that would take place on a shared currency and other matters in the event of separation, and the consultation proposed here.

There is a third point where I seek clarification from you: should you and your spin doctors not have foreseen that we are dealing here with people who are capable of causing a row in an empty house, so you should have been prepared for accusations of veto, bad faith and so on? To some extent, it appeared to catch you unawares. I think we are familiar with the technique of saying, “Look, there’s a squirrel,” to deflect attention, but it did seem to work here.

Mr Carmichael: With respect, I do not actually think it did. I think that most fair-minded commentators took the view at the end of the day that these so-called vetoes were not vetoes at all, and that the Scottish Government were acting simply to kick up dust, to try to undermine something they fundamentally do not like, because it is not what they want, which is independence. We did foresee it, but foreseeing it was never going to stop it. Ultimately, I have to be able to sign off what will be good legislation that is fit for purpose once it is enacted, rather than something that will exclude every possible synthetic grievance that they may choose to invent.

Q419 Jim McGovern: You said you would be happy to outline why the vetoes are not vetoes. The Chair has, quite rightly, said that he would like something in writing to that effect, but for the purposes of today's meeting it would certainly be enlightening for me if you would tell us why the vetoes are not vetoes.

Mr Carmichael: The vetoes are not vetoes because they do not stop the Scottish Government doing what they would want to do in the areas where they have, for example, a duty to consult. We all know that Governments have duties to consult on all sorts of things at all sorts of times, but it does not stop them acting in a given way.

Q420 Jim McGovern: There are no vetoes.

Mr Carmichael: There are no vetoes. For example, even in areas like energy efficiency, that is because we have international obligations, and the Scottish Government are bound by those international obligations, in the same way as the rest of the UK is.

Q421 Sir James Paice: You referred specifically to Universal Credit in your reply to Mike Crockett's questions. Compared with some of the other benefits, it is more complex because it is new and also because there are some responsibilities where, despite its being reserved, the Scottish Government will have new powers to determine how often and when people are paid, and on housing support issues. The chief executive of the Scottish Federation of Housing Associations has suggested to the Prime Minister that we should suspend the roll-out of Universal Credit to allow for the process of implementing Smith. She argues: "A rushed approach puts at risk the incomes of the poorest and most vulnerable in our society, especially if changes subsequently have to be unpicked." Do you have any sympathy for that?

Mr Carmichael: As you know, Smith was set up in the context of a United Kingdom, and the heads of agreement make specific reference to that very point. What is being asked of us is that we unpick the Smith agreement, which I am not minded to do. Of course, these things are complex, and there will be a lot of technical detail involved, but bearing in mind that by the time these clauses have passed through both Houses we will be into 2016 and implementation will follow as soon as possible thereafter, I would still anticipate that there is time for these technical issues, with good faith, to be addressed.

Q422 Sir James Paice: Do you think it is reasonable that in relation to any particular benefit—in this case Universal Credit but it could be any of the others—both Governments should have a role in it? Is that unnecessarily complicating what all of us as MPs know is a complicated issue anyway, as any benefit is?

Mr Carmichael: As long as it does not leave the claimant, or the DWP customer, confused as to their entitlement. The whole point of Universal Credit is that, first, it is an exercise of simplification, and, secondly, it is designed to encourage people to move from benefits into the work force. As long as that fairly basic proviso is understood and recognised, and because it would not be in anybody's interests, whether or not it creates a grievance, I do not see why complexity within Government should necessarily be a barrier to doing anything.

Q423 Sir James Paice: You talked earlier about what are and are not vetoes. Among the other accusations levelled by the Scottish Government is that the draft clauses water down the Smith agreement. Perhaps the best way to address that is to ask you whether the Scottish Government have intimated to you any areas of policy that they expected to be able to implement on reading Smith that the draft clauses would prevent them from doing.

Mr Carmichael: We have had no indication of that. It is there for everybody to see. We have the Smith Commission heads of agreement and the Command Paper. You can read them side by side. If you look at the way the Command Paper is structured, you will see that it takes each heading—each section—of the Smith Commission agreement as its starting point. It then lays out text concerning the implementation of that, and produces at the end of it the draft clause.

Q424 Sir James Paice: Despite having made the accusation, they have never added any substance to that.

Mr Carmichael: It is an old political trick. You throw enough mud and some of it will stick.

Q425 Chair: Can I follow up two points? On the point about delaying the introduction of Universal Credit, did the Scottish Government ask for that to be done during the process of discussion and before this was published?

Mr Carmichael: I believe that the now First Minister made public comment to that effect. I cannot recall whether we actually received formal correspondence within Government. It might have gone directly to No. 10 or the DWP, but certainly Nicola Sturgeon did say that in public comment.

Q426 Chair: There is a distinction between something you say in public comment and it being raised in the process that was under way. Coming back to the obsession with process, in the haggling or discussions going on between teams of civil servants and Ministers in

relation to the drawing up of the precise document, was it raised as a possibility in that context?

Mr Carmichael: The delaying of the implementation of Universal Credit?

Chair: Yes.

Mr Carmichael: No, it was not, but given that most of the contact was between civil servants, I would not normally have expected it to be. It would have been somewhat outwith the normal ambit of those discussions.

Q427 Chair: Since civil servants are by and large not self-employed, presumably had there been an instruction from the politicians on either side to have something raised, it would have been raised.

Mr Carmichael: We would have heard it.

Q428 Chair: But you did not.

Mr Carmichael: We did not.

Q429 Chair: Similarly, on Jim's question about watering down, was anything raised during the translation of Smith into legislation about the wording being a watering down?

Mr Carmichael: No, not publicly or privately. All you have is the general accusation thrown out that this is a watering down, but you never get any evidence to support the assertion.

Q430 Chair: I want to be absolutely clear that these points were not raised when the draft legislation was being written, and at a time when it could have been changed if necessary.

Mr Carmichael: I am fairly confident that, if at the point we had delivered all the draft clauses anybody was able to come back and say, "Wait a minute. Here are paragraphs x, y and z of the heads of agreement. Why are there no draft clauses to deliver them?", I would have got any number of ministerial phone calls, and they did not come.

Q431 Graeme Morrice: In terms of drafting the clauses, you made your statement to the House last Thursday, I think.

Mr Carmichael: It was the Parliamentary Under-Secretary.

Q432 Graeme Morrice: Indeed it was, and I was there too. Sorry about that. It has been a long week, and it is only Tuesday afternoon. You confirm that, in terms of the process of drafting the clauses announced last Thursday, civil servants from the UK Government and civil servants from the Scottish Government co-operated, discussed, negotiated and worked together to come up with what was eventually published and announced.

Mr Carmichael: Indeed. As a former civil servant, I would expect no less.

Q433 Graeme Morrice: Indeed. To seek confirmation, obviously Ministers in the Scottish Government also had sight of the final draft clauses.

Mr Carmichael: The people who could give you 100% confirmation of that would be the Scottish Government civil servants, but on a matter of this sort it would be unthinkable that, having passed them from civil service to civil service, they did not then go to Ministers. In fact, Nicola Sturgeon's first tweet came out at about half-past nine in the morning, so that would suggest she had not just had first sight of them at that point.

Q434 Jim McGovern: I am sure you will be aware that we took evidence from Lord Smith regarding his report. He said that the Scottish Government should have powers to create new benefits in areas of devolved responsibility. Lord Smith explained what he meant by that, but I wondered about your view. How do you understand and interpret that?

Mr Carmichael: Essentially, my understanding is that which has been outlined by Lord Smith. I do not quite follow your concern.

Q435 Jim McGovern: For example, disability benefits or carers' benefits.

Mr Carmichael: They are now being given legislative and administrative competence to design those benefits as they choose. It is up to them what they do with it.

Q436 Jim McGovern: I take it you concur with Lord Smith.

Mr Carmichael: I absolutely concur with Lord Smith in that regard. It goes without saying.

Q437 Jim McGovern: That is for the record.

Mr Carmichael: It is perhaps an indication of what the Chair has referred to as our obsession with process. Once you stop talking about the process, happily you are on to what you can actually do with these powers. Remember, according to OECD figures, these powers are going to make the Scottish Parliament the third most powerful devolved legislature in the world. That should be the subject of some satisfaction for everybody involved in Scottish politics, and we should now start debating what we are going to do

with these powers. They are substantial powers. How are we going to use them to make life better for the people of Scotland?

Q438 Jim McGovern: That brings me to the next point. Under the new powers the Scottish Government will be able to introduce new benefits—for example, fuel for rural areas. Is that a fact? My colleague Alan Reid may want to come in on this.

Mr Carmichael: I do not know that it is a benefit as such, but they are already able to give subsidies according to geography. I think back to the first and second Scottish Executives, as they were then termed, when there was a scheme that allowed support for rural filling stations for the purchase of new pumps and other equipment. That is the sort of thing they already have the power to do.

Q439 Jim McGovern: And possibly early retirement for people with disabilities.

Mr Carmichael: The retirement age would remain a reserved matter, but it would be open to the Scottish Government to shape or fashion other benefits in any way they saw fit.

Q440 Jim McGovern: Much has been made of the bedroom tax and discretionary payments. Will that definitely be devolved? Will it be within the remit of the Scottish Government?

Mr Carmichael: Yes. They already have that power; there are provisions already within the draft clauses. I can only let the words speak for themselves. There is no hidden meaning. The suggestion that somehow or other they are no longer able to do something they have been boasting about for months is laughable.

Q441 Mr Reid: The Committee has certainly interpreted the Smith agreement as meaning—this was confirmed when we interviewed Lord Smith—that the Scottish Government would have the power to top up any reserved benefit. We are now not clear from the Command Paper whether that is possible—whether it is only a discretionary power for special cases, or whether it is a general power to top up any reserved benefit. Can you clarify that for us?

Mr Carmichael: The provisions relating to discretionary payments are in draft clause 18 on page 107. I do not see where the doubt or ambiguity comes from.

Q442 Mr Reid: It is the meaning of discretionary; that is where we are not too clear. For example, I think that where the confusion may be arising is in—

Mr Carmichael: It is a short-term need.

Q443 Mr Reid: In discretionary housing payments it is for a short-term need, as you say. What we are not clear about is whether the Scottish Government could simply top up a reserved benefit for everybody who receives it in Scotland, or would they have to assess each person's individual circumstances?

Mr Carmichael: They would need to define those who were going to receive the discretionary payment, as they would be obliged to do in any event. It is not a straightforward top-up, but I am sure you could achieve the same end without too much creativity.

Q444 Mr Reid: Would they be able, for example, to write a computer programme which says that everybody who receives this benefit gets an extra £10, or would they have to assess each individual person's needs manually?

Mr Carmichael: If it is their scheme and their payments, they would need to assess everybody's entitlement to it. The basis on which that is done would be for them to decide when they set up their scheme.

Q445 Mr Reid: But could they write regulations so that the top-up benefit applied automatically to everybody who met those requirements? I think that is what we are trying to find out.

Mr Carmichael: I do not think they could.

Q446 Mr Reid: The answer would be no.

Mr Carmichael: That would be no.

Q447 Chair: That is clearly a contradiction between the Government's interpretation of Smith, Smith's interpretation of Smith and the Committee's interpretation of Smith. Our view was that Smith allowed two things. One is that the Scottish Government could create new benefits in those areas that are devolved entirely. It had the power to raise payments, and it also had the power to cut payments. We then took the view that for those things that were not devolved it had power to make additional payments.

Mr Carmichael: Let me illustrate by way of example, because I do not think we are a million miles apart. The state pension is reserved, so that is something the Scottish Government would not be able to top up, but they could, for example, increase every pensioner's winter fuel allowance to achieve the same end. That would be the way it could work in practice.

Q448 Chair: The very strong suggestion made to some of us is that the DWP were unwilling to be as co-operative as some other sections of Government, and they basically crushed the valiant forces of the Scotland Office and imposed views on them about how words should be interpreted which were not in line with the views of either Smith or this Committee. For example, we took the view that “discretionary” meant “at the discretion of”. We draw on the DHPs, where the Scottish Government have, in my view quite understandably and correctly, said that everybody who is hit by the bedroom tax should at their discretion get payments made to them. That is therefore a universal payment to everybody in a particular category, without having to define each individual’s personal circumstances. That was what we, and Smith, as I understand it, understood “discretionary” to mean. That is not what the DWP wanted to see.

Mr Carmichael: To take your point about process, do you look at this from the point of view of process or of outcome? Is the outcome at the end of the day that housing benefit changes made by the Department for Work and Pensions in relation to occupancy levels can be reversed in Scotland? The answer is yes. By whatever means you choose to achieve it, the outcome is the same.

Q449 Chair: Let me be absolutely clear about outcomes. My understanding is that every single benefit in Scotland, under the proposed new rules, could be doubled, trebled, quadrupled, quintupled, or by whatever proportion the Scottish Government wished to raise them, provided they have the money.

Mr Carmichael: Yes.

Q450 Chair: Those that are not devolved cannot be cut; those that are devolved can be cut.

Mr Carmichael: Indeed.

Q451 Chair: The only power the Scottish Government will lack in relation to benefits is twofold: first, they will not be able to cut non-devolved benefits; and, secondly, they will not be able drastically to amend the structures. They will possibly be able to introduce new structures themselves, but they won’t be able to abolish structures. Is that understanding correct?

Mr Carmichael: In essence, yes. I come back to the illustration of the state pension that I gave earlier. You cannot cut the state pension, but at the same time you cannot increase it either—directly. What you can do is give more money to those who would be receiving the state pension, so you achieve the same outcome.

Q452 Chair: The winter fuel allowance could be increased to £1,000 a week for everybody who qualified for a pension, if the Scottish Government wanted to do so.

Mr Carmichael: Yes.

Q453 Chair: If I may say so, that seems to contradict the point you made to Alan. I thought you were saying that individual circumstances had to be taken into account, and it couldn't be the baptising the army with a hose position. You have to take account of individual circumstances, not just the circumstance that they are receiving a particular benefit.

Mr Carmichael: Yes. That, essentially, is a question for the Scottish Government and how they then design the scheme. They have the authority; they have the power under the draft clauses to do that.

Q454 Chair: We have to produce a report very quickly. This is an issue of enormous significance. You may be aware that other parties have made comments about what they want to do, based possibly on a misinterpretation of what Smith already allows. That is why we think it is important to clarify the position. So that we can be clear for our report, every single benefit in Scotland under the proposals coming forward from yourself could be doubled or tripled if the Scottish Government wanted to do so and can beg the money.

Mr Carmichael: If they want to put the resources into it.

Q455 Chair: They cannot, however, cut non-devolved benefits, nor can they abolish the existing structure. They can, however, add extensions, as it were, like a patio, kitchen or the equivalent.

Mr Carmichael: Yes. It is complex because you are dealing with the division between devolved and non-devolved benefits, and there is a question of what you can cut and what you can raise. The outcome though is what we need to focus on, rather than the process. If it helps, I will happily give you a letter on the detail of that.

Q456 Chair: I am afraid that if you write to us you might show it to the DWP first. I am happy with what you said. I worry that it might be changed when it disappears into the maw of the civil service and comes out again. You are a good man among villains, potentially.

Mr Carmichael: The DWP have a legitimate concern that whatever we do has to be workable at the end of it, and that was the basis on which they approached the discussions.

Chair: To be fair, either of these alternative interpretations of discretion is workable. It is a question of which is politically desirable. There is a distinction between them. Can we turn to Graeme on fiscal matters?

Q457 Graeme Morrice: I've got the easy section. In implementing Smith there will be a requirement for a corresponding adjustment to the block grant. One assumes that will also need to be indexed. What is going to be the process for that?

Mr Carmichael: In many ways you have got the easy bit, Mr Morrice, because the answer to most of it is that it is to be the subject of discussion and negotiation between the Scottish Government and Treasury. If you take for example, though, the implementation of the 2012 Act, which I suppose would be the framework within which this would be constructed, you have a Scottish rate of income tax, and it has now been agreed between the Treasury and the Scottish Government that there will be an adjustment for tax receipts against the tax base, and that mechanism should now be reflected in the Smith agreement going forward.

Q458 Graeme Morrice: I understand there were problems in getting agreement over the indexing of stamp duty.

Mr Carmichael: Stamp duty was in a slightly different position. The Treasury realised that stamp duty reform was intended, so what we have done on stamp duty and landfill tax is to agree a one-year settlement that works to the advantage of the Scottish Government. They can agree a final settlement once the new system has been introduced. Stamp duty and landfill tax together are a reduction in the block grant of £494 million, which will be compensated for by income from the new land and buildings transaction tax and landfill tax north of the border.

Q459 Graeme Morrice: There was prolonged disagreement during the negotiations.

Mr Carmichael: It is a discussion. It is a highly complex matter.

Q460 Graeme Morrice: Are there lessons to be learned from that?

Mr Carmichael: When you say disagreement, it suggests that it was somehow a fractious negotiation. It wasn't. It took time, as these things inevitably do, but I think we have now come to a position that both sides can see as being fair.

Q461 Chair: Unless I am mistaken, when you had the dialogue with the Scottish Government about the text of the legislation, you came out of it thinking everybody was agreed. Given the state of perpetual grievance, surely people can reach a settlement and then suddenly say, "We're not happy with it after all." It seems to me that some of these discussions allow the two Scottish obsessions of process and grievance to come together in a never-ending dialogue of dispute.

Mr Carmichael: First of all, I would hesitate to tar all our fellow countrymen with the brush of process and grievance. There are those—

Chair: That's reasonable.

Mr Carmichael: There are those in Scotland, both in the body politic and the media, who I can certainly recognise in your description, but in my experience most Scots are

reasonable and fair-minded people. In relation to the agreement on the draft clauses, I did not think when I sent them that because they did not come back with any substantial disagreement or concerns I would not get a response that was welcoming. This will have to be the basis of ongoing working between the two Governments. Whatever quibbles may be raised at a later date, the fact of the matter is that it is on the record now that the parties have reached an agreement they both seem to be happy with.

Q462 Graeme Morrice: In relation to the compensatory payments between Governments that have been mooted, where do you see the policy areas that they would apply to?

Mr Carmichael: The Chancellor of the Exchequer has already spoken about this in his evidence to the Treasury Select Committee. If you look at what he says, these are fairly high-level terms. The principle of no detriment, and compensation within that, is one that relates to the starting position. I do not think it means that you have a readjustment every year; otherwise, there would be no point in devolving control.

Q463 Graeme Morrice: Sure. But in what areas of policy do you foresee this happening? Can you give us an example or two?

Mr Carmichael: Within compensation?

Graeme Morrice: Yes.

Mr Carmichael: The example I think you may have given me last time was on APD, where there would be an effect on airports in the north-east or maybe the north-west of England in the event that Scotland were to manage APD differently. You asked me for an example, but I am now going to tell you that I think that is one where you would not have a compensatory arrangement.

Graeme Morrice: You are seeking inspiration, and you need time for it to sink in.

Q464 Chair: Can I give an example? As I understand it, from what you were saying earlier the Scottish Government would be able to top up jobseeker's allowance. If they did that, it could be argued that that meant remaining on benefits was more financially attractive, and therefore it would mean that more people remained on benefits and the UK Government had to pay more people the basic level of jobseeker's allowance. That is a cost incurred by the UK Government as a result of Scottish Government action. These are very big sums and it is very difficult, but the principle of compensation there seems perfectly straightforward and would have to be undertaken.

Mr Carmichael: It has to be a direct impact of that sort. An example might be the Work programme. If that were to be implemented in a way that had the sort of effect you describe, you would have a fairly easily identifiable direct effect. It would have to be very direct and something that would not be attributable to some other cause, such as economic growth, decline or whatever else it could be.

Q465 Chair: There are all sorts of strands running at the same time. I take it from your response that you accept that the Scottish Government under these proposals would have the power to top up jobseeker's allowance.

Mr Carmichael: By the same means we have already discussed, yes.

Q466 Graeme Morrice: What kind of mechanism do you think will be put in place to oversee this? Lord Smith told us there would have to be a mechanism to agree a shared evidence base. How would that mechanism look?

Mr Carmichael: That really has to be the subject of negotiation. It is highly technical. You saw how long it took to get agreement between the Governments for the infrastructure of tax sharing on income tax. You are asking me to second-guess the outcome of a negotiation that is only just starting, so I cannot really help you.

Q467 Graeme Morrice: I said earlier that I had the easy questions. Maybe they are not easy after all. Presumably, an independent body will be established to oversee this.

Mr Carmichael: It depends on what is agreed between the two Governments.

Q468 Graeme Morrice: Do you think that would be a good principle?

Mr Carmichael: That might be a sensible way of doing it. If you look at the way in which, for example, the OBR has very quickly become established as an independent body within Government, somebody who can hold the ring might well be sensible, but that has to be agreed between the parties.

Q469 Graeme Morrice: Are you or Ms Crawford aware of any kind of international comparisons in this area, where compensatory payments are made between devolved and national Governments?

Mr Carmichael: Different countries do it in different ways. Where you have a written constitution and a series of constitutional courts, there are legal mechanisms in other places. We have always done it by way of memorandums of understanding between the Governments. I would expect that in the context of the British unwritten constitution that would be the way we would do it in the future.

Q470 Graeme Morrice: Is there a risk that if the UK chose to raise income tax to pay for UK-wide issues, such as defence or deficit reduction, Scotland would benefit from the policy without contributing to its costs, and how might such a scenario be avoided?

Mr Carmichael: For a reserved purpose, such as defence?

Graeme Morrice: Yes.

Mr Carmichael: That is part of something that benefits the whole of the United Kingdom, so the Barnett formula does not apply.

Q471 Graeme Morrice: Equally, if the UK chose to raise income tax to increase funding to the NHS, would Scotland benefit via Barnett consequential? How might such a scenario be avoided?

Mr Carmichael: I know why you ask these questions, but we do not hypothecate taxes in this country. Taxation is raised; it goes into the Consolidated Fund and there is a budget agreement between the Departments. Whether the political purpose purports to be a particular end is not how it works.

Q472 Chair: Up to a point. You have a proposal from one party to have a mansion tax and the amount of money to be raised from that is identified as being spent on various things. Similarly, there was a banker's bonus charge at one stage and money was spent on other things. Clearly, the Treasury resists it, but it has been done, and the political reality is that it is likely to be done in the future in exactly that way. I think these questions are quite important, particularly relating to the point Graeme made about defence. If the UK Government said they were putting a penny on income tax in order to spend more on defence, it would cover the whole of the United Kingdom. Scotland in those circumstances would to some extent be getting a free ride, because it would be benefiting from the spending on defence, by having enhanced protection, but it would not be contributing towards it.

Mr Carmichael: But I think that in future it will be very difficult for any political party to make that sort of statement with any degree of credibility, because ultimately they will be faced with the same reality we all face at the moment, which is that the money goes into the Consolidated Fund. We do not hypothecate our taxes; we look at the package as a whole.

Q473 Chair: I am taking that as a refusal to answer in a sense. It is quite clear that in the past there have been a number of occasions when taxes have been raised and hypothecated quite directly. I mentioned the mansion tax as a clear case.

Mr Carmichael: There is a balance. It is not proper hypothecation. There is a duty on all parties to say that, if we are going to spend extra money on this, that or the other, we have to be prepared to find the money for it in some other way. The logical conclusion of your example is that the retort to anybody who tried to come forward with a proposition like that is, "Why would you?" because it would not be a fair way of raising the money.

Q474 Mr Reid: If after the devolution of income tax to Scotland, the UK Government were to increase income tax in England, Wales and Northern Ireland, presumably they have increased the tax base in those countries relative to the Scottish tax base. Does that mean the Scottish Government would get less money, and the only way it could make sure it kept the same amount of money would be to put up its income tax by the same amount?

Chair: I have just been told there is a Division. Do you want to have a few minutes to think about that while we all go and vote? Unfortunately, Alan is not coming back, but we will tell him what you said and whether or not it was any good.

Mr Carmichael: I have no doubt.

Sitting suspended for a Division in the House.

On resuming—

Q475 Chair: Alistair, you were in the process of answering Alan.

Mr Carmichael: I cannot now remember the exact formulation of the question. It was quite long and involved, but I am told that the answer is no.

Q476 Chair: That is always a useful fall-back position. Earlier you were discussing how there is no hypothecated tax, but the landfill levy is a hypothecated tax, is it not? Therefore, we do have them.

Mr Carmichael: I cannot see us funding extra defence expenditure with the landfill tax.

Q477 Chair: I was not thinking of taking landfill tax and paying for defence. I was dealing with your point that there is no such thing as a hypothecated tax.

Mr Carmichael: As a general rule, we do not hypothecate tax in Britain.

Q478 Chair: Is it not the case that, if we are moving towards fiscal responsibility, we will need a degree of hypothecation to achieve fairness for the remainder of the United Kingdom?

Mr Carmichael: What we need to do in order to achieve fairness for the rest of the United Kingdom is to move eventually to a proper federal structure. That is the logical conclusion of the journey we are on.

Q479 Chair: Is that the Government's position?

Mr Carmichael: That is certainly the view of my party.

Q480 Chair: To be fair, that was not the question I asked.

Mr Carmichael: We are not bringing forward any legislation to that effect at the moment, but you asked me how we deal with these things and I am telling you.

Chair: Then I regard myself as told.

Q481 Mike Crockart: If we may turn to the fiscal framework, we are in the process of renegotiating that at the moment as a consequence of the 2012 Act, and we will obviously have to go through the whole process again as a consequence of the Smith agreement. There is a bit of a debate about whether the fiscal framework effectively has such tight control over the Scottish Government that it binds them into continuing the austerity agenda, as is portrayed by the First Minister in Scotland—that somehow it limits the way that the Scottish Government can go in their policy decisions.

Mr Carmichael: What limits the Scottish Government is the amount of money available, and that is true across the whole of the United Kingdom. We have an overall fiscal framework in the United Kingdom, and that is what the people of Scotland voted to be part of on 18 September. Inevitably, given the size of the cake, there will be constraints. If you did not have them, you would have independence by the back door, which is not what the people of Scotland wanted.

Q482 Mike Crockart: The First Minister argues that it goes against both the letter and the spirit of the Smith Commission. My reading of the Smith Commission is very much not that.

Mr Carmichael: The Smith Commission expressly says the opposite.

Q483 Mike Crockart: It says it “should be accompanied by an updated fiscal framework for Scotland, consistent with the overall UK fiscal framework”. In your opinion, does that still give sufficient flexibility to the Scottish Government? They just have to find the money that allows them to spend more.

Mr Carmichael: Does it allow them to do everything they want to do in every single area? No, of course it won't, because that is not how devolved settlements work. Is there still an enormous amount of flexibility and money at the disposal of the Scottish Government to do good things for the people of Scotland and improve day-to-day life in Scotland for the Scottish people? Of course there is.

Q484 Mike Crockart: Is this more froth?

Mr Carmichael: What Nicola Sturgeon wants is independence. She wants to have no constraint, or, as I would see it, even no advantage from being part of the United Kingdom, but that is not what the people of Scotland said they wanted on 18 September.

Q485 Mike Crockart: Crucially, in your opinion and in mine that is certainly not what the Smith agreement says.

Mr Carmichael: We all have to work within limits.

Q486 Chair: On the question of being bound by the UK fiscal framework within the context of Smith and the Scottish Government saying this is unfair, unreasonable, constrains them and so on, can you clarify how that is different from having a joint currency and being within a fiscal union, which was the SNP proposal in the referendum? It seemed to me that at that stage there were constraints imposed by a joint currency which are pretty much the same as the constraints proposed under Smith. Have I misunderstood the position?

Mr Carmichael: The difference under the currency union proposals would be that as Scots we would have no say; we would have subcontracted our fiscal decision-making to a foreign country. As part of the United Kingdom, we have a say like everybody else.

Q487 Chair: To be clear, under separation would the fiscal freedom that a Scottish Government had be much more substantial than what is being proposed under Smith?

Mr Carmichael: No. It would be something we could not influence if we were a separate country from the rest of the United Kingdom.

Q488 Chair: I think it would be helpful if the Government dropped us a note about this. It is an area that is being discussed quite substantially in Scotland, and having clarification as to the distinction between the fiscal inhibitions under Smith and those under separation, with a joint currency, and comparing and contrasting them, would be helpful to the debate.

Mr Carmichael: It all depends on what ultimately is agreed between the two Governments, but the basic principle is that this is a negotiation between devolved and reserved governance, as opposed to what would have been the position under separation, where we would have had to take it or leave it.

Q489 Chair: In a sense, that is the difference between consultation and veto, isn't it? The Scottish Government had the opportunity for consultation but the UK Government would have had an absolute veto and total power under separation.

Mr Carmichael: That is one of the reasons why I never thought a currency union was an attractive option.

Chair: I think it would be helpful if you gave us a note in clarification of that.

Q490 Sir James Paice: That leads us neatly to the other relevant issue: borrowing powers. The heads of agreement under the Smith Commission referred to the need for agreement between the Scottish and UK Governments on the Scottish Government's borrowing powers, and the Command Paper says: "Meeting the...Agreement on sufficient additional borrowing powers will therefore depend on a number of factors and will be subject to discussion between Governments." Can you explain to us how you see the borrowing powers developing, particularly in regard to capital where there again seems to be a disagreement on interpretation between the Scottish Government and the UK Government? The First Minister says that "Scotland's capital grant could be replaced by borrowing powers and not augmented by them", as she suggests was the intention of the Smith proposals.

Mr Carmichael: I do not agree with her analysis of that. In relation to the level of borrowing, we currently have a £2.2 billion cap for any capital expenditure, which I think offers them something in the region of £300 million a year. That is now all to be the subject of fresh negotiation between the Treasury and the Scottish Government, and those discussions will go on alongside the introduction of the Scotland Bill. They have already started at an official level.

Q491 Sir James Paice: Are you envisaging that Scotland will have any allocation of money for capital other than what it might want to borrow? The First Minister seems to be implying that the only way Scotland will have capital money is if it borrows it. You disagree with that.

Mr Carmichael: I disagree with that, but it is still to be the subject of the negotiations and discussions between the Treasury and the Scottish Government.

Q492 Sir James Paice: If you disagree with it, where do you see Scotland's capital coming from?

Mr Carmichael: Scottish capital spending would come from the current arrangements, as is already the case.

Q493 Sir James Paice: As a grant from the Treasury.

Mr Carmichael: Part of it. There is going to be a mix of these things, between the two funding sources.

Q494 Sir James Paice: You would envisage the continued flow of money for capital from the Treasury.

Mr Carmichael: The proportion and the extent would be the subject of discussion, but in principle that is so.

Q495 Sir James Paice: But there would be some.

Mr Carmichael: Yes.

Q496 Graeme Morrice: In the Smith agreement there was talk about better working relationships between the UK and Scottish Governments, and improved intergovernmental machinery. What steps do you think should be taken to do that, and what steps are currently being taken to do that?

Mr Carmichael: In relation to the devolution of welfare, we have set up a joint ministerial working group involving Scottish Ministers, Ministers from the Scotland Office and Ministers from the Department for Work and Pensions. That is a fairly obvious area, where we know devolution is going to happen. In the meantime, however, administration and legislative authority rests at Westminster, and it makes sense that both Governments should be aware of the intentions of the other. That is one area. In relation to devolved Crown estate, I am keen to hear soon what model the Scottish Government want to create. In particular, I want to hear from them what they intend to do with regard to the need for double devolution, so that control of the marine estate, for example, goes to the island communities.

Q497 Graeme Morrice: The double devolution issue is one on which the UK Government in particular should be putting a lot of emphasis, to encourage the Scottish Government, through joint working, to facilitate that.

Mr Carmichael: We know they were not keen on the idea, and that every other instinct they have is one that centralises power in Edinburgh. I will want fairly detailed proposals before we proceed with that.

Q498 Graeme Morrice: In terms of any kind of intergovernmental machinery, Smith also calls for a well-functioning arbitration process as a last resort. How do you think that process will look?

Mr Carmichael: We already have, for example, the Joint Ministerial Council, which meets in plenary session and also in sub-committees. That is where I think we should start the discussions about how we improve the working structures. At the moment, the focus of the Department is on getting the Smith Commission proposals and the draft clauses over the line. The intergovernmental structures are important, but they are not my top priority at the moment.

Q499 Chair: Can I clarify the point that Smith raised about a well-functioning arbitration process—if I remember the phrase correctly? Are you aware of any other situation in the world where there is arbitration between a central Government and parts thereof—the state? I can think of machinery where there is an opportunity for haggling, but not where an external party arbitrates between the two. Surely, at the end of the day this has to be decided by political negotiations rather than by some process of arbitration.

Mr Carmichael: It certainly should be, and that is the way in which our constitution has always worked, but, if you look around the world, you will see a number of places where constitutional courts arbitrate on where legislative or administrative competence lies.

Q500 Chair: That is slightly different. That is a question of where competence lies, which presumably is a question of what the legislation said, what was the intention and so on, and what is the actual position. Earlier, we discussed questions of compensation and financial transfer. That is not necessarily a question that is in the legislation, but how do you resolve, for example, a dispute about how much should go to the UK Government if the Scottish Government decide to double jobseeker's allowance and that results in certain consequences? How would that be resolved?

Mr Carmichael: Whatever the arbitration process is going to be will have to be one that both parties design and sign up to. To be realistic about what you are going to achieve, courts, arbitration panels or tribunals of any sort will only settle points of law; they do not always settle grievances.

Q501 Chair: Absolutely. Some grievances will never be settled and there is an industry living off them, but in terms of resolving individual disputes, coming back to the consequential of doubling the jobseeker's allowance, it is difficult to see how an arbitration panel would be given the authority to impose financial settlements on one of the parties, isn't it, and have that accepted democratically?

Mr Carmichael: The best way of making this work is that both Governments work in good faith with each other. If they set up an arbitration process, you would expect both of them to adhere to it; otherwise, what is the point of setting it up? Smith said that is the sort of process we need. It is novel and it will probably take time to work out and bed in, but clearly that is going to be a feature of the constitutional landscape from here on in. It is a consequence of sharing so much by way of tax and benefit.

Q502 Mike Crockart: When you appeared in front of us last time to talk about this subject it fell to me to ask about the other stuff—the back page—and what the process would be to move it forward. Can you update us on what has been happening?

Mr Carmichael: I am writing this week to the leaders of the Scottish political parties in the first instance, although I anticipate bringing other people into the conversation as well, about the devolution of abortion, for example. That is an area where the Smith Commission saw a compelling case but did not make a recommendation. We need to

move on with that. A lot of the other additional issues, in relation to immigration and matters of that sort, will need to be the subject of more detailed discussions between the Departments.

Laura Crawford: Those discussions are just about to begin. We have had some initial scoping conversations on non-legislative areas. We are about to take forward the next round of conversations, as the Secretary of State said, with the lead Departments and Scottish Government officials, working out what might need to happen in these areas. Some might fall into a situation where you produce a draft clause on the back of it; some might be perfectly happy resolutions; and some might need further discussions. Certainly, stakeholders are keen to give us views on those areas as well as on the draft clauses, so we are in a gathering evidence phase at the moment.

Q503 Mike Crockart: Is there an aim for a time scale to get to a resolution for them?

Mr Carmichael: It is difficult to limit yourself to a time scale before you start any substantial discussions.

Q504 Mike Crockart: But that would take in all of the ones that were listed. I notice that the Command Paper has an update, and says: “In certain instances significant actions are underway”, and it lists reviewing health and safety outcomes, the red meat industry, the sea fish levy, and veterinary medicines.

Mr Carmichael: Most of these things have been the subject of ongoing discussions for a long time. Sir Jim will remember the creation of the red meat levy.

Q505 Mike Crockart: It is good that things are specifically mentioned, but I am more worried about the things that are not mentioned. What is not mentioned are the different powers with respect to asylum seekers or allowing graduating international higher education students to remain in Scotland, for example.

Mr Carmichael: As Laura says, these are the ones that are now in the discussions that are starting.

Q506 Mike Crockart: You can expect me to ask about them next time we meet.

Mr Carmichael: Indeed. There has to be a hierarchy of priority in all this. The priority has been to meet the timetable made in the vow for the heads of agreement and the draft clauses. We will now start turning our attention to other matters.

Q507 Chair: The mention of red meat leads us to full fiscal autonomy. Can I clarify to what extent in financial terms full fiscal autonomy would differ from what is being proposed under Smith in terms of the amount of money available to a Scottish Government?

Mr Carmichael: These figures come and go. The one that is obviously the most volatile at the moment is the price of oil. If you take the working assumption that oil is at \$55 a barrel, which is about where it is at the moment, that leaves you with a deficit of an extra £17.1 billion.

Q508 Chair: An extra £17.1 billion. Is that per year?

Mr Carmichael: Over the three years, or the period covered previously by the White Paper.

Q509 Chair: To be clear, are you saying that under full fiscal autonomy Scotland would be £6 billion worse off?

Mr Carmichael: £6 billion-plus a year.

Q510 Chair: For each of the next three years?

Mr Carmichael: For 2016-17, 2017-18 and 2018-19. Yes.

Q511 Chair: Why do you think the SNP are in favour of it?

Mr Carmichael: I presume it is because they want independence, and full fiscal autonomy is the next best thing. What they want is independence, and it is not necessarily an argument based on reason or economics. There is a big element of emotion in there as well. As their starting point, they based their figures on oil at \$110 a barrel. You see where it is today.

Q512 Chair: The idea of having a coalition with people who want full fiscal autonomy, which would make my constituents a great deal worse off, is not immediately attractive. I was hoping to ask Dr Whiteford about this, but she is absent today. Are there any elements of it that you think maybe we are missing and should be picked up? It would be helpful if in that context you wrote to us to spell it out.

Mr Carmichael: You are asking me why in the absence of independence people would want full fiscal autonomy.

Q513 Chair: Why do people want poverty is the question I think I am really posing.

Mr Carmichael: It is a good illustration of the truth of what I and many others, who campaigned to keep the United Kingdom together in the referendum, said about the volatility of oil as a commodity as the basis for economic growth and prosperity, and the consequences of spikes and falls.

Q514 Chair: Is there any state in the world where part thereof has full fiscal autonomy, as proposed by the SNP?

Mr Carmichael: As proposed by the Scottish nationalists, there is none that I am aware of; I do not claim to be an expert.

Q515 Chair: Ms Crawford is an expert on everything. Can you tell us?

Laura Crawford: I am not aware of any, but we will check and, as part of our letter to you, we will confirm that.

Q516 Chair: There are experts sitting behind you. I notice they have not scribbled a note and passed it forward.

Laura Crawford: Exactly. It would appear that we have reached the limits of our expertise.

Q517 Chair: Can I ask about the GERS announcement which is anticipated in February or March?

Mr Carmichael: According to the Scottish Government's website, the GERS figures will be published on 11 March.

Q518 Chair: Do we have any reason to believe that they will be delayed?

Mr Carmichael: We have received no indication, although we would not normally expect to be told about these things. I can see no reason why the GERS figures would not be published as they currently are intended to be on 11 March. It is for the Scottish Government to explain what they choose to do or not to do.

Q519 Chair: They are likely to be grossly embarrassing to the Scottish Government, so I can understand why they would want to delay them, but is there any statistical reason of which we are aware that would result in their delay?

Mr Carmichael: There is no such reason.

Q520 Chair: Civil servants meet civil servants from the Scottish Government. Have they given an indication of any possible delay in the GERS statements?

Laura Crawford: Not that I am aware of. We can check, but I cannot see any reason why they would publish a date and—

Q521 Chair: It would be helpful if you checked, and we will also ask the Committee staff to check whether or not they are anticipated on 11 March.

Mr Carmichael: The published date is 11 March.

Q522 Chair: That is a diary date for us all. We will obviously want to see what they say. I think that covers the set questions. May I take us back one stage? We were discussing the question of welfare benefits and “discretionary”. I think we agreed it allowed virtually full flexibility for the Scottish Government to top up anything they wished. You used the expression “short term” on a couple of occasions. Taking into account that in the long term we are all dead, what did you envisage by short term?

Mr Carmichael: Short term clearly has to be something that is not indefinite, so it will be time-limited. That is not to say that, if you made provision which lasted for a finite period, you could not then revisit that and renew it, as indeed we would do routinely with most expenditure within Government anyway.

Q523 Chair: So when you use the expression “short term” together with “renewable”, effectively it can mean that the increase we spoke of in, say, pensions doubling, quadrupling and so on need not be time-limited, because effectively it would just be constantly reviewed, and could be renewed if the Scottish Government chose to do so.

Mr Carmichael: If you look at it from the perspective of the outcome rather than process, yes.

Q524 Chair: That is very helpful to hear. We always ask whether or not there are any answers you had prepared to questions we have not asked, or any points you want to bring to our attention that we have not raised.

Mr Carmichael: I think it has been quite a comprehensive and helpful session. Anything we have said we will follow up in correspondence, we will follow up in correspondence. This is an evolving process. We are getting a very good level of engagement with other parties who have interests in these areas in Scotland. The process is going well, and in the way I envisaged it would.

Chair: Thank you very much. Same time next week.

