



Political and Constitutional Reform Committee

Oral evidence: [The future of devolution after the referendum](#), HC 700

Tuesday 3 March 2015

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Members present: Mr Graham Allen (Chair); Mr Christopher Chope; Tracey Crouch, Mark Durkan; Paul Flynn; Duncan Hames; Fabian Hamilton; Chris Ruane; Mr Andrew Turner

Questions 510 – 580

Examination of Witnesses

Witnesses: **Rt. Hon Greg Clark MP**, Minister of State for Universities, Science and Cities, Cabinet Office, **Rt Hon David Mundell MP**, Parliamentary Under-Secretary of State for Scotland, and **Baroness Randerson**, Parliamentary Under-Secretary of State for Wales, gave evidence.

Q510 Chair: Welcome, everyone. I am very pleased to see you. Did you want to say anything to kick us off or are you happy to jump straight in?

Greg Clark: Straight in, I think.

Chair: David? Jenny?

David Mundell: Sure.

Baroness Randerson: Yes.

Chair: You are happy? You can always come in at the end if you feel we have missed anything, and obviously always drop us a line if something else occurs to you. Mark, over to you.

Q511 Mark Durkan: Following the Scottish referendum and the result on 18 September, there have been elements of devolution for Scotland, Wales and Northern Ireland that have been brought forward fairly swiftly, some of them not just elements but even running under the name of “settlements”. To some, that involves quite a scramble in terms of significant change. From the Government’s point of view, why has it been necessary to bring about fairly major proposals to reshape things in a relatively hasty way?

Greg Clark: Each of the aspects of devolution has been conducted separately, so perhaps I could ask my colleague to talk about the Scottish situation and Jenny to talk about Wales.

David Mundell: In relation to Scotland, clearly we had the referendum and as part of the referendum process various undertakings were given in relation to the future constitutional arrangements for Scotland. I think it was very important that, those undertakings having been given, the Smith commission having been established, a timeline having been set out, that was all met and that people could take confidence that those undertakings were going to be delivered on. Of course, the changes in Scotland that are now coming forward had been the subject of debate for some considerable time and each of the main political parties in Scotland—other than the Scottish National Party who obviously support independence—had brought forward and had been debating specific proposals. Within the Scottish Conservative Party the Strathclyde commission that took evidence and set out detailed proposals, the Labour Party had an equivalent body and the Liberal Democrats had a commission that was chaired by Sir Menzies Campbell.

There had been a very significant debate before the referendum, but during the referendum undertakings were given effectively to implement those proposals. A timescale was given and the Government is delivering in relation to that timetable, so it is the circumstances of the debate in Scotland that have created the timetable.

Baroness Randerson: There is a long-standing, ongoing debate on devolution in Wales but I think the important thing to note, as probably we will say several times this afternoon, is that the needs of the individual countries of the Union are different. We are aware in Wales that, institutionally, the background is very different from that in Scotland. Geographically, the situation is very different. We have a long border with England that is very porous. People cross that border very much more frequently than they do in Scotland.

Under this Government, we have had not only a referendum in 2011 to give the Assembly full legislative powers but, following that, we have also had the Silk commission that has produced two reports, both unanimous; the first on fiscal and borrowing powers and the second on the extension of powers. We have had a Government of Wales Act, which was passed at the end of last year, that has implemented most of the first Silk report recommendations—all but one of them, essentially—and only last Friday we had the St David's Day command paper, which is a very significant moment in the development of Welsh devolution. It sets out a blueprint for the future and how legislation can go forward in the early days of the next Parliament. It also looks at the issues that the Smith commission report raised, because we are aware that although the situation is very different in Wales from that in Scotland, what is happening in Scotland does have a knock-on effect on Wales and needs to be considered in Wales.

Greg Clark: May I add that in terms of the cities, counties and towns of England—the Committee has interviewed me on several occasions over the last few years and is aware of my responsibilities—throughout almost the whole of the Parliament I have been leading a programme with colleagues to devolve power from Westminster and Whitehall to our cities but also to our counties and other areas. That has continued and does continue.

Q512 Mark Durkan: The Committee has gone to Scotland, Wales and Northern Ireland and in the context of the Scottish visit, as you were saying, the message was very clear that a vow was made, there was a timescale put on things and that, regardless of the detail, it was very important that that timetable was seen to be adhered to. There was a test of trust there.

In Belfast, we heard different views. The First Minister said just as devolution up until now has been different for different places, that could be the same, and there was different interest from the parties in relation to different aspects of devolution.

In Wales, the First Minister made it clear that he was concerned that the changes are being made in “a wholly piecemeal fashion,” without any context or structure. He made the point that a proper conversation is needed that, in his words, “would treat all four nations as equal and develops a long-term view on what the UK should look like”. As I have said, we have different emphases and different takes on that from other places.

Given that those were the views that we were getting from the different devolved areas, what mechanism is actually being used to consider the effect of the devolution settlement on the overall state of the UK? Greg, you mentioned the point about cities and the aspect of devolution you are looking after. There seems to be very little awareness of that element of devolution and its possible implications as far as the devolved territories are concerned. Who is tracking and keeping shape on all of this?

Greg Clark: First of all, in terms of devolution to the cities, it has been deliberately bespoke, as I would see it. There has not been a template. That has reflected a view that I and the Government have taken that different cities—and now different counties—have a different capacity and readiness to take on powers. What has been the enemy, it seems to me, of decentralisation within England before has been the idea that some places may not be well organised to take on powers whereas some are. We have, through the City Deals programme and the Growth Deals programme, done things differently in different places. It has been a deliberate decision to do that.

Across the whole of the United Kingdom, of course you have the Ministers with responsibility for the different parts of the United Kingdom. They proceed through the machinery of government. There are various meetings and mechanisms that bring us together: Cabinet committees, the day-to-day collaboration between colleagues and, of course, the Cabinet itself. Obviously they inform each other but I think, as has been made clear by David and Jenny, there are different issues and different demands in different places that have been reflected in the process.

Baroness Randerson: One of the things that we need to keep bearing in mind is that devolution needs to go beyond the governments of the individual nations; it needs to be devolution not just to Cardiff but from Cardiff to the local authorities throughout Wales. I believe very strongly, and the Government believes very strongly, that local people know best what is suitable for their area. If you look at that, by definition it is going to be different in different areas and therefore the Government’s approach has been that the important thing is to provide what is appropriate in each area.

In terms of looking at the thing overall—you quoted the First Minister of Wales—there may be a case for doing that but it is not something that you would, ideally, establish in the last months of a Parliament. It is something that is undoubtedly an issue for the future.

David Mundell: I think Jenny has a very important point—and indeed Lord Smith made the point in his report, although it was not directly within the remit—about devolution within Scotland and obviously, without being overly political about it, there are well-documented concerns being expressed about the centralising nature of the Scottish Government on a number of areas. I think it is very important that, having devolved the powers that are set out in the Smith proposals, the momentum for devolution within Scotland is retained. Many people feel, particularly in the rural communities that I represent, that Edinburgh and London are not too different in the holding of powers and they want to see power devolved to local communities. That is very important.

The second point, which I think we have all covered, is clearly that the debate is at different stages in each of the respective parts of the United Kingdom and even within different parts of England, as I can see it. Independence and the status of Parliament within Scotland has been the subject of debate all my lifetime. It has been an ongoing debate, therefore a lot of thought has gone into it and there have been many views expressed. Although the timescale that we are currently proceeding on seems a very short one, it is the culmination of a lot of debate and discussion that has gone before.

Q513 Mark Durkan: Jenny, you made the point, in regard to the sort of conversation that Carwyn Jones had asked about, that maybe this was not the time for it. However, the same point could be made about the scale and the scatter of devolutionary proposals that are being undertaken at the minute: rushing this thing through at the end of a Parliament may not be the best time. As someone who is not a unionist—I am here as an Irish nationalist—it intrigues me that all of you have answered the questions in respect of the differences in the different parts of the UK and as to why devolution should be and would be different. It is almost as though it is whatever you are having yourself. Is nobody taking account of what the shape of the UK is going to be, where the bottom line is or where the centre of gravity lies after all of this?

Greg Clark: I think—and my colleagues might add to this—this has been a pretty constant conversation during the whole of the last four and half to five years. It has regularly been discussed at every level of Government from the Cabinet, and in Parliament multiple times. The idea that these are proceeding without any reference to what is going on elsewhere is not the case. This has been a very live agenda. If we look back over the period of the Government's life, whether it is in terms of my responsibilities for cities in England or whether it is David and Jenny's responsibilities in their respective departments, the momentum and the changes have all been devolution or, as I see it in England, decentralisation. That has been a theme of the Government, which is expressed and applied differently in respect of the different circumstances of the different places.

David Mundell: When we started this Parliament, the Conservatives, Labour and the Liberal Democrats each set out in their UK manifestos the commitment to implement the proposals of the Calman commission that had been looking at additional devolution within Scotland ahead of the 2010 election. In fact, we have already had a Scotland Act 2012 that makes very significant fiscal changes for the Scottish Parliament, the first of which, for example, come into place in the beginning of April when the Scottish Parliament will take responsibility for stamp duty and land tax. There was a significant proposal on the table that had come from Scotland that was different from proposals for other parts of the United Kingdom. We were committed to implement that and we did. Clearly the mood within Scotland has been for further devolution and a package that delivers more accountability, particularly in relation to fiscal matters. We are demonstrating that we have a consistent approach for the constituent parts of the United Kingdom and I think our approach to Scotland has been an entirely consistent one.

Baroness Randerson: In response to your view that this is something we have done at the end, the coalition agreement in 2010 set out the steps that we wanted to take in words, starting with a commitment; it referred to a commission like the Calman commission, and that became the Silk commission, which was established. We also set out in the coalition agreement a commitment to enable the Welsh Assembly to have full law-making powers, which we fulfilled in 2011. We then had the Silk commission, which took a couple of years, and we have been dealing with its recommendations since, first of all in the Wales Act last year and now in the agreement that we announced on Friday. We are not doing it at the end of the Parliament. I would call it responsive government and moving forward in steady but quite large steps in terms of the devolution settlement. I would ask you to reflect on the dangers of delay. When there is a strong demand for further devolution, there is great common sense, in a reasonable and timely manner, in seeking to deal with that issue.

Q514 Mark Durkan: In evidence to this Committee, the Electoral Reform Society and Unlock Democracy have expressed concern about the black box syndrome around the sort of deal-making that they would portray as going on in this round of devolution, with a strong sense that the public, in its broadest context, is excluded from the deliberations. Apart from what you have said about how long some of these different debates in different places have gone on, how transparent do

you think the recent process of constitutional change has been to the public and civil society at large in the UK context?

Greg Clark: Again, if you can reflect on our different responsibilities in terms of the City Deals and the Growth Deals that we have done, they have been a major part of the Government's reforms that were flagged in our manifesto and in the coalition agreement. Wherever we have carried them out, they have been pretty well publicised locally. I travelled to every city that we have negotiated a deal with and to almost every one of the 39 local enterprise partnerships, so that people were not being summoned to London to some sort of room in Whitehall. I have always gone to present myself personally, usually in the town hall or the city hall, engaged with councillors and representatives of the business community there, universities, and been open to questions from the local press, which has taken a great interest. We have done what we can to make a set of changes that I do not think of as primarily constitutional. We have had this before, and although I think it is practical as to where decisions should best be taken, clearly it builds up cumulatively to a constitutional change, and I think we have been able to translate them into what makes a difference locally. But, David, in Scotland I think there has been a pretty lively—

David Mundell: It has been very lively and there has been an unprecedented level of participation. I do not accept that the public have been excluded; 84% of the public voted in the referendum. We had a level of engagement in which people were attending public meetings, debating and discussing these issues, which we have not seen for a very long time in any part of the United Kingdom. I do not agree that the public is excluded from this process.

Of course you can argue that there was not an extensive public debate about the devolution of road signs and that you did not have a detailed discussion about that, but what was clear was the direction of travel that the public in Scotland wanted to take in relation to income tax, welfare, the Scottish Parliament having responsibility for domestic issues, as you could define them, while the Westminster Parliament retained responsibility for foreign affairs and defence and the other matters that have been reserved.

I think particularly in Scotland the public have been very much engaged in this debate, which is continuing. The Scotland Office, for example, is engaged at the moment in consultation sessions in relation to the detail of the clauses that have been produced and there have been events already in Aberdeen and Inverness, and there is one in Glasgow in the next few days, where people can engage directly in relation to the process. As I said in answer to your earlier question in relation to where the parties were in their various positions, there was very significant engagement and also the Smith commission itself had significant engagement. But ultimately agreement does have to be reached, and although that agreement on individual aspects was not done on a plebiscite basis, the big question was.

Baroness Randerson: I would agree with you completely that public involvement is essential, but I believe that there has been considerable public involvement. In Wales, the Silk commission consulted very widely and held a lot of public meetings in order to encourage public comment. Since the report, we have consulted again and held consultative sessions as a Government with specific groups within Wales, as well as keeping the four political parties fully involved in the process and keeping the Welsh Assembly and the Welsh Government fully involved in the process.

But we also had a referendum in 2011 on additional powers for the Assembly and that showed a large majority in favour of that. There are opinion polls held regularly by academics in Wales on public opinion in relation to devolution and they show year after year a settled will among the Welsh people that there should be greater power held by the Assembly. That does not mean that individuals within Wales have the level of understanding of where powers are held that probably we would all, as politicians, like them to have. It clearly varies from one person to another considerably, but they want their decisions to be made in Wales.

Q515 Duncan Hames: I am grateful for the evidence you offer, Jenny. I think, David, the point that was being made was that it was all well and good that we had fierce debate about whether people should vote yes or no at the referendum, but they were not debating the Smith commission in the referendum. In fact, some would argue the extent to which a future constitutional settlement for Scotland was even being debated by some in the referendum who were being mobilised on the basis of attitudes towards Westminster, not as a constitutional construct but as a political establishment.

David Mundell: I think many books have already been written and there will be many that will emerge as to exactly why people voted in a particular way and what affect specific aspects of the campaign had on people's voting intention, but I think all the principal protagonists on the no side made clear that a no vote was not a vote for no change. All the three principal political parties that had come together to form Better Together each had very detailed proposals set out in relation to what they meant as being additional devolution. During the course of the referendum, it became clear that people wanted those undertakings to be clear, that they could not be reneged on, and that if they did vote no, they were not voting for no change. That is why the undertakings that the Prime Minister, the Deputy Prime Minister and the Leader of the Opposition made were done and were an important part of the referendum. I think people had clarity going into the ballot box that if they voted no, this is the sort of arrangement, these are the sort of powers that would be brought forward and this was the timescale.

I think what was very positive—and I still think, despite some of the things that have been said subsequently—was that immediately after the referendum, the Scottish National Party did, for the first time, agree to take part in that discussion. They had not been part of the pre-1997 process, they had not been part of Calman commission, and they agreed to be part of the Smith commission. What came out of the Smith commission was signed up to by the Scottish National Party, although obviously now they continue to argue for independence or indeed further powers to what they had signed up to in the Smith commission. But I think it was clear to people in Scotland going into the referendum vote what sort of future devolution they were signing up to.

Q516 Mark Durkan: To Greg and David, the Conservative Party contribution to the December command paper from William Hague recognised a possibility—he put it no stronger than that—of a constitutional convention after the election, but the stress was there that it “should be concerned with the effective working of the constitutional arrangements for each part of the Union”. Also when reference was made to the possibility of a Statute of the Union, again it was stated that that would be “to enshrine and reinforce the constitutional arrangements for each part of the Union”. Two questions arise from that: first, does that mean that the Conservative Party is already ready or committed to engage in a future constitutional convention if that comes about? Secondly, the idea of the Statute of the Union, and again concentrating on the arrangements for each part of the Union, with that sort of stress, do you see that as laying some sort of basis for a federal constitution or is that emphasis there just because you do not want to say what the statute of the Union should not do or what the constitutional convention should not address? Would you want to tell us what that might be?

Greg Clark: What my party said in the command paper I think you have reflected so far in your questions, Mr Durkan. There is quite a lot going on at the moment right across the piece and the right thing is to get on with that, and then the question of whether or not there should be a constitutional convention and what it might concern itself with should take place after we have got on with implementing what we—

Q517 Mark Durkan: Is that not Mexican target practice, drawing the rings around the holes in the sheet after all the shooting has been done?

Greg Clark: No, I think one thing at a time. We have a lot to implement. I think it is right to get on with that and then turn to that question when we have made some progress.

David Mundell: In relation to the proposals for Scotland, it is very clear that there was not any conditionality in taking forward those proposals and that they were not dependent on any other arrangements being reached for any other part of the United Kingdom. That is the basis on which the undertakings to deliver those proposals were given and it is the basis on which we are proceeding with them.

Q518 Mark Durkan: You do not see anything out of this that would allow Mr and Mr UK Citizen, whoever they may be, to know where they stand as a UK citizen; it is only where they stand in relation to institutions in a place, whether it is a city here, a country there or a region there? I find it strange and peculiar that the parties that talked so much about Britishness and British values and all these things now seem to have no sense that they want a convention that would convey any message and the anniversary of the Magna Carta and all the rest of it. There is no bigger compelling vision; there is nothing more underlying than bits and patches of deals that can be made?

Greg Clark: I would disagree with the premise. I think that there is something very British about the approach of respecting the identities of particular places, their needs, their different desires to move in different places, rather than to have an approach that sets out a blueprint while we are still implementing these arrangements. They have been arrived at, as has been apparent from your earlier questions, in different ways in different parts in our English cities and counties through a certain process, different in Wales, different in Scotland. I think it has been exposed they have been substantial and they have been pretty well debated there, both in the particular areas and also nationally. This Parliament has been characterised by quite a lot of constitutional debate and I think that is within our traditions.

Q519 Chair: I am not quite clear what the Statute for the Union is. It came from the Conservative Party.

Greg Clark: Again, I think, as Mr Durkan refers, the time for considering that would be if there were to be a constitutional convention. There needs to be a separate discussion around that, but after we have made some progress in looking into the arrangements.

Q520 Chair: But what is it? Do you know, Greg?

Greg Clark: It would be to reflect on the future of the—

Q521 Chair: It is called the Statute of the Union and it bears the imprint of the Conservative Party, so there was obviously a lot of thought gone into it before it went in the public domain. Is it a statute, an Act? Is it a gathering of people? I am not quite clear what the statute of the union is.

Greg Clark: It would be a reflection in the future on the forward arrangements.

Chair: Right. Perhaps that is one of those that you might ask the Central Office to write to the Committee about, just so we are a little clearer, because there are a number of institutional arrangements obviously in flux at the moment. I think the Committee has tried to figure out what the over-arching stuff is around the Union as well, as Jenny has alluded to, the lower level, the sort of double-devolution level, and how these might appear. The Committee itself has thrown into the pot the possibility of a standing commission on democracy as well as working through a model of the constitutional convention. If there is something else out there, a Statute of the Union, we would be pretty interested to see what that model is and whether it might be relevant to some of the other stuff we are doing, so we would appreciate that.

Q522 Duncan Hames: Just before we move on, I think I understood from your answer to Mark that the Conservative Party would not institute a constitutional convention until all the current business, of which there is lots, had been dealt with. Yes?

Greg Clark: We have not said that. What we have said is that there is a lot going on at the moment and a decision on whether or not there should be a constitutional convention should be taken once we have them substantially underway; not just yet.

Q523 Duncan Hames: Okay. The Government has been quite critical of the Labour Party and Opposition for their non-participation in discussions about the English questions since the Scottish referendum. Can I take it, therefore, that if the Conservative Party was in Opposition and a constitutional convention were established that you would not, in a similar vein, seek to boycott that process but the Conservative Party would be participants?

Greg Clark: You are drawing me into hypothetical territory—not least the result of the general election—that I do not think it is appropriate to go down.

Q524 Duncan Hames: It is not a question of do as I say but not as I do?

Greg Clark: As I say, we are putting hypothesis on hypothesis that I do not think I will be following the invitation to pursue.

Q525 Duncan Hames: Let us move away from legislative matters and policy matters to something mundane but none the less practically very important, which I hope you might be able to engage in. In terms of the machinery of government that makes the devolution settlement work, what changes are you planning to the underlying mechanics and structures in order to make it more effective in light of recent developments?

Greg Clark: We have not put forward any particular changes in the cross-government arrangements, but David will refer to some of the arrangements in Scotland and in Wales.

David Mundell: I think it is accepted that some of the mechanisms clearly that were set up at the initial time of devolution no longer work as effectively as they could, such as a joint ministerial council. The Smith commission makes clear that there is a need to look at these mechanisms so that we can ensure that there is an effective process for dealing with issues. But as you would appreciate, a lot of the issues come down to ensuring that there are good working relationships between the Government and the respective Administrations in other parts of the United Kingdom. Obviously in Scotland we have been through a very political period, but even in that case, despite what the newspaper headlines might suggest, there has been a very good working relationship at both at ministerial level and official level.

For example, in a very quick timescale we managed to take through this Parliament the necessary measures to allow same-sex marriages to proceed in Scotland; we transferred responsibility for discretionary housing payments, working very closely together. We have established, in relation to the Smith commission, a joint ministerial working group on welfare and there is a close dialogue about that. John Swinney, Scotland's Deputy First Minister and Finance Minister, met the Chancellor yesterday to discuss the fiscal framework that will follow from the Smith commission. I think it is important that we see that there is a balance between process, which is very important, and the fact that it is also very much about ensuring that we have good working relationships between Ministers in the UK Government and in the devolved administrations.

Q526 Duncan Hames: Can I ask, Jenny, that you particularly address something you raised earlier, which was the porous border and how cross-border issues between reserved matters and the devolved Administration might be improved?

Baroness Randerson: There are statistics that suggest that every day 125,000 people cross the border to go to work one way or the other. A lot of people in Wales have their GPs in England or go to hospital appointments in England and there is some movement back as well, especially in relation to GPs. Therefore, particularly in north-east Wales, there is a very strong affiliation with England and a dependence on English institutions. I would say the same is the case in the border counties of England in relation to some of the services offered in Wales. That colours people's expectations and it also colours the realities of how you make a devolution settlement work effectively.

There is, for an example—and this is very relevant to the question that David has just answered—a memorandum of understanding between the NHS in Wales and the NHS in England. This protocol is being renegotiated, rediscussed at this moment in order to update it in relation to the current situation. That is typical of the fact that you do have to work very closely. There are other factors, such as the fact that we have a joint judicial system, England and Wales, that make things different from the more watertight situation, if I can put it that way, in Scotland.

You asked about updating institutional arrangements. The Silk commission made a number of recommendations on how there could be a better and more effective relationship between the two Governments, but those recommendations were made on a bilateral basis. Obviously they were addressed in the St David's Day announcement, but many of them are more appropriately dealt with as part of the process that David referred to, which is looking at the joint ministerial council again and looking at the memorandum of understanding again, because we do need to reinvigorate those institutions.

The Silk commission also made a recommendation on the need for a dispute resolution on constitutional powers issues, which was short of a referral to the Supreme Court. Wales has, at the moment, a complex conferred powers model of devolution. The Silk commission recommended, first of all, that we should move to a reserved powers model. That is a major recommendation that was approved and agreed by our latest discussions and was announced on Friday as part of the St David's Day agreement. Until we move to a reserved powers model we still have the conferred powers model, of course, and so the dispute resolution procedure is something that we will have to bear in mind. But I would say that these things evolve. For example, within the last year, what has been established is a joint Treasury committee between our Treasury and the Welsh Government in order to start working out and putting in place the conditions and the rules that need to be there for Wales, the Welsh Government, to have fiscal powers for the first time. So the work is ongoing and is responding to changed circumstances.

Greg Clark: Perhaps I can add for the City Deals and the Growth Deals, we have established a cross-Whitehall team, a unit that brings together the principal departments that have an interest in this—Communities and Local Government, Transport, BIS—so that when we are negotiating with cities and with the local enterprise partnerships they do not need to knock on the Department for Transport's door for transport projects and then DCLG for housing to bring it together. My place in the Cabinet Office is in order to bring these together so that when we have a negotiation, it cuts through some of the silos that we know that local authorities in particular have been frustrated about in the past.

Duncan Hames: Thank you. It is like the old DTR.

Greg Clark: No, it goes way beyond that. Transport has been one of the big innovations. The idea of devolving transport funds has been one of the big successes of this, where money is now in the hands of local enterprise partnerships to take decisions, where previously it was very difficult for an official in Whitehall to perceive whether a particular pinch-point in a particular place is worth funding or not. Far better, it seems to me, to be able to devolve funding for that and the responsibility.

Q527 Duncan Hames: Absolutely, I agree with that. I was just picturing this assembly of inter-departmental Ministers that you had brought to the table.

Finally from me, the Institute for Government has suggested merging the various teams and departments with responsibilities for devolution into a single department. What assessment have you made of their proposal?

Greg Clark: I have made no assessment, but my colleagues—

David Mundell: Obviously a decision like that is for the Prime Minister in terms of the shape of the Government, but I think it is a very important part of the settlement, if you can call it that, with Scotland. Scotland has a seat at the Cabinet table and within the UK and Scotland's distinct interests can be represented around that table. I think the shape of the Government must ensure that individual parts of the United Kingdom have the opportunity to have their distinct needs voiced at the Cabinet.

Baroness Randerson: I would perhaps preface what I say by pointing out that my responsibilities include not just Wales, because I am the spokesperson for the Government on Northern Ireland in the House of Lords, so I have considerable responsibilities and knowledge in relation to that as a result of doing that job for two and a half, three years. One of the things that constantly surprises me day after day is the differences between the two settlements and the fact that they are very different settlements from a very different historical perspective. I can sit and read something that the UK Government is proposing to do and I will immediately think through the different channels it will take within the two countries and that it will be received differently in the two countries as a result. If you amalgamate things in one government department, not only do you lose the benefit of three different voices at the Cabinet table—you only have one—but you also lose that understanding and nuance across government of the difference between the three settlements.

It is also worth pointing out that of course the territorial departments have two roles. They have the role of making sure that the UK Government's views are known appropriately in the individual country, but they also are responsible for making sure that each individual country is able to put its point of view effectively within the UK Government. We are kind of liaison departments, one to the other. I wonder how that could be done effectively, bearing in mind the difference in the settlements, if you amalgamate it into one department.

Chair: I know Tracey wants to take some of those questions much further with you, but if we can just have, Greg, a quick response to Duncan's questions.

Q528 Duncan Hames: You may not have conducted an assessment, but you get to witness this, because you attend the Cabinet, do you not? You will have seen how in practice having Secretaries for State for different parts of the United Kingdom works or is not deployed, whichever it is.

Greg Clark: Indeed. I can report on my experience but, as David says, these matters are matters for the Prime Minister to decide how he wants to conduct things, but I have been able to work very closely with, for example, David and his colleagues and the Scottish Secretary when we concluded the City Deal for Glasgow. That was a negotiation not just between me and the Leader of Glasgow and the councils and businesses there, but the Scottish Secretary and Scottish Ministers played an important role in that, so I found it very productive and helpful. We have not conducted any of these deals with Wales and Northern Ireland, so I cannot reflect on any experience of that.

David Mundell: Nothing from me.

Q529 Chair: Thank you. Greg, we are obviously here to hold all of you to account and ask probing questions but, if I may say, on the other side on the coin, your interaction with Nottingham and the way you have done it has been very much appreciated.

Greg Clark: Thank you.

Chair: You talked earlier about visiting people rather than calling them in. I think that was very well received throughout England and the people I have spoken to really do appreciate the trouble that you have taken to listen and go and visit people.

Greg Clark: I appreciate your comments.

Q530 Fabian Hamilton: May I move to Scotland? Well, I am not moving to Scotland, but can we move the subject to Scotland? I will direct my questions at David, if that is okay. David, the Scotland Office states in written evidence that it recognises, and I quote, “the constitutional principle that one Parliament may not bind its successors”. How do you respond to the evidence that we have heard that this principle renders clause 1 of the Smith agreement legally vacuous?

David Mundell: I do not accept that description. If you look back to the initial legislation that set up the Scottish Parliament, the first clause set out, “There shall be a Scottish Parliament”. People could argue that that clause was superfluous, but it was a very clear statement of intent that gave considerable force to the process, the setting up of the Parliament. I think it is now clear that people want a very clear reassurance that the Parliament is a permanent fixture. I think that is achieved by that clause. There are many debates in Parliament about whether legislation is necessary to achieve the legal certainty required.

Two weeks ago or so, we had a debate in Parliament about gender-based abortion. There was a proposal brought forward that a clause should be set out that made the position clear. Ministers and others argued that the position was already clear. That wider issue is part of ongoing parliamentary debate, but I think it is very important that that clause is there, because it sets a clear intention by this legislature that the understanding, the intention is that the Scottish Parliament is a permanent fixture of the UK constitutional settlement.

Q531 Fabian Hamilton: David, would you not agree though in a system that does not have a written constitution—and many people are very proud of the fact that we do not have a written constitution—where Parliament effectively controls the constitution through statute law, that it is perfectly possible for a future Parliament, maybe not the next one, to decide to abolish the Scottish Parliament, as it could abolish local authorities in England? Is that not possible, because one statute cannot bind a future Parliament?

David Mundell: I could not contemplate that—

Fabian Hamilton: None of us could.

David Mundell: —outcome and our retaining the United Kingdom, so the retention of the Scottish Parliament is a prerequisite of our United Kingdom. I think it is both helpful and reassuring that that is set out in the clauses that have been brought forward. I think the public within Scotland—indeed, probably and hopefully across the rest of the United Kingdom—would rather see that in the statute than have a lengthy legal debate about its ongoing validity.

Q532 Fabian Hamilton: Of course they would, and I am sorry to interrupt. Of course everybody would be very happy to see that there and that is very reassuring for the people of Scotland, but in fact, given our long history in this country, Parliament, a future House of Commons, could, do you not agree, theoretically pass a statute that abolishes, dismantles the Scottish Parliament, so effectively rendering that phrase fairly meaningless?

David Mundell: I do not think that it could do so and retain our United Kingdom.

Fabian Hamilton: But it could do so.

David Mundell: I do not believe it could do so and retain our United Kingdom.

Q533 Fabian Hamilton: I will move on. The Scotland Office states that clause 2 of the Smith commission agreement “places the Sewel convention on a statutory footing”. Can you explain how exactly that clause gives the convention the force of statute law?

David Mundell: The convention has worked extremely well in developing the working relationship between the Scottish Parliament and this Parliament because, as you know, under the convention—which was changed to being called a legislation consent motion but has not managed to dispel the term “Sewel convention” after Lord Sewel who inserted it into the 1998 Act—it allows the Scottish Parliament to confirm its agreement that Westminster should legislate on matters that are within the devolved responsibility of the Scottish Parliament. That has, as you say, proceeded on the basis of convention. I think that the wording of the clause makes it clear that the intention now is to formalise that.

On the basis of your previous question, I am sure constitutional experts would argue that this Parliament would always be able to legislate on matters that had been devolved, but I think that by setting those proposals out in that clause, it makes it again absolutely clear that the intention would not be to do so and that to take the step of seeking to do so without the agreement of the Scottish Government would be a very significant step, which again would place questions over the future of the United Kingdom.

Q534 Fabian Hamilton: The Cabinet Office’s Devolution Guidance Note 10 states, “The Sewel Convention applies to any Bill that would alter the scope of the devolved institutions’ powers”. Why is this not reflected in draft clause 2?

David Mundell: I think that we have been very clear in the way that we previously dealt with the arrangements for the Scottish Parliament, and most recently in relation to the 2012 Act, that the arrangements for change do require the Scottish Parliament to agree. There was a process for the 2012 Act, there was a process for these changes. It is absolutely clear that if the Scottish Parliament do not agree the changes being proposed in relation to the new Scotland Bill, then they will not go ahead. It is on the basis of mutual agreement. There will not be a forcing through of proposals that are not agreed, but this package has been developed in agreement with the five principal political parties in Scotland.

Q535 Fabian Hamilton: Let me move on to draft clause 5, which devolves the power to set a wide range of rules for the Scottish Parliament elections. Draft clause 4 requires a super-majority, which I think is a two-thirds majority, to exercise only one of these powers, and that is the one over the voting system. Why aren’t more of the rules for the Scottish Parliament elections to be subject to a super-majority?

David Mundell: The differentiation is around those issues that are most fundamental, such as the number of members and the electoral system. I think you would not be looking for a super-majority for issues around the administration of elections. It the issues that are set out for which a super-majority apply are the issues that are of the most significance to an election and changes to the current arrangements for the Scottish Parliament. You wouldn’t want to seek a super-majority in relation to what might effectively be described as administrative arrangements.

Q536 Fabian Hamilton; The Government implemented the Smith commission recommendations to give the Scottish Parliament the power to extend the franchise for Scottish Parliament elections to 16 and 17 year-olds by unamendable secondary legislation under section 30 of

the Scotland Act 1998. Do you think Parliament was given adequate opportunity to scrutinise this important change?

David Mundell: Yes, I do, because this matter has been the subject of debate previously. The devolving of the power to the Scottish Parliament in relation to the referendum was one of the issues that was debated on the Floor of our House and their Lordships' House, so it is a matter for which there was, I believe, adequate opportunity to debate. Indeed, when the debate was held in relation to the order I don't think it took up the full allocated time. There was opportunity for more colleagues to have contributed to that debate, but it was a matter that had been the subject of a lot of discussion in Scotland. The five parties had signed up to that proposal, so there was almost unanimity in respect of that proposal, but there were opportunities for it to be debated and discussed in this Parliament. As a general issue, there has been a lot of debate and discussion about it.

Q537 Fabian Hamilton: Do you think that creates a precedent for England and the rest of the UK on votes for 16 and 17 year-olds?

David Mundell: I am happy to make my own position very clear. I support votes for 16 and 17 year-olds. I think that the Scottish independence referendum experience was a demonstration that that is the right thing. It is the view of my colleagues in the Scottish Parliament that, having reflected on how that process worked, it is the right thing to do. As I said to the Chairman before, it raises a number of issues for which there needs to be wider debate and discussion in other parts of the United Kingdom and I think from Scotland we can certainly share a lot of the experiences. It is not the position of the Government at this time but I do think the experience in Scotland is something that people in the rest of the UK can reflect on.

Q538 Fabian Hamilton: Certainly that was my experience yesterday meeting a group of 16 and 17 year-olds from a sixth form at one of the schools in my constituency. They seemed ready to vote. In fact they were very anxious to want to vote.

Finally, under the draft Scotland clauses any change to the franchise devolved to the Scottish Parliament can only be made by a super-majority of the Scottish Parliament. So why did the section 30 order not require a super-majority of the Scottish Parliament in order to extend the franchise to 16 and 17 year-olds?

David Mundell: As I explained, because it had been agreed among the five parties as part of the Smith process and all the five parties had agreed that that would form the shape of the franchise of the Scottish Parliament going forward and that that franchise would be applicable from the 2016 Scottish Parliament election.

Q539 Fabian Hamilton: Would it not have been cleaner just to have had a formal vote anyway, given that everybody agreed?

David Mundell: There was a view expressed by the Scottish Government and a cross-party view in the Scottish Parliament that this issue was a priority and should be taken forward separately and that is why that has been done. The other parts of the clauses that you refer to will form part of the new Scotland Act that will be brought forward regardless of who is in Government after the general election.

Q540 Chair: Greg, when you see what has happened in Scotland do you wonder where we are going to be in five years' time, whether you are the Minister or not? Do you think that the devolution that you have evolved incrementally will be to scale by then?

Greg Clark: As I said earlier, we have been pursuing the decentralisation of powers, first to cities and then beyond, throughout the whole of this Parliament. The way that we have pursued it has been different from in Scotland and Wales. There it has proceeded from a constitutional debate and we have had that debate before. My concern was that to do that in England would be to get it bogged down. There was an opportunity that presented itself to be more pragmatic and conduct the conversation in those terms rather than constitutional terms and to say to particular cities, first of all, “If you had certain powers and responsibilities that you don’t have at the moment, what could you do with them that would be good for you and good for the nation and let’s negotiate on that basis”. It has proceeded on a different type of model and approach, I would say.

Q541 Chair: If you were in the same job for another five years, would you see this as a sort of trend line or would you say we have pretty much come to the end now? Do you see more of this potentially happening?

Greg Clark: Decentralisation within England? I think there is much more to go. We have begun a journey but we have much further to go. The history of much of the last 16 or 17 years, as you know, has been that the powers that our great cities and counties had in the past have been progressively suborned by Westminster and Whitehall and Governments here. I think it has not been good for the standing of places outside London and I think it has led to decisions that have been less acutely framed to the particular needs of places. In four and a half years I think we have turned the direction around but I would like to proceed much further down this road.

Q542 Chair: Would you see that then raising these other constitutional and democratic issues in a way that has not been evident and not perhaps necessary to date?

Greg Clark: My view is that cumulatively over time these things become, in effect, constitutional but you approach them through a different way. If I take some of the mayoralties that have been created, whether in London or in Bristol recently, they have been done in a bespoke way place by place. I don’t think there are many people in London now who would abolish the mayoralty and that is because it has been found to work and be effective. If I go to Bristol now where they had a history in recent years of very unpredictable, uncertain administrations where it was not clear who was in charge, I think there is a greater visibility to the mayoralty there. I think that will establish itself and build over time. I would like to build on that and to extend some of those innovations to other places, other cities.

Q543 Tracey Crouch: Turning to Wales, immediately after the Scottish referendum the First Minister of Wales said that whatever was offered to Scotland must also be offered to Wales. A month later there was a joint motion tabled at the Assembly that implied a great deal of consensus towards the principle of future devolution. I don’t know if you are aware that this afternoon in First Minister Questions in the Assembly Carwyn Jones has told AMs that the deal was rushed and incoherent and that what was announced last week was no more than a staging post to a better system. Has that agreement and the consensus broken down on the future devolution to Wales?

Baroness Randerson: I deeply regret that the First Minister’s position has changed pretty significantly over the period of time that you refer to. He did say, as you quote very accurately, that what is offered to Scotland should be offered to Wales. He has also made it clear that Wales may not want it because he acknowledges, as I have, that Wales is a different type of country in various ways. We have worked with him and in fact he has attended the meetings as part of the agreement all the way through the process of looking at the Silk recommendations and making the decisions on a four-party basis that has led to the agreement that was announced, the command paper that was announced last Friday on St David’s Day.

It is also worth drawing out one particular strand, which has been the issue of the devolution of income tax subject to a referendum, which was included in the Government of Wales Act last year. At the time when we were discussing that, the position of the First Minister and of the Labour Party was that those income tax powers would be useless because we were imposing a lockstep approach in the legislation, similar to what was in existence at that time for Scotland. We listened to what was said and that was removed from the Bill by amendment in the House of Lords. The income tax powers that Wales now has, subject to a referendum, are unencumbered by the lockstep.

The First Minister then said that he was not prepared to call a referendum on the devolution of income tax powers unless there was fair funding for Wales. You will be aware that the application of the Barnett formula to Wales and the way in which it has in the past impacted on Wales is an issue of considerable debate in Wales.

Q544 Tracey Crouch: Why do you think he is wrong to say that?

Baroness Randerson: I wasn't casting a judgment on whether he was right or wrong to say that that is an issue. What I am about to point out and quote to you is what Jane Hutt, his Finance Minister, wrote in a letter to the UK Government in October, "Now that the income tax lockstep has been removed, resolving fair funding to the satisfaction of both Governments remains the major hurdle to wider reform and further implementation of the Silk agenda". Therefore, what we were aiming at was to make sure that this reform could go ahead and for that reason a Barnett floor was included in the announcement last Friday with the commitment that there would be a mechanism agreed with the Welsh Government in order to enable fair funding to be ensured. It is important to bear in mind that at this moment, according to the measurements that were done independently by Gerry Holtham some years ago, we are in the sort of area that is fair funding. We are looking at potential for unfair funding in the future but at the moment the funding is in the area that is fair. We were trying to say we appreciate the problem, therefore we say you can accept this agreement because we will ensure that funding remains fair in the future.

Unfortunately, having written this letter and made numerous comments on this, the Government in Wales has now apparently moved to a position where it would appear—and I have not heard directly what has been said this afternoon but I did read the quotations from the First Minister over the weekend—that they take the view that they would not accept income tax raising powers. We believe that income tax raising powers are really important for making the Welsh Government accountable and also ensuring that the Welsh Assembly is a proper, functioning legislature.

Q545 Tracey Crouch: Can I pick up on one thing you said right at the beginning of your response, which is that the First Minister had said that he didn't think that further devolution was particularly wanted or desired in Wales? I think I recall seeing an opinion poll that perhaps the suggestion that he made was right, that the vast majority of the people of Wales were quite happy with what it has at the moment and did not necessarily want more devolution to Wales. You don't think he reflects wider public opinion on where Wales is currently at in the devolution settlement?

Baroness Randerson: I will point you to two things, both of which I referred to very much earlier. The first is that in the referendum in 2011 there was a very significant majority, when two-thirds of the people in Wales voted for the Assembly to have additional powers, but much more recently than that, the Institute for Welsh Governance does regular opinion polls on the views of the public on the powers of the Assembly and there is clearly a settled will that the people want additional powers.

Q546 Tracey Crouch: Do those additional powers include income tax powers?

Baroness Randerson: I am not aware whether they have asked a specific question on income tax, but the key thing about the income tax powers is giving the Welsh Government sufficient control over taxation. Through the Government of Wales Act last year, they already have power over stamp duty and land tax and also landfill tax, but those two taxes are relatively small in their take. The only way to give the Welsh Government control over a significant amount of taxation will be through devolving income tax, because for reasons associated with the interlinking basis of the UK, other taxes are basically too complex.

Silk recommended income tax. We are going along with those recommendations and we think they are very important because they provide the Welsh Government with access to borrowing powers. At the moment, up to now the Welsh Government has not had borrowing powers. The two taxes that have been devolved give some borrowing powers. The Welsh Government is very anxious and has been on record many times over the last year to say, "We need greater borrowing powers". But just as you can't go along to your bank and borrow an enormous great mortgage if you don't have an income, the same principle applies to governments and therefore they need access to a larger tax take in order to increase their borrowing powers. Basically, if they were to have those income tax powers they would be able to more or less double the amount of money they could borrow.

Q547 Tracey Crouch: One area that they have asked for some control over is air passenger duty. They want to have very similar powers, as recommended under the Smith commission, to Scotland. Does the Government agree in principle with devolving air passenger duty to Wales?

Baroness Randerson: We have taken the view in the St David's Day command paper and consultation across Government that this is an issue that we need to look at in the UK context very closely. We need to make sure, as we do with all devolution of taxation, that it works not just for the benefit of the country it is devolved to but across the UK. We are very aware that devolution of air passenger duty is something regarded as controversial among airports in the UK and as a result we have agreed that we will set up a review that will look at this across the UK with a view to the potential for devolving air passenger duty. The Silk commission recommended long-haul flights. In fact, at Cardiff, which is our only airport in Wales, at the moment there are no long-haul flights so this is something that needs to be taken into account for the future.

Q548 Tracey Crouch: I sit on another Select Committee, the Culture, Media and Sport Select Committee, and no doubt you will be interested to learn that shortly we will be publishing our report on tourism that looks very much at the issue of air passenger duty and some of the impact that devolution of APD might have on other areas of the United Kingdom. I commend that to you.

I think you have covered most of the questions on funding and income and I want to ask you briefly about some of the mechanics. The Government agrees that the National Assembly for Wales should be formally recognised as permanent and that the Assembly and Welsh Government are permanent parts of the UK's constitutional arrangements should be enshrined in legislation. Will that be drafted on the same basis as the Scotland clauses?

Baroness Randerson: I can't give that absolute commitment at this moment but it is, first of all, our experience that if the UK Government has already done something very similar in relation to Scotland then it is only sensible to use that experience and to ensure that the drafting expertise that we develop in that time works in the same way. There are clear efficiencies associated with that. It is the intention, as David has explained, that one provides the public signals that this is a certain and assured position for the Assembly in the future.

Q549 Tracey Crouch: Just two final questions. First, do you agree with the proposal that the Assembly perhaps needs more Members if it is going to have more powers? Secondly, can you see

other specific policy areas that might well be devolved to Wales in the event of negotiation? I notice again in this afternoon's First Minister Questions that bus regulation was one of the issues that was very prominently spoken of as an area that they think they would quite like to be devolved in order to improve local bus services. Should we increase the number of AMs and what other policy areas do you think could be discussed or negotiated in terms of greater devolution to Wales?

Baroness Randerson: We have recognised that there are strong arguments for increasing the number of Assembly Members, particularly because the Assembly started in 1999 with very limited powers. Its powers have grown over the years and it is a very small Assembly, only 60. However, we also recognise that additional politicians is not necessarily something that is uncontroversial and one has to look at these issues very carefully. But above all we recognise that the people who know about their workload, the people who can judge whether they need more are the Assembly Members themselves. So the St David's Day command paper acknowledged that the part of the Smith recommendations that should be immediately taken into account in Wales is the recommendations on how the Assembly manages itself, its right to deal with the franchise lateral arrangements and its own internal arrangements. The nature of Welsh devolution was incredibly limited and very strongly controlled by the UK Government in their current iteration and I think there are big arguments for saying, and they are acknowledged in the command paper, that the Welsh Assembly is by far the best judge of how it should run itself. So it is intended that the decision on Assembly Members should be made by the Assembly Members themselves.

Buses is one of a number of additional powers that there was cross-party consensus that they had been recommended by the Silk commission and they were accepted in the St David's Day command paper as areas where there should be further devolution and very significant areas of further devolution, including, for example, energy consents up to 350 megahertz and decisions on fracking. There were very significant and numerous additional powers proposed in that command paper.

Q550 Mr Turner: Greg, can I ask you about the observations of the County Councils Network and the Core Cities Commission who seem to believe that the Government's approach to devolution and decentralisation is a top-down rather than bottom-up process?

Greg Clark: It is a process of decentralisation that was not in existence before we started it and I think my good friends in both of those organisations would acknowledge that we have made great progress there. They have an appetite to go further and faster, and I share that but I would not agree with them that it has been top-down. The basis for this was the City Deals that we negotiated. We then extended them to counties through the LEPs. In each case the proposals came from the cities and, as we extended them, from the other places. They were not from central government. I remember in my various peregrinations round the country, that the Chairman described earlier, experiencing some frustration. I said, "You tell us what you want done differently. Don't hold back. Tell us what it would be" and at first they were rather reluctant to engage in that. They would sort of sidle up at the end of the meeting and say, "You tell us what you want to give us and then we will put it down and then we will submit it to you". I was absolutely insistent that we did not do that and eventually they got the message that we were serious about this and we struck a series of deals that were very different in different places.

I think it is a good thing that they have got the bit between their teeth and they want to see more of this and they want more of their proposals to be accepted. I don't agree with them about the characterisation of the process but I do applaud their ambition to go further.

Q551 Mr Turner: So what proportion of England is covered by City Deals and county whatever they are called?

Greg Clark: All of it. The extension of the City Deals to Growth Deals, as we called them, was to cover every part of England.

Q552 Mr Turner: I am interested to hear that. I shall go back home and find out what is happening in the Isle of Wight. Going back to Greater Manchester, who was it who suggested you should have the responsibility for these things?

Greg Clark: The Prime Minister.

Q553 Mr Turner: So it was centralised by the Prime Minister?

Greg Clark: In that sense. When the Government was first formed I was a Minister in the Communities and Local Government Department and I was given the title and the post of Minister for Decentralisation. You might regard that as a paradoxical title to have in central Government, but it contained an insight, I assume in the Prime Minister's mind, that if you want to decentralise you need to do it quite forcefully from the centre, you need someone in charge of it to almost literally prise people's fingers off the levers of power. That was my responsibility.

About a year into that the Prime Minister asked me to take on a particular responsibility for our cities. There was a reflection, as we were embarking on a plan to rebalance the economy and to make sure that all parts of the country were firing on all cylinders, if I can put it that way, that if you look around the world and just over the pond in Europe, the great cities of continental countries tended to have a higher level of income per head compared to the national average than many of our big cities did. It seemed to me there was no reason why that should be the case, and why ours should be lower.

So I had a task to concentrate at particular at first on the cities and so we struck eight deals with the bigger cities outside London. I think it is fair to say that they exceeded expectations, both on the part of the cities and the part of the observers. We then went further, as we have in certain of them, and such was the appetite that I was pursued by organisations like the County Councils Network to say, perfectly reasonably, "You are doing this with cities. Shouldn't we have the ability to negotiate?" and so we extended it.

Q554 Mr Turner: I am trying to work out what the Prime Minister was doing by seizing central control for decentralisation to happen that would not have happened if you relied on local decisions first.

Greg Clark: There are two things, if I may put it like that. It is a very good question, Mr Turner. The first thing is in policy terms. When I first took up the post, one of the proposals that I made in advance of striking any of these deals was that I would put forward suggestions, proposals from the cities, but what should not happen is that the Government should say, "We can't do that in Liverpool, in Manchester, in Leeds, because it is not consistent with Government policy". It is not to say you should agree to the deals but that you couldn't play the card automatically, "This is not in line with national policy, therefore it can't be done". So the first thing that was required was someone to remove that veto and to allow, as I described it, licensed exceptions to national policy.

The second thing was money. All departments like to be fairly protective of their budgets. I am sure over the years you have had experience in scrutinising them, Mr Turner. To take money from particular departments and to make it available for use locally requires someone in the Government with the authority of the Prime Minister and the Cabinet to go and have that negotiation. That is why I think it needed a deliberate effort.

Q555 Mr Turner: So it is the fact that he was Prime Minister and sufficiently important to overrule civil servants or other Ministers?

Greg Clark: A combination. “Overrule” is perhaps to make it a more bitter process than it was. He set a very clear direction that the Government saw value in ideas and suggestions coming up from places outside Whitehall and that they should be able to do things differently. Then he sent a very clear message that that was the policy, the approach, and Ministers ought to fit in with Government policy.

Q556 Mr Turner: I am told that a number of submissions from local government have supported what they call devolution on demand, but you are providing devolution on demand, aren’t you?

Greg Clark: It is negotiated. I think what that refers to is a tariff of standard items that local authorities, whether they are counties or cities, can simply take, and say, “We will have that”, and what we have done is negotiate. We use the expression “deals” advisedly because every deal is a negotiation and there has to be something in it for both sides. There has to be something in this case for the cities or the counties, the local areas, but it needs to be in the national interest as well. You need to do your due diligence to make sure that the claims that are being made have some substance to them. That has informed the process of negotiation, so it is not automatic, it is a negotiation. I think there is an appetite that there should be certain things that they are just entitled to. That is not the approach that we have taken. Again, I don’t decry the ambition behind that, but what I would say is that I think we have managed to break the logjam by being able to say to Government, to Ministers and officials, “You consider this proposal and unless there is anything wrong with it we will go ahead but you have the chance to comment”. So that is the difference.

Q557 Mr Turner: If asked, could you, either now or after the meeting, let us have information about, say, six examples of “not allowed”?

Greg Clark: Yes, certainly.

Q558 Mr Turner: Jolly good. There is a huge demand for greater fiscal powers for local government. Does the Government support proposals for greater fiscal devolution to local authorities, allowing them to retain more of their own taxes?

Greg Clark: There has been a substantial element of that through the retention of business rates locally and indeed policies like the new homes bonus that have put a lot more revenue, fiscal resources, in the hands of local authorities. But the answer is, yes, I think there is a case for negotiated improvements in the rewards that places can retain and enjoy if they are successful. For example, on business rates the Secretary of State for Communities and Local Government has said that he sees a case for allowing further retention there. In some of the deals that we have negotiated, in Manchester for example, we have negotiated something that is revolutionary in the recent history of the Treasury, which we call an earnback. The proposition from Greater Manchester was that if we invest local resources, private and local public sector here in things like infrastructure, we are going to make the economy more prosperous. Some of the returns from that will come to us but some of them will come to the Exchequer and so what we have agreed with central Government, with the Treasury is an arrangement that there is a rebate of some of the proceeds that the Treasury would get that arises from that local investment. That is an example of that and we have done that in other places as well.

Q559 Mr Turner: Is it the case that the power to tax is handed down but it is also the power of the rate at which taxing should take place is handed down, or do you have a responsibility to prevent one or the other?

Greg Clark: It is a third, which is to retain the proceeds of more of the taxes that, in the case of business rates, are collected locally. As an illustration of that, it is not just the revenue effect of that. If you know that you have a stream of income that comes from business rates that are retained then you can borrow against them for capital purposes. I had the pleasure last week of being in Newcastle to open a fantastic development called Science Central, which was previously a derelict site and is now a science park in a collaboration between the city council and the university. It was funded in part from the retained business rates that they will get from the occupancy of that site, that was not previously available. It is called tax increment financing, for the aficionados, and it was fantastic to see something that I negotiated three years ago now ready, open and a great success.

Q560 Mr Turner: I take it the Opposition believe this is all fine and jolly and they support it, or do they at Westminster level not support it with the enthusiasm they do in Manchester, for example?

Greg Clark: In the cities and other places I have found, as the Chairman will know, it is very easy to work with politicians, leaders of all different party colours. Since you invite me to be candid about this, I don't feel the same enthusiasm on the part of the Opposition Front Bench that is displayed by some of the leaders of these places. I think they are slow coming to it. I would prefer they were a bit more enthusiastic about it. I don't think they did enough when they were in power and I think they have some way to go now. In fact, the Leader of Manchester City Council, Sir Richard Leese, was kind enough to say that this Government has done more in terms of devolving power to cities during its time than the Government that he supported did. So we have good relations with city leaders and I seek to build an enthusiastic consensus for this right across the House.

Q561 Chair: Scotland has an element of income tax assigned to the Scottish Executive. The Welsh Assembly will have that no doubt shortly. Has it occurred to Government to put an element of assigned income tax directly to DCLG to provide exactly the same function as the Scottish Executive and Welsh Assembly?

Greg Clark: I am not aware of any such thoughts or discussions, Chairman. There is a lot further we can go in terms of money that is spent in cities, and indeed in towns and the counties, that is administered from Whitehall that could be put in the hands of local people. I think we have got further to go on that.

Q562 Chair: If Nottingham suggested raising funds from a workplace parking levy or Leicester suggested raising funds from a hotel tax, providing they had a referendum of their people to secure their support for that issue and made their case and won their arguments, would you be prepared to consider letting them do that sort of tax raising-exercise?

Greg Clark: I have said this to the leaders of the cities and counties. I think if people associate decentralisation with raising taxes then that is not a helpful association to have. As I said in response to the previous question, there is a lot further to go to put people's hands on revenues that are already raised. So I have counselled against places wanting to invent new taxes and to raise taxes. I don't think it is the right way to go.

Q563 Chair: Even if local people want it and demonstrate that they want the additional revenue for particular things?

Greg Clark: I want to build support for this agenda and I think it would be corrosive of that support if people thought that giving power to local leaders was actually just a back door way to raise taxes locally.

Q564 Mr Chope: You say that there is a long way to go yet. My understanding is that at the moment you are devolving budgets on skills and training and transport. What other areas would you like to devolve?

Greg Clark: When it comes to, for example, getting people into work and matters of welfare, there is a lot of local knowledge and experience that can be brought to bear here in partnership with central government. In fact, this triggered my first interest in this. There was a man who I daresay you, Mr Chairman, and other members of the Committee know, Sandy Bruce-Lockhart who was leader of Kent County Council and of the Local Government Association. He made a proposal when he was leader of Kent to the then Government and said, “We think we know where in Kent are the places of deprivation that require some local knowledge to know what to do. So we will do a deal with the Government. If you give us the ability to invest some of our resources in that, if we make savings then we will share them with the Government and in fact we will underwrite it so there can be no cost to the Government”. It got quite a long way down the road but ultimately the plug was pulled by the then Treasury.

I have always been convinced that there is a lot in that, people who know their places intimately and know who are the individuals who can make a difference in communities can make great progress in that. One of the features of the Manchester agreement, for example, is to have the DWP work much more closely with the authorities there to manage the welfare budget and to get people into work. So that is one area.

Q565 Mr Chope: Any others?

Greg Clark: If I think of transport, there is further to go in lots of places in transport. What we have been able to do in Greater Manchester is to devolve a very substantial part of the transport funds that they might expect to have. What we have done in other places is to fund particular projects that they have put forward. Mr Hamilton is not here but in Leeds the transport across West Yorkshire is a particularly important matter. You have a lot of cities and towns that are connected to each other and I think we can go further there as well.

Mr Chope: So public transport, transport infrastructure?

Greg Clark: Yes.

Q566 Mr Chope: You are already trying to do this in relation to health as well?

Greg Clark: Yes. In the Greater Manchester agreement, one of our fellow Conservatives, Sean Anstee who is the Leader of Trafford, saw the opportunities to improve the provision of health care by bringing the local authorities, the NHS and social care into close working relationships to be able to avoid some of the silos that might otherwise come in. That is an important agreement that is part of the Manchester agreement.

Q567 Mr Chope: When we look at Growth Deals involving county councils and other councils, are they going to include health? How are we going to maintain the principle of democratic accountability? It seems as though whereas with the City Deals the driving force is the elected local authority, in the case of the Growth Deals the driving force is the unelected LEP. I am a bit confused as to why you are using the LEP as a vehicle for Growth Deals and not trusting the elected politicians.

Greg Clark: Local authorities are represented on the LEPs, the local enterprise partnerships, and the accountable body is usually one of the local authorities who have to go through the required transparency as to how that money is spent there. So there is a representative of the authorities on the LEP boards. The reason for choosing the LEPs is that often the administrative boundaries of particular local authorities do not quite match what is the real economic geography of an area that sometimes goes beyond that. If you want to have a devolution of funds that makes a difference to the local area, it needs to be big enough and reflective enough of what really goes on on the ground where people live and work to be coherent. The local enterprise partnerships were proposed and their geography is designed to reflect that. With the City Deals, without exception it has not been just the city centre authorities. It has been the LEP area and so they have been partners to them. The accountability comes from the local authorities there.

In terms of exercising the scrutiny, they are all negotiated deals so we would not devolve the powers unless we had had a proposition, including some confidence in the ability of the local officials and businesses to deliver this, that they were convincing in terms of their capacity to deliver it.

Q568 Mr Chope: Where does that leave the role of the electorate? Councils can change political control after local elections and you are talking about these deals that are basically signed up between the body, whether it be the LEP or the city. What scope is there for changing those deals? How are they enforced? If the council changed control and they wanted to do something completely different, would they be able to tear up the deal? Are there any sanctions? Are there any protections for the taxpayer? How are these things enforced?

Greg Clark: First of all, in terms of protections for the taxpayer, they are deals that take place over a period of years and they are literally signed up to. There are a set of actions that the local authorities and the LEPs commit to undertake, and indeed central Government has a list of actions that it commits to undertake. They are signed and when it comes to the disbursement of money, they don't get the money if they are not following through the actions, if it has gone off track.

In terms of the ability to cancel a deal, it depends on the components. If contracts have been let for a major regeneration—I mentioned the place in Newcastle that I was at last week that has now opened so it has already commenced—that is hardwired into the local economy. But if something has not started, just as we were discussing earlier, if no irrevocable investments have been made then of course an LEP can change its mind. In fact, more than that, we have built-in flexibility to these deals. If it turned out, for example, that an opportunity arose in an area that they wanted to seize—perhaps a particular employer wanted to expand very suddenly and needed a road junction to be able to accommodate the growth in the number of jobs that were there—they do have the ability to inform the Government of their intention and to substitute what was originally agreed for something that might have presented itself more recently.

Q569 Mr Chope: For example, take a Growth Deal in my own area of Dorset where there are currently grammar schools in Poole and Bournemouth. If the LEP decided that it would be good for the skills and education of the LEP area as a whole to extend grammar schools into the rest of Dorset, is that something that they would have the freedom to do? If not, why would you as a central Government, committed to devolution and local decision making, want to interfere with that decision?

Greg Clark: The constraint that they would face is not through the Growth Deals, Mr Chope. It is the legislation that prevents the establishment of new grammar schools there. In terms of another application of that, further education and skills is an area in which through the Growth Deals there has been a lot of investment in colleges. The resources that come through further education are being supplemented by resources locally, not just from devolved funds from central governments

but investments that local employers are making through this. It is a very frequent theme of many of the Growth Deals that there is investment in education, usually in further education.

Q570 Mr Chope: In Greater Manchester it has been a condition of the deal that they must have an elected mayor. Is the same conditionality going to apply to these Growth Deals that you want to change in local government?

Greg Clark: No, there is a difference. The Growth Deals are deals with the local enterprise partnerships that involve the devolution of £12 billion that has been put aside for this purpose. They need to demonstrate that they can invest that wisely and usefully. What has happened in Greater Manchester is a bigger set of powers to be devolved, so the whole of the transport budget, for example, the greater influence on shaping the design skills of the local skill system not just the financing of it. These are powers that were previously held literally by a Minister and we felt that it is right that if they are going to be transferred there should be similar visibility and accountability there. So that is why, with agreement with all of the authorities in Greater Manchester, a directly-elected mayor will be established for that. There are lots of other advantages of a directly-elected mayor as well but in terms of the accountability, to transfer something from the Transport Secretary to a great city like Manchester I think you need to have the degree of visibility and personal accountability that we are used to.

Q571 Mr Chope: People in London complained bitterly about the Greater London Council and campaigned successfully for its abolition because they felt that that council was exercising the tyranny of the majority. What happens if a similar thing happens in these areas with City Deals or Growth Deals?

Greg Clark: I think the experience of the mayoralty in London has not found that. The mayoralty has been good for London and most Londoners would reflect that. In each case, and certainly in Manchester, there are arrangements whereby the mayor is scrutinised by the leaders of the individual authorities, for example, and they can vote to override his or her decisions, depending on the area, either by unanimity or by a majority. There are ways to scrutinise that. The experience of having a very visible, high profile individual, as I am sure the elected mayor of Greater Manchester will be, is it invites a lot more public scrutiny. There can't be many people in London who are not aware of who the Mayor of London is and have a view as to whether or not he is doing a good job. I think he is doing an excellent job. In Greater Manchester in years to come you will have a figure who is very much in the public eye. His or her actions will be very much scrutinised and people will have a view as to whether or not it is working.

Q572 Mr Chope: I think we could go on discussing this all afternoon, but can I turn now to the issue of the House of Commons and legislation that affects only part of the United Kingdom? It is often described as English votes for English laws. On 5 February I asked the Leader of the House when he was going to publish the draft changes to standing orders that will be necessary to implement English votes on English issues. That was a column 426. The Leader said, "I intend later this month to set out how the proposal that I made earlier this week can be implemented in Standing Orders". I am not aware of having seen anything before the end of last month, or indeed yet, in response to the commitment that the Leader of the House gave. Can you put some flesh on those bones, please?

Greg Clark: It is a matter for the Leader of the House but I checked with him and I understand that the Standing Orders will be published shortly. Obviously with dissolution coming up there is a certain time pressure to do that, but it is still his intention to publish them very soon and I am sure they will be sent to the Committee so that you can consider them.

Q573 Mr Chope: Will there be an opportunity to debate and vote on both the Conservative Party proposals and other parties' proposals before the dissolution?

Greg Clark: Again, I am speaking on what is the Leader's territory, but he said when he introduced the proposals that we do want to have a vote on this. Obviously there are different positions across the coalition in this and so there is a doctrine of collective responsibilities, whether it is based on a proportional representation or first past the post basis. I can't give an answer with certainty but I do know it is very much the Leader's desire to have a vote before dissolution.

Q574 Mr Chope: Does your state of knowledge extend to understanding why the Leader has not been able to deliver on his intention, as expressed on 5 February, that he was going to do all this before the end of February thereby giving us a greater opportunity, perhaps as a Committee like this and certainly in the House, to look at these proposals?

Greg Clark: As I think we all know, the Leader is a very capable man and—

Mr Chope: That is not in dispute.

Greg Clark: —I know that discussions have been taking place across parties to see whether it is possible to have a collective position. I think they are continuing and I don't have anything further to report, I am afraid.

Q575 Mr Chope: Thank you. Under the proposals to implement English votes for English laws, the definition of legislation applying to only England or only to England and Wales will be crucial. Will Government Bills in future be drafted to identify clearly what is a law with a separate and distinct effect on England or England and Wales only with no effect on the rest of the United Kingdom?

Greg Clark: Yes, that would be the requirement. They will have to be certified, as I understand it, by the Speaker, advised by the clerks, and that would involve identifying that, but that is more or less consistent with the experience in Scotland now, isn't it?

David Mundell: It is clear that that certification will be an essential part of the process. At the moment there are parts of legislation, usually consequential provisions that apply to other parts of the United Kingdom but it has always seemed to me that that could be dealt with very straightforwardly. It is pretty obvious what pieces of legislation are essentially English or English and Welsh.

Q576 Mr Chope: But is this not wholly open to manipulation? For example, there was I think a Private Member's Bill on the health service and it had 20-odd clauses and clause 21 dealt with something completely different but which affected the whole of the United Kingdom. So it was possible to argue that this was a Bill affecting the whole of the United Kingdom and so everybody had the moral right to participate and vote on it. How would one avoid that sort of abuse? Would the Standing Orders enable the clerks to look at the substance or to divide a Bill up into different parts or to say that because most of it applied to England that should be a separate Bill and that the bit applying to the United Kingdom should be a separate Bill?

Greg Clark: This is why the Standing Orders are important because they will set that out. It would not be the whole Bill that would be certified as such. Particular clauses could be relevant just to England or to England and Wales, so that would be part of the certification.

Q577 Mr Chope: If one looks at, as an example, legislation relating to hunting, could we have a situation in which we have different rules across different parts of the United Kingdom that have been voted on purely by MPs from that particular jurisdiction?

Greg Clark: You are taking me beyond my position of knowledge on the Standing Orders, I am afraid. When they are sent to the Committee I will—

David Mundell: I think on this specific example there are already different rules in relation to hunting. The arrangements for hunting in Scotland are devolved and there is specific legislation in Scotland that is different from the legislation that prevails in England and Wales.

Q578 Mr Chope: So, effectively, these Standing Orders would ensure that were some legislation to come forward on this issue relating to England, or England and Wales, then the Scots MPs would not be able to participate in it. Is that what we are saying?

David Mundell: My understanding is that that is the intention of the proposals that the Leader of the House has brought forward.

Q579 Mr Chope: On 19 September the Prime Minister said on the steps of Downing Street that proposals involving devolution in England and further arrangements in England would have to go in tandem with and at the same pace as proposals for devolution in Scotland. It is not clear to me that that pledge is yet being honoured. We have already had much more material published in relation to Scotland than we have had in relation to the rest of the United Kingdom. Can I seek your reassurance that that pledge is still very much part of Government policy?

Greg Clark: It is indeed and the fact that the Leader has made his statement. We had the command paper and he has made his proposals there and the Standing Orders will be following. That commitment stands and is being followed through.

David Mundell: But also it is very clear that the taking forward of the Scottish proposals is not conditional in any way on anything else happening.

Q580 Mr Chope: How can they be taken forward in tandem with and at the same pace without any element of conditionality?

David Mundell: By the election of a Conservative Government after the general election.

Chair: I think there is much I could contribute, but I will say that all it takes for evil to triumph is that good men do nothing. I know Tracey wants to ask some more questions of Baroness Randerson, but I think if we can keep those and we will write if there are further ones. Thank you very much to our witnesses for coming along. It has been a long session but it had to be a long session in order to get a lot of good stuff on the record. I really do appreciate your time this afternoon, Jenny, Greg and David. I apologise that the three of you were all together, in a sense, and the other two had to listen, but maybe that has been helpful for you too. I don't know. We do really appreciate your advice and look forward to publishing the report before dissolution. Thank you once again and thank you, colleagues, as well.