



Public Administration and Constitutional Affairs Committee

Oral evidence: Inter-institutional relations in the UK, HC 525

Monday 21 March 2016

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Members present: Mr Bernard Jenkin (Chair), Ronnie Cowan, Paul Flynn, Mrs Cheryl Gillan, Kelvin Hopkins, Mr David Jones, Tom Tugendhat.

Questions 465 - 531

Examination of Witnesses

Witnesses: **Alun Cairns MP**, Secretary of State for Wales, **Rt Hon Theresa Villiers MP**, Secretary of State for Northern Ireland, and **Rt Hon David Mundell MP**, Secretary of State for Scotland, gave evidence.

Q465 Chair: First, may we convey our congratulations to the new Secretary of State for Wales? This might not be quite what you imagined you were going to be doing this morning; perhaps, at 9 o'clock on Saturday morning, you did not imagine you were going to be here doing this this afternoon, but congratulations. May I ask each of you to identify yourselves for the Committee please?

Mrs Theresa Villiers: I am Theresa Villiers, Secretary of State for Northern Ireland.

David Mundell: I am David Mundell. I am the Secretary of State for Scotland.

Alun Cairns: I am Alun Cairns, Secretary of State for Wales, and thank you for your kind comments.

Q466 Chair: We have been conducting an inquiry into the inter-institutional relations between Her Majesty's Government at Westminster and the respective Governments of Scotland, Wales and Northern Ireland, and also on the relationships between the four Parliaments of the United Kingdom. To start with, I would like to ask about the roles of the territorial Secretaries of State and how they have changed since the onset of devolution. How would you define your respective roles in this ever changing constitutional settlement?

Mrs Theresa Villiers: I am happy to kick off on that, if I may. A key part of my role is national security responsibilities, so playing a key part in keeping people in Northern Ireland as safe as possible from what continues to be a lethal terrorist threat; albeit, thankfully, one that is not on the same scale as during the Troubles. Another key role I have is supporting the stability of the devolved institutions. They are still relatively new. We have had the longest continuous devolved period of government since the 1960s but there are still regular tensions, as has been demonstrated by events of the last three years. Therefore, keeping those devolved institutions stable and up and running is a crucial part of my role and ensuring the Executive and the UK Government can work effectively together on our shared priorities, such as boosting jobs, investment in Northern Ireland and rebalancing the economy with a more positive private sector, and also supporting the Executive on areas where their responsibilities are also high priorities for us. In particular, delivering a genuinely shared society and seeing an end to sectarian divisions, where—although it is a very high priority for the UK Government—almost all the levers for making a difference in this area are devolved, and of course essentially representing the interests of Northern Ireland in Westminster and Whitehall around the Cabinet table robustly, making sure that Northern Ireland’s voice is heard in the development of policy in the way government operates in London.

Q467 Chair: Each of you other two Secretaries of State, I take a certain amount of what you have just heard as read for your answer as well. What would you add that is particular to your role?

David Mundell: Adding to that, obviously, there are the constitutional responsibilities, and so, while there has been considerable change to devolution, I have played a significant part in both of those recent events with the Scotland Bill 2012 in the previous Government, which introduced the Calman Commission changes to the devolution settlement, and now over the last 10 months piloting the Scotland Bill through Parliament, co-ordinating 10 Departments in Whitehall to ensure that all the policy objectives could be achieved, working with the Treasury in order to deliver the fiscal framework. The next step in relation to that will be the implementation of the Bill and the powers that come with it, particularly in relation to tax and welfare. Of course, although Theresa referenced some very specific issues, the generic position is obviously to ensure that we are also the UK Government’s voice and ears in Scotland, and I regard that as a very significant part of my job.

Alun Cairns: I would add that the nations of the UK have a different devolution settlement and in Wales there are large areas of policy that are non-devolved, and so, as the UK Government frames its policies in relation to Wales, it is about ensuring that it fits within the devolved context that exists in Wales. Of course that will change as a result of the Wales Bill and that is another example of the responsibility of the Secretary of State.

Q468 Chair: What would we lose by fusing the roles that the three of you hold perhaps into one single office in a Department of Constitutional Affairs, as has been recommended by various committees of the House, including this one, I think, Mr Cairns, when you were a member?

Alun Cairns: As I have said, in terms of the answer I have given, there are different devolved settlements. I would highlight, for example, the City Deal arrangements that have been pursued and were announced last week in relation to Cardiff in the Chancellor's statement. That is very different because of the devolved context than would be, for example, in any of the other City Deals that have taken place in England and are likely to be in Scotland. It is about ensuring that the priorities of the UK Government are delivered, along with the priorities of the Welsh Government or in area of devolved responsibility where the UK Government agrees. It is about developing that accordingly.

Q469 Chair: Secretary of State for Scotland?

David Mundell: I think it is clear that we have gone down the route of an asymmetric devolution. You or your Committee may have different views on that but that is the current situation and, therefore, I am absolutely clear that the distinct situation in Scotland needs to be represented in Whitehall in the Cabinet so that Scotland's specific needs can be heard and dealt with. I think there are numerous occasions where the distinct voice of the Secretary of State for Scotland has been able to bring about positive change, make a positive difference for Scotland in the UK context. Therefore, I don't see that that role, giving Scotland a distinct voice, can be delivered by someone who is being asked to take forward an amalgam of other interests.

Mrs Theresa Villiers: I too think it would be a very retrograde step to collapse the territorial Secretaries of State and Departments into a single one. As this Committee will be aware, since you have two very distinguished former Secretaries of State for Wales, a key part of the role is to actually be in the place that you are representing or working in relation to, so from that practicality it would be impossible to deliver if it was a single individual who had responsibility for all of these areas. I spent five months in two separate sets across party talks, which were relentless and, had I been responsible for Wales and Scotland as well, it would have meant significant neglect of their interests. So, just as a matter of practicality, if we are going to ensure that the devolved institutions can work effectively with Government we need separate territorial Secretaries of State to help that to happen.

Q470 Chair: What do you do in your roles? I can see that each of you does a lot of what might one call political roles in terms of liaising between the Westminster Government and your respective national administrations, but what is it you do in constitutional terms and how much of your time is that taken up by? In your role of Secretary of State, how often to you sign papers as Secretary of State and how much time does that take up?

David Mundell: A huge amount of my time has been taken up by the Scotland Bill in the last year.

Chair: But I would see that as a political role.

David Mundell: I am not suggesting that that is typical, although in my role in the previous Government a huge amount of time was taken up by two other constitutional matters, namely, the previous Scotland Bill and the Scottish independence referendum and

the conclusion of the Edinburgh agreement that led to that referendum. In that sense, a large amount of time has been spent in delivering the Scotland Bill but I anticipate a significant amount of time will now be spent on implementing that Bill. An example of that will be particularly in relation to welfare powers where the Joint Ministerial Committee on Welfare has been created with the Scottish Government, co-chaired by myself with representatives from DWP and the Treasury on that, as we look at the detailed arrangements that are needed to transfer the various benefits and other welfare arrangements to Scotland. I see that, going forward, as being a significant amount of time. There are always ongoing orders and instruments related to the work of the Scottish Parliament, whether we are consenting or agreeing or working with the Scottish Parliament in relation to taking forward measures that it wants to pursue. For example, there is a recent order that allows the Scottish Parliament to regulate gas supply into multi-occupation properties in Scotland.

There is a degree of constitutional work that is always ongoing, separate from the major pieces of legislation but, obviously, part of our role is to ensure that Whitehall is responsive to issues and concerns in Scotland. For example, I spent a very significant time ensuring that the Treasury and others were very aware of the situation in the North Sea oil and gas industry ahead of the Budget, so that those concerns were taken into account and I am pleased to say, from my perspective, were acted upon.

Alun Cairns: Wales has a lot of cross-border issues, of course, and the Government is spending billions of pounds on transport and railways. Those are some examples where there are complexities, where people may well live in England and work in Wales or live in Wales and work in England. There are lots of issues that cross that, as well as policy issues that are non-devolved but have to be considered in that devolved context. For example, energy policy has to be considered within the priorities of the planning regime that exists in Wales. There are differences in that in Wales as well as communication issues. There are lots of complexities that would need to be either unpicked or brought into line with each other.

Q471 Chair: How does the proposed extension of devolution, particularly in Scotland, undermine the case for territorial Secretaries of State?

David Mundell: I don't think it undermines the case at all. What we are doing is we are obviously delivering on our promise to implement the Smith Commission agreement in full, which will ensure that the Scottish Parliament has significant new powers, particularly, over tax and welfare. Subject to obviously not pre-empting either the House of Lords or the House of Commons, I hope that that will be concluded on Wednesday of this week ahead of the Scottish Parliament elections. As I have indicated, I think that there will be a significant piece of work in ensuring the smooth implementation of the transfer of those powers but this Parliament will retain significant responsibilities and continue to remain significantly important to Scotland. Scotland has two Governments. Very clearly, my view is that those Governments achieve the best for Scotland when they work together and, after the Scottish Parliament elections, I want to do everything possible to ensure that they are. The Westminster Government needs to have a distinct voice in Scotland and, for the people of Scotland, needs to have a distinct voice here at Westminster.

Q472 Mrs Cheryl Gillan: Can I add my congratulations to the new Secretary of State for Wales and wish him well in his new role? I am delighted to see him achieve high office.

Alun Cairns: Thank you.

Q473 Mrs Cheryl Gillan: Can I ask the three of you how often you meet outside Cabinet to discuss areas of commonality across devolution? Would it be once a week, once a month, once every three months, once every six months, once a year or never?

Mrs Theresa Villiers: We tend to be in touch as and when we need to but I think we are conscious that—

Mrs Cheryl Gillan: How often would that be?

Mrs Theresa Villiers: We certainly talk on the fringes of Cabinet quite regularly on things like, for example, the apprenticeship level and things like that.

Q474 Mrs Cheryl Gillan: But you have no formal mechanism whereby the three devolved countries meet formally to discuss areas of commonality?

David Mundell: We don't at the moment but I am very sympathetic to that idea and, as you know, I have been in the past. I would certainly put my own hands up to say that I have been somewhat diverted by the Bill. Certainly, in relation to Theresa and I, because we have an office within the Commons right next door to each other we have used that, in a sense, as an informal mechanism to chat on a number of issue and, as I am sure will be the case with the new Secretary of State, I had a very good informal relation with the previous Secretary of State. I agree with you, I think that we would be better to go down a route of sharing our experiences on a more structured basis.

Mrs Cheryl Gillan: Because informality does not replace having regular meetings to discuss areas of commonality that are thrown up by devolution and devolution right across the board.

David Mundell: Indeed.

Q475 Mrs Cheryl Gillan: Can I ask you another question? I was often asked why I advocated separate Secretaries of State and separate Departments. Would you agree that, not only the asymmetrical nature of the settlement but also the special issues that surround the geographical location of each of the countries and the issues—and I am thinking of the porous border for Wales, a land border with another country for Northern Ireland and of course the independence position on Scotland—all of those three contribute to the strength of having standalone Departments with Secretaries of State?

Alun Cairns: There are very strong reasons around those arguments, and I am trying to remember the statistic of the population of Wales that lives within 25 miles of the English border. I think it is something like 40% but it is a significant amount of the population that

lives so close to the boundary and, therefore, the public in general don't think of that as an administrative boundary. It is about going about doing their daily activity. Of course, administration needs to respond to the demands of the public and meeting those needs is a key part of the role of the Secretary of State for Wales.

Mrs Theresa Villiers: I would agree. Each of the devolved areas has its own unique circumstances and challenges that justify having a separate and individual voice at the Cabinet table.

Q476 Kelvin Hopkins: It occurs to me that one of the Secretaries of State is a particularly sensitive appointment, and that is for Northern Ireland. The Secretary of State for Northern Ireland has to be acceptable to the communities in Northern Ireland. It is a sensitive position, which is not the case perhaps in Scotland and in Wales, and so would be even more difficult to appoint if there were not a separate Secretary of State for Northern Ireland. If I could carry on a little, I noticed—certainly with the previous Labour Government—there was always a balance within the Northern Irish team to make sure that the different communities saw some representation to an extent of their different interests and their different views. Is that fair?

Mrs Theresa Villiers: I have some sympathy with that. I feel there is a willingness in Northern Ireland to try to work with the Secretary of State, whichever background they come from, so I would not necessarily think that the Northern Ireland Secretary is significantly more sensitive than Scotland and Wales but, yes, I think you make some fair points.

David Mundell: Another important point also is that it is important for the Secretary of State to work closely as well with the Parliament or Assembly. I have worked very closely with the Scottish Parliament, with the Devolved Powers Committee there, so that not only do the Scottish Government have a relationship directly with the Secretaries of State in the UK Government but the Scottish Parliament and its institutions do so as well. I think that is an important part of the role to be sensitive to the needs and wishes of the parliamentary or Assembly process in each of these jurisdictions.

Q477 Mrs Cheryl Gillan: As an add on to this series of questions, would the Secretary of State for Wales also agree that having the language issue in Wales also differentiates from the other two territorials, as we refer to them?

Alun Cairns: That is an excellent point, and obviously a member speaking with experience who understands the issues that exist. What I would also add further to that, which I would hope Mrs Gillan would recognise, is that Wales is made up of many different communities, north and south, and whereas devolution is intended to take decision-making closer to people—and that is one of the drivers behind devolution in the first instance—sometimes people in North Wales feel equally as far from Cardiff as they might well have felt from London previously, and the role of the Secretary of State is about trying to bridge that gap as well between the different communities within Wales.

Q478 Chair: Thank you. What worries you about the inter-governmental relations within the UK?

David Mundell: I think it is inevitable that they are evolving because of the reasons you have alluded to before, Mr Jenkin, because the devolution settlements are themselves evolving. I have always expressed a view—certainly in relation to Scotland, and it is not a party political view but it was the reality for the first eight years of the devolved settlement in Scotland—that arrangements were often conducted through Labour Party channels rather than governmental channels. It was just the nature of things. People knew each other. The people that had gone back to the Scottish Parliament knew their counterparts here, so, from a Scottish context, we did not get into an evolution of inter-governmental relations until well into the period of devolution, at least in my opinion.

Q479 Chair: That was then but what worries you now?

David Mundell: Now we have to ensure that we have good processes in place, but we also have to understand the nature of the political environment. That is another important—

Chair: What are the processes?

David Mundell: —part of our role, so we are going forward with a revised memorandum of understanding. I think that is well advanced and hopefully can be agreed ahead of the purdah periods for the devolved administrations, which will be a follow on from the Smith Commission agreement.

Q480 Chair: What issues are you hoping that the memorandum of understanding will resolve?

David Mundell: I hope that it will give additional clarity, for example, in relation to representation outwith the United Kingdom. What the arrangements are for devolved administrations carrying out activities outwith the United Kingdom in other countries, so that we have clarity of what support can be anticipated, for example, from the Foreign and Commonwealth Office. What we would expect of the devolved administrations in relation to setting out whatever devolved agenda that they have in pursuing those arrangements, and also that we reaffirm the position in relation to representation within the European Union structures, for example, and that we have a dispute resolution process in place. All of these things are very important, but what is also important is the direct relationship and ongoing dialogue between the respective administrations. To me that is as important as the process.

Chair: Secretary of State for Northern Ireland?

Mrs Theresa Villiers: Overall I think relations between the UK Government and the Northern Ireland Executive are very positive at the moment, probably better than they have been for some years. The areas where I would expect the most difficulties and tensions, over the years and months to come, are obviously we continue to be in a very difficult public spending environment. Inevitably that causes friction and difficulties. We

have longstanding issues and disputes on disclosure of documentation relating to the Troubles, where the UK Government are seeking to be as transparent as we possibly can be, but there always will be documents that we cannot let into the public domain because that would put lives at risk.

One of the other sources of tension—as I am sure you will be well aware—ultimately is the Government’s proposals on human rights reform. There will be a very lively debate on that in Northern Ireland. I think those are three areas where we may well see continuing difficulty in finding a position where the UK Government and the Executive can agree on these issues.

Chair: Mr Cairns?

Alun Cairns: I would say that we need to accept the context at the moment that we are approaching elections in Wales and the other devolved nations. It is natural that tensions will develop and arise around policy differences approaching that. That will make inter-governmental relations arguably a little more challenging. Much of it comes down to the individuals concerned and much of it comes down to whether discussions are held in private or held in public. I know of examples where both have occurred but, as you get closer to elections, I think it is natural that some tensions will emerge.

Q481 Chair: What happens if there is a vote to leave the European Union? How would that affect relations between the Government in the United Kingdom and your respective administrations?

Alun Cairns: I will happily say the United Kingdom is the member state. The referendum will be held and an outcome will come, but the UK is the member state of the European Union.

Q482 Chair: We keep hearing that there might be another referendum in Scotland if there was a Brexit vote. What is your opinion on that, Secretary of State for Scotland?

David Mundell: My opinion is that we have settled the independence issue in Scotland. We have had a referendum. The people of Scotland have voted overwhelmingly to remain in the United Kingdom. The EU referendum is completely different. It is not an independence referendum light and should not be framed through the context of Scottish independence. Obviously, you and I, Mr Jenkin, would have different views on what the preferred outcome of the referendum on the EU membership would be, but I don’t take the view that that would automatically lead to a second referendum on Scottish independence. Indeed, I understand that is not the position of the First Minister of Scotland that it would automatically lead to a second independence referendum. My view, clearly, is that if the UK voted to leave the EU that would lead to a great deal of uncertainty, of which matters in Scotland would just be one of many.

Q483 Chair: It remains a matter for the UK Government and the UK Parliament to determine if there is another referendum in Scotland. It is not a matter for the Scottish Government or the Scottish Parliament. Am I correct about that?

David Mundell: What I think is not the appropriate route to go down is to get into an argument around independence in the context of the EU referendum. That is what those who are proposing independence still want. They want the whole of the EU issue to be clouded by independence because that is their focus: independence for Scotland. What the position is: we are having a referendum on whether the United Kingdom remains in the EU. The Edinburgh agreement, in terms of respecting the result of the referendum held in September 2014, is what this Government's position is in relation to any further referendum request in the United Kingdom.

Q484 Chair: What would you say, for example, to a former senior Labour Cabinet Minister, who is prominent in the Remain campaign, who seemed to be arguing up the prospect of another referendum in Scotland if there is a Remain vote? Isn't this highly irresponsible?

David Mundell: There are some people who are perhaps not as familiar with day-to-day politics in Scotland and are able to be drawn into what is an argument perpetrated by those people who perpetrate independence in Scotland. This EU referendum is about whether the United Kingdom remains in the EU. It is not an independence light referendum.

Q485 Chair: Mrs Villiers, what do you have to say about the effect of a Brexit vote on relations between the UK Government and Stormont?

Mrs Theresa Villiers: Like my colleagues, I would say that we are one United Kingdom. We will vote as one United Kingdom in this referendum. If there is a leave vote some people in Northern Ireland will welcome that, others won't. Of course the Executive does not have a unanimous view on this. The First Minister and the Deputy First Minister have different views on this. I think the reaction in Northern Ireland would be broadly similar to the reaction elsewhere in the United Kingdom. Some people will welcome a vote to leave, some people will not.

Q486 Chair: Some people say that it threatens the peace process. What do you say about that?

Mrs Theresa Villiers: I don't share that view and I think those who assert that need to be quite cautious. I am in no doubt about the strong commitment of the vast majority of people in Northern Ireland to exclusively democratic and peaceful means, also the support for the political settlement as it is. I do not believe that that would be changed or jeopardised by a Brexit vote. I think those who assert that it would are on very shaky ground if they are asserting that a Brexit vote would, in some sense, jeopardise that political settlement. I don't share that view.

Q487 Chair: What does the Stormont Government say might happen to the frontier free border between Northern and Southern Ireland, if the United Kingdom leaves the European Union and the Republic of Ireland remains in the European Union?

Mrs Theresa Villiers: I don't believe the Executive have expressed a view on that because, as I have said, the First and Deputy First Minister take different views on the forthcoming referendum.

Q488 Chair: What do you think would happen?

Mrs Theresa Villiers: I think we would be able to maintain open borders in the same way that we do now. It is worth recalling that we had a common travel area with the Republic of Ireland for decades before we both joined the European Union, and that common travel area actually includes places like Guernsey and Jersey that are not members of the European Union. There is no reason why that should not continue after an exit vote and it would be in the interests of both the UK and Ireland to make sure that it did continue, because it is in our interests to maintain that open border that we have had for the last 100 years or so.

Q489 Chair: Your respective roles involve a balance between representing the respective territory in Whitehall and representing Whitehall in those territories. For each of you, what is the greatest challenge in carrying out that function? Mr Cairns? Perhaps it is an unfair question to ask you so early in your career as Secretary of State for Wales, but in your experience as a junior Wales Minister?

Alun Cairns: I think each of those has challenges and it would depend on the issues that develop and arise. I mentioned earlier that we are approaching elections and, therefore, that becomes more challenging in seeking to develop positive relationships. There will inevitably be differences, because there are different political parties running the Governments and there are different political issues and outcomes of how to get to very often agreed objectives, so the simple answer is that each brings about its challenges but I don't believe that any of them are insurmountable.

Mrs Theresa Villiers: One is sometimes pulled in two different directions on these questions. An instance where it was quite tricky to maintain the appropriate balance was in the negotiations on whether the Government would support, in principle, the devolution of corporation tax. I found myself arguing very robustly in favour of that devolution position behind the scenes while having to be a little more constrained and neutral in public because the Government had not reached a formal position. Thankfully that episode resolved itself because the Prime Minister was very clear that devolution of corporation tax to Northern Ireland was the right thing to do, which is what we have subsequently legislated for.

David Mundell: Obviously, we have to take forward propositions that come from the Scottish Parliament where the position that has been adopted is a contrary position to the UK Government's position that it would be adopting in other parts of the United

Kingdom. I don't have any difficulty with doing that, where it is a devolved issue and it is the responsibility of the Scottish Parliament and they have taken a legitimate decision in that regard. One example where the two Governments are not currently necessarily in agreement are voting rights for 16 and 17 year-olds, so I put the order through this Parliament to allow 16 and 17 year-olds to vote in Scotland while it is not the position of the UK Government. I did that because the Scottish Parliament had taken that legitimate decision within their powers. There are a host of other areas where different policies are pursued across health, education, housing and so on. That is part of respecting the devolution settlement by taking forward whatever the decision is.

In relation to issues in reserved areas, I would obviously always want to take into account the position of the Scottish Parliament and the Scottish Government but that does not mean that I would feel an obligation to be bound to their position and, therefore, I am perfectly able to argue for a different position in relation to what would be in Scotland's best interests.

Q490 Chair: While visiting Edinburgh last week we heard a rather poignant story about how, before devolution, a Whitehall official had a sticker above his desk that said, "Always remember to consult the territorials". After devolution he took the sticker down. How often do you find things are being decided in England, which affect things in your respective territories, which should have been thought about before they were concluded in England? How often does that happen?

David Mundell: It does happen but I find it doesn't happen on a widespread scale because, certainly in my time at the Scotland Office, I hope that we have put in mechanisms that prevent that happening. I am not saying it doesn't happen from time to time where we find a decision or a policy is proposed without a full understanding of the implications that that might have in other devolved parts of the United Kingdom, but I think it happens much less than it might have happened in the past. In relation to significant decisions in which the major Departments are involved, then it happens very rarely.

Q491 Chair: In your experience, Theresa Villiers?

Mrs Theresa Villiers: It tends to happen at first draft stage if it happens. There have been certain documents that sometimes, while they don't intend to, might have been misunderstood in Northern Ireland the way they were drafted or something like that, but I have found the sort of process of policy clearance has been quite effective in ironing out those difficulties.

Q492 Chair: The Secretary of State for Wales is nodding at that.

Alun Cairns: Yes. I would absolutely agree with that. In the process of policy development and clearance, there is always a line of the consequences on the devolved administrations. That is an opportunity for officials to pursue further or to accept it as it is stated. Therefore, I would say that the UK Government have become far more responsive and proactive in ensuring that policy development takes account of the impact—even in

devolved policies—that a policy in England would have, say, in Wales or elsewhere because clearly it is not completely autonomous because there are porous borders.

Q493 Chair: How often do you have to catch your devolved administration from perhaps committing itself to something because they have not thought of the consequences for the reserved functions in the Whitehall Government?

David Mundell: I have the benefit that I have the Advocate General for Scotland, whose role is, in terms of the Scottish legislative agenda, to look at that legislation to ensure that legislation is compatible with the devolution.

Q494 Chair: That is still a UK Government point.

David Mundell: It is, and that role is an important role in terms of ensuring that all legislation that goes through the Scottish Parliament is within the devolution settlement. Sometimes there are discussions. There has been discussion around the recent Trade Union Bill as to whether some aspects of it did require agreement. The Scottish Parliament have determined that it did not, so there is a formal mechanism. In terms of policies adopted by the Scottish Government, obviously there is a political opportunity to make clear that if certain policies are adopted they could have a seriously adverse effect in Scotland. Therefore, for example, as we go into the Scottish Parliament elections, it will not surprise you to know that my colleague, Ruth Davidson, is arguing that if Scotland has higher taxes than other parts of the United Kingdom that will be disadvantageous to Scotland, but I cannot stop the Scottish Parliament doing that.

Chair: I can stop you electioneering here, though.

Q495 Ronnie Cowan: Mr Mundell, as Secretary of State for Scotland, you represent Scotland at Cabinet meetings. You also represent the UK Government in Scotland. Does being the only Conservative MP in Scotland make either of those roles more difficult?

David Mundell: Obviously there is a degree of challenge that has come from being the only Conservative MP in Scotland; in fact, for the last 11 years in which I have performed the role of Shadow Scottish Secretary, the Minister in the Scotland Office and now Secretary of State for Scotland, but I don't see it as an inhibitor in any way. As you are aware, I have had the benefit of having been a member of the Scottish Parliament for six years, which I find to be tremendously important in terms my relations with both the senior members of the Scottish Government, most of whom joined the Scottish Parliament in 1999 along with myself and, indeed, with members of the Parliament.

As we have acknowledged, the UK general election is conducted on a UK-wide basis. A Conservative majority Government was elected on that basis and that is the backdrop to which I serve.

Q496 Ronnie Cowan: It must be lonely being the only Conservative in Scotland.

David Mundell: I know, Mr Cowan, that some of your colleagues probably will not welcome me saying this but I find that I get on very well with most other Scottish MPs and, as you know, I have made it very clear that, in relation to matters other than the constitution where we are not going to agree, I want to work constructively with all Scottish MPs in relation to the benefit of Scotland and in relation to issues in their constituencies. You and I have had a recent dialogue about issues within your constituency where I want to help and support you there with the local economy.

Q497 Ronnie Cowan: Should the majority party in Scotland have a voice inside the Cabinet?

David Mundell: That is a very interesting proposition but I think my answer to that is no. We have an election in Scotland for the Scottish Parliament, which on the last occasion, certainly at the election, produced a majority Government. Some polls would indicate that that will not be replicated after May, so the Scottish National Party have the opportunity to run the Scottish Government. The UK-wide election elected a Conservative Government, but politics in this country is very fluid so the proposals for a Conservative SNP coalition after the next general election, who knows?

Q498 Kelvin Hopkins: Could I also offer my congratulations to the new Secretary of State, and could I also say that I am sure he will get extremely strong support from the excellent team at Gwydyr House? We have touched on this, but the constitution unit at UCL recently said that too many Departments and officials tend to treat the devolved Governments as an afterthought or as another Whitehall Department. In fact a similar criticism was also levied by Sir Derek Jones, who is the Permanent Secretary to the Welsh Government. Across Whitehall, how would you describe the current level of devolution awareness? Mrs Villiers, would you like to start?

Mrs Theresa Villiers: What, in comparison to the other devolution settlements? Obviously it is not as extensive as—

Kelvin Hopkins: No. Do you think that Whitehall Departments and their officials are sufficiently aware of devolved elements of government, and do you think that things are getting better or are not much better at all?

Mrs Theresa Villiers: There is a pretty good level of awareness. With these things there is always room for improvement. That is partly the role of your three witnesses to date to keep reminding our colleagues of the importance of considering the devolved angle. As we said before, I think very often potential problems are ironed out during the policy development and approval process.

David Mundell: I think it is very, very important to establish good working relationships with the Departments that have significant impact within the reserved areas. Obviously, from my own perspective, for example, the Treasury is a very important Department to ensure that we have a clear and positive working relationship. They have an excellent devolution team within the Treasury, so I am confident, in relation to what happens within

the Treasury or the Treasury thinking, that that does take Scotland into account. Then my job is to make sure that it takes Scotland into account in the way that I would want it to do so and to argue that case. Across the whole of Whitehall there might be some work in some Departments still to do.

Q499 Mr David Jones: Which Departments would you say?

David Mundell: I am not going to single individual Departments out, but I think you will be aware that in some areas the devolution settlement is clearer than in others. For health and education you can pretty much say there are one or two. In Scotland they are devolved, but, for example, in Departments, like BIS or DCMS, there are areas where there is less clarity in what the devolution settlement is in relation to respective responsibilities. It is in those areas where we continue to work hard to ensure that the respective responsibilities are understood and that there is a working together with the Scottish Government in relation to shared responsibilities.

Q500 Mr David Jones: Would you say that devolution awareness in those Departments has improved at all since you have been Secretary of State?

David Mundell: I think it has, because we have identified that that is an area where there needs to be a greater focus on those areas where the devolution settlement is not as clear in relation to that overall departmental responsibility, so I hope that the answer to that is yes.

Q501 Mr David Jones: Mr Cairns, in the case of Wales of course devolution is not so extensive and I would suggest Whitehall Departments have considerably more influence. Do you recognise Sir Derek Jones's criticism?

Alun Cairns: First of all, through the Chairman, can I thank you for your kind comments? I am sure you are absolutely right about the officials in the Wales office.

In my experience, as the Parliamentary Under-Secretary, I feel that the Departments have been in a pretty good position in terms of their understanding of devolution. Mr Jones and Mrs Gillan will remember the Department for Transport, for example, where they played significant roles in attracting major infrastructure investment over the electrification, for example, of the railway line through South Wales, that there would be understanding of the DfT then. But of course the role of the Secretary of State is always there underlining, reinforcing and making that point and then calling for special vestment. That would be a Department that would absolutely get it, because it recognises the practicality of infrastructure crossing borders but also the devolved context in which it needs to deliver that policy.

I would even say in other areas, for example, BIS is particularly positive through UKTI's involvement. As soon as the Welsh Government had confidence in engaging positively with UKTI through BIS then inward investment policy through BIS works positively, and out of the 101 projects last year that came to Wales 98% of them had UKTI involvement. That again demonstrates that joint working can work in Departments that want to make it work. I

have only had positive experiences but I have no doubt there will be some examples out there where they have been more difficult. But Mr Jones is absolutely right in relation to the devolved settlement in Wales. It cuts across most Government Departments because the settlement is different to that in Northern Ireland and Scotland.

Q502 Mr David Jones: You also mentioned earlier the cross-border element, which is much more pronounced in Wales than it is in Scotland and of course Northern Ireland. I have in mind health in particular, where of course decisions made in Richmond House can have an impact upon Wales, even though health is a devolved competence. For example, do you find that in that particular area devolution awareness is sufficient?

Alun Cairns: It is fair to say health is one of the policies that have, by and large, been devolved and there is almost independence in terms of how the health policy will develop in Wales compared to that in England. There are still patients in Wales that will get treated in England and vice versa, so as there could well be hospital reform that takes place on the English side of the border, for example, the Department of Health would always bring that to the attention of the devolved administrations as part of its consultation and the Welsh Government would be an important stakeholder to that. Now, could it be improved and could it be refined and taken to another level? I think that that is an interesting debate and I would be happy to look at that.

Q503 Mr David Jones: What are your officers individually doing to promote devolution awareness across Whitehall?

Mrs Theresa Villiers: That is not something that I have been focused on, given that I tend to concentrate on devolution in relation to Northern Ireland, but I remain very keen and anxious to work with my territorial colleagues on matters of mutual interest. Indeed, in my previous role at the Department for Transport, I was a great enthusiast for electrification in Wales and I am delighted that that is going ahead.

David Mundell: Mr Jones, one thing I try to always make clear to everyone is that these devolution settlements are asymmetric and, therefore, the position in Scotland is not necessarily the position in Wales or the position in Northern Ireland. Therefore, a dialogue in relation to Scotland is for Scotland and it is important that the specifics of the devolution settlement are fully understood in each case, not necessarily in minute detail but at least so that people are aware that the settlements are different and, if they are dealing with an issue in each of the devolved administrations, then they may need to treat that differently.

Alun Cairns: Mr Jones, through the Chairman again, I would underline that of course there is devolution taking place in different forms in England. I think that makes UK Government Departments quite alive to the thinking of how policy is delivered in different parts of the country. It is not universal, because the mechanisms of achieving the same goal will be different in Manchester, for example, as it would be in Wales, Scotland and Northern Ireland or any other of those parts of the UK for which devolution arrangements are introduced.

Q504 Mr David Jones: It is early in your career but what is your office doing to promote devolution awareness? You mentioned an interesting point about devolution of, for example, health care to Manchester. That will inevitably have an impact upon North Wales because so many patients from North Wales are treated at Manchester hospitals. Is it the case that your officers actively engage with, for example, the Department of Health in connection with the devolution of health?

Alun Cairns: As policy is communicated across Government, as I mentioned earlier, there will always be an element of devolution for which there is the opportunity to intervene or call on official discussions between officials or even at ministerial level, but as further devolution takes place in England—such as the example that you have highlighted over health in Manchester—I think there is an active role for the territorial officers to realign its activities to ensure that it reflects the changing circumstance.

Q505 Mr David Jones: Is that exactly what your office is doing?

Alun Cairns: That is absolutely my commitment—days into the job—to pursue that further.

Q506 Mr David Jones: If we could touch briefly again on the new memorandum of understanding that Mr Mundell mentioned briefly, what roles have your officers individually been playing in updating the memorandum and to what extent do you engage with the devolved administrations? Mr Cairns, perhaps you would like to start on that one.

Alun Cairns: The memorandum of understanding across different Departments exists, quite obviously, as well as general inter-governmental agreements. To date my involvement has been very limited and I will happily write to the Committee with further information about what practically my predecessor will have pursued along the lines of the question. I am happy to do that.

Q507 Mr David Jones: I think that is very understandable. Mrs Villiers?

Mrs Theresa Villiers: I have been very supportive of the discussions. To be honest, it is not an area where the Northern Ireland Executive have been coming to me and making big points about it because, frankly, we have had an awful lot on our plate over the last few months, and so just staving off the imminent collapse of the institutions and a possible return to direct rule over the dispute over budgets and welfare reform has rather dominated the interactions we have had. I gather we are now very close to getting things resolved. I know there is a continuing debate about the Council Ministers and representation at the Council of Ministers, but it seems to me that it has been a good process to review the MOU and I very much hope we have a successful outcome.

Q508 Mr David Jones: Mr Mundell, you have touched on it. Is there anything you would like to add?

David Mundell: I have had a degree more involvement in it. I think partly because it was set out in the Smith Commission agreement and in a number of the direct dialogues that I have had with John Swinney, because over the period of the last 10 months we have been in very regular dialogue, as you would anticipate. The issue has come up and we have sought to make progress. I am hopeful that it will be possible to get that agreement before the Scottish Parliament dissolves on Wednesday evening. We are close to reaching an agreement. I have also discussed that agreement on many occasions with Oliver Letwin, who has led for the UK Government in the discussions. I think that we have an MOU that is certainly fit for purpose but it has to be accompanied by good personnel relations at a political level and at official level.

Mr David Jones: Thank you.

Q509 Mrs Cheryl Gillan: Mr Cairns, we are also keen now at looking at further devolution and I appreciate that, having only been in the job for a matter of days, you may not be able to give the full answers that you would wish to to this Committee so, with the permission of the Chairman, I would ask that if you find that you want to add anything to the answers that you give please feel free to write to the Committee within a couple of days of this hearing, because I think that would be most helpful.

One of the recent flashpoints in inter-governmental relations has been the Government's draft Wales Bill. I am sure you are familiar with that. How would you describe the bilateral discussions that have been held with the Welsh Government on this subject?

Alun Cairns: I would say that there have been matters of areas of agreement and there have been matters of areas of disagreement. That is not unusual because there will be different policy objectives on either side. But the purpose of a draft Bill will obviously have been to try to tease out those areas for which there will be common objectives and for which there will be differences, and where there will be differences then of course it will be difficult to get agreement. The nature of discussions between the two administrations will be positive and my predecessor outlined the direction of travel and I plan to continue to pursue that.

Q510 Mrs Cheryl Gillan: Did you have any foresight of the intention of the First Minister to publish an alternative Wales Bill?

Alun Cairns: No. At very early stages officials had highlighted that they wanted to consider how they would respond but then there were no further discussions until it was published, and that was some months later. It was helpful in one way, in that it clarified the Welsh Government's position, so that is in addition to their response to the draft Bill, of course, and we are continuing to work through that to see where there are areas of agreement

Q511 Mrs Cheryl Gillan: It is fair to say that criticism was levelled at the Wales Office by the Assembly's Constitutional and Legislative Affairs Committee, which suggested

in their pre-legislative scrutiny report on the draft Bill that the Welsh Government and Assembly were brought into discussions of the draft Wales Bill too late. How would you like to respond to that?

Alun Cairns: I disagree. It was a draft Bill and the whole purpose of a draft Bill is to allow for people to respond, and they were very important contributors and consultees and stakeholders. Therefore, we take very seriously the evidence that they have published as a result. That is the nature of a draft Bill. I would think that that criticism might be more valid if we had published the final Bill at that stage, but the nature of a draft Bill is, therefore, to develop and evolve changes.

Q512 Mrs Cheryl Gillan: It is fair to say that you in fact consulted the Assembly over your draft Wales Bill, but that the First Minister published an alternative Wales Bill without consulting you at all?

Alun Cairns: Perfectly put.

Q513 Mrs Cheryl Gillan: Thank you. Following the publication of the draft Bill, there seemed to be some verbal tensions between the former Secretary of State and the First Minister, and the former Secretary of State remarked that the First Minister of Wales had given up on the Union. What sort of impact did that statement have and what tensions did that create between the Wales Office and the Welsh Government?

Alun Cairns: I think we need to accept the context that I highlighted earlier, that we are approaching elections in the devolved administrations and, as a result, that therefore creates some element of noise. But there are lots of areas of agreement. Clearly there are differences: for example, there are calls to devolve policing. I might argue that policing has already been devolved through Police and Crime Commissioners, so devolution does not necessarily mean to a central administration in Cardiff Bay, it can go beyond that to communities themselves. But I am pragmatic. I want to follow the path that the previous Secretary of State established and I want to be warm and open in the relationship that I will have with the current administration and whatever administration is formed after the elections in May.

Q514 Mrs Cheryl Gillan: I am sure the First Minister and the future First Minister would always find you warm and accommodating of discussion on these matters. Nevertheless, it does seem to be that the First Minister and the Welsh Government are attempting to centralise everything in Cardiff.

Alun Cairns: The points that were made earlier about devolution, about the differences sometimes with North Wales and South Wales and devolution to North Wales, would be something that we would encourage and that we would like to see further and is in fact called for by many of the local authorities in those areas.

Q515 Mrs Cheryl Gillan: Specifically you mentioned policing and it is true that policing has always been a target for the Welsh Government to have devolved to it, but the truth of the matter is that North Wales relates into the north of England for its corridor of crime and South Wales relates into the Bristol area and around that area for its corridor of crime, therefore there has always been a resistance to this.

Alun Cairns: There is even a resistance among many Opposition Members here in Westminster, so I think that we need to consider this in a much wider context than some calls that have been made from Cardiff Bay.

Q516 Mrs Cheryl Gillan: The frictions in all the relationships you are saying extend to Westminster MPs that are not necessarily of the party of Government as well?

Alun Cairns: Without question. I think it is fair to say there is a lot of common ground. In some areas there will be differences, such as the devolution of policing. I think that devolution has already occurred to the Police and Crime Commissioners, and we are seeing some very positive results as a result of the activity of the Police and Crime Commissioners. Devolving it to the Welsh Government will not necessarily mean decision-making is closer to the community as a result.

Q517 Mrs Cheryl Gillan: Another area for further devolution is obviously the implementation of or partial devolution of income tax. What discussions have you had with the Welsh Government on the implementation of income tax devolution?

Alun Cairns: Discussions that are ongoing about how that will take place and what the trigger would be and the process that the Welsh Government will be able to pursue in order to do it. Those are currently ongoing, they have been for some months and I envisage that they will be for some time to come.

Q518 Mrs Cheryl Gillan: How will the no detriment principle apply to Welsh income tax devolution? Will a similar no detriment regime to that proposed for Scotland also apply in Wales?

Alun Cairns: I think it is about no detriment at the start, but of course any policy changes thereafter will have a positive or a negative effect for the administration, depending on how they pursue it. Clearly if they reduce tax, I think it would have a positive effect; if they increase tax, it might have a negative effect. But I think that that would be the decisions that follow thereafter, but the no detriment effect is the starting point that we would want to pursue.

Q519 Mrs Cheryl Gillan: Finally on further devolution matters, what are the issues you perceive to be around the devolution of air passenger duty?

Alun Cairns: The Chancellor and the Treasury are reviewing this area of policy in general. There is no change in terms of the devolution of air passenger duty and the Chancellor and the Treasury will continue to look at the evidence and the representations that have been made from all parts of the United Kingdom, including Wales.

Q520 Mrs Cheryl Gillan: Will a decision be made in the Treasury or will it be made in the Wales Office?

Alun Cairns: It is a matter for the Treasury because it is a tax issue, but of course it will be done in consultation and working closely with the Wales Office.

Q521 Mr David Jones: Mr Cairns, the Chancellor announced in the Budget that he had proposals for a North Wales Growth Fund, which tends to imply that consideration is being given to further devolution to North Wales, which might possibly address the issue of centralisation that you have already mentioned. Could you tell us briefly what discussions you have had with the Welsh Government about that proposal?

Alun Cairns: The announcement was made last Wednesday in the Chancellor's statement. I have meetings in North Wales with community leaders to discuss what a growth deal could look like and what sort of issues they would like to be considered as part of that growth deal. I am obviously keen to involve the private sector, local authorities and communities as to how we deliver that.

Q522 Mr David Jones: But won't it require the buy-in of the Welsh Government too?

Alun Cairns: Oh, without question. I mean, that would—

Q523 Mr David Jones: Have you had discussions with the Welsh Government about that?

Alun Cairns: Not as yet, but in view that the announcement was made last Wednesday, I would anticipate discussing that with the Welsh Government later this week.

Q524 Mr David Jones: So you have no indication from them yet as to whether or not they are generally supportive of the proposal?

Alun Cairns: There was certainly be, in principle, support for the growth deal around Cardiff and calls for a City Deal for Swansea Bay and presumably I would expect them to show similar enthusiasm to North Wales. It would be up to them to explain their position, but I think with additional interest in areas of policing and in growing particular policy, I

would hope that they would want to work with the UK Government in helping deliver that.

Q525 Mr David Jones: The big difference in North Wales is again the cross-border element, where Deeside, which is the most dynamic part of North East Wales, literally straddles the border, so would you agree that this is a case where the Welsh Government does need to be very enthusiastic about the proposals if the growth deal is to go ahead?

Alun Cairns: I hope they are. I would like to think they will be. I have no reason to think otherwise, but we would hope for positive engagement in the same way that we received in Cardiff and commitments to them in Swansea, because I want that positive engagement in North Wales.

Q526 Chair: I would very much like to conclude this in six minutes. Some very brief questions: Secretary of State for Northern Ireland, there have been a number of political developments recently: the House process, the Fresh Start agreement. What challenges do these present for inter-governmental relations?

Mrs Theresa Villiers: I think they have taken us considerably further forward in delivering a greater degree of political stability in Northern Ireland than we have seen, probably for the last three years or so, with the Stormont House agreement and then the Fresh Start agreement, but the key is implementation. That is how we got into problems with the Stormont House agreement a year or so ago. We are working hard and successfully, both in Westminster and in Stormont, to keep implementation on track. A big gap remains: the legacy bodies proposed in the Stormont House agreement we are not pressing ahead with legislation on at present, because we have not been able to develop sufficient consensus. That is a big priority for the coming months with the new administration, once it is formed.

Q527 Chair: What sense does it make for the Assembly to obtain competence in the area of welfare reform now that we have resolved that particular impasse?

Mrs Theresa Villiers: The Westminster legislation giving us a power to produce secondary legislation on welfare reform is time limited and it is subject to a sunset clause. We went down this path in order to make implementation of the current welfare reform package possible within a constrained timeframe. I think that was the right choice to make; it has resolved the Budget dispute. But competence over welfare has been a longstanding part of the devolution settlement in Northern Ireland. The problem of course is that, while in theory it is devolved, in reality the UK Government will only fund up to parity with Great Britain, which makes it somewhat difficult for Northern Ireland to take radically different decisions. But I think it is a reasonable compromise where we are at the moment, where they are implementing the system introduced in Great Britain, but with top-ups from their own resources.

Q528 Ronnie Cowan: Mr Mundell, we seem to have skipped Scotland's question there. Has the Scotland Bill improved the inter-governmental relationships between the Scottish and the UK Government?

David Mundell: I think it has. I had a very good conversation last Thursday with John Swinney, where we reflected on the Scotland process and I think we both acknowledged that we had worked very well together in order to achieve that. Working at official level has been absolutely excellent and a lot of preparations are in place for what will be, I think, the most significant piece of work going forward, Mr Cowan, which is the transfer of the welfare powers. There have been numerous engagements between the DWP and Scottish Government officials. I think, as we have alluded to—putting the politics aside, that we are about to have an election in Scotland—relations between the two Governments are pretty good at the moment. I was very, very pleased on Thursday night to share a platform with the First Minister of Scotland at the SCDI forum, where we both committed to work together, outwith our differences on the Constitution and certain policies, for the benefit of business and the economy in Scotland, so I am optimistic that that is doable.

Q529 Ronnie Cowan: Now they have been through the process once, what could have improved the process?

David Mundell: I am sure the officials would say that if the politicians had not been involved, then the process could have been improved. You have taken part and I have taken part. We have to have the debate and discussion in the respective Houses of this Parliament, in the Scottish Parliament. That inevitably impacts upon the process, but I think that we are there. We have what I regard as the test, which was Lord Smith himself saying that the Bill met the Smith Commission's requirements in full. I think that we have learned, certainly in terms of the relationships with officials, how to proceed effectively, but we have also had very, very good dialogue at a political level and I think we can be proud of that.

Q530 Ronnie Cowan: The agreement for the fiscal framework is only until 2021-22. Where do you think it will go after that?

David Mundell: It will go where the two Governments agree that it is to go. That is what the transition process is about. It is about allowing an independent analysis to take place of the framework in operation, for a report to be produced and for the Government then, on the basis of no predetermined outcome, to come to a conclusion as to what is the best way forward. But I think the very fact that we were able to agree the fiscal framework, which was challenging, demonstrates that we can work together and that we can reach an agreed position on difficult areas.

Q531 Chair: I just have one last question, which is I invite each of you to say in one sentence if you could see a change in the inter-governmental relations, what would that be and why.

Mrs Theresa Villiers: I would like it if we didn't, in Northern Ireland, end up sort of looking over the cliff edge at a point of crisis. It seems to be a way that decisions get made in Northern Ireland. So far we have managed to persuade people to step back from the cliff edge before things collapse and there are disastrous consequences, but if we could find a way to maintain a more even political keel rather than every few years finding ourselves at the point of crisis over a dispute internally with the Executive, which the Government is doing its best to resolve.

David Mundell: I would say publicly, Mr Jenkin, that I want to reboot the relationship between the Scottish Government and the UK Government after the elections. We will have a UK Government that will be in place to 2020 and a Scottish Government in place until 2021. There is no need for electioneering day in, day out on either side. Let us, to the extent that we can, put the politics aside and work together for the benefit of Scotland.

Alun Cairns: I would certainly agree absolutely with what the Secretary of State for Scotland has just said in relation to Wales, but I would also add something else. That would be in the days pre-devolution. There was much more movement of officials, of civil servants, between Whitehall Departments and what would have been the Welsh Office then, and I think that greater understanding among officials across Whitehall and greater understanding of officials in the devolved administrations is a positive thing. The greater opportunity for free movement between individuals within the Civil Service, one Civil Service, would be a positive outcome for everyone.

Chair: I thank all three of you very much indeed for spending your time with us this afternoon. We continue this inquiry and we may well be making recommendations of an institutional nature, in the hope that, as you get distracted with political things, the sinews of the Constitution continue to pull the nation in the right direction. Thank you very much.