



Select Committee on the Constitution

Corrected oral evidence: Oral evidence session with the Minister for the Constitution

Wednesday 8 March 2017

10.30 am

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Members present: Lord Lang of Monkton (The Chairman); Lord Beith; Lord Hunt of Wirral; Lord Judge; Lord MacGregor of Pulham Market; Lord MacLennan of Rogart; Lord Morgan; Lord Norton of Louth; Lord Pannick; Baroness Taylor of Bolton.

Evidence Session No. 1

Heard in Public

Questions 1 - 8

Witness

I: Chris Skidmore MP, Parliamentary Secretary (Minister for the Constitution), Cabinet Office.

Examination of witness

Chris Skidmore MP.

Q1 The Chairman: Mr Skidmore, welcome to the inquiry. I think this is the first time that you have been to the Committee. We welcome you, as Minister for the Constitution.

Forgive me if I get a few things off my chest on behalf of the Committee. We have not been happy with the way in which things have been handled in the past between this Committee and the Government, and you should know about it. It would not be fair on you if you did not hear it directly from us. To give two examples, we prepared what we regarded as very important and sensitive reports on intergovernmental relations and on the union and devolution. Those reports were prepared almost two years ago—in the case of IGR, rather more than two years ago. We eventually got a reply, which told us that this or that was already being done. We are pretty sure that many of those things were not being done when we conducted our inquiry. We thought that it would have been appropriate to address the issues in the context of the reply, and to respond to our recommendations in that way.

Our report on the union and devolution appeared nearly two years ago. It was a very complicated and sensitive report. I understand that you issued a response last night. That may have been well intentioned, as minimising the damage, but the fact is that we have not had an opportunity to consider it and to discuss it among ourselves, so we cannot really question you on it today, although one or two colleagues may have had a chance to read it.

We are also very concerned about the way in which constitutional issues have been handled in the last two or three years within government. In one of our reports, we said that the Constitutional Reform Cabinet Committee appeared to have been abolished under the present Prime Minister, and it was unclear how much thought and focus the Government were now giving to the constitutional implications of their policies. We understand that in June 2015 the UK governance group was established, which suggests that there has been a better effort to co-ordinate constitutional affairs. It may be that you can enlighten us a little on that.

In our reports on the office of Lord Chancellor and on intergovernmental relations, we expressed concerns about the lack of clear ministerial oversight of the constitution. We were particularly concerned that the Cabinet Minister responsible for devolution was not a member of the Devolution Cabinet Committee, which we found, and still find, incomprehensible. We are glad that, following the 2015 election, the Cabinet Minister with oversight, Oliver Letwin, was named as chair of the new Constitutional Reform Cabinet Committee, but we discovered that, in the nine months since it had been formed, it met only once.

Those are just three examples of what could be described as a general shambles and a lack of interest at No. 10, at a time when devolution is an immensely sensitive issue, as nobody would now deny. Some of that

sensitivity might have been avoided if the issue had been focused on and some of our recommendations taken on board and developed before now.

I make it clear that this is not a criticism of you. We welcome your arrival, as I said, and we hope that things will be quite different from now on. My first question is, could you explain the division of constitutional responsibilities within government, tell us who is responsible for taking an overarching view of the constitution as a whole, and reassure us that the issues that we have addressed in our reports are being taken very seriously?

Chris Skidmore MP: Lord Lang, perhaps I may start by thanking you and the Committee for allowing me to appear before you today. Since being appointed as the Minister for the Constitution on 17 July last year, I have welcomed your reports and have worked hard to ensure that the Government address the points that you raised in your opening statement, and indeed that we were able to try to publish the Government's response to the paper on the union and devolution. I hope that, going forward, we can increase our engagement with each other as a Government and a Committee. I will be more than happy to attend any future Committee meetings, as and when you choose. I hope that we can begin afresh the process of dialogue across government with the House of Lords constitutional affairs committee.

If we look at the current landscape of constitutional reform policy, the Cabinet has oversight of constitutional policy and has had that since 2010. I and the Minister for the Cabinet Office share responsibility for overseeing the co-ordination of constitutional policies, but a number of other departments are actively involved in delivering constitutional change. Of course, the Prime Minister has ultimate responsibility for overseeing the constitution. Beneath that, we work in close collaboration with other relevant Cabinet Ministers such as the Lord Chancellor, the Attorney-General, the Leaders of the House of Lords and the House of Commons, and the Secretaries of State for Scotland, Wales and Northern Ireland.

You mentioned the UK governance group, which was established in June 2015 and brings together the former constitution group, including the Scotland Office, the Office of the Advocate-General for Scotland and the Wales Office. It leads the Government's work on constitutional and devolution issues and ensures that the Civil Service has improved capability to support Ministers in sustaining the UK in its constitutional settlements. It is a mark of the importance that we place on the UK governance group that currently it comprises 286 officials.

Lord Morgan: One important constitutional issue we looked at in detail in the autumn was the Wales Bill, where there seemed to be a lack of control by somebody. It was a Bill that, rightly, was presented as offering more authority to the Welsh Assembly and Government, as you will know, by effecting the balance of reserved powers. When we actually looked at it and discussed it in this Committee, it seemed almost to do the opposite: the number of reserved powers was so considerable that it

was a Bill to restrict the authority of the Welsh institutions, rather than to enhance it. I would be the first to say that the Minister, Nick Bourne, was very helpful and conciliatory in committee and helped to resolve many of the confusions, but should someone not have spotted them in the first instance? Among other things, they have the potential to create a conflict between the Welsh Assembly and the Westminster Parliament, in a situation where there should not be one.

Chris Skidmore MP: I am very grateful to you, Lord Morgan, for bringing up the passage of the Wales Act and, obviously, the Scotland Act 2016, which demonstrate the Government's commitment to continued constitutional reform around devolution issues. The Wales Act ensured that Welsh devolution was made stronger, through a historic transfer of powers. From my own policy brief, I know that the powers that have been further devolved as part of the Wales Act include the ability of the Assembly to call itself a Parliament in future, if it so wishes, and devolved powers for the system of electing Members and, indeed, looking at the local government franchise. The Wales Act is now on a reserved powers model, which provides clarity and certainty on that constitutional issue. There is also a welcome transfer of powers that means that decisions can be taken at a more local level, in line with the Government's commitment to ensuring that devolution works for the local communities that it is intended to serve.

Lord Morgan: I am very glad that a fellow historian is looking at these matters.

Q2 **Lord Pannick:** Minister, do you think there is a danger that constitutional issues may not receive the care and attention they deserve because there is no one Cabinet Minister with overarching responsibility for that subject?

Chris Skidmore MP: The issue of constitutional reform and constitutional policy touches all government departments. Lord Lang spoke about the Constitutional Reform Committee, which is no longer in existence, following a reorganisation of the committee structure. It was clear that having a discrete committee did not provide the opportunity for interdepartmental working on an effective level. I believe that the transfer of constitutional matters now being considered by the Social Reform (Home Affairs) Sub-Committee, which includes the Secretaries of State for Scotland, Wales and Northern Ireland as members, ensures that constitutional affairs are placed right at the forefront—in the mainstream—and that when write-arounds take place constitutional affairs are considered by every single government department.

Later, I will touch on some of the other constitutional policy areas I am working on as a Minister. One example on which I have been actively engaged with the Social Reform (Home Affairs) Sub-Committee when it comes to constitutional issues is the publication last week of a policy statement looking at anonymous registration for survivors of domestic violence. As we come up to the 90th anniversary of women getting the equal right to vote, there are still women in safe houses who are unable

to register, effectively, without putting their names and addresses at risk. This is a policy area that touches very closely the Home Office and DCLG. It is right that, rather than having a discrete constitutional affairs committee with a discrete membership, we ensure that in the sub-committee each department plays its full role in evaluating our constitutional changes.

Lord Judge: Does this mean that, in effect, constitutional affairs have been relegated to a sub-committee? Whether or not that is so, how often has the sub-committee met to discuss constitutional affairs?

Chris Skidmore MP: I do not think that we can look at this as a process of relegation. As I have mentioned, the fact that it has been mainstreamed into departmental conversations and dialogue establishes a principle by which constitutional affairs are placed at the heart of government. I myself am not a member of the sub-committee, so I cannot comment on the number of meetings—

Lord Judge: Forgive me for interrupting. How is all this co-ordinated?

Chris Skidmore MP: The chair is the Home Secretary. It follows the usual channels of government, by which departments are able to comment on any constitutional change or policy through the process of write-around. Obviously, that has to follow due process of full documentation being sent through to every single department.

Baroness Taylor of Bolton: I am somewhat baffled. Your title is Minister for the Constitution, but you are not on the sub-committee that deals with that. My impression was that the problem for the previous committee was not its inability to co-ordinate, but its inability to meet and to make any progress on co-ordinating the various things that were happening. It is important that we know how often the committee meets. Personally, I am baffled by the fact that you are not a member.

You said that every department should be aware of constitutional issues, and I do not think anybody would disagree with that. In the past, we have been worried about the fact that there has been such a piecemeal approach to constitutional change generally, with no indication that there is an understanding that, if you change in one area, it can have repercussions and unintended consequences elsewhere. That is why we need a Minister for the Constitution who is absolutely at the heart of it and can take an overview. That is what we think has been lacking in the past.

Chris Skidmore MP: Thanks for your comments. I note that the Cabinet Office as a department has a place at the table at the Social Reform (Home Affairs) Sub-Committee. The Minister for the Cabinet Office, Ben Gummer, is a member of it. As I said in my opening statement, we share constitutional policy and implementation. It is right that, as the lead Minister in the Cabinet Office, he should take that seat at the table.

The Chairman: Were you present at the discussion that I gather the

Cabinet had last week on Scotland specifically, rather than on devolution in general, or are you not able to admit that such a discussion took place?

Chris Skidmore MP: Unfortunately, I am not a member of the Privy Council, much as I would like to be, so I am unable to attend Cabinet discussions at that level.

Lord Norton of Louth: I will comment first on that issue, which is top down. I want then to look at it from the bottom up, as regards officials. You stress the point that the Cabinet sub-committee is a body for co-ordination, but, given the importance of the constitution, it is important that there is someone who can look at the constitution qua constitution and give a lead in relation to constitutional issues, rather than simply co-ordinating what is going on across departments.

Rather than looking at just the top ministerial level, I want to go a bit further down, looking at officials as well. You stressed the structure now of the UK governance group, and the number of officials in it, but the issue is how qualified they are—their knowledge of the subject. In our report on inter-institutional relationships, we raised the issue of how well trained officials were in dealing with devolved Administrations, and we asked what training is now available, following the end of the National School of Government. The response was, “Learning for civil servants is provided via the Civil Service Learning. New learning on devolution and intergovernmental working will become available this year and includes a range of digital modules and a face to face workshop. The UK Governance Group also provides tailored seminars to all parts of the Civil Service and these are available for senior leadership teams”. I notice the references to being available; it does not say that there is a requirement for officials to avail themselves of that, and it is not yet available. What stress is placed on making sure that officials are fully versed in constitutional issues? It has been a problem in the past. There is a problem with Civil Service Learning as regards what is provided by way of the modules and making sure that officials actually take them.

Chris Skidmore MP: You mention Civil Service Learning, which is one forum through which extended learning can take place. An exchange scheme has been established, by which Civil Service officials in the devolved Administrations can exchange places and locations with members of the Civil Service, particularly in the constitution group, in order to understand the challenges going forward and policy considerations as they impact at a devolved level. At the same time, I will attend regional meetings of Civil Service Live that will take place over the summer months, starting in May, and will look at the workings of the constitution. I will ensure that there are forums and opportunities at those meetings to stress the importance of constitutional understanding in the Civil Service, which is key to developing a rounded Civil Service.

Lord Norton of Louth: As I said, there is a difference between making modules available and officials taking them up. It is not clear that there is a requirement to do that. That is a more general problem with Civil

Service Learning. Will there be a requirement to make sure that officials are taking modules and are well versed in the subject? You stressed how sizeable the team is, as regards numbers, but how well qualified is that team going to be?

Chris Skidmore MP: I have every confidence that the UK governance group, led by Philip Rycroft, and the constitution group, led by Lucy Smith, are aware of the concerns you raise. In order to establish consistency of training, and to ensure that our Civil Service is the best equipped in the world, we want to take your considerations on board for the future. I will certainly raise that with them.

Lord Norton of Louth: Of course, one follow-up to that is to make sure that they have taken it on board and how you then evaluate its effectiveness.

Chris Skidmore MP: Yes. That raises a wider point around continuous professional development in the Civil Service. Ensuring that we have the best and brightest means not only that we provide the training but that we provide opportunities for exchange and look at where expertise from outside can be brought into the Civil Service. It is not necessarily a closed shop. Looking to recruit, train and maintain constitutional expertise within the Civil Service is vital. I take your points on board fully.

Q3 Lord Pannick: The great repeal Bill and allied reform will plainly occupy an enormous amount of parliamentary time over the next two years. Can you confirm that the Government have no other proposals or plans for constitutional reform during the next two-year period?

Chris Skidmore MP: The Government's priority must be to ensure that we have a successful exit from the European Union. That is at the forefront of the Government's work, both within government and in respect of parliamentary time. I do not believe that that precludes us from ensuring that our manifesto commitments are maintained. As the Minister for the Constitution, I have been looking at how we can establish a democracy that works for everybody. I have taken forward four strands of future working when it comes to looking at democratic engagement, any constitutional change around the franchise and constitutional policy with regard to democracy.

We have the process for equal seats. The Government are committed to ensuring that the boundary review that was delayed from the previous Parliament continues. We are committed to reducing the number of MPs from 650 to 600. There is a process in place at the moment—consultation is ongoing—but we remain committed to that process. There will be a vote in the winter of 2018 when it comes to looking at parliamentary approval for that change.

Equal seats is the first of the four key pillars. The second pillar is votes for life. The Government remain committed to ensuring that we take forward our proposals to give British citizens who have lived abroad for more than 15 years the right to vote. Potentially, that will expand the

franchise significantly. We have published a policy paper on how we intend to bring forward legislation on that. In future, a draft Bill will be forthcoming. We hope that it will be in place for the 2020 general election.

The third pillar is Every Voice Matters. I am currently touring the country. In the run-up to the 90th anniversary of women getting an equal right to vote, there are unfortunately still groups in society who, despite wanting to be able to vote, are by their circumstances unable to do so. I am investigating closely how we as a Government can engage with those groups and look at what changes can be made—for example, with survivors of domestic violence—to enhance individuals' ability to express their opinion at the ballot box. This summer, I will publish the Government's democratic engagement strategy, which will set out more clearly our intentions going forward.

We will also return to the issue of electoral registration. The introduction of individual electoral registration was a significant change in the previous Parliament. As a Government, we need to ensure that that change is carefully managed and that we work closely with electoral registration officers. We are taking forward changes to the annual canvass, which has been in place in legislation since 1983. It does not reflect the changing world of modern technology and how we can make the process of registration easier for individuals and, above all, for local authorities to implement annually.

Finally, the fourth pillar is a clear and secure democracy. You may have noticed that I introduced proposals on the back of Sir Eric Pickles' report looking at electoral fraud. The Government will run pilots in certain local authorities in May 2018. The decision on the location and process for those pilots will be announced in the summer. We will look to test the use of identification in polling stations and to reform the process for postal vote applications and the postal vote process. Those are the four key pillars that I am determined to secure. While it is absolutely right that the Government's priority must be exiting the European Union successfully, that does not preclude the fact that constitutional changes need to be made in order to improve our electoral and democratic process.

Lord Pannick: That is very helpful. You mentioned manifesto commitments. What about the British Bill of Rights? The Lord Chancellor said that it will not be brought forward currently because of Brexit-related materials. Can you tell us whether it is likely to be brought forward during this Parliament?

Chris Skidmore MP: As the Lord Chancellor stated, the legislative requirements of Brexit and exiting the European Union must receive precedence, but that does not preclude our ensuring that, when it comes to the Bill of Rights, we go forward on investigating how we can ensure that individual rights are secured. With regard to the timing in Parliament, Brexit must come first. The Bill of Rights is a process on which the Government have not made a final decision.

The Chairman: I am sure that you are proactive in all your approaches on these issues and you keep close tabs on them, but I get the sense that the underlying structure of officialdom is more reactive than proactive. Are you confident that officials are reflecting your proactivity at lower levels?

Chris Skidmore MP: I am very confident in the team I have in the constitution group and that its members have the enthusiasm to ensure that we maintain the process of democratic engagement and, at the same time, that we go forward with our process of constitutional change and reform in a graduated manner and in a way that maintains the confidence of wider democratic society. I believe that the Government have clear manifesto commitments that officials recognise and must take forward, within the legislative constraints of this Parliament. The enthusiasm to deliver on these policies was demonstrated by my individual desire to drive forward the anonymous registration process, which we turned around very quickly—in a six-month process.

Q4 Lord Beith: You will be aware that yesterday the Committee produced a report on the repeal Bill and delegated powers. It emphasises the importance of ensuring that the UK's exit is taken forward in a way that maintains constitutional propriety, even though there are quite severe practical problems around it. One of our strongest worries was that policy changes, whether desirable or not, might be brought about during or following that process by mechanisms that are not appropriate to significant policy changes, because they are not open to amendment or the amount of discussion that normal legislation would have, and that things that require that kind of legislative process might be slipped through in all of this. Whose job is it in government to speak up to ensure that constitutional propriety is maintained during this process? Is it yours? Is it Mr Gummer's? Who is responsible?

Chris Skidmore MP: The Government are absolutely determined to ensure that constitutional safeguards are upheld during the process of exiting the EU. We have committed to providing certainty, wherever we can. In her speech to the Conservative Party conference in October 2016, the Prime Minister set it out very clearly: "Any changes in the law will have to be subject to full scrutiny and proper Parliamentary debate". I and my fellow Members who are responsible for the constitution, including the Minister for the Cabinet Office and the Secretaries of State for the territorial offices, are responsible for ensuring that constitutional propriety is maintained.

The Prime Minister has given the clear message that Parliament will be involved in helping to shape the UK's future as we leave the European Union. We will keep both Houses informed throughout the entire process. I have committed to keeping the UK Parliament at least as well informed as the European Parliament, as negotiations progress. MPs will not be at a disadvantage. It is important to reflect on the fact that there have already been 70 parliamentary debates on Brexit, as well as 36 Select Committee inquiries. That highlights the fact that Parliament also has an important role in scrutiny. We want to work with Parliament to ensure

that that role is maintained and that we provide a dialogue. By attending Committees such as this, we can ensure that we reflect on recommendations made in reports and that, as we go forward, there is parliamentary approval and scrutiny is maintained.

Lord Beith: When it is a matter of significant policy change, do “full scrutiny” and “parliamentary debate” mean the kind of process that there is for primary legislation, which is open to amendment and has appropriate stages and interchange between the two Houses? Is that what you are talking about when you say full scrutiny and parliamentary debate? Let me make clear what I mean. Are you talking about a statutory instrument process where you might get half an hour’s debate in the Commons, a little more in the Lords and no capacity to amend?

Chris Skidmore MP: There will clearly be opportunities for primary legislation. Equally, subject to that primary legislation, there will be opportunities for secondary legislation. The issue around parliamentary scrutiny will be set out further in the contents and implications of the great repeal Bill. Obviously, there will be a White Paper in advance of that Bill. That is why I feel that the Committee’s latest report of 7 March is very timely, and the Government will seek to reflect on its recommendations.

We are keen to work with Parliament to help to manage the programme of secondary legislation that will clearly arise from our departure from the EU. We want to ensure that the great repeal Bill is published in time, in order to give Parliament sufficient time to digest its contents in advance of the Bill’s introduction in that Session. It is right that there should be a White Paper process going forward, and that time is given for consideration of the White Paper and then eventual publication of the Bill. We are clear that Parliament will have every opportunity to scrutinise the great repeal Bill and we are considering the best way to enable that. I am not sure that I can add to that. It is up to my colleagues at DExEU to outline the process of the White Paper when it is publicised.

Lord Beith: The scrutiny is not just of the Bill itself, but of the processes the Bill will allow for, once they begin. In our report, we recommend a form of triage system, in which both Houses can properly allocate to one process things that, quite clearly, are merely the necessary transfer of law from EU to UK law. Things that represent policy changes, however desirable, ought to go through a different kind of process. We therefore commend that to you as helpful to what you have just said you hope to do.

Chris Skidmore MP: The White Paper will provide clarity on how government and Parliament can manage the task ahead jointly, and deliver on the aim of giving as much certainty as possible, at the same time as ensuring that secondary legislation gets the scrutiny and the debate that it deserves. All statutory instruments will be subject to appropriate procedure.

Lord Judge: This may seem as though we are going back to a question

that you have already been asked, but in the context of what Lord Beith asked you first, you told us that that there was a group of people, whom you identified, who would be responsible for maintaining constitutional propriety. How many members of that group are there? Has it ever met?

Chris Skidmore MP: The group that I outlined is such that it is at the level of ministerial responsibility. It is not a discrete group.

Lord Judge: It is not a group at all; it is a series of individuals.

Chris Skidmore MP: It is a series of individuals.

Lord Judge: Do they ever meet for this particular purpose?

Chris Skidmore MP: Meetings of Ministers take place on a regular basis, subject to the nature of the challenge and legislation that goes forward at any particular moment.

Lord Judge: Forgive me; I do not think I am making myself clear. Do they meet for this particular purpose?

Chris Skidmore MP: The purpose you are talking about is a process. The process of ensuring that there is constitutional propriety is one that is subject to change and flexibility, depending on the introduction of legislation. There is no discrete, established group that meets to discuss the purpose you mention. At the same time, that does not negate the fact that there are ministerial responsibilities held at the highest level of government—ultimately, with the Prime Minister—to ensure that constitutional propriety is maintained. The Prime Minister's commitment, which I mentioned, that "Any changes in the law will have to be subject to full scrutiny and proper Parliamentary debate" gives reassurance that constitutional propriety will be maintained.

The Chairman: Our report on the great repeal Bill is one that we do not expect you to have digested and to be able to react to in detail this morning, but we hope that it will be considered fairly urgently, because its relevance is to the Bill, when it comes forward. We would very much like to have a reply from the Government at an appropriate time, to enable it to be taken into account when the matters start to be debated.

Q5 **Lord Hunt of Wirral:** Thank you, Minister, for sharing with us your workload, which is rather exhausting and challenging. Does it include any plans to review the *Cabinet Manual*? When Oliver Letwin came to see us, he said that any revision would first be published in draft and then subject to scrutiny, in particular by this Committee and our Commons equivalent. Will that be the case? Are you aware of when the next revision will take place?

Chris Skidmore MP: Thank you for your question. We are currently reviewing the *Cabinet Manual* in order to identify where factual updates are needed. It was last published in 2011, so significant factual updates need to be made. We are not undertaking a full consultation exercise on the content of the *Cabinet Manual*, but we will of course keep the

Committee updated on the work. I will be happy to share a draft version of the manual with the Committee when we undertake the next substantive update.

Lord Norton of Louth: I understood that there was a revision going on, and you have confirmed that there is. Could you give us some idea of the timescale?

Chris Skidmore MP: I am not currently able to give you an understanding of the timescale, apart from saying that the work is ongoing and that, in light of the fact that the manual was published in 2011, the factual update is needed. We recognise that a more substantive exercise to update the manual, not least to reflect any new arrangements when the UK leaves the EU, will be required at a later stage, but the factual update comes first.

Lord Norton of Louth: What you are saying almost makes the case for a rolling review of the manual. You said that the last one was published in 2011. Quite a lot has changed since. We have seen changes to the constitution, but they are not reflected in the publication from 2011. The issue is whether there are mechanisms in place to keep it up to date, as opposed to just the occasional publication.

Chris Skidmore MP: I cannot comment on the process by which there might be a rolling review. Needless to say, changes are rapid and advanced at the current time. Going forward, we will need to ensure that those changes are reflected. I mentioned the process of exiting the EU, but it is also important that the *Cabinet Manual* is maintained and kept up to date accurately when it comes to our relationship with the devolved Administrations. We are determined to press forward with that change.

Q6 **Baroness Taylor of Bolton:** Can we turn to political party funding? You will know that about a year ago a Lords Select Committee urged the Government to engage in cross-party talks, and to do so with a sense of urgency. The Government's response at the end of the year was not exactly encouraging, and talked about the potential for incremental improvements in the situation. Could you update us on what is happening on cross-party talks to try to get a comprehensive approach, and whether the Government have any ideas for the incremental improvements that were flagged up at the end of last year?

Chris Skidmore MP: As everyone on the Committee is aware, after a decade of talks, there has still been no cross-party consensus established on the issue of party funding. One of the reasons is that, traditionally, the focus was on controversial and complex structural changes. That may be one of the reasons why consensus failed to be reached. Ultimately, it is a matter for political parties. It is not right for government to impose consensus from Whitehall.

We have made an offer to the main political parties of constructive debate and dialogue on small-scale measures, which you mentioned. That offer was made by Baroness Chisholm on the Floor of the House of Lords

on 3 November. We will look at how we can find small-scale measures that would command broad support, such as looking at charitable payments and how they might reflect the changing role of technology, and ensuring that individual donations can be made at a smaller level. We can look at that as part of the process that we already have for charitable giving payments and at how we can ensure, going forward, that that is reflected in people's willingness to donate to political parties. If there is a positive reaction to such small-scale measures from the main political parties, the Government are happy to take forward any potential discussion papers that would help to drive forward future change.

Baroness Taylor of Bolton: Does that mean that you have put on the back shelf any possibility of a big, comprehensive agreement, or legislation in that area?

Chris Skidmore MP: It must be for the political parties to come to that consensus. It is clear that consensus is not forthcoming at the moment. In my view, although large-scale change and reform do not seem to be forthcoming, it should not preclude our bringing in smaller, incremental change that will help to establish the beginning of a conversation around future party funding.

Baroness Taylor of Bolton: Do you envisage legislation on that basis? If so, will it be presented in draft form first?

Chris Skidmore MP: I cannot comment on looking at the process of legislation. We would have to reach agreement such that consensus was formed. The Government could lead on a potential discussion paper going forward. I envisage that a discussion paper would address the issues around legislation and what willingness there was for change.

Baroness Taylor of Bolton: Would you think it appropriate to have that kind of legislation in draft before you introduced it?

Chris Skidmore MP: I cannot comment on what the process for that would be without party agreement. It is for the political parties to have those conversations and for me, as a Minister, simply to facilitate the direction of travel going forward.

Q7

Lord MacGregor of Pulham Market: In your response in January this year to our March 2015 report, *Inter-governmental Relations in the United Kingdom*, you stated that the Government agree that the joint ministerial committee should be "used effectively to facilitate joint policymaking". Can you explain what steps have been taken to date and what future plans you have?

Chris Skidmore MP: Certainly. Thank you very much for the opportunity to set out the process as it has been evolving. I must underline that we are committed to meaningful engagement with devolved Administrations. We welcome the Committee's input and will look closely at any future recommendations you make.

Joint ministerial committee P met on 24 October, and all four Administrations jointly agreed to meet on a more frequent basis. Three months later, on 30 January, the committee met again. It agreed to intensify engagement ahead of the triggering of Article 50 and to continue that pace subsequently. Obviously, that led to bilaterals among officials from the UK governance group and devolved Administrations on a number of topics, which I will discuss shortly. Ministers have also agreed to meet later in 2017.

Beneath that is a substructure of the joint ministerial committee on EU negotiations—JMCEN—which was established on 24 October to facilitate political engagement and collaboration between the four Administrations. It is chaired by the Secretary of State for Exiting the European Union, but can be hosted by any Government. It reports to and is overseen by JMCP. JMCEN seeks to develop, where possible, an agreed UK approach to objectives for future EU negotiations. The forum has met more frequently since November 2016. It met on 9 November, 7 December, 19 January and 8 February. Its terms of reference commit the process to “provide oversight of negotiations with the EU, to ensure, as far as possible, that outcomes agreed by all four governments are secured from these negotiations”, and to “discuss issues stemming from the negotiation process which may impact upon or have consequences for the UK Government, the Scottish Government, the Welsh Government or the Northern Ireland Executive”. The forum has already had discussions on sectoral issues, including justice and security co-operation, immigration and trade. It is a chance for the devolved Administrations to put forward their own proposals on how to seize the opportunities presented by exiting the European Union.

As I mentioned, beneath that, meetings of officials are also taking place. The Prime Minister committed to intensifying agreement at the JMC plenary in January. In February alone, nine meetings were held between officials from the UK Government and officials from the Scottish Government to discuss proposals in the Scottish Government’s paper *Scotland’s Place in Europe*. We regard the officials’ meetings, as well as JMCEN, as a serious contribution to the debate and will continue to engage with them going forward.

Lord MacGregor of Pulham Market: The momentum of meetings at both ministerial and official level has greatly increased. I presume that there is constant daily contact now on these issues among officials.

Chris Skidmore MP: Yes. It is important going forward that, while we have ministerial meetings and engagement taking place at the JMCEN level and the JMCP level, infrastructure is underpinned by confident dialogue with officials. There is also the separate issue of the memorandum of understanding, which was to be reviewed. The previous Prime Minister set out that a review would take place. Obviously, there have been changes. Our exiting the European Union predicates that we must work on that memorandum of understanding, and officials are in

constant dialogue to ensure that agreement on the memorandum is reached and that it can be drawn up this year.

The Chairman: The interests of the devolved Administrations diverge quite widely because of their structure and their powers. Is the sub-committee that you referred to the area where these matters are discussed, or do you have separate discussions with the individual devolved authorities?

Chris Skidmore MP: The JMCEN process allows all Administrations to raise points of interest and concern. Dialogue is ongoing, but individual discussions are also able to happen, reflecting the varied nature of the individual requirements of the devolved Administrations.

The Chairman: If I may focus on Scotland briefly, you may be aware that the Administration there claim that the Government are completely ignoring their great Scottish plan concerning Brexit and the special status they seek to achieve. I was not aware that you had had so many meetings of that sub-committee. Is it the place where that sort of matter is discussed, or would that be a separate one-to-one issue between the First Minister and, possibly, the Prime Minister, or Mr Gummer or yourself?

Chris Skidmore MP: The Government are open to ensuring that we maintain the maximum possible dialogue and discussion with devolved Administrations. We want to ensure going forward that we have a United Kingdom platform to enter negotiations, and that we reflect on the particular issues raised by our partners in the devolved Administrations. While we have been discussing with Scotland officials the paper *Scotland's Place in Europe*, discussions have also started with the Welsh Government on their paper *Securing Wales' Future*. We stand ready to do the same in Northern Ireland, once a new Executive are formed.

Lord Judge: I am not sure whether I heard you correctly. When may we expect the review that was described in October 2016 to be published? Did you say it would be later this year, or did I mishear you?

Chris Skidmore MP: The UK Government are keen to make the JMC process more effective. We are working with the devolved Administrations to ensure that it has the maximum possible value. The joint review of intergovernmental relations that you mention, including the MOU, was announced at the JMCP meeting in December 2014. The recommendations were considered at the JMC plenary meeting on 24 October, when Ministers remitted further work to the secretariat, in light of the EU referendum results. The aim is to ensure that it is a more effective forum for discussion and management of inter-Administration issues. Officials are now continuing work towards a lasting agreement on the review of the MOU, for all four Administrations. We continue to discuss the terms, in order to be able to come to a joint agreement.

Lord Judge: Do you anticipate its being published soon, in the middle distance or in the long distance?

Chris Skidmore MP: The timing is entirely dependent on securing a joint working agreement. That must be at the forefront of our ability to move forward. Once joint agreement has been reached, the MOU will be published.

Lord Judge: Have any changes been agreed in principle yet?

Chris Skidmore MP: I am not able to comment on the particular issues around principle. Needless to say, the process is one of full engagement. We want to ensure that the MOU is updated, given the establishment of the JMCEN and the processes of the exiting Europe negotiations.

Lord Judge: I am not asking you to disclose things that you should not disclose. I am simply asking you whether any changes have been agreed.

Chris Skidmore MP: As I mentioned, recommendations were considered at the JMCP plenary on 24 October. Work has been remitted to officials to continue that dialogue. Once agreement has been reached, the MOU will be firmly established.

The Chairman: Can I clear up a point that I should have mentioned earlier? In our intergovernmental relations report, we suggested that the Government might wish to consider putting the JMC on a statutory basis. We did not recommend that it should be; if we had wanted to recommend that, we would have done so. The reply that came back from your department was, "We do not agree", which implied that you had totally misunderstood what we said. Can I clarify that? We did not recommend it; we thought that you ought to consider it. Unfortunately, that covered one or two of the subsequent answers as well, which were less enlightening as a result.

Chris Skidmore MP: I am very grateful for that revision. I will make sure that it is firmly understood in the UK governance group.

The Chairman: We are good on nuances in this Committee.

Q8

Lord Morgan: I have a few nuances of my own. As you know, Minister, one of the great consequences of this country leaving the European Union will be changes in the relationship between the Government at Westminster and the various devolved Administrations. This is made rather more complicated by the well-known word "asymmetry". From what we have heard in this Committee over the last few months, asymmetry seems quite as entrenched as ever—if asymmetry can be entrenched. That seems to be the process. How are the Government looking at the certainty of new boundaries between the devolved institutions and the United Kingdom Parliament and Government? If, heaven forbid, there are conflicts and there is a need to sort out arguments, who will do that? How will those difficulties be managed?

Chris Skidmore MP: You are absolutely right. There are a number of powers that we will seek to have returned to the UK after the EU exit. Where those powers should best sit—whether in a UK framework or in a devolved framework—will be a matter for further consultation and

discussion across the United Kingdom or its devolved partners. As powers are repatriated from the EU to the UK, we will have the opportunity to determine the level that is best placed to make new laws and policies on the issues and to ensure that power sits closer to the people of the UK than ever before.

We have already committed that no decisions currently taken by devolved Administrations will be removed from them. We will use the opportunity of bringing decision-making back to the UK to ensure that more decisions are devolved. The joint ministerial committee on EU negotiations has been set up as a forum for that consultation, to discuss each individual Government's requirements for their future relationship with the EU and, at the same time, to seek a UK-wide approach to the negotiations. To answer your question, yes, we will seek to ensure that further powers are devolved. That is a process of negotiation that will be held at JMCEN level.

Lord Morgan: I suppose that the most critical possible area of this kind of difficulty is Northern Ireland. I am aware that there is a completely separate apparatus of government there, but is your department concerned at all with the kinds of possibilities that might ensue in the government of Northern Ireland?

Chris Skidmore MP: Northern Ireland is an issue where political circumstances at the moment mean that we have to wait for a future power-sharing agreement to be formed. At the same time, we are keen to ensure going forward that Northern Ireland is an equal partner. Before the Northern Ireland elections, Northern Ireland was an active and equal partner around the table at JMCEN. We hope that process will continue.

Lord Beith: Leaving aside Northern Ireland and looking at Scotland and Wales, which do not have the same complexity about them, some of your answers rather imply that repatriation of powers will have to give rise to a process of discussion, and even negotiation. Is it not governed by a quite clear principle—that powers and areas of power and activity that have been devolved in the past will go to the devolved Administration when they come back from Europe? The current guiding principles of our devolved structure pretty well determine which powers in relation to agriculture or fisheries, for example, go directly. Or will they be stopped and grabbed by the UK Government on the way through, in a process that would change the devolved relationship?

Chris Skidmore MP: The Prime Minister has been clear—most recently, in her speech to the Scottish Conservative Party conference on 3 March—that, as we bring powers and control back to the United Kingdom, we must ensure that the right powers sit at the right level, so that our United Kingdom, as the United Kingdom, can operate effectively in the interests of all its citizens, including people in Scotland. The Prime Minister said, "As I have made clear repeatedly, no decisions currently taken by the Scottish Parliament will be removed from them". At the same time, "Our aim will be to achieve the most effective arrangements to maintain and strengthen the United Kingdom, while also respecting the devolution

settlements, and we will work constructively with the devolved administrations on that basis”.

Lord Beith: Let me take a concrete example. The Prime Minister might decide that it would be in the interests of the United Kingdom if there were a single agricultural support regime right across the United Kingdom and no differences between England, Scotland and Wales, but to do that would be to change the current division of power on agriculture between the United Kingdom level and the devolved Administrations. Only a complete repatriation to Scotland and Wales would be in accordance with the current principles governing the devolution settlement. Have I misunderstood you?

Chris Skidmore MP: We have been clear, as a Government, that we will use the opportunity of bringing decision-making back to the UK to ensure that more decisions are devolved. The process of deciding which decisions are devolved must be held at a level where there is full negotiation and dialogue with our partner devolved Administrations, through the JMCEN and JMCP process, as well as through negotiations chaired by the Secretary of State at DExEU. It is right that any future decisions that are forthcoming around those negotiations will reflect that process. I am unable to comment further on that at this stage.

The Chairman: It was recognisable that themes from our report on the union and devolution featured in the Prime Minister’s speech to the Scottish conference. We were glad that either she or somebody connected with her speech had read our report.

Thank you, Mr Skidmore. That covers the questions we wanted to air with you. We are grateful to you for giving us such forthright and helpful answers. Because we have not yet had an opportunity to review your response to the union and devolution report, it may be that at some stage in the future—perhaps when the dust is less dense over the great repeal Bill and other matters—we will ask you back to discuss that in the broader context, including the intergovernmental relations report, which forms part of it. I hope that is something we might arrange.

Chris Skidmore MP: I would welcome the opportunity to attend and appear before your Committee, as and when you call me. I hope that, in light of your opening comments, I am able to re-establish the relationship, to ensure that we can reflect on the important work that the Committee does and that it can be fed into ensuring that government policy going forward reflects the work of the Committee where possible.

The Chairman: Thank you very much.

Lord Morgan: Over the weekend, we were pondering rather more violent constitutional territory than we have discussed this morning—namely, the Battle of Bosworth. I enjoyed it.

Chris Skidmore MP: Thank you very much.