

House of COMMONS
Oral EVIDENCE
TAKEN BEFORE the
SCOTTISH AFFAIRS COMMITTEE
THE REFERENDUM ON SEPARATION FOR SCOTLAND

Wednesday 22 February 2012

RT HON MICHAEL MOORE MP, RT HON DAVID MUNDELL MP and ALISDAIR
McINTOSH

Evidence heard in Public Questions 125 - 185

USE OF THE TRANSCRIPT

Oral Evidence

Taken before the Scottish Affairs Committee

on Wednesday 22 February 2012

Members present:

Mr Ian Davidson (Chair)

Fiona Bruce

Jim McGovern

Iain McKenzie

David Mowat

Pamela Nash

Simon Reeves

Mr Alan Reid

Lindsay Roy

Dr Eilidh Whiteford

Examination of Witnesses

Witnesses: **Rt Hon Michael Moore MP**, Secretary of State for Scotland, **Rt Hon David Mundell MP**, Parliamentary Under-Secretary of State for Scotland, and **Alisdair McIntosh**, Chief Executive Officer, Scotland Office, gave evidence.

Q125 Chair: Secretary of State and Mr Mundell, I welcome you to this meeting of the Scottish Affairs Select Committee. We appreciate that you have only a relatively short period of time with us because of another commitment, so we will get straight on with it. Do you agree that any question that begins "Do you agree..." is a loaded question?

Michael Moore: There has been a lively debate. The key point, Chair, is that we have a referendum that is legal, fair, decisive and has a question that has the support of all the participants. As we envisage it, if we can get agreement with the Scottish Government on a section 30 order for transfer of powers to the Scottish Parliament, it will be for the Scottish Government to put their proposed question to the Electoral Commission for them to review and feed their thinking back to the Scottish Parliament as they scrutinise any Scottish Referendum Bill. Of course, the Scottish Government are consulting on that question, and, like them, we will follow very closely the range of opinions that are given on that particular wording.

Q126 Lindsay Roy: Secretary of State, can you say something more about your perception of the Electoral Commission role in relation to the question?

Michael Moore: From the outset when I introduced the consultation process in the House on 10 January, as I have already quickly mentioned, we were clear that we wanted the process to be legal, fair and decisive. As part of the fairness, I envisage that we have the same rules and referee as we have for other electoral events, be they elections or referendums. The Electoral Commission's role in that, given their experience in what they have done with referendums around the United Kingdom and with elections, is unchallenged. Their neutrality and impartiality is critical. For that reason, it is important that they are involved. I am encouraged that in the discussions we have had so far with the Scottish Government they appear to agree.

Q127 Lindsay Roy: It would be normal for their recommendation to be accepted.

Michael Moore: It has been in the past, but it is a recommendation. If they have views on it, everybody in Scotland will expect those to be reflected upon. Whether the question that is in the consultation paper is the question that in time would be put to them is still a matter for the Scottish Government to determine, but they have a pretty central role.

Q128 Chair: Can I just clarify that? Surely, anybody who tries to rig the question cannot be trusted to run a fair referendum. Therefore, the idea that the Electoral Commission should only be offering advice is inadequate protection.

Michael Moore: I do not think that anybody would wish a referendum to be rigged. We would all be in agreement on that. Therefore, it is important that everybody has confidence in the question that is going to be asked. There is a consultation on that particular formulation at the moment. It will be interesting to see what the responses are and how the Scottish Government then suggest whether they will or will not amend that. Ultimately, it will be scrutinised by the Scottish Parliament, with the expert input of the Electoral Commission. It would obviously be a big step not to accept their advice or observations on the question.

Q129 Chair: Undoubtedly it would be a big step to reject the observations of the Electoral Commission, but that is not quite the same thing as ruling it out, though, is it? The Scottish

Government under your formulation would be entirely free to reject the impartial advice of the Electoral Commission and choose a partial and biased question, if they so wished. Is that adequate protection for the people in Scotland?

Michael Moore: The Electoral Commission have a great deal of credibility in all the referendums they have done. We should not underestimate the power of public and political opinion in Scotland where there is an issue with the neutrality or intelligibility, to use the technical jargon, of that question if there was no response to that. You are right that the Electoral Commission at the present time are advisory in that opinion. That is how they operate for referendums run from the United Kingdom Government and vetted here by our Parliament, but I think that the Electoral Commission, given their body of expertise and impartiality, will be hard to second-guess.

Q130 Iain McKenzie: Staying on the subject of the question and the reference to it being singular, what is the Scottish Government's position on your discussions on a single question? Can you tell us to date what the Scottish Government have said about a single question?

Michael Moore: As our consultation-let me start with that first-sets out, we ask people's opinions on how many questions there might be, but we are clear that our preference is for a single question. Let us not lose sight of the fundamental issue at stake here. We are going to decide whether Scotland stays within the United Kingdom or not. This generation of Scots will determine the most important decision in 300 years. It seems to me important that we have that in a straightforward and simple way, and that means a single question as far as I am concerned.

It is interesting, when you look at the public utterances of people like the Deputy First Minister and the Finance Secretary, Nicola Sturgeon and John Swinney, that they have said, clearly, that they prefer a single question themselves. Indeed, the Scottish Government's own consultation makes that their preference, but they have offered this opportunity for others to add in a second question. We have seen a lot of activity in recent days as they seek to suggest what that question might look like. It is a complication, it confuses matters and it brings devolution, which is not currently anything like independence, on to the same ballot paper. They should be separate. Let us resolve the question of independence and then let us resolve what further powers Scotland can have in the future.

Q131 Mr Reid: Do the Electoral Commission currently have powers to oversee this referendum or would legislation be required to amend their powers?

Michael Moore: They do not at the moment. They have different powers in Scotland to do with election events. We are keen to ensure, by this process, that the two Governments in Scotland work together and that the Parliament has the legal powers. It currently does not. We have heard a lot of stuff about advisory referendums and whether they are legally binding. Frankly, an adjective is an irrelevance. They do not have the legal power to have a referendum. I am absolutely clear in my view on that. I want to make sure that it is legal. When we devolve it, it is important that we devolve the full apparatus around these elections and referendums.

The Electoral Commission, as it is set up at the moment, if they were reviewing a referendum proposal, would be reporting to the House of Commons. Therefore, we need to change the legislation to empower them to be able to respond to a question of the Scottish Parliament and to report back to them.

Q132 Mr Reid: Would the legislation that you are proposing give the Scottish Parliament the power to have a two-question referendum?

Michael Moore: We have to get to the end of our consultation process. We were asking people whether they believe one question or two is the appropriate way forward. We are clear, as a Government, that we think one question is the way that we resolve this huge issue. We will get to the point, I hope, of agreement before too long, but at the moment we have not.

Q133 Mr Reid: If there was to be a proposal for a two-question referendum, would the Electoral Commission, as well as adjudicating on the eligibility of the two questions, also have the power to advise on whether the combined ballot paper was easily understood?

Michael Moore: We have not got to that point yet. In the end, it would really depend on what we were devolving. At the moment, that is not what we are planning to do, so their role would be confined to a single question.

Q134 Simon Reeve: Secretary of State, there are two things. There is what you ask and when you ask it. "When you ask it" appears to be 2014, which is not what the Government initially wanted. Presumably, that is some sort of compromise that is linked to what you ask. I am not really sensing what we have gained in terms of the discussion and the compromise, because we seem to be in a position where, in terms of when you ask it, it is when the Scottish Government want to ask it, and, in terms of what you ask, it seems that we do not really know yet. Have we gained anything at all in the discussion that saw the 2014 date almost taken now as given?

Michael Moore: I do not accept that it is a given. Let us reflect on the progress that has been made. Before the statement that I made to the House of Commons at the beginning of January, we had no indication at all from the Scottish Government about when they might have this referendum. We had a general observation about the second half of the Parliament but nothing beyond that. While the statement was still under way, the First Minister, after what appeared to be limited consultation, made a public statement to say that it would be in the autumn of 2014. I have discussed that further. We have at least some movement from the Scottish Government side of things, which is that it is not in 2015 or 2016 that they are looking to do this. The matter is not settled.

Q135 Simon Reeve: You think it may not be in 2014. It is just that everybody else seems to think it will, you see.

Michael Moore: The First Minister has set out his preference for that, and that is contained in the Scottish Government's consultation process. Last week, as I was saying in the House earlier on, I met with the First Minister twice, once on the Monday to discuss this process-I was pleased at the conclusion of that meeting that we had agreed to explore the possibility of the section 30 order to devolve power-and then on Thursday with the Prime Minister. At both of those meetings, I and then the Prime Minister set out our concerns about leaving this as long as they seemed to wish to do. It is the best part of three years before we would resolve this central issue. Interestingly, only in 2009 the Scottish Government suggested that the whole process of consulting, drafting a Bill, legislating and then getting on with the referendum might take place within one single year. It is not somehow clear to me, after all the conversations I have had, why there is this need to delay it as far as 2014.

Q136 Simon Reeve: What is asked and when it is asked is still completely up in the air.

Michael Moore: Let me put it this way. We have not agreed on this yet. I hope that, over time, we can. Specifically, one of the issues that was raised is that there are technical reasons why it could not be held until the autumn of 2014. I do not believe that is the case. It can be held a lot sooner than that.

Q137 Simon Reeve: You say you are in discussion. How close to resolving this are you?

Michael Moore: We are at the very early stages of discussions. We respect the fact that each of us is consulting on this process. We have quite different points of view. I have not yet seen the knockout argument why this has to be held back as long as they propose.

Q138 Lindsay Roy: Secretary of State, has the First Minister explained to you the legal advice that he has had on behalf of the Scottish Government and, if not, why not?

Michael Moore: He has put to me in different meetings that they have a very firm legal view about the issue of the ability to have a referendum.

Q139 Lindsay Roy: Has that evidence been shared with you?

Michael Moore: They have set out their thinking in the consultation paper. A distinction is made between a referendum on independence-I think there is an acceptance they do not have the authority for that-but they think they could ask a question on additional powers for the Scottish Parliament. I am absolutely clear, even from a straightforward reading of the Act, that the constitution is reserved, anything that relates to the constitution is reserved, and in determining what relates to the constitution you have to judge the purpose and effect of the particular measure. Clearly, the purpose of any kind of referendum would be to create the conditions for independence-that relates to the future of the United Kingdom or the powers distributed within the United Kingdom. Both in terms of purpose and effect, I am absolutely clear that this is a reserved matter.

Q140 Chair: Can I just be clear that this is not just simply a question of legality? Your rights as the Secretary of State and Westminster are drawn from the decision of the Scottish people in a referendum, are they not? Therefore, it is not just a dry piece of legalese that our responsibility comes from, I think, the 44% of the Scottish electorate that voted yes in the appropriate referendum, as distinct from the much smaller percentage that voted for a referendum on separation.

Michael Moore: The election results in 1997 showed a broad-based commitment from the Labour party and the Liberal Democrats to create a Scottish Parliament. The referendum absolutely reinforced that point, but the Act as passed by Parliament here-the basis on which the Scottish Parliament was created-seems to me to be pretty clear cut. You do not have to be a constitutional lawyer to be able to read it and see in clear terms that this is not legal. It does not make sense that the lawyers should be resolving all this in court rather than us in the ballot box.

Q141 Chair: We have had an experience of at least one academic lawyer saying that there was an arguable case the other way round. I interpret "arguable case" as meaning that, if you pay him, he will argue that, which is what lawyers are for, but that is not necessarily the case for saying that the balance of strength is on his side.

Michael Moore: The view that we take as a Government, and the view of most people I have discussed this with who have looked at the Act, is very straightforward. As you say, it might be arguable a different way. If we are to be generous and suggest that that is right, it goes to the heart of your point. Why would we risk having to have it argued out and have this determined by lawyers in the Supreme Court or wherever rather than all of us back home in Scotland in the ballot box?

Chair: Lawyers are a bad lot. I think we can agree on that.

Q142 Pamela Nash: Secretary of State, I would like to take you back to an answer you gave to Iain McKenzie earlier when you made it clear that you would not want any options on further devolution to be on the same ballot paper as separation. Also, you were talking about the possibility of looking at further devolution after a referendum that would keep Scotland as part of the United Kingdom. That reflects on what the Prime Minister was saying in his speech in Edinburgh on Thursday about that. He was saying that there could be a better settlement for Scotland on the horizon if we did stay part of the UK. Do you think that it was entirely helpful at the moment bringing another unknown scenario into the equation when everything is up in the air? Do you think that is right when the Scotland Bill was not mentioned at that point, when we are looking at these issues on the Floor of the House of Commons?

Michael Moore: Let me deal with that in different parts, if I may. In terms of the Scotland Bill, you are right-I would certainly say this-to highlight the importance of that legislation and the fact that we are going to have the single biggest transfer of financial powers from London to Scotland since the Act of Union. There are huge responsibilities over income tax and massive new borrowing powers. If you go anywhere close to the Forth bridge at the moment, you can see the Scottish Government and the arrangements we have made with them taking advantage of those powers in prospect, ahead of the Bill-by agreement, I hasten to add. It is a very significant piece of legislation. The House of Lords is carefully scrutinising that at the moment.

The important point that the Prime Minister made last week was that we are not in a situation where the decision that needs to be made about independence is simply suggesting, on the one hand, that it is independence and, on the other hand, it is the status quo and there will be nothing else.

Sitting here as a Liberal Democrat rather than as the Secretary of State, my party is actively looking at what the next stage of devolution might look like. Other parties may or may not join in with that sooner rather than later-it is not for me to speak for any of them-but there will be individuals and organisations across Scotland, from the way we saw in the convention and who contributed to the Calman commission, who will have a view. That is very important. There is a dynamic about devolution and its discussion. It does not need permission from a referendum to get going. In Scotland we are well capable of considering these two things in parallel and having those debates.

The central issue on which we are being asked to decide is whether we stay as part of the United Kingdom or go our own separate way. You cannot escape the need to deal with that in a straightforward, clear-cut manner. That is what I wanted to see. As for other debates that continue, we will, as ever in Scotland, have many simultaneously.

Q143 Chair: Following that up, surely, there has been an error in suggesting that the alternative to separation is some sort of enhanced devolution, because that then allows those who are deliberately seeking to avoid spelling out what separation would mean to try and focus on the question of what the changes in devolution would be, and to kick dust in everyone's eyes to avoid spelling out the details of separation. Surely, that has been little more than a diversion.

Michael Moore: We have all been involved in Scottish politics in different ways for a long period of time. We have seen how the debate has evolved over decades. I do not think there is a problem about us having the debate about further devolution or looking at that, while also getting to the heart of this fundamental question about Scotland's place in the United Kingdom. Regardless of what the Prime Minister said last week, I do not think you could have stopped the debate over what future devolution might look like from taking place. What is good is that we are not now going to be pigeonholing this argument into saying, "You're stuck with this and nothing further, or you can have independence." That would have been an interesting place to be, but that is not what is

happening. We can focus on the issue, as we saw in the House earlier on during Scottish Questions. Many people wish to challenge the SNP and the Scottish Government to set out what the issues are about how an independent Scotland might look. Your own report has taken that debate on. I anticipate, as you take evidence through this inquiry and other aspects of it, that we will get many of those questions honed into it. We do not need to worry about Scotland's political bandwidth coping with these two issues simultaneously.

David Mundell: It was important, for the reasons that the Secretary of State said, that the Prime Minister made that clear, because otherwise the debate was going to be characterised as the status quo or independence. The Prime Minister made it clear that, if proposals come forward in relation to further devolution, he is open to them.

As a result of one of the other interesting points he was asked about after the speech in Edinburgh, he was able to set out his own record in relation to devolution. He took the Conservative party into the Calman commission. It was in the Conservative party UK manifesto in 2010 that we would have implemented the Calman commission, whether or not there had been the coalition. Of course, as head of the coalition Government, he is implementing those proposals. He has a very strong record on devolution, unlike the Scottish National party, which, as of course you are aware, refused to take part in the Calman commission. While extra powers were being debated in that forum, they rubbished extra powers because all they wanted was independence. Suddenly, they are interested in extra powers.

Q144 Chair: That is helpful. That allows me to move on slightly to the points that we have made in our document. We are going to be exploring a number of these. I was at the Defence College in Shrivenham on Monday and Tuesday discussing some of these matters. They have indicated that, if they are going to participate with us in discussions, they would need to have your agreement as the relevant Secretary of State in order that they are not seen to be intervening directly in partisan politics. I am sure that you will agree to make the appropriate arrangements for us to have access to the expertise at the Defence College in order that we can clarify, in particular, what the defence implications are of separation.

Michael Moore: You have set out in your report how you intend to work with other Select Committees on this. I hope we can be fully co-operative with you and any other Committee that wishes to examine any of the issues on this matter. I am sure we can pick that up with your Committee.

Q145 Fiona Bruce: Yet Scottish Ministers hint that nothing very much would change if Scotland left the UK—for example, the use of sterling or the monarchy. Are the Scottish Government in a position to make that kind of comment?

Michael Moore: They set out their aspirations. They set out what they wish to see. It is not for me to get drawn into any issues to do with Her Majesty and the royal family. Separately, the issue of the currency is pretty fundamental. We have seen an interesting shift from the Scottish National party, from saying that it was committed to joining the single currency to saying that it would stay within the sterling area, as it calls it, but it has not spelt out how it envisages that working. Would it simply be that sterling continued to be used in Scotland without any influence and role of the Bank of England? It has not said how any central banking arrangements might work. As we have seen in the debate over the euro in the last few months, there can be a fundamental tension between having a single currency, on the one hand, and not having fiscal links between the countries, on the other hand. We have seen precious little detail from the Scottish National party about how that would

work. That is a pretty fundamental issue and I hope that you, in your inquiries, will be able to get more clarity on that.

Q146 Fiona Bruce: Just going back to the Electoral Commission for a moment, the First Minister appears to accept that the Electoral Commission will regulate the referendum. Are they the only body that will advise on the question?

Michael Moore: Unless anybody wants to suggest something else, they are the people who would do it in the UK context at the moment. If we can reach agreement on the section 30 order, we would seek to empower them and give them the role in the Scottish referendum context to be the arbiters of it.

Q147 Jim McGovern: We have heard what the question on the ballot paper might be and when that referendum might take place. Also, many people are wondering exactly who will be allowed to vote. Questions have been raised about Scots who live in London not being allowed to vote, people who are not Scottish but live in Scotland being allowed to vote on the future of the UK, and also whether 16 and 17-year-olds will be allowed to vote. Does the coalition Government have a view?

Michael Moore: We have set out in our consultation that we think the straightforward and fair way to run the referendum process is to have the same franchise as that used for the Scottish Parliament, which elected the First Minister and his colleagues, and, therefore, it seems the fair basis on which you would continue to do that. To change it invites many debates on the very points that you have made. We are having a consultation and I look forward to seeing what people say, but I have not yet heard a compelling argument that says that changing the franchise would be the right thing to do.

Q148 Jim McGovern: If I could just follow up on that, Chair, when you say you are having a consultation, who are you consulting with?

Michael Moore: Anybody in Scotland or anywhere in the United Kingdom who wishes to offer a view. We have the consultation document here if you wish to have one. It is anybody who wishes to respond and we will look carefully at what they suggest. But we start from a proposition that says the Scottish Parliament franchise was the basis of the election that has created this process of having a referendum, and it is consistent and fair to have the same franchise for the referendum.

Q149 Jim McGovern: I think you will agree that sometimes consultation tends to be a bit skewed by people who e-mail at 2 o'clock or 3 o'clock in the morning.

Michael Moore: We will welcome your input at any time of the day or night. Being serious, we will reflect. We want to see the arguments and not simply the numbers of people.

Jim McGovern: Consult your e-mail at 3 o'clock tomorrow morning.

Q150 Chair: Can I just pick that up as a serious point? We are aware that there are those out there who not only criticise ourselves but even criticise journalists on occasions at 2 o'clock and 3 o'clock in the morning and so on. There are large volumes of them operating under a variety of bogus names. If we are just simply taking a headcount in terms of what is said, that clearly will skew in the direction of these cybernats, fanatics, nutters and all the rest of them, who are crawling out from under stones at various times in the morning. What are you doing to make sure that you get a genuine assessment of public opinion in Scotland?

Michael Moore: Our consultation is open to everybody. We are getting responses all the time, and it concludes two weeks on Friday. We will then reflect on what is in the responses. Of course, we are looking for well argued points and balances of opinion. We will, I am sure, be able to reflect on all the different issues that people wish to put forward.

Q151 Chair: Could I pick up a couple of points in relation to the points that Jim made? Let me remind you of the AV referendum, of which I have fonder memories than, possibly, you do. The franchise for the AV referendum, it being a constitutional matter, was not what you are suggesting for this constitutional matter. Why is that, and would it not be more appropriate to use the franchise that was used on that other constitutional issue?

Michael Moore: There are different ways to argue the point. I guess that some people advance the point that you have just made. We start from the simple proposition that the demand for the referendum comes on the back of the election result last May and that the people who were eligible to vote for the Parliament, and who will, once we have devolved the powers, be able to run this referendum should be the same group of people who take part in that referendum. Once you begin to try and add new people in or exclude others from it, you get into quite complicated territory as to why you justify this group being included or not. It is a fair and consistent basis that you stick with the same franchise.

Q152 Chair: Surely you take account of the fact that the Scottish Parliament electorate contains many more transients than does the Westminster electorate.

Michael Moore: People have to register to vote.

Q153 Chair: But the rules are different. Particularly European migrants, who in the vast majority of cases are not necessarily making a lifetime commitment to Scotland, will be able to vote under one franchise but not under the other. Given that we are discussing the future of a nation here, surely that has to be taken very heavily into account.

Michael Moore: I am not conscious that there is a groundswell of opinion that is making the point that, somehow or other, they should be excluded. It is straightforward to have the same franchise as elected the Scottish Parliament. There are many European Union citizens who make their lives within Scotland and have made a commitment to Scotland. If they are on the ballot register legitimately, it is right and proper that they get to vote.

Q154 Chair: Could I just pick up the question of timing of a referendum? The AV referendum took place very quickly. It was not dragged out over three or four years or so. Have you given any thought to how quickly a referendum on Scottish separation could take place if the will existed?

Michael Moore: The Scottish Government have said that they want to have it in the autumn of 2014. In their consultation, they have published a series of milestones that they think need to be reached at certain times so that we can get through that process. Therefore, there are a series of technical reasons why you might have it at that time. If I may, I will set those on the record.

Under their proposals, the Referendum Bill would be introduced to the Scottish Parliament early next year. Royal Assent to the Bill is assumed for November 2013. The regulated period, which is the period when the Electoral Commission consider all the bodies that are taking part in the campaign and who they might be, is a 16-week period. They envisage that starting in the summer of 2014. It has not been specifically decided whether that is before, during or after the Commonwealth games. Then the referendum would be in the autumn of 2014. When we looked at this in the

Scotland Office, it seemed that one option was that you held it-it was suggested they might have it on a Saturday-on 29 November 2014, on or around when the first snows of winter are falling. They will specify their timing in more detail, I imagine, in due course. Certainly they indicated to me last week that they envisage some time around September 2014 as their likely date.

We in the Scotland Office have stepped back and looked at those different milestones. I believe that you can deliver this referendum by September 2013, which, give or take a few weeks, is close to the First Minister's declaration that it will be in the second half of the Scottish Parliament. That time scale, by comparison with theirs, involves the introduction of a Bill in autumn of this year. Bearing in mind that their consultation process, maybe, ends in May, that gives a very long time to reflect on that consultation and then draft the Bill that would follow. Royal Assent to the Referendum Bill, giving due amount of time based on previous legislative time scales, would be in March of next year. The regulated period would begin in June of next year and then the referendum could be held in September.

There are three areas, having looked at it, where we think you could shorten the time scale that they are proposing. One is in terms of the analysis of the consultation. It is important that it is done in a quality way, but we think that can be done more quickly. The Bill's passage, if I am right, is something of the order of 10 months that they envisage.

Alisdair McIntosh: Yes.

Michael Moore: Again, that could be done much more quickly. The time between Royal Assent and the start of what you might call the Gould period-the six-month period or the buffer between those things-could be shortened by a period of time. The upshot of all that is that, instead of having to wait, potentially, for the best part of three years to have this decision, you could, without cutting any corners, get this to September of next year. It seems that they are kicking the can down the road on this one for no good reason that we can see.

Q155 David Mowat: Secretary of State, in terms of all those dates that you have just given to us, has the First Minister talked about how long it would be after the referendum when Scotland formally became independent? Would it be six months or a week? What sort of time period are we dealing with? The reason why I ask the question is that it could, potentially, run into the general election the following May, which is no more than six months post that referendum. That brings a whole set of questions, therefore, about what happens then.

Michael Moore: You are absolutely right to highlight some of the dangers there. You will not be surprised to know that, no, we have had no suggestion of what he envisages. For my part, we do not envisage losing the referendum, but it sounds like a legitimate issue to us.

Q156 David Mowat: I understand that. It is quite a big question, though, as to whether it is a week later, the same morning or a year later.

Michael Moore: We have had no indication of what is envisaged by the Scottish Government on that.

Q157 Lindsay Roy: For the purposes of absolute clarity, do you find the document "The Referendum on Separation for Scotland: unanswered questions" very helpful and constructive?

Michael Moore: Yes, indeed. When you started the inquiry you focused on some of the questions that I had raised in a speech, and rightly said, "These are only a few of them", and have gone

further. What has been done here is very helpful. The evidence that has been produced with the report shows that people across Scotland are very engaged in this and want answers to questions.

Q158 Lindsay Roy: So you do not support the view from the SNP spokesman that this is a shoddy report and an embarrassment to its authors.

Michael Moore: For two reasons. The first one might be a self-preserving one in that I do not think it would be in my interests to fall out with the Committee on this one, but, in all seriousness, this is an important contribution to the debate. The inquiries that you are undertaking of scrutinising what we are doing but also asking the questions of others will be important for this whole process.

David Mundell: Compared to the feedback that I get from the cybernats, that is a positive endorsement for the process.

Chair: To be fair, you deserve many of those.

Q159 Lindsay Roy: But there are many unanswered questions.

Michael Moore: There is a huge range of unanswered questions.

Q160 Lindsay Roy: Whose responsibility is it to respond to these and what kind of time scale are we talking about?

Michael Moore: Far be it from me to suggest that the reason this referendum has to be so far in the future is because they have not yet thought through these issues.

Lindsay Roy: Absolutely.

Michael Moore: The onus is on the SNP and the Scottish Government to set out, in detail, how they will deal with all the different issues. They have not begun to do that.

Lindsay Roy: I appreciate that. Thank you.

Q161 Mr Reid: Secretary of State, you are aware that there are a large number of jobs at Faslane and Coalport because of the presence of the Royal Navy. When you met Mr Salmond, did he give any indication of what would happen to those bases in the event of him winning the referendum?

Michael Moore: We have had no indication at all other than the clear statement of SNP policy that they do not wish to have nuclear weapons in Scotland. The point I make to him and to others is that Faslane is not just the home-when I say "just", that is a fundamentally important role-of the United Kingdom's nuclear deterrent, but is scheduled to be the UK's single centre of excellence for all conventional and nuclear submarines. The growth of jobs in that area and the centrality of it to the west of Scotland economy are only going to get bigger rather than weaken under the United Kingdom's proposals. We have had no suggestion of how that might be dealt with by the SNP.

Q162 Mr Reid: If the referendum was successful, there are, obviously, options of the base remaining as, perhaps, the sovereign territory of another state. Did Mr Salmond give any indication of that? Was it an option that he was thinking about?

Michael Moore: We have had no proposals on how they envisage the use of Faslane after independence, but, as I say, I am not envisaging that we will lose this argument.

Q163 Chair: None the less, there is an issue about whether people in Scotland are going to be asked to vote for a pig in a poke in the sense of having no knowledge whatsoever of what the implications of separation would be in a whole number of areas. Presumably, it is not your duty to produce answers for the separatists, but do we have any idea as to when they are going to produce answers on all of these issues?

Michael Moore: That has not been made clear at all. It is not just for us as politicians. I respect the fact that we have very different views from the SNP about the future of Scotland. Our constituents and people across Scotland need to know this. They want to understand what the implications are. Some people will be very concerned about defence. Others will be concerned about the economy and whether we are stronger together or not. Others will think of the family and cultural ties that we have that are so strong across the whole of the United Kingdom. It seems pointless to be putting barriers, obstacles and further complications in the way. As the debate warms up in Scotland, and it certainly has in the last six or eight weeks, these questions are being asked by people other than politicians like me. It will become very hard for the SNP to resist setting them out in more detail, but we will keep pressing them to ensure that they do.

Q164 Fiona Bruce: Secretary of State, following on from that, do you have any estimate of the number of jobs in Scotland that depend on nuclear defence contracts, and what would the possible consequences be for them of separation?

Michael Moore: There are, as I see from my detailed briefing here, something of the order of 40,000 people involved in 800 different companies in the defence sector in Scotland. The combined turnover of aerospace, defence and marine sectors in Scotland is over £5 billion. In the Chairman's constituency, in Govan and across in Rosyth, we see with the aircraft carriers huge numbers of jobs. They are not just in the yards but also in the supply and support sectors that go with it. In areas like apprenticeships, the last time I looked BAE have something like 250 apprentices in Govan and Rosyth. Babcocks have more than 100. These are big stakes. Beyond the aircraft carriers, we may not see the like of those kinds of projects in the next generation, but the ability of those yards and areas to continue to supply the Navy with the next generation of warships and supply vessels is very important. They are not alone. That is just one sector. In Fife and Edinburgh many businesses have strong links to defence. Everywhere you turn in Scotland you are not very far away from these 40,000 people who are involved in the sector.

Q165 Iain McKenzie: I, naturally, welcome the Secretary of State's preference for a date sooner rather than later for this referendum. Rather than just the politicians arguing over a date, has the Secretary of State had any representations from businesses based in Scotland to meet with him on their concern over a protracted period of uncertainty and the damage to their businesses and the future of their businesses remaining in Scotland?

Michael Moore: We have had important organisations like the CBI and others set out their concerns about uncertainty. I have had plenty of conversations with senior business figures in Scotland, who make a perfectly commonsense observation. Day in and day out, they wake up and they get on with their business. They all have a set of concerns around banking, the markets, what is happening in the eurozone or whatever. Those are things that they accept politicians have a role in but they are not the only people having a deciding factor over them. On this decision about when we have the referendum, it is entirely in politicians' hands, so we can get rid of this particular uncertainty by bringing it forward as far as possible. I do not really understand why the Scottish Government do not recognise the dangers with that and get on with it on a time scale that, as I have set out, could be a whole year sooner than the one they propose.

Q166 Chair: Maybe I could flag up that we will be meeting a number of businesses on other matters, and we will certainly pick up the point that you raise about the advantages or otherwise of having the referendum sooner rather than later.

Could I just pick up a point about the question of the question, so to speak? Rather than having a single question with a yes/no answer, have the Government been considering the possibility of two alternative statements, such as, "Should Scotland remain part of the United Kingdom?", or "Should Scotland become a separate state?", which then avoids the issue of a yes/no choice? People then have to tick a particular box. A number of people, including myself, have said that giving one side the yes is an advantage to that side or having the no is an advantage. You will remember how successful the yes side was in the AV referendum, so being positive is not always a result that brings joy to the heart. Has that been contemplated by the Government at all?

Michael Moore: Once again, your generosity in reminding me of the AV referendum is noted. You just made the key point that it does not appear to matter which word you own in the actual choice. It is about how you make your arguments and so forth. The question, of course, matters. That is why it is important that the suggestions that are made are properly tested, that people can give a view on them and that a body such as the Electoral Commission has a central role in determining that. We have not specifically brought forward questions ourselves. We think that is a matter for other people, but we will look carefully at what comes from the consultations.

Q167 Chair: Could I just ask a second point, which is related to the issue of a second question? In many ways, I welcome the fact that the Scottish Government seem to be promoting the idea of a second question because it is almost an admission of defeat on the first question. It does have quite a considerable capacity to confuse. At what point under your timetable would it have to be decided whether or not there was going to be a second question?

Michael Moore: If we are to agree a section 30 order, which would have to be passed by ourselves here in the House of Commons and in the House of Lords, as well as in the Scottish Parliament, clearly, we need to agree the number of questions on it. If we get together an agreement on section 30, that issue will have been resolved.

As far as the central difficulty of having two questions is concerned, there is a straightforward problem. We can envisage, and expert academics have pointed this out, a situation where independence might narrowly win with 55% in favour, but more powers for the Scottish Parliament might be endorsed by 75%, 80% or 90%. How on earth do you choose which has won? As a democrat, as somebody who looks at the numbers, I would have thought, "That's pretty obvious. It is more powers rather than independence", but according to the SNP it is the independence that wins. It beggars belief that you could end up with a situation where you have that kind of outcome, and then one side of the argument thinks they have won and another side of the argument thinks that they have won. If we are going to end up in court, that is a pretty sure way of it happening. For pretty obvious reasons, you have to scrap that if you want to have a clear and decisive outcome.

Q168 Chair: In the discussions that I have had in my constituency, most people recognise a second question as being simply a safety net for losers. None the less, it has to be thoroughly explored if it comes in as something that a number of people in Scotland want to see considered. It has to be, in my view, and I would have thought it is the view of the Committee from the discussions that we have had, absolutely clear that there is only a single set of proposals as a second question. It is not something that is just vague, woolly and incoherent. It has got to be a concrete set of proposals, which, so far, does not seem to have come forward.

Michael Moore: If you look back on how we have argued our way through the devolution process—we like a good argument in Scotland—over the decades, in the '90s when the constitutional convention was up and running, the Labour party and the Liberal Democrats, people from the churches, trade unions, business and so many others came together, and they brought different ideas into the convention. The Liberal Democrats would have pushed for a Parliament with tax-raising powers and all sorts of other things. That was not the position of others. We looked for common ground and found it. We established a consensus and then that allowed the political parties, at the election of 1997, to bring forward commitments to deliver on the constitutional convention proposals.

When we came through the first part of the 21st century, when the Parliament was up and running, again, the debate about what more powers might look like was a live one. The Conservatives, along with the Labour party and the Liberal Democrats, joined in that broad-based debate and we, again, got common ground and consensus. Through the election manifestos in 2010, the Conservative, Labour and Liberal Democrat parties all committed to what is now the Scotland Bill. That shows the way that we can do this in Scotland. Parties may not wish to get into debating this among themselves and setting out the proposals. We are getting on with it. Others, I am sure, will decide to do so at some point. Over time it will emerge. That gets to the heart of your point. Then we will have a blueprint of what those powers will look like, agreed between parties and people of no party. That consensual basis, it seems to me, is the only credible way that you could take it to the next stage.

Q169 Mr Reid: One of the many unanswered questions would be an independent Scotland's relationship with the EU—for example, whether Scotland automatically remains a member of the EU or has to apply for membership or whether Scotland has to join the euro. When you met Mr Salmond, did he give any indication as to whether he was intending to compile, or ask an independent legal adviser to compile, legal advice on those issues?

Michael Moore: We have not discussed those things in our meetings, but I have seen the public statements that the SNP has made on this issue, with which I fundamentally disagree. If Scotland voted to leave the United Kingdom, the onus would be for us, in Scotland, then to sort out our terms for re-entering the European Union. However you might structure that, in whatever way they wish to imagine that happening, you would have to get the agreement of all the member states on how that might work, such as on fishing and so many other issues that affect Scotland. I envisage there being quite a few arguments. I hope it would be quick and straightforward, but I can see how it might be quite messy and very difficult.

As my colleague David Lidington was saying in front of the Scottish Parliament earlier this week, there are other issues about the need for new members to join Schengen and what that means for border controls and everything else. We had an exchange about this in the Chamber earlier on. It would be an absurdity if we had to get into that kind of territory. In my own constituency, there are three or four cross-border routes. The mind boggles.

Q170 Mr Reid: Fishermen have quotas. If there is a referendum result in, say, the autumn, when fishermen have quotas for that year and they would be negotiating quotas for future years, in practical terms, if the referendum is a yes vote, what happens the next day? Is Scotland suddenly independent or is there a process then of negotiation with the EU? Take a fisherman, for example, who has an EU quota. What, in practice, happens the next day?

Michael Moore: That is an excellent question, if I may say so, for the First Minister or any of his colleagues. The point I was making about fishing is that it is always tough. There are negotiations

every year. As an MP with a coastal community, I recognise just how difficult that can be. Quite often people are dissatisfied with the outcome. Because the UK is such a large member of the European Union, we are in a position to forge alliances, to work with partners and to protect our fishermen, as we did recently, from some pretty stringent things that the Commission was seeking to impose upon us. Under the way we work things in the United Kingdom, the Scottish Fisheries Minister is in very regular contact with, and, indeed, attends many of the meetings with, the UK Fisheries Minister. We get the best of both worlds. We get to have a distinctive input into the process while also having the clout that comes with being a large member state like the UK.

Q171 Pamela Nash: You made very clear earlier what you envisage the franchise to be and what your ideal scenario would be. Can I take it that the Minister agrees with what the franchise would be for a referendum?

David Mundell: I do, because the franchise is the one that elected the Scottish Parliament that has the mandate to hold a referendum on independence. Compared with other franchises that have been suggested, it is the most consistent and credible. It is possible, and people have argued vociferously, that the Scots elsewhere in the world—indeed, the Scottish National party have many prominent supporters who do not live or pay tax in Scotland—may wish to vote in the referendum, but it is the most credible franchise in which to conduct the referendum. I do not support the view that 16 and 17-year-olds should vote in this particular one-off referendum. There is a perfectly legitimate argument that 16 and 17-year-olds should be given the franchise. I do not personally agree with that, but I think it is a perfectly legitimate argument. What is not and is inconsistent with the principles of fairness of this referendum is that you change the franchise for a one-off occasion.

Q172 Pamela Nash: On the extension of the franchise, there has been a bit of confusion in recent months as to whether the Scottish Government have the powers to extend the franchise themselves, or would that power come from here?

David Mundell: It would have to come from here.

Michael Moore: Exactly.

Q173 Pamela Nash: It would have to be from here. Can I just clarify? Since the Scottish Government came to power in 2007, have they ever tried to seek to extend the franchise to 16 and 17-year-olds for the Scottish parliamentary elections—for instance, last year or the local government elections this year?

Michael Moore: I would need to check if we had had any official representation on that, but Mr McIntosh assures me we have not, so that is the case. Of course, in areas like health and otherwise, which are fully devolved, if they have a referendum on that, they are able to do it in that respect.

Q174 Chair: Can I just be clear that not just this Scottish Government but the previous SNP minority Government at no point suggested that the franchise for any election under their control should be changed to include 16 or 17-year-olds?

Michael Moore: They have not made those representations to us as far as I can recall.

Q175 Chair: I want to be clear that this is only something that has emerged in the context of a separation referendum.

Michael Moore: They are arguing very hard for it at the moment, but that has not been a subject of serious discussion on other occasions.

Q176 Chair: Not just serious discussion but any discussion.

Michael Moore: I have never had any meetings or discussions with Scottish Government Ministers about previous elections in Scotland about this. I will double check, but I am pretty sure that we have not had any formal representations on that. I can only speak for the last two years but not before that.

Chair: It would be helpful to have that checked.

David Mundell: Chairman, it is also important at this point to identify that there is a lack of clarity, it appears to us, as to which 16 and 17-year-olds would have the opportunity to vote, because the suggestion appears to be that it would be those 16 or 17-year-olds whose parents had put them on to the electoral register as being people likely to become 18 within the foreseeable future. One legitimate concern that has been raised is that, perhaps, that is something that middle-class parents might be very proactive in doing but not every parent or every household would proactively put their son or daughter on to the electoral register. There does not seem to be a clarity from the Scottish Government as to how 16 or 17-year-olds, who would be given the vote, are going to be identified.

Q177 Chair: Surely you are not telling us that this major development that is being proposed by the Scottish Government has not been thought through properly.

David Mundell: Are you talking about the whole referendum or just the issue of 16 or 17-year-olds?

Q178 Chair: At the moment, I am just raising the question of 16 and 17-year-olds.

David Mundell: It is clear that the Scottish Government have not been capable, at this stage, of giving full answers to all the concerns that people have raised in relation to the issue.

Michael Moore: They do not plan, as I understand it, to have a separate canvass for 14 and 15-year-olds; they could not do that anyway without a great deal of difficulty in changing the rules. It would mean that the later you had the referendum in the autumn of 2014 or, as I am suggesting, 2013, the more people would be excluded. The youngest people who would be able to participate would be 16¾, so it would not be all 16-year-olds. It would be a tiny subsection of 16-year-olds and whichever 17-year-olds had had the good fortune to be put on the register in advance.

Chair: Goodness me. So, under their timing, some people who are 13 at the moment could, potentially, be voting. This just seems to be absurd. That is helpful. That clarifies that, if we can describe it as clarification.

Q179 Simon Reeve: Could I just ask about some newspaper speculation that appeared over the weekend that suggested that thought may be given to amalgamating the Scotland Office, the Northern Ireland Office and the Wales Office at some time prior to a referendum? The speculation seemed to suggest that it would be a good idea to have a Union-type Department that could push for the idea of Scotland remaining in the UK. It seemed to me that that would be a ridiculous thing to do. It would look like running the white flag up the pole to amalgamate those Departments prior to a referendum. I appreciate-I do not mean this in any pejorative sense-that the fate of the Department

is not just yours to decide. Would you agree that it would be, tactically, an enormous error to even contemplate that path ahead of the sort of referendum that we are talking about?

Michael Moore: May I thank you for inviting us into such dangerous territory?

Simon Reeve: I just thought you were going to say yes.

Michael Moore: The key word in all of that, which you used several times, was "speculation". All of us in the Scotland Office serve at the pleasure and convenience of the Prime Minister and in the Government as he sees fit to structure it. I have heard no suggestion that any of the territorial offices should be amalgamated. For as long as the Scotland Office exists, which I am sure will be for a long time, we will be making the case for Scotland's place in the United Kingdom.

Q180 Simon Reeve: Do you think that the cause for the Union, as it is, is better served by the continued existence of the Scotland Office?

Michael Moore: We have a very strong role to play now, as I hope we are already showing, and we have been leading the efforts in recent weeks to focus attention on the key issues on the referendum, and working with our colleagues in other Departments on the political and policy issues that affect Scotland. That is working very well indeed. As I say, the structures of Government are not for us, but for as long as we are asked to we will continue to serve in the Scotland Office doing this important role.

Q181 Simon Reeve: But you would regard yourself as well placed to warn of the disadvantages of this were it to be suggested.

Michael Moore: The speculation was just that.

Chair: You are well placed to argue against the abolition of your own position. We generally understand that one.

Q182 Jim McGovern: I am sure, Secretary of State, you will be aware that I am very much against the argument for separatism. Going back to the questions asked about defence, you mentioned how many people are employed in the defence industries in contracts. What about those people who are armed forces personnel? As I said, I am against separatism, and I am sure you are as well. In your discussions with the First Minister-I do not know if you have discussions with other members of the Scottish Executive-there must be a "What if?" discussion or a "What if?" argument. What would happen to Scotland's regiments? My father was in the RAF, my mother was a WAAF and my grandfather was in the Black Watch. What would happen to Scotland's regiments and armed forces should separation occur?

Michael Moore: We do not know. We have not seen any propositions other than that there might be a Scottish defence force that involves anything with the name "Scotland" in it, which includes the Scottish Guards, which is part of a division that is not based in Scotland. There are such fundamental issues to do with the defence arrangements for Scotland and the rest of the UK that we are entitled to get serious attention paid to them by the Scottish Government. Let us see the detail. We have not had it.

I speak as somebody whose family were originally from Northern Ireland. Indeed, I was born there myself. My father was a padre in the British Army attached to the Royal Highland Fusiliers for the five years that he was in the Army. We spent three years in Inverness, where both of my sisters

were born. I have a very strong sense of being Scottish, because I have lived most of my life in Scotland, in a family where being Irish and British is entirely comfortable. To many people who have served in the armed forces, who know what they are like and how closely integrated they are, it is very hard to see how you separate that out without a lot of difficulty. The Defence Secretary said, not long ago, that this is not just about breaking off a couple of bits of the chocolate bar at the end, just shuffling them off and saying, "That's now the Scottish defence force." We are deeply integrated into the whole UK defence establishment. Indeed, the commitment we have made as part of the Defence Review is that there will be more than 2,000 additional posts in Scotland. That is part RAF, Army and Navy—a UK armed forces. We have not even scratched the surface on how you might unscramble that.

Q183 Jim McGovern: It has not been discussed with the First Minister.

Michael Moore: No. The discussions I have had so far centre around the need to get the referendum sorted out to make sure that the Scottish Parliament has the legal powers and that we get a fair and decisive referendum. Then we can get on to this kind of stuff. The questions that we are covering this afternoon emphasise the need to sort out the process so that we can get on to these fundamental issues.

Chair: The answers on these important defence questions are with the answers for the 16 and 17-year-olds that we discussed earlier on, so we will get them all together. Let us have a final point from David.

Q184 David Mowat: I will be as quick as I can. Secretary of State, you have said in a number of your answers to colleagues that these are complicated questions and that it is really for the Scottish Government eventually to come forward with answers to them. The only thought I have is that, once you have given permission for a referendum and what you describe as the process, in a sense you have lost control of the process. Whether or not those answers come forth or not is no longer a discussion matter. Would you give your permission conditional on answers to certain questions, like how the debt is to be divvied up, and Mr Reid's question on fishermen, for example? There are myriad things that matter. It seems to me that, once the section 30 order has gone ahead, the process is set. Whether those answers come forth or not is no longer under your control. Is that something that is a matter of concern?

Michael Moore: I do not regard it as us giving permission. We are enabling the Scottish Parliament to carry out a referendum; otherwise it would not be able to do so. We have a referendum that is made in Scotland for people across Scotland. The politics of this— the debate in Scotland—will not allow there to be a vacuum for very long. These are fundamental questions. As I said earlier on, individual people will care passionately about particular parts of it. On the west coast, communities around Faslane will want to know the answers. They have to get them. Communities in Fife will want to understand whether it is fishing issues, the defence sector or whatever. I would not underestimate the interest and determination of everybody in Scotland to get the answers to these questions. For my part, I will continue to ask them, too. You are cross-examining a range of different witnesses. We will get that. It is not about control and giving permission only when we have the answers. We must have the debate, but part of that debate is saying, "You cannot bluff your way through this process. You cannot do this by the politics of assertion. You have to set out a case." That case is missing.

Q185 David Mowat: I agree with that answer. In a sense, there is an infinite number of questions. It is almost a continuum. Therefore, it is a judgment as to how far down that continuum you have to go before a satisfactorily informed decision can be made. That seems to be the point of potential

argument over the two years running up to the referendum. I do not know how we resolve that, unless we were to say that there has to be some kind of prospectus in order that such a big-as you called it-300-year decision is being made on an informed basis by the people of Scotland.

Michael Moore: I am confident that we will play our full part in this debate. We will play our full part in asking the questions and responding to the answers that are given. This Parliament will do that, but people across Scotland and in other parts of the UK will be engaged in it as well. I have every confidence that we will have a properly informed debate, and people will be able to ask the questions that matter to them. Whether it is the future of their beloved BBC television programmes, the regiment that their relatives served in or the company they work for that has ties across the UK and elsewhere, these are all big issues. We are only at the start of the process. I am sure that there is a lot more to come.

Chair: Secretary of State and Mr Mundell, can I thank you very much for coming along? As ever, Mr McIntosh, you have not put a single foot wrong. Every answer was perfect in every way. This subject will obviously continue. Thanks very much for coming along today. I hope we have not held you back too long from your next meeting.