

Morhamburn Report on The Calman Commission -

Considering the future of Scottish Devolution within a Political, Economic and Social Union.

An overview

The Commission's proposals extend from a preliminary assumption that devolution has been a success and is here to stay, having become embedded into the UK constitution and the lives of Scottish people.

The Commission makes all proposals in light of devolution developing within a political, economic and social union, which it strives to retain.

The recommendations of the Calman Commission look largely toward improving the financial accountability of the Scottish Parliament whilst retaining a single UK economy and enhancing political cooperation between UK and Scottish Parliaments and Governments.

Improving financial accountability of SP [recommendations 3.1-3.7]

Recommendations by the Commission in this area seek to strike a balance between 'equity, accountability and efficiency' and look to preserve the economic and social Union between Scotland and the rest of the UK.

- The status quo

Currently the devolved budget is comprised of a block grant from the UK Parliament, paid for out of taxes collected from across the UK.

- The grant is calculated using the Barnett Formula, which has been used almost unchanged since 1978, operating by relating changes in the Scottish Budget to changes in budgets for comparable services in England and Wales.

- The Scottish Government and Parliament then have command over how this budget will be spent.

Despite this extensive spending power, the Scottish Parliament has few tax powers- with only the power to influence the rates of council tax and the power to vary income tax by the 'Scottish Variable Rate', SVR, of 3 pence in the pound.

The Commission proposes that, in order to increase the financial accountability of the Scottish Parliament (SP), part of its budget should be found from *devolved taxation* under its control, instead of coming entirely from a grant from the UK Parliament:

- The Commission recommends that the SVR which allows the SP to vary income tax rates by up to 3p in the pound should be replaced by a new Scottish Rate of income tax, implemented as follows:
 - The Scottish Rate income tax would be collected by HMRC, applying to basic and higher rates of income tax
 - basic and higher rates of income tax, paid to the UK Parliament should be reduced by 10p in the pound, with the block grant to the SP accordingly reduced.
 - The SP would be unable to alter the structure of the income tax system- bands, allowances and thresholds would remain the responsibility of the UK Parliament.
 - Income tax on savings and distributions would *not be devolved* to the SP, instead *half the yield* would be assigned to the SP's Budget, and the block grant reduced accordingly.
- *The following taxes should be devolved to the SP, with the block grant reduced accordingly:*
 - stamp duty land tax (SDLT),
 - aggregates levy,
 - landfill tax,
 - air passenger duty.
- *Power should be granted to the SP to legislate, in agreement with the UK Parliament, to introduced new taxes to apply across Scotland.*
- *The block grant should continue to make-up the remainder of the SP's budget, justified by need.*
 - until a UK wide assessment of relative spending need is carried out, the Barnett formula should be used to calculate the reduced block grant.
- *Scottish Ministers should be given additional borrowing powers*

-existing power for Scottish Ministers to borrow for short term purposes should be used to manage cash flow when using devolved taxes;
-given the capacity to borrow for capital investment on a prudential basis.

- *Changes should be introduced in phases to avoid instability of public finances and intergovernmental arrangements dealing with finance should be strengthened:*
 - the Finance Ministers' Quadrilateral Meeting should be replaced with a Joint Ministerial Committee on Finance (JMC(F)), meeting regularly to discuss taxation and macroeconomic policy issues as well as spending.
 - HMRC should advise the Scottish Ministers regarding devolved taxes and account to them for the operation of these Scottish taxes.

Strengthening cooperation between governments and parliaments [recommendations 4.1-4.23]

The Commission held that mutual respect in all circumstances between the Parliaments and Governments should be the guiding principle of their relations. The Commission found intergovernmental and inter-parliamentary arrangements to be under-developed, making the following proposals:

- The Sewel Convention should be entrenched in the standing orders of each house, in respect for the legislative competence of the SP;
- Establishing a joint liaison committee of the UK Parliament and the SP to oversee relations;
- Allow committees of both parliaments to work together without barriers: sharing information and evidence, attendance of members of one committee to a meeting of a committee of the other Parliament;
- Either Parliament, where its responsibilities interact with the other Parliament's, should be enabled to pass a motion seeking a response from the UK or Scottish Government;
- The Joint Ministerial Committee (JMC) system should be enhanced:
 - Areas for discussion should be expanded to provide greater opportunities for developing joint interests,
 - JMC should remain the top level and meet in plenary at least annually'

-The JMC process should be subject to greater Parliamentary scrutiny and have greater public transparency.

- Intergovernmental ministerial meetings discussing overall UK position relating to devolved policy areas, should be chaired by the relevant Secretary of State on behalf of the overall UK interest, with another relevant UK Minister representing the policy interests of the UK Government relating to part of the UK where the policy is not devolved.
- A new legislative procedure should allow the SP, with the consent of the UK Government, to legislate in Reserved areas where there is an interaction with the exercise of devolved powers.

Relating to development of UK Government policy position in relation to the *EU*, the Commission found engagement with the SP to be poor, recommending that closer relations between Scottish MEPs and the SP be forged, with MEPs regularly invited to and attending the European External Relations Committee, that relevant UK departments should have early engagement with its Scottish Government counterparts and that Scottish Ministers and committees should proactively identify EU issues of the concern and take initiative thereon.

Strengthening the devolution settlement [recommendations 5.1-5.24]

The Commission found that the present split between devolved and reserved areas is well drawn, however recognised that there will always be areas where the responsibilities of the different levels of government interact with one another. The Commission made proposals for more effective arrangements for cooperation between the different levels of government.

- The Commission proposed that the following powers and responsibilities should be devolved:
 - The Secretary of State for Scotland's powers relating to the administration of elections;
 - The appointment of the Scottish member of the BBC Trust;
 - Funding for policy relating to animal health, whilst responsibility for funding exotic disease outbreaks should be retained at UK level;
 - Regulation of airguns;
 - Responsibility for aspects of licensing and control of controlled substances that relate to their use in treatment of addiction should be transferred to Scottish Ministers;
 - Regulation-making powers relating to drink-driving limits;

- Power to determine the national speed limit;
- The Deprived Areas Fund;
- Discretionary elements of the Social Fund, in the UK Government's reform of the fund.

- The Commission found areas which it recommended would be dealt with more effectively at *a UK level*:
 - The definition of 'charity' and 'charitable purposes', allowing for a registered charity to be able to conduct its activities across UK without having to register separately in different areas;
 - Legislation on food content and labelling, to avoid breach of the UK single market;
 - Regulation of all health professions, not only those specified in the Scotland Act;
 - The UK Insolvency Service.

- The Commission recommends a number of issues be addressed through the *closer cooperation between the Parliaments and Governments*:
 - Relationship between the HSE in Scotland and the SP;
 - immigration and asylum, particularly dealing with asylum seeker's children;
 - Secretary of State for Scotland's utilisation of powers of direction under the Crown Estate Act 1961, recommending he be more active;
 - Research Councils UK's funding approach to Scottish institutions;
 - Housing Benefit and Council Tax Benefit systems when they are connected to devolved policy changes;
 - The DWP commissioning process for programmes based in Scotland.

Strengthening the Scottish Parliament [recommendations 6.1-6.8]

In considering how the SP itself works, the Commission considered the *robustness* of the SP's procedures of *legislative scrutiny* and made proposals for these to be made more effective:

- *The three stage Bill process should be changed to a four-stage process to allow for more consideration of the final amendments to a bill.*
 - Stage 3 should be limited to a second amending stage, in chamber;
 - Stage 4 should consist of the final debate on whether to pass the Bill;

- Parliamentary rules should be amended to allow any MSP, following Stage 3 amendment proceedings, to propose that parts of a Bill be referred back to committee for revised Stage 2 scrutiny;
 - The Presiding Officer should be able to identify, prior to Stage 3, any amendments that raise substantial issues not previously considered. Following amendment proceedings, any such amendment agreed to should be referred back to committee for Stage 2 consideration.
- Relating to *committees*, the Commission recommended that:
 - The current structure of dual purpose committees, carrying out investigative inquiries and to scrutinising legislation, should be maintained;
 - Committee membership turnover should be minimised throughout a session in order for members to build expertise;.
 - Committees should be able to establish sub-committees to address temporary legislative overload without prior consent of the Parliament.
 - The Commission made the following proposals for the introduction of Bills:
 - Section 31(1) of the Scotland Act should be amended to require any person introducing a Bill in parliament to make a statement that it is *intra vires*/within the Parliament's legislative competence;
 - The Bill's Explanatory notes should make account of the considerations that informed the s31(1) statement of competence.