OFFICIAL REPORT
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Finance and Constitution Committee

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FINANCE AND CONSTITUTION COMMITTEE
4th Meeting 2018, Session 5

CONVENER

*Bruce Crawford (Stirling) (SNP)

DEPUTY CONVENER

*Adam Tomkins (Glasgow) (Con)

COMMITTEE MEMBERS

*Neil Bibby (West Scotland) (Lab)
*Alexander Burnett (Aberdeenshire West) (Con)
*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)
*Ash Denham (Edinburgh Eastern) (SNP)
*Murdo Fraser (Mid Scotland and Fife) (Con)
*Emma Harper (South Scotland) (SNP)
*Patrick Harvie (Glasgow) (Green)
*James Kelly (Glasgow) (Lab)
*Ivan McKee (Glasgow Provan) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Ian Davidson (Scottish Government)
Professor Aileen McHarg (University of Strathclyde)
Professor Alan Page (University of Dundee)
Michael Russell (Minister for UK Negotiations on Scotland's Place in Europe)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Finance and Constitution Committee

Wednesday 31 January 2018

[The Convener opened the meeting at 10:02]

European Union (Withdrawal) Bill

The Convener (Bruce Crawford): Good morning and welcome to the fourth meeting in 2018 of the Finance and Constitution Committee. I remind colleagues to do the usual with their mobile phones so that they do not interfere with proceedings.

Our only item of business is to take evidence on the European Union (Withdrawal) Bill as amended in the House of Commons. We will hear from the Minister for UK Negotiations on Scotland's Place in Europe later in the morning. Before that, we are joined by Professor Aileen McHarg, professor of public law at the University of Strathclyde, and Professor Alan Page, professor of public law at the University of Dundee. I welcome both witnesses. I know that you have been before the committee previously and I am grateful for your attendance again today. Your written submissions have been circulated to members so we will move straight to questions. Emma Harper will set the scene with her question.

Emma Harper (South Scotland) (SNP): Our briefing paper mentions certain amendments that have been made to the withdrawal bill and the impact that that would have on the devolution settlement. The briefing says that the provisions make clear that the devolved Governments will be able to use secondary legislation

"to deal with deficiencies in retained EU law"—

and that that needs to be done before exit day—as long as they have consulted the United Kingdom Government, rather than obtained its consent. Could you extrapolate on that a little bit, please?

Professor Alan Page (University of Dundee): That is a relatively minor amendment. As originally introduced, the bill provided that, where those powers were to be used to make certain changes—those that were to come into effect before exit day, or to reciprocal agreements—then the consent of UK ministers would be required to the making of those changes. The bill as amended simply provides that the requirement is one of consultation rather than consent. Overall, I do not think that it is a particularly significant change.

Emma Harper: I am curious about the impact of anything that will be significant as the withdrawal bill progresses.

The Convener: That is in a wider sense than just that narrow amendment.

Professor Aileen McHarg (University of Strathclyde): Could you repeat the question?

Emma Harper: I am not a lawyer but someone who is trying to speak to constituents about what is happening as the withdrawal bill progresses and technical amendments are made. I am sure that there are people in the room who will be able to provide the information. How will Scotland's Parliament be affected positively or negatively as we move forward with the withdrawal bill?

Professor McHarg: Do you mean by the amendments that have been made?

Emma Harper: Yes.

The Convener: Yes, the specific amendments.

Professor McHarg: Right. As Alan Page said, it will not be affected very much. There have been some changes to clause 7, which is the power to correct the statute book. It gives regulation-making powers to ministers and schedule 2 replicates them with some modifications for the Scottish ministers. There is a slight narrowing of the clause 7 regulation-making powers, which has a knock-on effect on the Scottish Government's regulation-making powers, but it is a very slight narrowing.

As Alan Page also said, the requirement for UK ministers' consent to certain types of Scottish Government regulations has been downgraded to a requirement to consult. It has also been clarified that the Scottish ministers will have the power to correct the statute book in relation to retained direct European Union law—which means things like directly effective regulations—that is removed from the scope of the clause 11 restriction and devolved to Scotland, which they did not have in the original draft of the bill. However, those are also narrow amendments that do not make much difference in principle.

There are some more significant amendments to UK ministers' regulation-making powers on the procedures that apply in the House of Commons. A new sifting procedure has been introduced and there are new requirements for explanatory memorandums. However, it is interesting that those are not applied to the Scottish Government's regulation-making powers. I presume that the reason for that is that the House of Commons did not think it appropriate to tell the Scottish Parliament how it should exercise its scrutiny functions. Nevertheless, it is hard to see the argument in principle for why this Parliament should have less control over the procedures that the Scottish ministers follow than the House of

Commons will have over regulations made by UK ministers, so the Parliament needs to think about what kind of procedural control over the Scottish Government's regulations would be appropriate and how it will get that into the bill.

The Convener: That is interesting. Will you or Alan Page tell us a bit more about what you think the Parliament should do?

Professor Page: I set that out in a paper to the committee the last time that I give evidence. I am trying to recall what I said in that paper.

The starting point is that the Scottish ministers have corresponding powers to the powers to make subordinate legislation—whether to correct deficiencies or ensure that the UK can continue to comply with its international obligations—subject to some of the restrictions that Professor McHarg mentioned. The likelihood is that, in some cases at least, those matters will be addressed on a UK-wide basis. The fact that they will be addressed on such a basis does not mean that they are not of interest to the Scottish Parliament. Therefore, the question, which I highlighted before, becomes one of the oversight that the Parliament has over the exercise of those powers on a Great Britain or UK-wide basis.

I am broadening it slightly now, but I assume that, at some point, the bill will be amended to make the exercise of UK ministers' powers over devolved matters in Scotland subject to the consent of the Scottish ministers. That has not happened so far; the amendment that we were talking about earlier is much narrower than that. In those circumstances, the crucial thing is that this Parliament knows when that is being done and that it can scrutinise the decision to act on a UK-wide, rather than a Scotland-only, basis. A question that is yet to be answered, or is still to be thought about, is what contribution, if any, can the Scottish Parliament make to the exercise of those powers at Westminster rather than in this Parliament? Assuming that it is done here, to what procedures will this Parliament subject the exercise of those powers?

The Convener: I think that Willie Coffey has a specific question on schedule 2 in that regard.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): I suppose it is difficult to get excited about schedule 2, but perhaps you can help to clarify it. Professor McHarg, you referred to downgrading from consent to consultation. That sounds significant. The first implies a right of veto, but the second implies a consultative process. In that process, is it defined where the decision-making will lie? Is it effectively consent by other means, or is it genuine consultation? Do we know? We probably do not.

Professor McHarg: The bill does not say anything other than that regulations cannot be made unless there has been consultation with the secretary of state. It does not say anything about the process.

You are right that a shift from consent to consultation is an important change in principle. The rationale for the consent requirement was that the UK Government said that it was concerned, particularly in relation to regulations made before exit day, when we are still bound to comply with EU law, that the Scottish ministers might do something that put in jeopardy our compliance with EU law and therefore the UK Government wanted a check on that. However, it is now satisfied that consultation, rather than consent, will be sufficient to avoid that kind of problem.

Willie Coffey: Professor Page, in your paper it says:

> "The Scottish Ministers will be able to modify direct retained EU law in areas where it is decided that a common framework is not necessary."

Will you tell us what that means?

Professor Page: One of the criticisms that were made of the bill as introduced was that the Scottish ministers would not be able to modify direct retained EU law. If it was to be modified, it could be done only by UK ministers. The bill as amended now provides that, in areas in which the clause 11 restriction on the devolved institutions, whereby they cannot modify retained EU law, is lifted, the Scottish ministers will be able to modify direct retained EU law. The crucial area is which areas they will be, when, if at all, that decision will be made, and when the legislation will be amended. You could almost say that it is a consequential amendment; it anticipates that clause 11 will be amended, but it has not yet been amended.

Professor McHarg: It anticipates that the order-making power under clause 11 will be used, but, as we know, as clause 11 is currently drafted, there is no obligation to use the order-making power and there is no timescale for the use of it. The regulation-making powers that we are talking about are subject to a sunset clause anyway. They apply before exit day and for up to two years after exit day, which limits the significance of any change that is made to them.

Willie Coffey: Are we any further forward on who decides whether a common framework is necessary?

10:15

Professor McHarg: That is not in the bill. The promise that was made was to lay an amendment to clause 11 in the House of Commons at report

stage, and that did not happen. There is now a commitment to bring such an amendment during the Lords stages but, at the moment, you know as much as we do about when that will happen and what the new version of clause 11 will look like.

The Convener: We are getting quite deep into the technical stuff and I am sorry, but I am going to make it worse. If clause 11 is removed or amended satisfactorily, why do we still need an order in council process to allow the Scottish Government to make modifications to deficiencies?

Professor Page: That is a good question. It depends on the amendments to clause 11 and what changes would need to be made as a consequence of those amendments.

The Convener: I suppose that that is the key. They will also need to amend the relevant bits of schedule 2 to reflect whatever changes are made in clause 11.

Professor Page: I guess that we are back to what I said earlier. It is not so much a consequential amendment as saying that if the order-making power under clause 11 is exercised, the restriction on the Scottish ministers and the Scottish Parliament is lifted and the Scottish ministers will be able to modify and direct retained EU law in those areas.

The Convener: Did anybody get that? I think that Adam Tomkins did.

Thank you. That has helped to clarify things. In effect, if clause 11 goes, that does not really mean anything.

Professor Page: No.

The Convener: It would have no effect. It could stay in the statute and it would not mean anything.

Professor Page: Well, yes.

Neil Bibby (West Scotland) (Lab): Professor McHarg, in your submission you say that if the UK Parliament votes not to approve the final withdrawal terms,

"Parliament's choice, therefore, may be to take it or leave it".

What will the consequences be if the UK Parliament rejects the terms of the withdrawal? You say that it is unlikely that there will be scope to renegotiate. To what extent is that the case? Can you explore the consequences of that take it or leave it choice?

Professor McHarg: That depends on a range of unknowns. The way that the article 50 process works on the treaty means that once we have triggered article 50, we have two years to negotiate and, at the end of two years, we leave the EU. We can either leave on terms that we have agreed or we can leave on no agreed terms. That is what article 50 says. On the face of it, if the UK Parliament chooses not to accept the terms of withdrawal as negotiated by the UK Government, the alternative is that we just leave with no agreement.

There are unknowns in that. First, article 50 permits the two-year period to be extended by agreement, and that could happen, although we should ask ourselves what the incentive is for the EU27 to extend. If they have negotiated a set of terms and we do not like it, what is their incentive to reopen the negotiation period?

The alternative unknown is whether we could, before our two years is up, revoke our article 50 notification. That is not clear in the text of article 50. There are different views on the matter and you are probably aware that there is a case in the Court of Session to attempt to refer that question to the European Court of Justice. Whether that will succeed remains to be seen, and what the answer to the question is also remains to be seen.

There is a range of unknowns. We do not know what would happen if Parliament was to reject the terms of the withdrawal agreement, but at least one possibility is that we just leave on 29 March 2019.

Neil Bibby: If Parliament rejected a deal, there was no renegotiation and we just left, what would be the immediate consequences?

Professor McHarg: We would leave on World Trade Organization terms, which would affect our future trading relationship and, potentially, the rights of EU nationals and all that kind of stuff that has been bound up in the negotiations.

Patrick Harvie (Glasgow) (Green): I want to follow up Neil Bibby's point. The amended clause 9 states that the regulation-making powers in relation to implementing the withdrawal agreement are

"subject to the prior enactment of a statute by Parliament approving the final terms of withdrawal".

I presume that that means a bill—a withdrawal agreement bill. Is it yet clear whether such a bill would require legislative consent, or do we need to know what is in the withdrawal agreement in order to work that out?

Professor McHarg: It would depend on what such a bill did. If all that the bill did was grant an approval to the exercise of the power in international law—a treaty—then, given that the Scottish Parliament has no treaty-making powers, you could argue that the bill did not impact on devolved matters. If, on the other hand, it started doing some of the implementation, some of which will affect devolved areas, you could make a case for the legislative consent convention to apply.

At the moment, the UK Government's position is that clause 9 does not require consent, but the devolved Governments' position is that it does require consent. I think that the devolved Governments' position is correct, because we are talking about implementation powers that could be used in devolved areas.

Patrick Harvie: Is that a disagreement about whether clause 9 of the European Union (Withdrawal) Bill requires legislative consent?

Professor McHarg: Yes.

Patrick Harvie: There is a separate, subsequent question about the phrase that any withdrawal agreement bill would have to approve

"the final terms of the withdrawal."

Surely, if the withdrawal agreement affected devolved competence in any way, a withdrawal agreement bill would also require legislative consent.

Professor McHarg: Not necessarily—we are up against our dualist system again. Things that happen on the international plane are different from things that happen on the domestic plane.

This Parliament has no competence in relation to things that happen purely on the international plane. It is only once things that happen on the international plane start having a domestic effect that questions of encroaching on the competence of this Parliament arise. That is why I said that it would depend on what exactly a withdrawal agreement bill did.

We are back to the kind of argument that we had about the European Union (Notification of Withdrawal) Bill, which the UK Government said was simply about triggering an international process and therefore had no implications for the devolved legislatures, whereas the devolved legislatures, taking the logic of the Miller case, said that the whole point was that we had collapsed the distinction between the international plane and the domestic plane. We are in a very unclear and contested area.

If a withdrawal and implementation bill were to do the logical thing, which would be to take clause 9 out of the European Union (Withdrawal) Bill and put it into a subsequent bill, so that it would clearly have an impact on how the withdrawal agreement was going to be implemented in domestic law, then, at that point, there would be an argument for saying that devolved consent was required. As I suggested, that might be a reason for the UK Government to want to keep clause 9 in the European Union (Withdrawal) Bill, because the question of devolved consent to this bill is so much bigger and it is easier to do a deal when you have a range of different considerations than it is when you are facing just one question.

Patrick Harvie: Thank you—I think.

Professor Page: As Professor McHarg said, a statute, or bill, approving the withdrawal agreement would not by itself have any domestic legal consequences.

Patrick Harvie: Regardless of what is in the withdrawal agreement?

Professor Page: Yes. The premise of your question is right. The withdrawal agreement will have consequences, but the bill itself would not have domestic legal consequences and therefore the question of the Scottish Parliament's consent would not arise—unless, as Professor McHarg said, the bill started to go beyond simply approving the agreement and began to legislate for what would happen as a result. It is at that point that the question of the Scottish Parliament's consent would arise.

The Convener: While we are on the wider European Union issues, on Monday, the Council of the European Union agreed guidelines setting out the position of the EU on possible transition arrangements for the UK's exit. The guidelines state that the UK will be required to comply with

"All existing Union regulatory, budgetary, supervisory, judiciary and enforcement instruments".

What impact, if any, would a transition period agreed along such lines have on the withdrawal bill? I think that it would have none, but I would like that to be on the record.

Professor Page: It would not have an impact on the withdrawal bill, but there would be significant implications for what would happen until the point of withdrawal. If that happens, it in effect extends EU membership—stripped of voting rights and all the rest of it.

The Convener: It extends the conditions of EU membership, but not the actual membership.

Professor Page: It extends the terms of membership.

Professor McHarg: The difficulty is the definition of "exit day". Everything in the withdrawal bill is tied to the concept of exit day: for example, EU law will cease to apply as of exit day and will become retained EU law. Exit day is defined in the bill as 29 March 2019. However, that can be modified by regulations. That is what would need to be done—some modification would be needed in order to preserve the position in domestic law of EU law and to postpone the point of transfer from the EU law regime to the retained EU law regime.

The Convener: Are you saying that if there is a transition period, the date of 29 March 2019 might have to be amended and extended to the end of that two-year period so that the withdrawal bill

would not come into effect until the end of the transition?

Professor McHarg: Yes. The requirement would be for the withdrawal bill not to come into effect until such time as we cease to be bound by the treaties.

Professor Page: I sense that there is a sort of Neverland quality to the withdrawal bill when it is set against what is assumed, which is that the transition period will involve no effective change in the terms of membership. None of what is agreed in terms of that transition will actually happen until that later date, be it December 2020 or March 2021. When is a withdrawal not a withdrawal?

There has been much talk about the scale and urgency of the task in relation to the legislation and the need to get on with it quickly. If we are talking about an extended transition/implementation period—I am not saying that that is what will happen—that slightly alters the timeframe in which we are talking about getting the domestic statute book into shape to cope with the consequences of withdrawal. It does not become less major or significant, but it certainly becomes a less urgent task.

10:30

Adam Tomkins (Glasgow) (Con): My question is not strictly about constitutional law. However, you are both experts in the politics of the constitution as well as in the law of the constitution, strictly speaking, so I wonder whether you can reflect on my question—although you might not want to. The question is speculative, because it is about the future. What do you think will happen, and what do you think constitutionally should happen, if the Scottish Parliament does not give its consent to the withdrawal bill before the last amending stage in the House of Lords?

Professor McHarg: Part of that is easy to answer and part of it is difficult to answer. The bit about what should happen is easy to answer: if the bill does not gain the consent of the devolved legislatures, it should not be enacted in its current form.

What will happen and what the consequences of that would be are much harder to answer. As far as I can see, the UK Government seems to be committed to gaining the agreement of the devolved Governments, so that is a positive thing. However, if it does not get that agreement, I do not know what it will do. I would not like to speculate about that.

Professor Page: I am reluctant to get into the "what should" question. It is easy to say that the bill should not be enacted in its current form, but I do not think that that is going to happen, which slightly colours my view of the "what should" question.

If the devolved legislatures do not consent to the bill, I think that the UK Parliament would have no choice but to go ahead with it, regardless of the consequences. It would be done along the lines of, "We are doing this with a heavy heart. We have strained every sinew and made every effort to get an agreement, but unfortunately it did not prove possible to get agreement and therefore, with the greatest reluctance, we go ahead." That assumes, of course, that there is a parliamentary majority for doing that.

The issue then becomes, as has rightly been said, a matter of saying that the only court that really matters is the court of public opinion and how it all plays out in that court. However, I think that there is noise surrounding it and so much else going on that I am not sure that the situation would take on quite the dimensions of a constitutional crisis, which is the language that people so easily use. There is a long way to go before we get to that stage.

Adam Tomkins: My question is speculative and it is also about something that both Governments are committed to not happening.

Professor Page: Exactly.

Adam Tomkins: Both Governments want the withdrawal bill to be passed with this place's consent and not with the absence of this place's consent, so the question is very speculative.

Professor McHarg: We have to remember that the UK Parliament has an extra-long parliamentary session, so we have two years rather than one year to get the withdrawal bill enacted. If getting to consent takes a long time, there will still be time to do it. However, the longer the enactment of the withdrawal bill is delayed, the more problematic that becomes in terms of reducing the time for the exercise of the regulation-making powers. However, as Alan Page said, if we are going to enter into a two-year implementation or transition period, that will reduce some of those time pressures.

Adam Tomkins: Thank you.

The Convener: What you are saying, Professor McHarg, is that the bill could be passed but, in the transition period, another statute or instrument of some sort could be brought forward to try to get that consent.

Professor McHarg: No.

The Convener: In that case, I do not understand why we have got that time.

Professor McHarg: In the UK Parliament, a bill has to be passed within one parliamentary session, which is usually 12 months or

thereabouts. However, the current session has been extended to over two years, which gives two years in which to enact the bill rather than one year.

The time pressures that would normally apply to moving through the Commons stages, the Lords stages and getting royal assent are less intense for the withdrawal bill than would usually be the case, therefore there is more time for negotiation between the UK and the devolved Governments about amendments to the bill.

The Convener: That would mean delaying the Lords stage.

Professor McHarg: It would mean delaying something, or delaying the ping-pong.

Adam Tomkins: There is therefore more time for Westminster parliamentary process but there is less time in the sense that the article 50 clock is ticking and the date of 29 March 2019 is there.

Professor McHarg: Absolutely, although if we go into a transition period, we will have longer.

Adam Tomkins: It could be moved.

Professor Page: Going back to the deputy convener's question, one would hope that the area of disagreement will become clearer before we get to a constitutional crisis. At the moment, and certainly from an outsider's point of view, there is a lack of clarity. We know that there was a joint ministerial committee meeting back in October and principles were agreed. We have been told that progress has been good and all the rest of it, but we know no more than that. Clarity around that will go some considerable way towards resolving the differences between—

Adam Tomkins: We have some questions for our next witness that might produce some clarity around that.

Professor Page: Yes, but are we talking about a disagreement between the UK Government and the devolved Administrations? Is there disagreement within the UK Government? That is a possibility; I simply do not know.

Neil Bibby: Professor Page, when you were previously at the committee, you talked about the possibility of standstill agreements to get legislative consent, particularly around the issues of clause 11 and common frameworks. Do you still think that that is a possible solution?

Professor Page: I was disappointed to read that the committee was not persuaded by the merits of any of the alternatives that have been proposed. However, I remain of the view that there has to be ample scope for all the parties concerned—I was not talking just about the devolved Administrations; I was also talking about the UK Government—saying separately from the question of legislative consent that they will not do anything to compromise or threaten the integrity of the UK market until such time as we have bottomed out the disagreements and reached agreement on what common frameworks are necessary and how they are to be put in place, managed, changed and all the rest of it. That is another dimension to my earlier answer and it is a key issue, but it could almost be addressed separately from the bill in the sense that clause 11 could be stripped out and the process could continue until agreement is eventually reached.

As I understand it, there is a commitment on both sides to reach agreement on those questions, so I do not see that the fate of the bill should hinge or depend solely on that question. I do not know whether there are other questions at issue, but I would have thought that a self-denying ordinance whereby we say that we are not going to exercise our powers until this is worked out is a possible way forward.

Professor McHarg: I am not sure that that is possible in all areas. I can see that it would work in relation to something like environmental regulation, where you agree to maintain existing regulations until such time as you agree on what needs to be changed. However, when a new regime has to be put in place, such as for agricultural subsidies for example, not acting is not an option. Something has to be done before exit day or before the end of the transition period.

Professor Page: Agreement on what is going to happen to agriculture and, crucially, who is going to pay for it is going to have to be reached anyway. That is a whole separate issue and the legislation does not talk about it at all. The legislation is just about powers; it is not about money.

The Convener: There is a growing concern that we might have a pyrrhic victory over clause 11, but it does not really matter because we are not going to get the cash anyway. The next fight will be about money.

As there are no other questions, I thank both professors for coming to that rather short session this morning. It was an important session as far as our procedures are concerned and I am grateful for your attendance.

10:39

Meeting suspended.

10:43

On resuming—

The Convener: We will take further evidence on the European Union (Withdrawal) Bill, as amended

by the House of Commons. We are joined by the Minister for UK Negotiations on Scotland's Place in Europe, Michael Russell. He is accompanied by Scottish Government officials Ian Davidson, the deputy director, constitution and UK relations division, and Luke McBratney, who is the constitutional policy team—well, he is not the whole team, but part of it.

The Minister for UK Negotiations on Scotland's Place in Europe (Michael Russell): We have small teams.

The Convener: I welcome our witnesses to the meeting. I understand that Mr Russell does not wish to make an opening statement, therefore we will go straight to questions.

The House of Lords Constitution Committee published its report on the bill earlier this week. I know that you, along with your counterpart in the Welsh Government, Mark Drakeford, met peers earlier this week. Can you provide an update on what was discussed? Was there any indication of potential amendments that might be tabled in the House of Lords? In general terms, can you update us on where you think that we are in the consent process?

Michael Russell: Yes. Mark Drakeford and I had a very constructive briefing in the House of Lords on Monday evening, which was chaired by Baroness Finlay, a Welsh peer. Sir Emyr Jones Parry and Jim Wallace also took part. It was standing room only; about 40 peers attended the event. There was detailed questioning on the devolution issues that we raised. We had a broadly sympathetic audience—I say "broadly" because I do not think that I could characterise the position of Michael Forsyth as being sympathetic on those issues. However, most of the others were pretty positive about things.

10:45

I was very heartened to read the *Hansard* of the first day of the two-day second reading debate in the House of Lords—the first day was yesterday and the second day is today. Andrew Adonis tabled a reasoned amendment, and made a powerful speech at the beginning of the debate. He was at the briefing on Monday and made the point that no second reading debate in the history of the House of Lords had ever had 193 peers wishing to speak in it.

I was very struck by the number of peers who wanted to mention the devolution issues yesterday—that was very interesting indeed. The speech from Lord Hope, the leader of the cross-benchers, was one of the most powerful that I have ever read from either of the Houses of Parliament. I commend that speech to people as it is a very clear and strong statement of why the bill needs to change, and outlines the devolution issues in it. I was interested that Ian Lang commended Lord Hope's speech in his contribution.

There were other contributions that indicated who would be tabling amendments. Lord Hope indicated that he intends to table amendments in the terms of the amendments that the Scottish Government and Welsh Government devised for the House of Commons. Lord Foulkes and Lord Wigley indicated that they also intended to table amendments that would raise legislative consent and its relationship to the progress and passage of the bill. The issue is being well addressed in the House of Lords. The committee stage of the bill is due to take place over a period of time lasting until Easter, and the report stage will then take place during April. That is the positive part.

The negative part is that we do not have an amendment or amendments in any concrete terms from the UK Government. I heard Professor Alan Page, in giving evidence to the committee earlier, indicate that he was not entirely clear about the nature of the disagreement, and the failure to agree, between the UK Government and the devolved Administrations. I can be very clear about that today. John Swinney and I are meeting David Lidington and the Secretary of State for Scotland tomorrow, and we will be very clear: there is no agreed amendment and no amendment has been brought to us for the process of agreement. We will not, and cannot, agree to any amendment that does not rest upon the equity of treatment of the four nations and the way in which they will voluntarily enter into agreements on what should be the subject of frameworks, and how those should operate. That is very simple. We have been saying the same thing since the bill was published but we have had almost seven months of this.

The UK Government is a Government; it has to come to the table with a proposal or say that it is not going to come to the table with a proposal. We cannot go on forever having meetings about meetings. That is where the disagreement lies. There has to be an amendment, on which we can agree, that removes the power grab of clause 11. We have made clear that there are other issues in the bill that require to be resolved, but the heart of the disagreement is the inability of the UK Government to bring to the table what it said it would bring to the table. That is where the problem lies.

Ivan McKee: From what you have said, it sounds fairly clear that things are not clear. You have indicated that the amendments in the House of Lords will be along the lines of what the devolved Administrations are looking for. That sounds positive, but the amended bill will then

have to go back to the House of Commons and, at some stage, the UK Government will have to engage with the process.

Michael Russell: We do not know what the amendments in the House of Lords will be.

We have a fairly clear timeline of the situation that we are in and how it has moved forward. The bill was published on 13 July and we were shown it on 30 June. On 19 September last year, we published our joint amendments—the first time that that has ever been done between the two Administrations. The committee stage, or the first amending stage, started on 14 November. The First Minister met the Prime Minister and discussed the withdrawal bill. I made clear once again to this committee on 29 November that there could not be a legislative consent motion without an amendment. The amendment that we tabled was voted down on 4 December. On 5 December, the Secretary of State for Scotland said that clause 11 will be amended in the House of Commons, and Damian Green made the same commitment on 12 December at the joint ministerial committee on European Union negotiations. The committee stage ended on 20 December.

At the report stage, an amendment that was acceptable to the Scottish and Welsh Governments was tabled by Labour, but it was voted down. The committee stage has now started in the Lords, but we have no amendment, in draft or otherwise, from the UK Government.

Those are simply facts. There is no agreement; there can be no agreement; and there will be no legislative consent motion unless that changes.

Ivan McKee: Thank you.

The Convener: Going beyond the clause 11 issue, can you give us a picture of the discussions that have been had about the other areas of concern that the Scottish Government has highlighted with regard to the bill?

Michael Russell: There was a very minor change to the bill at report stage that softened UK ministers' ability to change law in Scotland under delegated powers. However, other amendments are still required in a number of areas and, at the very beginning of this process, I outlined to the committee four of them. The most important is clause 11, but there are other areas that the Lords are addressing and which will be subject to, I believe, the same amendments as have been put forward by the Scottish and Welsh Governments.

Everybody, including this committee, is saying that the bill needs to be changed. The Welsh Assembly, including its UK Independence Party members, had a unanimous vote on the need for progress on the continuity bill. We need to see the amending process, but at the heart of it is clause 11.

Adam Tomkins: It is a bit depressing that we are still here, going round, it seems, in circles. However, going underneath the top level, I understand that significantly intensified negotiations, conversations and discussions are going on, particularly between your officials and officials at the Cabinet Office and the Scotland Office. Is that correct?

Michael Russell: Yes, and I pay tribute to the officials for doing that. I also pay tribute to Tory MSPs such as Adam Tomkins who have been very positive about the need for change. There has been unanimity on this.

However, at the end of the day, there is a need for a political decision to be taken on this matter. Tomorrow afternoon, ministers will sit down together in this building, and I understand that David Lidington will have been in Cardiff earlier in the day with the Secretary of State for Wales. The politicians need to be able to have this discussion; they need to be able to say, "Here is our draft amendment," and we need to be able to say, "That works and that works but that doesn't work." We need to have that conversation. However, we have not got there, and we cannot simply rely on yet another intensification at official level.

I think that it is really significant that the JMC plenary last met a year ago yesterday. Despite the view that there should be the closest of consultations and clearest of discussions on this matter, 12 months have passed without a JMC plenary meeting. There has been a failure in the political process; it is the political process that needs to engage, but it has not done so. To be fair, the Tory members of the Welsh Assembly and the Scottish Conservative MSPs know that as well as I do, but for some reason, we have a Government in paralysis, and that situation has to change.

Because all of you on the committee will have been following very closely the negotiations between the UK and EU, you will recognise this syndrome; after all, you will have heard the story of Theresa May saying to Angela Merkel, "Make me an offer." They are the Government, and they have to come to the table and put something on it. We are saying exactly the same in these negotiations as appears to be the case with the EU.

Adam Tomkins: It is very welcome that David Lidington is coming here tomorrow and I hope that the talks are successful. However, with regard to the intensified negotiations and discussions that have been going on at official level, one of the issues that we have debated in the chamber—you mentioned it just a few minutes ago—is the need

for common frameworks, where they are binding, to bind UK ministers and devolved ministers equally. Indeed, that was one of the recommendations that the committee made in its report on the legislative consent memorandum. Is that one of the stumbling blocks at the moment?

Michael Russell: Yes. The key issue is agreement. The framework cannot be imposed either in subject or in content. There has to be agreement.

Adam Tomkins: Are we broadly agreed about where it is likely that frameworks are necessary?

Michael Russell: Yes. There is not much dispute about that. The parallel discussions on what frameworks are needed and the deep dives—I know that some people object to that term—on the detail can produce results. However, they are contingent on ensuring an agreement in content and function. That must be an agreement between equals—it must not only respect the devolution settlement, but understand that there is an equity in powers. Until that happens, there is no possibility of agreement.

A senior Tory minister in London has been much quoted as saying:

"We may be partners but we are not equals".

If that is the prevailing view on the issues, there will not be agreement.

Ash Denham (Edinburgh Eastern) (SNP): I want to touch on the intergovernmental relations. I know that we are covering some of the same ground. During a previous appearance before the committee, you said that you thought that the JMC(EN) had been reset to a degree, at least in that it was meeting regularly and that progress had been made when a set of principles for going forward was agreed. Is that momentum still there or has the process stalled?

Michael Russell: Without doubt, it has stalled and I will be straight about the reason: Damian Green's departure stalled the process. He had developed a commitment to making the JMC work if he could. He significantly slimmed down the attendance at the JMC, which was a big issue—the JMC had a cast of thousands, which was not conducive to discussion. We were beginning to focus on the big issues—not just clause 11, but the big issue in respect of representation and involvement in negotiation.

When the JMC(EN) was established as a result of the Downing Street plenary JMC in October 2016, its terms of reference were fourfold. The first term was:

"to discuss each government's requirements for the future relationship with the EU".

We have put in papers, which have been denounced, and then they turn out to be the same as the UK papers. That is galling to say the least.

Secondly, we were meant to

"seek to agree a UK approach to, and objectives for, Article 50 negotiations".

That never happened—we never saw the article 50 letter and it was never discussed.

Thirdly—this is key—the JMC(EN) was 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".

That is the involvement issue. It did not happen at all at the first stage. It now has to happen at the second stage, because areas of devolved competence are being dealt with in the negotiations.

Finally, we were supposed 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."

Those terms of reference have not been observed.

We last met on 12 December and we were supposed to meet before the end of January—that meeting has not taken place. There have been endless negotiations about meeting dates; the UK Government tends to insist on holding meetings on Tuesdays and Thursdays, ignoring First Minister's questions at the Scottish Parliament and questions to the First Minister at the Welsh Assembly. We may now have a date for the JMC(EN) towards the end of February and work is still under way on agreeing a date for the JMC(P).

What priority is being given to this? How will the terms of reference—which were not imposed but were agreed between us all—operate? We have no proposals on the issue of involvement in negotiations, although that was a key issue at the JMC(EN) on 12 December. We were told that the UK Government would make proposals to ensure that such involvement took place, but we have heard nothing. I am sure that members can understand the element of frustration.

Ash Denham: We can indeed. On a slightly different note, you said that you had listened to the witnesses give evidence to us earlier. Professor Page said that we are a long way from a constitutional crisis. Do you share that view?

Michael Russell: No. I am reluctant to disagree with Professor Page, but as I said on Monday, I think that we have been in constitutional crisis for some time and it is simply deepening from day to day. That crisis is deepening because of the United Kingdom Government and its failure to observe the JMC process, to introduce an

amendment to the withdrawal bill and to recognise the importance of the matter.

Alexander Burnett (Aberdeenshire West) (Con): I would like to talk about common frameworks and progress on some of the detail. I know that ministers always want to avoid conflict, but where adjudication is needed, many people would consider that the logical final court of adjudication—given other parts of the UK legal system—would be the Supreme Court. Do you agree and, if not, what do you propose instead?

11:00

Michael Russell: I started out on this journey thinking that there would need to be some sort of supreme court of adjudication—not the Supreme Court, but something. However, I have been quite impressed by some of the mechanisms that already exist to resolve issues. If we look at fishing, there are some fairly complex and long-standing arrangements between Governments for discussing issues of contention on fisheries. During the deep dives in areas in which it has been agreed that frameworks will be useful or desirable, one discovery has been that there are already many mechanisms in existence.

In areas such as fisheries and agriculture, there will, of course, also be primary legislation from Westminster. Where a governance system requires to be established in statute, the potential exists for that statute to be passed in any case. It is unlikely that we would want to construct a system that is very legalistic in its operation if there are existing mechanisms that can be used or if, within the legislation that is introduced by agreement—with legislative consent—there is the possibility of establishing those systems.

I actually hope that we can make the system quite fleet of foot and less bureaucratic than it might otherwise be, and probably less legalistic. We have substantially narrowed down what will be involved. I had a positive discussion with NFU Scotland this morning about some of the agriculture issues and we are clear that the system could be constructed in a non-bureaucratic and quite helpful way.

The Council of Ministers operates in that way in Europe, so that there can be consensus and agreement. The idea that we could have the four agriculture ministers meeting and being able to agree things on an equal basis is a positive one. I am not sure how much Michael Gove would enjoy it, but the others might find it quite productive.

Adam Tomkins: May I ask a supplementary on that? You have said before that animal welfare is an area in which you might expect there to be a common framework, so let us take that as an example. Let us suppose that there is a common framework in that area and you want to act in a way that the UK Government—reasonably or unreasonably, rightly or wrongly—thinks is contrary to that common framework, so that there is a dispute between the two Governments. Are you saying that you think that that dispute should be resolved without recourse to a court of law?

Michael Russell: I hope that we could make a structure that would allow that to happen.

Adam Tomkins: Can you talk me through the detail of what that structure might look like?

Michael Russell: I am not saying that I can guarantee that, but I am saying, for example, that if we were to accept a common framework of regulation in that area, the regulatory framework would probably dictate how it would work in terms of the actions of each individual Government, and we would understand the parameters for those actions. If a Government wanted to act outwith that, there would, of course, be an issue.

However, the present framework on regulation, for example, operates without that happening most of the time. I will try to anticipate you and say that there are occasions—such as some of the BSE disputes with France—when it becomes a matter for the Commission and its system, and that needs to be borne in mind as the regulations are being drawn up. There is the added complication that if we go into regulatory alignment on an agricultural issue with Northern Ireland, which might be in regulatory alignment with the Republic of Ireland and therefore the rest of the EU, there might well be a function for the European Court of Justice.

Adam Tomkins: I am still struggling to understand what this will look like without having courts as a backstop, at least. You mentioned how things are resolved in the Council of Ministers but, as you know and have just said, the Commission has the power under article 226 of the treaty to take any member state directly to the ECJ whenever it thinks that the member state in question is infringing EU law.

Michael Russell: I am not saying that there would not—or could not—be such difficulties. I am saying that we started off the discussions on the basis of seeing what the existing frameworks could deliver, and we are heartened by how much they could deliver in the circumstances. The important thing is that, when we get to the stage of visualising the frameworks in detail—presuming that we get through the present difficulty—we will then sit down with the committee to discuss the issues in more detail and give examples of how they will and will not work, so that they can be scrutinised.

Adam Tomkins: I am struck by what you say, and quite heartened by it, because previously Scottish ministers—and indeed Welsh ministers—

have been deeply critical of the dispute resolution procedures in the JMC, but now it seems that you want to maintain some kind of JMC-style dispute resolution, rather than going to court.

Michael Russell: I am not sure that that is true, because the corollary is one of your own recommendations on having a statutory footing for the JMC, which would change that structure and atmosphere. We will respond to your recommendations today in writing, but I know that the issue of a statutory footing for the JMC might also encompass this, and I am not unsympathetic towards discussing it.

Murdo Fraser (Mid Scotland and Fife) (Con): We understand that a number of the 111 powers that were in your original list of proposed amendments would be subject to common frameworks, and there are a number of others that would not require that and could simply be devolved straight to the Scottish Government and Scottish Parliament. Is there a list anywhere of which fall into which category?

Michael Russell: We are pretty well down the road with that, but the list is not complete, in my view. I know that the Secretary of State for Scotland has talked about wanting to publish a list of where we are on that. I am not against talking about that, but we have not finalised the deep-dive process yet. There is a deep dive on animal health this week—or is it plant health?

Ian Davidson (Scottish Government): I think that it is both, actually.

Michael Russell: Both. Yes, it is amazing what we have to keep abreast of. There is also one on procurement on Monday, I think. Until that process is complete and until we have bottomed out—to carry on with the deep-dive analogy—exactly which of those is involved, I would not want to release anything from the list. The list can broadly be subdivided into those powers for which frameworks are required and those for which there is no need for anything. Adam Tomkins wrote about that in *The Scotsman*, using aircraft noise as an example, and I am an assiduous student of Mr Tomkins's writings. Such things can be put to one side, because nobody is too bothered about them. Some of the things in the middle were already subject to frameworks of one sort or another, so there is not much point in worrying about them, because they are there and they operate. Then there are additional things that need to be looked at.

Remember our starting point, middle point and end point on this question, which is that all those things were and should be devolved, so what we are talking about is consent—and not just consent but agreement—among us all that there is a much smaller list of things that would be subject to frameworks, provided that we could agree that they should be and provided that we could agree on the form and content of the framework. It is that smaller list that we are in the process of finishing work on.

Murdo Fraser: If the secretary of state wants to publish the list showing where we are at the moment, is there any particular reason why you do not want him to do that?

Michael Russell: I think that it is premature, because we have not finished that work. I cannot imagine why we would want to do that until the work is done and we are able to say with confidence which areas are involved. The other thing to point out is that none of that will happen unless we get agreement on the bill. The reality is that it is a bit of a distraction, in my view. I am happy to talk about it and I commend the work that has been done by officials, which has been detailed and thorough, but it is not an end in itself. If David Lidington and the secretary of state arrive tomorrow with an amendment in their hands on which we can negotiate, progress is possible. If they do not, it is not possible.

The Convener: Where there is an implementation or transition period, if that period is entered into as the EU laid out at the beginning of the week, there is not the same urgency around common frameworks anyway.

Michael Russell: I was interested in Professor McHarg's analysis of timescales on that in the evidence that she gave to you. Of course, there is a middle element that needs to be considered, and that is the time that will be taken for secondary legislation, which will have to be undertaken during this period, so it is not elastic. There are parameters on both ends. There is a wider bit at Westminster, but the present intention for the transition period to last until the end of 2020 is in itself debatable. My view, clearly, is that it should be a question of destination, not transition, but even among those who believe in transition—or, as the Prime Minister calls it, implementation—many believe that a longer period is required.

Patrick Harvie: Good morning. You have indicated that, in the event that agreement is not reached between the two Governments on the withdrawal bill, a continuity bill could be introduced in the Scottish Parliament. In your letter to the Presiding Officer on 10 January, you said:

> "To that end, our officials are developing a Continuity Bill for Scotland. This letter is intended to give you and your officials notice of the likely introduction of this Bill in February and its submission to you for pre-introduction scrutiny later this month."

I presume that that means later in January. It is now 31 January. Where do things stand with that? What is involved in a continuity bill? What would

the job of scrutiny of such a substantial piece of legislation look like?

Michael Russell: It is with the Presiding Officer. We await the Presiding Officer's view. I am not at liberty to publish the bill until he has given his view, so I am not yet at liberty to go through the detail of the bill. When we introduce it, the committee will be keen to see it at the earliest opportunity.

The bill seeks to achieve what the withdrawal bill seeks to do—to make sure that there is not a legislative cliff edge. If our bill is approved by the Presiding Officer and is seen to be legislatively competent, the Parliament will judge how it should proceed. It is a bill that will need to go through its consideration more rapidly than other bills—it must get through Parliament before royal assent is given to the withdrawal bill, because it does the same job and must be enacted at the same time. As you will know, we have a longer period between passage and royal assent, so the timescale will have to be constrained, but that will be a matter for the Parliamentary Bureau and the Parliament to discuss. All that we can do is indicate what the objectives would be.

I would want the continuity bill to have the maximum scrutiny. As you have seen the withdrawal bill, you will be familiar with the means by which it might work, but I cannot go into any more detail than that.

Patrick Harvie: You said that you want the bill to receive the maximum scrutiny. Notwithstanding the fact that the decision on procedure would be for the Parliament to make, the Government will make a proposal on what that procedure should be. Can I assume that you would not seek to have the bill pushed through in a single day but would want a greater opportunity for scrutiny to be extended to this committee and the whole Parliament?

Michael Russell: I would want the bill to receive the maximum possible scrutiny. I hope that we would be able to achieve that within the timescale that I have indicated, but I am not yet in a position to say what the Government will propose to the bureau. We are thinking about what needs to be done. I do not want the continuity bill to be subject to anything other than the widest scrutiny, but there is a timescale that must be observed. That discussion has to take place.

Patrick Harvie: It is worth reflecting on the fact that the emergency bill procedures tend to be used for relatively minor or technical matters, not for major constitutional change.

Michael Russell: I am trying to remember an emergency bill. The continuity bill is not like the bill that was brought forward under the Labour-Liberal Administration to reset tolls on the Erskine bridge. It is not of that nature; we accept that.

Adam Tomkins: You said earlier that the UK Government showed the Scottish Government the courtesy of giving it sight of its withdrawal bill two weeks before it was published. Will you return the compliment by giving the UK Government sight of the continuity bill two weeks before it is published?

Michael Russell: When I know when it is to be published, of course I will do that. I make it very clear that I do not know when that will happen. I have no publication date in mind at present. Two weeks' notice is the minimum that I would want to give.

Willie Coffey: Where are we on the charter of fundamental rights? Has it now gone? Are we relying on the Lords to bring it or elements of it back?

Michael Russell: There is no doubt that the Lords will wish to do that. From my discussion on Monday, I am aware that that is a key concern. An issue that was raised with me by Lord Foulkes was whether the Government had a view on other issues in the withdrawal bill over and above the devolution issues. The answer is yes, it does, but the common work with Wales has been designed to focus on the devolution issues.

We do not believe that the fundamental rights will be adequately protected by any of the proposals that the UK Government has made so far, so we will have to make sure that they are addressed. We want to make sure that they are addressed, and their being addressed in the Lords would be an obvious way forward. We hope and expect that that will happen.

11:15

Willie Coffey: Do you expect them to try to bring the whole charter back in en bloc, or do you think that there will be some kind of picking and choosing to try to get some kind of agreement?

Michael Russell: A number of the peers I have spoken to are keen to restore the status quo and are not convinced by the UK Government's arguments. That is a matter for the House of Lords. Despite my discussions with the Lords this week, I am not an expert on the procedure of the House of Lords. It is up to them what they do, really, but I know that there is a keenness on that issue. There is also a strong view in the House of Commons that the proposals that went through are not adequate.

Emma Harper: I am interested in exploring the "EU Exit Analysis—Cross Whitehall Briefing" report, details of which were published by Buzzfeed this week. It stated that leaving the EU

will adversely affect almost every sector in the UK. Buzzfeed said:

"Almost every sector of the economy included in the analysis would be negatively impacted in all three scenarios, with chemicals, clothing, manufacturing, food and drink, and cars and retail the hardest hit."

I am curious about the Secretary of State for Scotland's reaction to that or any other analysis. Has there been any comment from the Scotland Office?

Michael Russell: I am unaware of any reaction or comment, although I do not spend my time trawling the Twitter feed of the Scotland Office.

You could note with perhaps a wry interest what the Secretary of State for Scotland, David Mundell, said on 17 January about the Scottish Government's report that was published on 15 January, which comes to virtually the same conclusion as the leaked report—in fact, when I first saw Buzzfeed's coverage of the leaked report, I thought that it was talking about our document. He said:

"Objective observers might wonder if the aim is to provide bracingly frank analysis or to try and talk up the challenges of Brexit."

The leaked report was meant to be shown only to cabinet ministers in locked rooms. However, clearly, given what we know of it based on what Buzzfeed has reported, that leaked report should be published. If it does what I believe that it does—that is, confirm our views—there is a question about whether the Secretary of State for Scotland had seen the UK report or knew of its existence when he made those comments about our report. If he had seen it at that point, there is a question about why he would attack a Scottish Government report but fail to mention his own report, which contained information in exactly the same terms.

Emma Harper: Do you think that the kind of information in that report might be part of what is contributing to the paralysis of the UK Government that you describe?

Michael Russell: Andrew Adonis, in his speech on his reasoned amendment in the House of Lords yesterday, quoted George Orwell's essay, "Politics and the English Language", in which Orwell wrote:

"Political language … is designed to make lies sound truthful … and to give an appearance of solidity to pure wind".

The political language that we have heard around Brexit aims to disguise the fact that the UK Government cannot have a policy because, if it moves on one side, it will offend one group and, if it moves on the other side, it will offend another group. We have therefore heard only vague generalities for the past 18 months. However, you cannot come to an agreement on vague generalities; you have to have a specific agreement. We saw that with the different interpretations of what took place in December, particularly over the Irish issue, and we are seeing it again now. A position will need to be taken.

I know little of the internal machinations around clause 11, but an outside observer might think that what has happened is that vague generalities have been spoken on that issue because some people want a change to clause 11 and some people do not want a change to clause 11, and ministers are in the middle, trying to balance the two forces. However, what you learn in Government is that, eventually, you have to make a decision and you have to push ahead with it. If the UK Government wants to make an amendment, it should bring us the amendment for discussion, and we will make progress in that way.

The Convener: Obviously, we all hope that the issues around clause 11 will be resolved, that we will all come to a successful conclusion with regard to how we come to an agreement on common frameworks and that all of these matters can put aside. However, at the end of the day, the issue will come down to money. We can have pyrrhic victories around clause 11, which is an important issue, but, if the cash is not there, none of that matters. Where have we got to in discussions about cash?

Michael Russell: The discussions have not produced any results. Again, the rhetoric is one of the problems. For example, in his speech to the Oxford farming conference, Michael Gove made an assertion about farm support continuing until 2024. No such commitment has been made to Scotland, so we do not know whether that will apply or will not apply. Incidentally, in that speech he mentioned "The Archers" more often than he mentioned the devolved Administrations, so I do not think that his focus is on the things that really matter.

We need an indication of money and fiscal flows, but we simply do not have any such indication. Assertions are made and pressure is put on the Treasury by us to try to make sure that those assertions apply here. It all folds into what I read out with regard to the remit of the JMC(EN). If you asked me your question in a context in which we had a functioning JMC(EN) and an atmosphere of mutual respect, I would be able to set out the discussions that have taken place and say what is happening. However, I cannot do that, because we are not in that context. David Lidington has an opportunity to show that he is a new broom by coming here tomorrow and giving a cast-iron commitment to get the JMC(EN) process up and running, and showing that he is determined to get an agreement on clause 11 and the details around the bill in a way that includes the involvement of

the JMC(EN) in the negotiations and ensures that the Scottish Government and the Scottish Parliament are included in them. That is what we now need. Without that, we will continue in this state of chaos and—although I do not wish to contradict Professor Page—constitutional crisis.

The Convener: I thank the minister and his officials for their attendance and close this meeting of the Finance and Constitution Committee.

Meeting closed at 11:21.

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