OFFICIAL REPORT
AITHISG OIFIGEIL

Finance and Constitution Committee

Thursday 3 May 2018

Session 5

The Scottish Parliament
Pàrlamaid na h-Alba

Thursday 3 May 2018

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FINANCE AND CONSTITUTION COMMITTEE
15th 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:

David Mundell MP (Secretary of State for Scotland)
Chloe Smith MP (Minister for the Constitution)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Finance and Constitution Committee

Thursday 3 May 2018

[The Convener opened the meeting at 09:35]

Decision on Taking Business in Private

The Convener (Bruce Crawford): Good morning, and welcome to the 15th meeting in 2018 of the Finance and Constitution Committee. I remind all members and everyone else attending to check that their mobile phones are in an order that ensures they do not interfere with proceedings.

Agenda item 1 is a decision on whether to consider our draft report on the European Union (Withdrawal) Bill supplementary legislative consent memorandum in private in future. Are members agreed?

Members *indicated agreement.*

European Union (Withdrawal) Bill

09:35

The Convener: Agenda item 2 is evidence on the European Union (Withdrawal) Bill from two United Kingdom Government ministers: David Mundell, Secretary of State for Scotland, and Chloe Smith, Minister for the Constitution. I welcome both witnesses to our proceedings this morning.

Members should note that we need to conclude this evidence session by 11 o'clock to enable our witnesses to give evidence to the Delegated Powers and Law Reform Committee.

I believe that the secretary of state wishes to make a short opening statement.

David Mundell MP (Secretary of State for Scotland): Thank you, convener. I am pleased to be here, with the Minister for the Constitution, to support your scrutiny of the European Union (Withdrawal) Bill and the committee's preparations for its final report. I acknowledge the position set out by the Scottish Government in its supplementary legislative consent memorandum, as articulated by Mr Russell in his appearance before the committee yesterday. There has not yet been a vote in the Scottish Parliament on this issue, and there is still time for the Scottish Government to change its view.

We have before us today proposals that both the UK Government and the Welsh Government agree respect the devolution settlements. They will mean significantly more powers for the devolved institutions and will continue to provide legal certainty on how laws will work across the UK when we leave the EU.

Last night in the House of Lords, peers from Conservative, Labour, Liberal Democrat and cross-bench groups agreed the Government's amendments on clause 11 and the deal that has been agreed with the Welsh Government. The House of Lords also had the opportunity to consider a number of amendments as proposed by the First Minister in her letter to the Lord Speaker.

I hope that the committee will see that the UK Government has been constructive and proportionate in its approach to clause 11. Following the letter that I sent to the committee and the debate in the House of Lords yesterday, I wish to set out our proposals to address some of the key concerns with the original approach that the committee raised in its interim report.

The committee suggested that the UK Government needed to find an alternative way forward regarding clause 11, and that is what we

have done. In doing so, we have sought to build consensus with the Welsh and Scottish Governments, and we have worked with them as we have developed our proposals. Our approach is set out in the amendments that we have made to the bill and in the accompanying intergovernmental agreement and memorandum of understanding. It is based on a presumption of devolution. It will also enable the Scottish Parliament to legislate in areas previously covered by European Union law, as a result of our exit from the EU.

We have agreed with the devolved Administrations that frameworks will be required. They will be complicated and they will need time to be developed. The measures in the bill are needed in order to deal with those matters in the short term as we navigate our exit from the European Union. They are temporary, as we have made clear in the sunset arrangements that we have included in the bill. We have said that we will work with the devolved Administrations as we develop longer-term proposals.

The amendments that we have tabled place a legal obligation on the UK Government to place new regulations before the devolved legislatures. However, we need to provide certainty to people in businesses on how the UK internal market will be protected if agreement cannot be reached. In that case, it will be for the UK Government to decide whether to ask the UK Parliament to act.

It is important to stress that we want to proceed on the basis of agreement. Our approach lends itself to that. With an emphasis on collaborative working, agreement between all Governments is still the most likely outcome, which is why we hope that the Scottish Government will reconsider our proposal. I am pleased that the Labour Government in Wales has reached agreement with us. As Mark Drakeford said:

> "This is a deal we can work with which has required compromise on both sides. Our aim throughout these talks has been to protect devolution and make sure laws and policy in areas which are currently devolved remain devolved and this we have achieved."

I am pleased to be here today with the opportunity to discuss the agreement in more detail. Along with Chloe Smith, I look forward to taking your questions.

The Convener: Thank you for your opening statement. Everyone around this table recognises that there has been significant effort by both Governments to try to find agreement. I thank you for the letter that you sent last night—it has now been sent to all committee members—which sets out the UK Government's position clearly.

However, despite that, we are at an impasse, which comes down to a matter of trust. The UK Government has made a non-legislative commitment not to introduce legislation that would alter areas of policy insofar as the devolved legislatures are prevented from doing the same by virtue of clause 11 regulations.

In evidence to the committee yesterday, Mr Russell stated that, if clause 11 was removed, he would give an identical commitment on behalf of the Scottish Government and that he would be in a position to recommend that the Scottish Parliament give consent on the European Union (Withdrawal) Bill. Why will the UK Government not accept such a position from the Scottish Government as a solution to the current impasse? It would put both Governments on an equal basis. Do you not trust the Scottish Government?

David Mundell: I trust the Scottish Government and all our work with the Scottish Government reinforces that. Even when we do not reach agreement, we are still able to work together in a perfectly cordial and respectful way. As you are aware, for example, the joint ministerial committee (European Union negotiations) met yesterday and, although we are still not in agreement on the issues around clause 11, we were able to have a respectful and reasonable conversation.

We have made it absolutely clear from the outset that an amendment that simply deleted clause 11 would not be acceptable. We want to ensure that there is clarity and certainty on what happens in respect of the legal competence that returns from the EU when we leave it, which is what clause 11 is about. As you acknowledged in your initial remarks, we have made significant changes to clause 11, taking on board the issues that have been raised by members of this committee, the House of Commons, the House of Lords and other bodies. We have ensured that clause 11 now has a presumption of devolution other than in the areas in which both Governments agree that there will be a need for UK-wide frameworks.

The Scottish Government saw our initial proposal as being too far in favour of the UK Government. Rather than deleting the clause, which might have been seen by some as the equivalent in favour of the Scottish Government, we have sought to find a way through the middle and to come to a fair and reasonable arrangement.

The Convener: I am sure that the UK Government would argue that, in these circumstances, if the UK and Scottish Governments were not bound by legislation and trusted each other, the same end could be met. Why cannot that be achieved?

David Mundell: I am sure that in practical terms it can be achieved. One of the things that I find

difficult about our current argument is that we have agreed the 24 areas that will require to be the subject of UK frameworks. We are having a debate about how we should formally agree something that we have already agreed to. To be frank, that is counting angels dancing on the head of a pin instead of focusing on getting frameworks in areas that are important to people across Scotland.

09:45

The Convener: I do not want to get into the issue of the 24 areas on which it has been agreed that there will be frameworks. We all know that that number can be added to at the will of the UK Government. Ivan McKee will come on to that topic.

If this is a head-of-a-pin argument, you can sort the problem by putting both Governments in the same position and having a non-legislative agreement, if there is trust on both sides. Those circumstances—if that basis of trust could be established at the very beginning—would make all the other discussions that will follow on Brexit and the common frameworks on which agreements are to be reached much easier. I ask that you reconsider the UK Government's position in that regard.

David Mundell: We have indicated that we continue to have an open door to discussions, and that is the case, but we have been clear that an amendment that simply deleted clause 11 is not one that we could accept.

The Convener: That puts the Governments in different positions: the Scottish Government would be bound by legislation, but the UK Government would not be. That does not appear to me to be a position of trust.

We will move on. We have been told by your colleagues that you are at the centre of these very important negotiations. If, at the end of the day, this Parliament decides not to give its consent to the European Union (Withdrawal) Bill process, what would be your recommendation to the UK Government?

David Mundell: My recommendation and explanation to my UK Government colleagues is that it is the Scottish Parliament that will decide whether it gives consent, not the Scottish Government. The Scottish Government will make a recommendation and members of this Parliament will decide. I am sure that the committee's report will be very influential in forming people's views.

As I understand it, there are two weeks to go until that debate is held. I want to put all our efforts into getting agreement with the Scottish Government. I would still like to see agreement with the Scottish Government; I would like to see this Parliament give legislative consent to the UK bill. If we get to a point at which agreement has not been reached, that is the point at which speculation will end and events will unfold. It is not helpful or useful to speculate about those events when agreement could still be reached and this Parliament could still give its consent.

The Convener: I recognise that there are two weeks to go, but there is a distinct possibility that this Parliament will refuse consent. What will you recommend to the UK Government in those circumstances?

David Mundell: I will still give you the same answer, convener: I want to focus my efforts on ensuring that we get consent. I may be thwarted in that aim, but I hope that, in our appearance before you today, the Minister for the Constitution and I will be persuasive in putting forward why the bill, as amended last night by the House of Lords, should be given legislative consent by this Parliament.

The Convener: What I am hearing from you, secretary of state, is that you are not prepared to say today that, if the Scottish Parliament decides not to give consent, the UK Government will proceed with the legislation. Is that the case?

David Mundell: That is a rather convoluted and hypothetical question, if I may say so, convener. I am focusing on the here and now. We have said that our door is open. Yesterday, Mr Russell indicated that the Scottish Government still wants to have conversations. It would not be right to suggest that we do not have two differing positions at this moment, because we do, but I still consider that the debate and the discussion that take place in this Parliament are important. I do not want to pre-empt that; that is not my decision.

I want to encourage the Parliament to support a legislative consent motion, but I recognise that that is entirely a matter for the Parliament. Rather than speculate on numerous scenarios, I want to ensure that we focus on getting agreement.

The Convener: As you have not given a definitive position, I can only conclude that, in those circumstances, the UK Government would be prepared to ignore the will of the Scottish Parliament.

David Mundell: The UK Government is seeking the Scottish Parliament's consent. That is what we would like, and we have sought legislative consent. We are still doing that. One of the reasons for the Minister for the Constitution and I being here today is to feed into the committee's report. We want that report to be a positive one that suggests that the Scottish Parliament should follow the lead of the Welsh Government and of

leading devolutionists such as Lord Jim Wallace in acknowledging that a good and fair arrangement has been concluded and that it can support legislative consent for the bill.

The Convener: You still have not confirmed whether the UK Government would potentially ignore the will of the Scottish Parliament in those circumstances, so I can only conclude that doing so would potentially be part of the UK Government's decision making.

David Mundell: Obviously, we are not going to concur on that.

The Convener: To be fair, you are not giving me an answer.

David Mundell: I have set out clearly that our focus remains on getting agreement and consent.

The Convener: You can understand why I am left thinking that the UK Government would potentially ignore the will of the Scottish Parliament. You have not given a commitment not to do that.

David Mundell: Rather than address an issue that may or may not arise, we want to address the issue at hand, which is why the Scottish Parliament should give its consent to the bill.

Adam Tomkins (Glasgow) (Con): Good morning. Thank you for being with us.

I want to go back to the issue of trust, which the convener opened with. On Monday, in giving evidence to the House of Commons Public Administration and Constitutional Affairs Committee, Mike Russell said that trust between the United Kingdom Government and the Scottish Government is at its "lowest ebb". I do not know whether you had the misfortune to see the *Sunday Herald* from the previous day, but it led with a story that attributed to the First Minister remarks about the United Kingdom Government being intent on demolishing devolution. How do you react to such belligerent comments?

David Mundell: I am disappointed when I hear such comments, because they do not reflect reality. One of the signs of the maturity in the relationships between the Parliaments and between the Governments is that we are able to disagree but still continue a dialogue. When the JMC(EN) met yesterday, we were able to have a very constructive dialogue about how the Scottish Government should be involved in the negotiation process for leaving the EU and a constructive discussion about how the frameworks, which are a separate aspect, would be agreed. Therefore, we are able to have very constructive discussions.

I have made it clear that I do not feel in any way let down by Mr Russell, because he was always clear with the UK Government that he was not the decision maker and that any decisions on agreements that he discussed with us would have to be cleared by the First Minister, Nicola Sturgeon. Therefore, we did not think, "Oh, we've reached an agreement with the Scottish Government." We knew that an agreement had been discussed and that Michael Russell would have to take that back to the First Minister. I do not feel in any way let down, and I do not feel that there is a lack of trust. Likewise, we were always very clear with Mr Russell about our position—indeed, the Prime Minister was very clear with the First Minister about that. I do not think that there has been a lack of trust in that regard.

The convener and I both served in the period immediately prior to the Scottish independence referendum, in 2014. My experience was that intergovernmental relations were much more difficult during that period. In fact, practical dealings with the then First Minister were much more difficult than they are with the current First Minister. Although we may disagree with Nicola Sturgeon, she always acts in a very professional manner.

Only two weeks after the Scottish Parliament acknowledged that a large section of the welfare responsibilities for Scotland had been devolved to it and that it would be able to create its own welfare system, remarks suggesting that Jacob Rees-Mogg is suddenly going to start imposing regulations and rules in Scotland are, frankly, ridiculous. The record of this UK Government—and the previous coalition Government—on devolution is one of which I am proud. Last night, in the House of Lords, Jim Wallace, the former Deputy First Minister of Scotland and a leading protagonist of devolution from pre-convention days onwards, said:

"This Government have shown a very strong commitment—and I say that from the opposition Benches—through the number of things that they devolved to the Scottish Parliament."—[*Official Report*, *House of Lords*, 2 May 2018; Vol 790, c 2141.]

Adam Tomkins: Indeed. You have clarified that, in your view, the decision of the Scottish Government not to enter into the agreement with the United Kingdom that the Welsh Government has entered into is the personal decision of the First Minister.

David Mundell: I am not party to the First Minister's personal decisions. However, I am clear that Mr Russell was very clear that any decision on the agreement, which had been discussed between the Scottish and Welsh Governments, would need to be agreed with the First Minister.

Adam Tomkins: I turn to the Government amendments to clause 11 that were agreed to without division in the House of Lords yesterday evening. The key amendment, in Lord Callanan's

name, reverses the presumption that underpinned the original clause 11—a presumption that was, in my judgment, as you know, incompatible with the devolution settlement. That presumption was the reason why the Scottish Conservatives joined all the other members of the committee in unanimously recommending in our interim report on the withdrawal bill that clause 11 be removed or replaced. It seems that clause 11 has now been replaced with a new clause that turns the presumption on its head.

The presumption is now that everything that falls within devolved competence will come directly to the Scottish Parliament on exit day other than that which the Governments agree needs to be put temporarily into a holding pattern, so that we can ensure that the integrity of the UK single market is not inadvertently threatened or jeopardised by different Governments in these islands pulling in different directions in ways that would be adverse to the interests of the United Kingdom as a whole.

Is it your understanding, secretary of state—and, indeed, minister—that the new clause 11, as we can now call it after last night, copies and pastes one of the fundamental principles of our devolution settlement into the law? That fundamental principle is, of course, the Sewel convention, which is that the Westminster Parliament will not normally legislate on devolved matters without the consent of the Scottish Parliament. The effect of the new clause 11 is that no power will be taken into that holding pattern normally without the consent of the Scottish Parliament. Therefore, the new clause 11—unlike the original clause 11—is completely compatible with the devolution settlement, which is why the Welsh have signed up to it. Is that roughly your understanding of where we are?

David Mundell: Yes—in combination with the intergovernmental agreement, which further clarifies that.

Ash Denham (Edinburgh Eastern) (SNP): Good morning. I have the secretary of state's letter, dated 2 May, which goes through some of the amendments. I would like to ask about the new term that has appeared: "consent decision". What does a "consent decision" consist of?

David Mundell: A "consent decision" is a decision that the Scottish Parliament would make in relation to a proposal that had been made by the UK Government. In making that decision, there are three specific things that the Parliament could do. It could agree, it could not agree or it could decide on a specific motion of refusal. Any of those three decisions would signify that the Parliament had dealt with consideration of such a proposal within the 40-day period.

10:00

Ash Denham: Just to clarify—does that mean that a "consent decision" is when the Scottish Parliament either consents, declines to make a decision or refuses consent, so that, even if every MSP decides to refuse consent to the UK Government, the UK Government will still take that as a consent decision?

David Mundell: No, not in the sense of suggesting that the Parliament has consented. Of course we would not take that as—

Ash Denham: But that is what the letter says—

David Mundell: No, it does not say that. With respect—

Ash Denham: It does say that. It says that a refusal will be taken as a consent decision. How can a refusal be consent?

David Mundell: A consent decision is not the same as consent. A consent decision is a decision in relation to consent, which can be yes, no or a specific refusal. For example, if every member of this Parliament voted against giving consent, the UK Government would have to make a proposal to proceed without that consent. As part of that process, a report would be laid by the Scottish Government, setting out why consent had not been forthcoming and making clear the fact that every member of this Parliament had voted against it. There would then have to be a vote in both Houses of Parliament to confirm that the regulations could go ahead in those circumstances.

Ash Denham: So, a refusal would be taken as consent by the UK Government—

David Mundell: No—

Ash Denham: Yes—that is exactly what you just said. You said it in a roundabout way, but that is what you said.

David Mundell: No. I am sorry, but it is not what—

Ash Denham: Excuse me, secretary of state—consent is a founding principle of the devolution settlement. Do you understand that?

David Mundell: Of course I understand that, because I have been a member of this Parliament—

Ash Denham: I am aware of that.

David Mundell: I do not want you to misrepresent what I said. I said that there is a definition of a term called a "consent decision". It is a decision that is made on consent. Clearly, a decision that is made on consent can be yes or no. Let us be absolutely clear: the UK Government is not going to suggest that, because every

member of the Scottish Parliament voted against a motion, the Scottish Parliament consented to the motion. It would mean that, within the 40-day period allowed, the Scottish Parliament had made a decision. That decision would then be subject to the procedure that is set out in relation to what could then happen in the Houses of Parliament.

Ash Denham: Secretary of state, your own letter to this committee, dated yesterday, says that, in the event of the circumstances that we are discussing,

"The UK Government must ... explain its reasons for proceeding in the absence of consent."

The UK Government can now proceed in the absence of the consent of this Parliament. That is not compatible with the devolution settlement. Surely, you must see that.

David Mundell: No, I do not see that, because the devolution settlement does not set out an absolute consent arrangement. That is not within the current devolution settlement. We are seeking to find a way forward when agreement cannot be reached. The proposal that we have put forward ensures that the consent of the Scottish Parliament is sought. There is a 40-day period in which the Scottish Parliament has the opportunity to debate and discuss the decision. It can decide to agree or it can decide not to agree. If it does not agree, the reasons for that will be laid before members of Parliament and peers before there is any vote in the UK Parliament.

Ash Denham: When did you know that the "consent decision" was going to be a feature of the amendments, and did you sign it off personally?

David Mundell: I am quite happy with that clause, because it is one that the Welsh Labour Government has been able to agree and with which the Liberal Democrat and Labour peers in the House of Lords were able to agree. The clause was shared with the Scottish Government. I am not suggesting that it was signed off by the Scottish Government, but it was shared with Scottish Government officials in the discussions that we had with Mr Russell.

Ash Denham: It is disappointing that, as the Secretary of State for Scotland, you feel quite happy with it. This Parliament is the democratically elected voice of Scotland, if you like, and it seems to me that, through this process, you are completely ignoring that voice. Are you comfortable with that, secretary of state?

David Mundell: We are obviously fundamentally in disagreement, Ms Denham, because I believe that Scotland has two Parliaments. Scotland is part of the United Kingdom, and the United Kingdom Parliament represents Scotland, as does this Parliament. This Parliament is not the sole voice of Scotland: it is a very important voice on—and, clearly, has responsibility for—the matters that are devolved to it, and it has a very important role in discussing and influencing matters that are not devolved to it; however, fundamentally, I respect the settlement that the people of Scotland voted for in the 2014 referendum, which is that Scotland is part of the United Kingdom and has two Parliaments.

The Convener: Okay, we will move on.

Patrick Harvie (Glasgow) (Green): Good morning. I will continue to explore the issues of consent. First, the part of the recently agreed amendment that Ash Denham was exploring with you could have been better presented, could it not? To a lot of people, the term "consent decision" looks as though it means something very different from what I think you intend it to mean.

David Mundell: I am always willing to take advice and feedback on how to improve presentation.

Patrick Harvie: What does "consent" mean, in general terms? What does it mean to ask someone for their consent?

David Mundell: When we seek the legislative consent of this Parliament, as we have done on numerous occasions, we are seeking agreement. That is what we are doing in relation to this bill—we are seeking the agreement of this Parliament to the provisions of the bill that relate to the powers and responsibilities of the Scottish Parliament and Scottish ministers.

Patrick Harvie: Asking for consent is a pretty clear signal that you need consent, is it not? If your neighbour knocks on your door and says, "David, mate, can I borrow your phone?", that is because they do not have a right to come in, take your phone and use it; they need your consent. Is that not what consent means? It is an indication that it is the other person's decision to make, not yours to impose.

David Mundell: I see it in terms of reaching agreement and being able to proceed on an agreed basis. I do not believe that it is absolute in the terms in which we are discussing it, Mr Harvie, and it is not absolute in terms of the devolution settlement. We have abided by that settlement and by the Sewel convention. We have sought consent, and we are clear in these provisions that we will continue to do that and will operate in exactly that manner.

You may think that the drafting of the amendment is imperfect, but we have sought to found our approach on that principle of consent. However, in these unprecedented circumstances, it must be recognised that there may be occasions when agreement is not reached, and there has to

be a mechanism for going forward when agreement is not reached.

Patrick Harvie: I will be polite about the drafting of the amendment and agree that it is merely imperfect.

The word "normally" raises its head at this point. It is part of the Sewel convention, and it is what I think you are referring to when you say that there has to be a possibility of proceeding without consent. The principle is that the UK Government will not normally legislate in devolved areas. Is it the case that we are now at the point that we have to define what "normally" means? Are we just dancing around the fudge that that always represented? Most people would accept that, in some kind of absolute national emergency, it might be necessary to say that the normal devolution arrangements cannot be relied on and that, therefore, some other option must exist. Brexit may well be a political crisis, but I do not think that we would suggest that it is the kind of national emergency that would prevent the devolution arrangements from working as they normally do.

Do you agree that we have to define what "normally" means? Would a better approach to your amendment of the bill not be to say that, in relation to consent, some additional test must have been passed before we can say that we cannot rely on the devolution principles?

David Mundell: That is an interesting line of argument. I think that Professor Tomkins and many other academics have considered those matters. They were certainly considered in the article 50 hearing before the Supreme Court, which made it clear that the Sewel convention, as it is currently set out, is not justiciable in relation to the determination of "normally". The word "normally" was debated extensively during the passage of the Scotland Act 1998, but a definitive position was not reached in relation to a specific definition for the very reason that you allude to—because that allowed flexibility to take account of circumstances.

Patrick Harvie: I think that most people would accept that, if your neighbour knocks on your door and asks to borrow your phone, you can say no but that, if there is some crisis or emergency going on—it is not just that he has lost his keys—he would probably be reasonably justified in saying, "Look, I'm going to push you out of the way so I can use your phone, because people are going to die out here." In a crisis such as that, it might be reasonable to proceed without consent. However, outwith such situations—outwith a national emergency—surely the principle must be that, if consent is given, it must be freely given without coercion or threat, it must be revocable if a person or a devolved authority with its own democratic legitimacy changes their mind and, most fundamentally, it must be respected. Your amendment fails to recognise those three principles of what consent means in any reasonable sense of the word.

David Mundell: I do not accept that. Over the past 19 years, we have proceeded on exactly the basis that you have set out, and we intend to go forward on exactly that basis.

Patrick Harvie: Whether we say yes or no.

David Mundell: In what I regard as unique circumstances—as many members of the House of Lords indicated in the debate last night, these are not circumstances that were ever contemplated in the framing of the initial devolution settlement—we have set out the fact that there must be some mechanism to deal with a situation in which agreement is not reached.

10:15

Chloe Smith MP (Minister for the Constitution): Convener, thank you for inviting me to come in front of the committee. I, too, am pleased to be here.

I have two further points to make on Mr Harvie's analogy. First, picking up on what Ms Denham's line of questioning seemed to be about, I think that we have risked, in those exchanges, having a misrepresentation of what the amendments that have now been agreed to in the House of Lords actually do.

On the whole idea of a consent decision, what we have had to do to get the words on the page and make workable law is simply to describe the three options that can come about out of a decision. If you like, the knock on the door can result in the door opening and the person saying yes, the door opening and the person saying no or the person refusing to open the door at all. That is simply what we are doing, and I want to make it absolutely clear, in the terms of Mr Harvie's analogy, that that is all that the "consent decision" terminology refers to. It is part of a process, which, in your analogy, is the knocking on the door. I think that it is rather valuable to have the knock on the door valued. That is what the secretary of state has been driving at, and it is, of course, what underpins all our work here.

The other point is that, if we apply your analogy to the subject matter that we are talking about—the 24 matters in the long-done piece of work on what are referred to as frameworks—the knock on the door is coming for things on which there is already agreement that there should be working together. I am referring to the agreement that came out of the JMC(EN) in October, the principles that guide the framework and the point

that has been made subsequently in the public sphere by all sides to the effect that, "We agree that we will need to work together on these things in the future." All of that starts with the knock on the door.

Patrick Harvie: As long as the knock on the door is not with a sledgehammer.

The Convener: Okay. We will move on.

James Kelly (Glasgow) (Lab): Mr Mundell, you said in response to Mr Harvie that, when agreement cannot be reached, there needs to be a mechanism for resolving that dispute, which is absolutely correct. However, can you understand that, with regard to what you have outlined in relation to the Government amendments that have been agreed to in the House of Lords, the mechanism for resolving the dispute between the two Parliaments is basically to take the issue back to the floor of the House of Commons, so it seems that there is an unequal settlement in relation to resolving that issue of disagreement between the two Parliaments?

David Mundell: If we look at what your colleagues in Wales have concluded and at what many people who have in the past been prominent supporters of devolution have said, we can see that they have taken the view that what has been set out is a fair and reasonable approach that recognises the existing constitutional arrangements. I fully accept that there are people round this table in particular who do not agree with the existing constitutional arrangements. Of course, they are not required to do so as such, but those are the arrangements that are in place, and they come down to the fact—which people in Scotland endorsed in the 2014 referendum—of the sovereignty of the Westminster Parliament.

James Kelly: I understand the legal position that you set out. However, in relation to trying to resolve the specific issue about retained EU law and how it is allocated between the two Parliaments, the position that you have set out for resolving the dispute basically allows the power for that resolution to be exercised on the floor of the House of Commons. I say to you as a supporter of the devolution process that it therefore puts those of us who are defending that process in a position of having to examine a set of amendments that are, essentially, unequal in relation to resolving a dispute.

David Mundell: I do not accept that analysis, partly for reasons that I set out in my answer to Ms Denham's question. The House of Commons has 59 Scottish members and it represents Scotland. Scotland is part of the United Kingdom, and the United Kingdom Parliament speaks for Scotland in that regard. That is a fundamental part of our constitutional arrangement.

The Government has clearly set out a commitment that it will, on every occasion, seek consent, and a commitment to go through a very detailed process, in the form of a consent decision, if that consent is not forthcoming, to allow an opportunity for the Scottish Government to put its case in relation to why consent has been withheld and why it should continue to be withheld, before there is a vote of all members of both Parliaments. It is not a case of railroading.

The convener alluded to the fact that other things could be added. However, we need to come back to focus on the fact that, previously, the committee had a list of 111 areas in which powers are returning from Brussels. More than 80 of those areas are not on the list of things that will require UK legislative frameworks. I used to be asked routinely to name one thing that is coming back to the Scottish Parliament. I did not do that, because I respected the negotiations, which were on-going. We have come to a position in which a specific set of areas—24 out of 111—have been determined as being appropriate for UK-wide frameworks. We agree what they are, and Mr Russell is clear about that. The discussion that we are now having is about how we formally agree something that we have already agreed. We need to understand that context.

The Convener: I intended to come to Alexander Burnett next, but the secretary of state has introduced the issue of the 24 areas, and I know that Ivan McKee wants some clarity on that, so we will deal with that now.

Ivan McKee (Glasgow Provan) (SNP): Good morning. The secretary of state and Ms Smith have mentioned on a number of occasions the list of 24 areas. Is it true to say that there is nothing in the bill that prevents the UK Government from adding to that list?

Chloe Smith: It is the case that we are already in agreement about what the list contains. Given that I have already heard this morning how passionate the committee is about agreement, there is a point to be respectful of, in that we already have agreement on what the list consists of. The legislation that we propose is merely a tool to process that agreement.

Ivan McKee: The proposed legislation is a tool, but the tool does not reflect the fact that the 24 areas have been agreed. If I am correct, I think that your answer to my question is that there is nothing in the proposed legislation that prevents the list of 24 from being added to.

Chloe Smith: As I said, the proposed legislation is merely a tool or a functional thing. Clearly, it operates by saying that those things that are specified are dealt with in a certain way. As the secretary of state has reminded us, the proposed

legislation has to be taken in accompaniment with the IGA and the memorandum that goes with it. Between those two things, there is a clear legislative and political commitment from the UK Government as to how it would like to deal with the entirety of the scenario.

Ivan McKee: I will give you another opportunity to answer the question. Is there anything in the proposed legislation that prevents the UK Government from adding to the list of 24 areas—yes or no?

Chloe Smith: As I said, the legislation is there to process what is in the agreed list. We have an analysis of what is in that agreed list. I think that we have all been very clear and open that that agreed list can evolve, and that has already happened. I would characterise that as positive. Forgive me if I am pre-empting your next question, which will undoubtedly be about what happens if things are added to the list—to that, I would say that the whole point is that the analysis is evolving, and that in its own way is a mark of good-quality work between Administrations, and I include Wales and Northern Ireland in that.

Ivan McKee: We will take that as a no.

You could not answer that question, but you are correct about my next question. If the UK Government decides to add to that list, how would that process work?

Chloe Smith: There are two points to make about that. The first is about the work on the frameworks—the frameworks analysis, to give it its full name—which is the breakdown of the areas of EU law that intersect with devolved competences. That is what we are talking about. The list of 24 is the common term for the areas in which we believe that legislative action would be needed for us to be able to create workable UK frameworks—I am sorry; frameworks that require legislation. As I have said, that work has already been the subject of very long—and, I would say, good-quality—discussion between Administrations. The fact that it has already been possible to discuss the list, evolve it and change it upon discussion in itself implies the answer to Ivan McKee's question.

My second point is that the legislation is simply the tool for processing the items from that list that we are agreed in thinking require legislative solutions.

Ivan McKee: I am trying to work my way through that. Are you saying that the UK Government can add to the list of 24 as it sees fit?

Chloe Smith: To be fair, so could the Scottish Government if it wanted to—in discussion. I am talking about the frameworks analysis, which—

Ivan McKee: Can we remove things from the list?

Chloe Smith: —you have obviously gone into in quite some detail. The whole point that I have just been making to you is that the contents of that list has been a matter of discussion between the Administrations.

Ivan McKee: I am sorry, but I am not clear about what you are saying. Are you saying that the Scottish Government can alter what is on that list without the consent of the UK Government?

Chloe Smith: No. You, in turn, are altering my words. I am saying to you very clearly that the contents of the frameworks analysis has indubitably been a matter of discussion and agreement between the Administrations. That stands as a good record of the work of the officials of all the Governments, who ought to be congratulated for the work that they have done to bring the process to this point. As I have said, we would then regard it as possible to evolve the list further. In line with the comments that we have been making all morning, the UK Government would be very open to the Scottish Government being able to join in agreement of the overall package here but, notwithstanding the other parts of the package, the detailed work on the frameworks analysis continues, as it should.

David Mundell: Mr McKee, just so that we are clear on the context of the discussion, we have the intergovernmental agreement, of which this committee should have sight.

Ivan McKee: I am talking about the legislation.

David Mundell: Extensive discussion and debate took place on whether the details of the frameworks should be in the legislation. When we were in such negotiations, the view that was taken across the three Governments was that that would not be helpful, because that would create a definitive list that could then be amended only by primary legislation. Therefore, from the point of view of future flexibility, and—to go back to the convener's first question—based on the fact that, in the discussions in question, there has been a very strong level of trust across the three Governments, as well as input from the Northern Ireland Executive, the view was that that was a better way to proceed. However, some would make the argument that the whole detail should be on the face of primary legislation.

Ivan McKee: I am just trying to establish the facts, which, as far as I can gather from your answers, are that the list of 24 can be added to, and that it can be added to by the UK Government without the consent of the Scottish Government or the Scottish Parliament—that is, if I understand its status correctly.

David Mundell: But that would not be in accordance with the intergovernmental

agreement, to which we have committed and by which we will abide.

Ivan McKee: But the legislation does not—

David Mundell: It is not on the face of the legislation, because the strong view is that, by including it in primary legislation, we would limit the flexibility to go forward, both ways.

Ivan McKee: To make this a bit more real for people, the areas that we mean when we talk about the list of 24 are, as we have already established, ones in which the UK Government needs only to ask for consent—it does not need to gain it—from the Scottish Parliament, and they include genetically modified crops, food safety and public procurement, which are potentially key issues in Scotland. The rest of the list of 111 includes areas such as onshore hydrocarbons—that is to say, fracking—which could, at the whim of the UK Government, also be added to the list and be subject to clause 11.

10:30

David Mundell: That is an alarmist statement, because we have made it absolutely clear that we have devolved the responsibility for fracking to this Parliament. This Parliament makes the decision as to whether there is fracking in Scotland, and any suggestion that it could be changed by sleight of hand is disingenuous, because it is not correct.

Let us be absolutely clear. I wanted to make this clear in my letter, as it is something that does not always come across clearly in discussions. What will happen in relation to the 24 areas is that, through the arrangements in the bill, they will stay exactly as they are today. There will be no change. That is what it will mean. It will mean that things stay exactly as they are across the whole of the UK. Everybody needs to be absolutely clear that it is not about bringing forward new and different frameworks or regulations to change agricultural support or other areas that you have just alluded to. It is about freezing what we have at the moment, for a period, to allow discussion on new and different arrangements. After the legislation is passed, nothing would change in the areas in which the Government brought forward legislation.

Ivan McKee: It would change, because over a period of time common frameworks would be imposed—I use that word because we have established that consent is not required—by the UK Government.

David Mundell: The methodology for agreeing common frameworks is not set out in the bill or in the intergovernmental agreement.

Ivan McKee: What it is saying is that consent is not required for that.

David Mundell: No, it is not saying that. That is not what it is saying.

The Convener: Thank you for your comments on the intergovernmental agreement and the commitment that you have just made, quite definitively, to there being nothing added to that without the agreement of the Scottish Government.

David Mundell: I just want to make one important point to clarify something. Even if we were not able to get agreement with the Scottish Government, we would abide by the terms of the intergovernmental agreement as to how it was intended to apply in Scotland.

The Convener: So the word “normally” does not apply here, then.

David Mundell: The word “normally” does apply in the intergovernmental agreement. It says that.

The Convener: What you are saying is that, normally, there would be no circumstances in which you would add to the list.

David Mundell: On the basis of the terms of the agreement, we would not add to that list without agreement.

The Convener: Is that normally or not?

David Mundell: The agreement is predicated on “not normally”, so we would not normally add to the list without the agreement of the Scottish Government and Welsh Government.

The Convener: It all comes back to the “normally” issue that Patrick Harvie raised.

Alexander Burnett (Aberdeenshire West) (Con): We have heard since August last year about how close the Scottish and Welsh Governments have been, and we have heard Mike Russell talk numerous times about being in lockstep with the Welsh Government and being in exactly the same position. I will not repeat all the quotations from the past eight months, as a lot of them were put on the record yesterday. Why does the secretary of state think that this deal is good enough for the Welsh but not good enough for us?

David Mundell: I think that it is good enough for you. I think that it is a good deal for Scotland and a good deal in relation to the Scottish Government and the Scottish Parliament. We were very close to getting agreement. I do not understand why, with Mr Russell having said so often that the Welsh and Scottish Governments had absolutely common interests, his view is now that they do not. Mark Drakeford, who has negotiated those matters on behalf of the Welsh Government and is prospectively the First Minister of Wales—and therefore potentially a significant figure in devolved arrangements across the UK—is quite clear that

the arrangement protects the devolution settlement as it currently exists.

I know that some people want to change the settlement, so they would not be happy with an arrangement in the context of the current devolution settlement, but this arrangement is in the context of the devolution settlement that we have. Pete Wishart talked about the Welsh Labour Party "capitulating" to the Tory UK Government. Such language is not helpful; it just does not characterise the negotiations. The negotiations were complicated and serious. There were a lot of new and difficult issues to approach, such as the one that Mr McKee raised on whether the list of issues should be in the bill, as well as whether there should be intergovernmental agreements and memorandums of understanding.

We consider—and all objective commentators accept—that the UK Government has moved significantly from the initial clause 11. We have taken on board the flaws that this committee concluded were in it, although we would not have necessarily seen them as flaws. We have also taken on board what was said by the Welsh Assembly committee, the House of Commons and House of Lords committees, and individual MPs, and changed the clause substantially. We reversed the clause so that there would be a presumption of devolution, with powers coming back unless they fall within the category set out in it, and we agreed the powers that would be in the category. We are now left with not being able to agree how we do that formally.

The Convener: Will you clarify an issue for me? On 24 April, in a letter to David Lidington, did Mark Drakeford say:

"I would have preferred such arrangements to have been developed without the need for legislative constraints, with respective Governments trusting each other's undertakings not to legislate in areas where we agree UK wide frameworks are needed until they have been agreed"?

That takes us right back to my initial question to you, because that is the preferred Welsh position.

David Mundell: We have been in a situation—there are the complexities of Northern Ireland to consider, too—in which each of the three parties is seeking to reach agreement. An agreement means compromise; it means a bit of give and take. A huge effort was put in to get a clause, an agreement and a memorandum of understanding. Mr Drakeford, Carwyn Jones and Welsh Labour peers concluded that the arrangement that had been reached is, in all the circumstances, fair and reasonable and protects the devolution settlement.

The Convener: I accept that, but do you accept that the preferred position of the Welsh Government is as I have indicated in that letter from Mark Drakeford to David Lidington?

David Mundell: Obviously, I accept that that letter is the fact; I also accept that agreement has been reached. Where agreement is required to be concluded, that requires compromises on all sides.

Neil Bibby (West Scotland) (Lab): I want clarification on the imposition of common frameworks. The UK Government has stated that it would not impose frameworks on Scotland and, secretary of state, you have been clear that do not want frameworks to be imposed. Yesterday, Mike Russell said that it was still feasible that frameworks could be imposed. In what situation would it be justifiable for the UK Government to impose a framework? What is stopping the UK Government from giving a guarantee that no frameworks will be imposed?

David Mundell: I have indicated that we are not in the business of imposing frameworks. As I said in my answer to previous questions, the issue of negotiating and agreeing frameworks is separate from the bill. The bill is about identifying those areas in which everything will stay the same across the UK when we leave the EU. The period after we leave the EU is the opportunity for the Scottish Government, the Welsh Government, the Northern Ireland Assembly—which we hope will be up and running—and the UK Government to agree on how we approach the frameworks.

I wanted to make clear in my previous remarks that where something is characterised as a UK framework, that does not in itself mean that the UK Government has come up with that framework and everybody has to go along with it. We see the process of reaching agreement as a collaborative one.

Chloe Smith: It might help if I refer the committee back to the agreement from 16 October last year, in which the principles on what will define a framework are set out. Mr Bibby asked what the criterion is for having a framework and in what circumstances there will be a framework, and this is in large part the answer to his question. Actually, all of the Administrations have agreed on those circumstances and they have been set out in principles, which are:

"Common frameworks will be established where they are necessary in order to:

• enable the functioning of the UK internal market, while acknowledging policy divergence;

• ensure compliance with international obligations;

• ensure the UK can negotiate, enter into and implement new trade agreements and international treaties;

• enable the management of common resources;

• administer and provide access to justice in cases with a cross-border element;

• safeguard the security of the UK."

That list is in the communiqué of 16 October 2017, in which all those who had been party to the work, which includes civil servants in Northern Ireland, agreed that those are the principles that should govern frameworks.

Neil Bibby: If there is agreement, that is fine, obviously. You said that you are not in the business of imposing frameworks. If that is the case, what is preventing you from giving a guarantee that you will not impose a framework?

David Mundell: I have said that we are not seeking to impose frameworks. We are seeking to find a mechanism by which we can agree those frameworks, and that is the next stage of the process, which we discussed at the JMC(EN) yesterday. That is about officials working together. We believe that it is also important to have civic engagement. For example, if there is to be a discussion on new arrangements for agriculture, the agricultural community should be involved in that discussion as well. We want to take forward work with the Scottish Government, the Welsh Government and, I hope, the Northern Ireland Executive on how those frameworks will be developed.

Chloe Smith: To add to that, civil society has rightly already entered into the debate. For example, we hear voices from the Scottish food and drink sector and the Scottish retail sector reminding us of how important it is to have ways to keep the internal market functioning well, thriving and prospering, because, ultimately, that is what creates and maintains jobs for the people whom we all represent and gives consumers the prices and choices that they look for.

Neil Bibby: I want to ask about the sunset clause timeframe of up to seven years. Mike Russell expressed concern about that. Is that non-negotiable? Could there possibly be movement from the UK Government on that?

David Mundell: Obviously, that was a matter for negotiation in the discussions that took place and in the agreement that the Welsh Government accepted and the Scottish Government did not. My understanding from Mr Russell—I am happy to be corrected on this—is that his issues with clause 11 are now so fundamental that a change in respect of that time period would not lead to the Scottish Government's agreement. However, if that characterisation is not the case, my door is of course open.

Chloe Smith: I will add a few points on the sunset power. The first is that, the numbers involved—the idea of two, two and three years—were the subject of a good debate in the House of Lords only last night, and agreement was reached, with no division, on that point. Therefore, that provision has withstood the test of debate.

Secondly, as we have mentioned in other answers, those numbers are in themselves the mark of compromise. The UK Government has, through discussion with the Welsh Government and the Scottish Government—and, crucially, agreement with the Welsh Government—been able to come to those terms, which we think are sensible and helpful in relation to providing certainty and stability for citizens and businesses, which is what the entire bill is for. They are of course about how those really important matters will function on exit day and beyond.

Thirdly, we were saying that the frameworks here are about keeping many things the same. That is absolutely correct. The five-year sunset reminds us that they are kept the same for a period and, after that period as a maximum, it will rightly be a matter for the devolved Administrations to plot their own course if they wish to.

10:45

The Convener: I know that you were interested in this area, Emma, but I do not know whether the answers that have been provided mean that your questioning is concluded.

Emma Harper (South Scotland) (SNP): Many of the questions that I had thought about regarding common frameworks have been asked already, but I am interested in an issue around the Barnett formula. Under the current EU common agricultural policy, 16 per cent of CAP funding is delivered to Scotland but, under the Barnett formula, it will be 8 per cent. That is a massive reduction for farmers, if we are moving forward. That is one issue.

Secondly, will you guarantee that Scottish farmers, crofters and growers will not be adversely affected on exit day? Should we be expecting chlorinated chicken and hormone-injected beef on our supermarket shelves? That is a true concern from NFU Scotland and others.

David Mundell: The reassurance that I can give you is that, as we have set out, the provisions in the bill are about keeping the existing arrangements in place, at the point at which we leave the EU. That is generally in terms of agricultural regulation.

The Government has guaranteed the funding of agriculture on the same basis as it is now for the duration of the current UK Parliament. No decision has been made about the nature of future UK and indeed Scottish funding for agriculture. As you would imagine, however, I am a very strong advocate for the continued support of agriculture, because I understand the vital role that it plays in the economy and in the civil society of so much of Scotland.

There is no suggestion that agricultural funding will be Barnettised.

The Convener: I recognise that time is marching on, and I still have two people who wish to ask questions.

Murdo Fraser (Mid Scotland and Fife) (Con): I want to understand the legal effect of the bill as it now exists, including the amendments that were passed in the House of Lords last night. My reading of the bill is that it applies only to EU retained law—in other words, laws and powers currently exercised at an EU level that will return to the UK post-Brexit. Various suggestions have been made, however, that the bill will allow a power grab—that it will allow powers that are currently being exercised by the Scottish Government or Scottish Parliament to be exercised at a Westminster level. Can you make it clear for our benefit where exactly the truth lies?

David Mundell: It is absolutely the case that every power and responsibility currently exercised by this Parliament will continue to be exercised the day after we leave the EU and thereafter. There is absolutely no evidence or legal basis to suggest otherwise. Perhaps I should have taken some tips from Mr Harvie on presentation: I have not landed the fact as well as I would have wished that the Parliament will have a range of additional powers, which are coming from the list of 111, immediately after we leave, without any involvement from the UK Government.

However, there are 24 areas that are enforced at the moment by the EU, on which we agree that it would be better to continue as we are at the moment, with arrangements that apply across either the whole of the UK or Great Britain.

Murdo Fraser: That is very helpful. I have one follow-up question to illustrate that, which Ivan McKee briefly referred to in his questioning. Yesterday, when Michael Russell was sitting where you are sitting now, he gave GM crops and fracking as examples of areas on which he was concerned that powers were to be taken to Westminster. As it happens, for both issues, I think that we should go with evidence and science, not superstition and scaremongering, for policy making, but I also believe that, in terms of the devolution settlement, it is appropriate that decisions on those issues are taken here in the Scottish Parliament and not at Westminster. Can you give us an assurance that decisions over GM crops and fracking in Scotland will not be made at a Westminster level, because all that we are talking about refers only to EU-retained law?

David Mundell: Absolutely.

Murdo Fraser: Thank you.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): I want to return to the earlier discussion on "consent decision". As far as I understand it, the Scotland Act 1998 and the devolution settlement do not mention the principle or notion of "consent decision". The agreement between the UK Government and the devolved Administrations is based on reaching agreement with the Parliaments. Do you honestly think that introducing that new notion has strengthened the devolution settlement, or do you agree that there is a risk that people will consider that it has been weakened?

David Mundell: I do not think that anybody who is objective will conclude that it has weakened the devolution settlement. For example, Lord Mackay of Clashfern, who has been cited regularly by Mr Russell and the First Minister, said in last night's debate:

"I think this is a reasonable arrangement and the best we can achieve. I do not think the UK Government can do any better than this. They have certainly done all that I have asked for, and I hope it will be acceptable to the Government of Scotland."—[*Official Report, House of Lords,* 2 May 2018; Vol 790, c 2152.]

Anybody who looks at it objectively will conclude that it is a reasonable basis on which to take forward these specific and unique circumstances.

Willie Coffey: Fundamentally, the nature of the settlement has changed, has it not? We were in a position in which the UK Government would not act without agreement but, now, it may act without agreement. That is surely a worsening of the situation.

David Mundell: We have not previously been in a position in which, as Mr Fraser alluded to, retained EU law was being returned to the United Kingdom, so we have sought to find a way to deal with that specific situation. It does not alter how the overall devolution settlement operates, and it does not change the basis on which this Parliament legislates, or further debates or discusses any other issue outwith the devolved areas. It does not change anything in relation to the existing arrangements for the Scottish Parliament. It merely sets out an arrangement for what is to happen as the powers, which are currently operated across the UK and regulated by the EU, come back from the EU.

Chloe Smith: If I may add to that, not only do existing arrangements not change, but what you have in front of you expresses our respect for that. Paragraph 4 of the intergovernmental agreement, which I hope that parliamentarians here will take a good look at in their consideration in the weeks ahead, states:

"This agreement respects established constitutional conventions and practices. Consistent with those, the

governments reaffirm their commitment to seek to proceed by agreement."

That is a positive statement, which, I hope, commends the package to parliamentarians here.

Willie Coffey: If it does not alter or change anything, as you have just said, why introduce the new concept of "consent decision"? Up until now, we have had a perfectly good arrangement in place that required consent.

David Mundell: We have an existing arrangement in place for the devolution settlement as constructed in 1998. Jim Wallace, who was one of the architects of that settlement, made it clear yesterday that these circumstances were not envisaged at that time.

One of the complexities that we face—I think that everybody acknowledges this—is that we joined the EU in the 1970s when there was no devolution and we took forward the devolution settlement at a point when it was not envisaged that we would leave the EU. These are hugely complicated areas and we have sought to address this specific situation with the arrangements that we have brought forward. They do not alter the existing devolution settlement.

The existing devolution settlement and the devolution that has continued to happen are testament to and can give confidence about the commitment to devolution. I often say, perhaps a little lightly, that a Government that has devolved income tax and huge parts of the welfare system does not seek to power grab crofting. There is no one in London seeking to take control of crofting legislation because, under the devolution settlement, that rests here, as it should. This Parliament is the best place to deal with those issues.

The Convener: I thank the secretary of state and the minister for attending our evidence-taking session this morning. I am very grateful to them.

Meeting closed at 10:56.

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