



OFFICIAL REPORT
AITHISG OIFIGEIL

Finance and Constitution Committee

Wednesday 21 November 2018

Session 5



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Wednesday 21 November 2018

CONTENTS

Col.

WITHDRAWAL AGREEMENT	1
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FINANCE AND CONSTITUTION COMMITTEE
29th Meeting 2018, Session 5

CONVENER

*Bruce Crawford (Stirling) (SNP)

DEPUTY CONVENER

*Adam Tomkins (Glasgow) (Con)

COMMITTEE MEMBERS

*Tom Arthur (Renfrewshire South) (SNP)

*Neil Bibby (West Scotland) (Lab)

*Alexander Burnett (Aberdeenshire West) (Con)

*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

*Angela Constance (Almond Valley) (SNP)

*Murdo Fraser (Mid Scotland and Fife) (Con)

*Emma Harper (South Scotland) (SNP)

*Patrick Harvie (Glasgow) (Green)

*James Kelly (Glasgow) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Ian Mitchell (Scottish Government)

Michael Russell (Cabinet Secretary for Government Business and Constitutional Relations)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Finance and Constitution Committee

Wednesday 21 November 2018

[The Convener opened the meeting at 09:30]

Withdrawal Agreement

The Convener (Bruce Crawford): Good morning and welcome to the 29th meeting in 2018 of the Finance and Constitution Committee. I would be most grateful if members could put their mobile phones to a mode that will not interfere with proceedings.

Under agenda item 1, the committee will take evidence from the Cabinet Secretary for Government Business and Constitutional Relations on the withdrawal agreement that was published last week. Mr Russell is joined by two Scottish Government officials: Ian Mitchell, who is deputy director, European Union strategy and migration division; and Alan Johnston, who is deputy director, EU exit readiness. I warmly welcome our witnesses to the meeting. Would the cabinet secretary like to make an opening statement?

The Cabinet Secretary for Government Business and Constitutional Relations (Michael Russell): Given the detail that we will need to go into, I am very happy just to respond to questions. Clearly, I will be addressing the issues that arise from the Prime Minister's attempt to secure a deal and what has followed from that.

The Convener: We will open up with a general discussion about the deal, at a high level, before we go into the specifics. We also need to cover areas in relation to legislative consent and so on, if any future EU withdrawal agreement bill were to contain such issues.

Yesterday, I was out and about in the northern part of my constituency, around Callander and Killin, talking to individuals and businesses. There is no question in my mind that people are anxious and concerned about the situation that we are in and about what the deal will mean for them and their families in terms of their security and jobs. Businesses are telling me that they are concerned about their planning for the future, because the level of uncertainty is hampering investment decisions. I have no doubt that the stalling of investment plans is having a drag effect on the economy. The clear message that I am getting from people is that they just want all that uncertainty to end, but they are not sure at this

stage whether the deal that the Prime Minister is prosecuting cuts it in terms of removing that uncertainty. Therefore, that concern remains. In a general sense, and given those circumstances, what is the Scottish Government's view?

Michael Russell: I entirely share the views of those who want this situation to come to an end. This has been an appalling period, and it remains full of uncertainty and difficulty. In passing, I note that a study from a group of doctors in England has been published today that shows that the prescribing of antidepressants rose immediately after the referendum. People feel terribly insecure, and it is getting worse.

However, to the people who thought that this would be the moment at which they would feel better, I must say that this is a false dawn. The deal is not one that will do what we and those people want, which is to provide certainty. During the course of this morning, I will argue that the deal actually prolongs uncertainty. I would find it highly surprising if, for example, a transition period that arose out of the deal was concluded within the timescale that the Prime Minister is talking about. Even the timescale that Michel Barnier is talking about, which goes to the end of 2022, is ambitious, given the reality of the EU and how things will move.

We need to understand what the deal is. The deal arises because of the red lines that the Prime Minister has set over a two-and-a-bit-year period. There is a chart, which was originally a slide from task force 50—it has been reproduced all over the place; we reproduced it ourselves in one of the "Scotland's Place in Europe" papers—that indicates that, if red lines are set, certain things will happen. Setting a red line on no jurisdiction of the European Court of Justice will have certain consequences. Setting a red line on leaving the single market and walking away from the four freedoms will have certain consequences.

The trouble with that is that the consequences arising from those red lines will be very damaging indeed, particularly to Scotland, in particular on the issue of the four freedoms, which are the freedoms of movement, goods, capital and services. There are profound difficulties in relation to the ECJ issue and other issues, which will not be lessened by this deal. The outcomes will be bad for Scotland in the short, medium and long term and there will not be certainty.

My own view—and the view of the Scottish Government—is that this is the moment at which we should work as hard as we can, across parties, to ensure that this deal does not go through and to ensure that there is no no-deal scenario, because that can be done. We can then get ourselves to the stage where we will have a better set of outcomes. That is what we are trying to do.

I was in London on Monday at a deeply unsatisfactory joint ministerial committee meeting. After that, I talked to others. The First Minister was doing the same yesterday. We will continue to talk and indeed, in this Parliament, I am keen to have those discussions. I will be having some of those cross-party discussions later this week.

The Convener: Forgive me for saying so, but how realistic is it at this stage to think that a new deal can emerge?

Michael Russell: It is very realistic indeed. There is an established procedure that we can follow. Fortunately, the Opposition parties at Westminster, working together last week, managed to secure a set of arrangements that mean that the meaningful vote can be amended. First, it is essential to vote this deal down, but it is also essential for the House of Commons to indicate that there cannot be a no-deal Brexit.

There is a procedure that would then allow 21 days for other proposals to be made. The Opposition parties—working with the Government, I hope, if it is sensible; it would be good to see that—can devise other scenarios. There is a range of scenarios. We could start with the sensible move of staying in the single market and the customs union as a European Economic Area option. That would be a sensible thing to do.

However, there are other options, and we are neither ruling them in nor ruling them out. There could be an election; there could be a people's vote; and of course there will be discussions about other possibilities. What nobody should do is simply say, "It is this deal or nothing," because it is not. Even the Prime Minister admitted that outside Downing Street last week, because she talked about no Brexit being among the possible consequences. That is also a possibility.

If we were to find ourselves in a position of accepting this deal because we wanted this ordeal to be over, we would be making a profound mistake with really damaging consequences, not just for ourselves but for those who come after us.

James Kelly (Glasgow) (Lab): Good morning, cabinet secretary. In relation to the implications of the vote that will take place in the House of Commons, it is quite clear at this point that that vote will not be successful and the deal in its current form will not get through the House of Commons. Just to be clear, is it your view that, post the vote, there will be this 21-day period, when you will not only explore options for changing the deal but look at the options of a general election and a people's vote?

Michael Russell: We might be able to come to an agreement as to what the next step would be before the meaningful vote, but—as I said on Monday and I say again now—the priority is to

vote down this deal and not to allow the damage to take place.

However, the range of options would include, as you indicate, a general election, a people's vote, membership of the single market and customs union, and a range of other things. We should not be dragooned into thinking that either we accept the deal or chaos ensues. That is not the case; we should not allow that to be the case and it does not have to be the case. Working across parties is absolutely essential in this regard and I am glad that that work is under way.

Yesterday, the First Minister met Jeremy Corbyn and some of his colleagues; she met Vince Cable; and she met the leader of Plaid Cymru and the leader of the Greens. Those meetings will continue.

James Kelly: Do you think that article 50 will need to be extended or do you think that, post a deal being voted down by the House of Commons, it will still be possible to work out a way forward?

Michael Russell: I think that we should recognise that it is not about renegotiating this deal. In that regard, the EU is firm—and it is quite right to be firm. It has taken a long time to get to this point, but this deal is driven by red lines, as I said at the outset. We have to stop it being driven by those red lines.

The indications are that if there is a material change—in other words, if the House of Commons votes this down—the United Kingdom Government should request an extension of article 50. The possibility of doing that is in the text of article 50 itself. If there was a material change, my view is that the EU would look at that extension request sympathetically because it would not want this to descend into further chaos.

Murdo Fraser (Mid Scotland and Fife) (Con): I want to ask about the consequences of a no-deal Brexit, but first I want to clarify something. You have been very negative about the draft withdrawal agreement. Does that mean that you have read it?

Michael Russell: I have it here. I have, you might say, skimmed it. I noted David Allen Green's tweet yesterday, which I thought was very accurate. He said that for someone who is engaged in other work it is probably possible only to skim a document of this complexity, particularly if they are not a lawyer. He said that it would take a lawyer three days of solid study to understand it fully. I am not a lawyer and I have not spent three solid days on it, but I am familiar with its contents. I am also familiar with the contents of the draft political declaration—as published—but I have not seen any of the developments of that, which have taken place in the past 24 to 48 hours.

I have the agreement here. If you wish to ask specific questions about it, we would have to go through it and find those things—it is not electronically indexed. However, the draft agreement is here and is clearly of importance.

Murdo Fraser: I appreciate that you are not a lawyer, Mr Russell, but I dare say that the Scottish Government employs many well-qualified and eminent lawyers who can assist you with that. When did you read the agreement?

Michael Russell: I started to read it when it first came out and I continued to read it over the weekend. It is here. I am not a lawyer and I am not going to debate or discuss the fine print. We have lawyers in this room who are more than capable of doing so—I am sure that they want to do so. Indeed, you are a lawyer, Mr Fraser.

I am familiar with what is in the agreement, the draft legal declaration and the recommendations and information that have come to me from—as you say—distinguished lawyers.

Murdo Fraser: You skimmed the document and you formed a view on it when it was published. I am wondering how you were able to do that. The document went into the public domain at 11.46 am last Wednesday and at 12.09 pm—23 minutes later—you tweeted that it was a “very poor & disastrous” deal. How much of the document had you read at that point?

Michael Russell: You are endeavouring to say that I came to the document unwilling to accept it.

Murdo Fraser: Indeed. The evidence would suggest that that is the case.

Michael Russell: As I said, Mr Fraser, I came to the document on the basis that, if we have an agreement that is based on a set of red lines that will be very damaging to Scotland—as this document is—then we cannot have an agreement that will be good for Scotland. I have to say that, had I proved to be wrong in that, I would admit to being wrong. However, I am not wrong and neither are all those who have looked at it and said to themselves, “This will be a disastrous deal for Scotland.”

As a representative of a Scottish constituency, a member of the Scottish Parliament and a minister, I take the view that the draft agreement is very bad for Scotland. I would hope that all those who are responsible to their constituents in Scotland would come to the same factual conclusion.

Murdo Fraser: So we have established that, even before you saw the text of the document, you had made up your mind that it was a bad deal and that you were not going to like it. Thank you.

We hear a lot of concern about the prospect of a no-deal Brexit. We have heard that from a whole

range of industry sectors, from across the public sector and from the public. So, is the draft agreement better than no deal or worse?

Michael Russell: A no deal would be worse than this.

Murdo Fraser: So, when it comes to a choice between this agreement and a no deal, this is better and you would support it. Is that right?

Michael Russell: No. When it comes to a choice between this agreement and an alien invasion, this is better, but the reality of the situation is that both are very bad. We could go into semantics and discuss what that means in terms of comparators, but—

Murdo Fraser: With respect, an alien invasion is somewhat less likely than no deal.

Michael Russell: I do not know—have you seen Jacob Rees-Mogg?

Murdo Fraser: Really?

Michael Russell: Mmm.

The Convener: Come on guys.

Murdo Fraser: Let me try to elevate the discussion—if we can, cabinet secretary—and not get personal about it. What—[*Interruption.*] Sorry, convener?

The Convener: Please continue.

Murdo Fraser: In the past few days, we have heard calls from the Confederation of British Industry and National Farmers Union bodies from across the United Kingdom, including Scotland, all urging support for the Prime Minister's deal. Should you not be listening to them?

Michael Russell: Not only am I listening to them, Mr Fraser, but I am engaging with them—I am engaging with them on the basis that I have indicated to you, which is that I fully understand their position. For the past two years, they have been treated abominably by the current Conservative Government. They quite clearly want the agony to end, which I fully understand.

However, I think that someone taking a measured approach to this would say two things. First, it is very bad and will continue to create uncertainty and damage in the long term. It is important that that is recognised. Secondly, I want to counter the false propaganda that it is only this deal or no deal. That is not true, so there is an obligation for me to say that it is not true and to talk about what can be done, which is precisely what I am doing and will continue to do.

09:45

Tom Arthur (Renfrewshire South) (SNP): Mr Russell, did you, like me, take the liberty of

reading the draft withdrawal agreement as published on 19 March, obviating the need to read through the entire withdrawal agreement that was published last week and allowing you to focus on the key matters that were not published in March?

Michael Russell: That is a good point. The agreement does not come as an enormous surprise, although I would have hoped that the Prime Minister could have done better.

I return to the important point that what is in this arises out of the red lines. The Barnier slide, which we saw 18 months or a year ago, is of great importance in that. The slide tells us that, if you set red lines, those are the outcomes. The Prime Minister set the red lines in an attempt to balance the forces in her warring party, and those red lines have resulted in this bad situation. It is not a surprise. Nobody came to this tabula rasa; they came to it knowing what had taken place.

The Convener: Patrick Harvie, I know that you have questions on the joint ministerial committee process, but do you want to talk about the generalities at this stage?

Patrick Harvie (Glasgow) (Green): The questions that I want to ask about the joint ministerial committee are relevant to the discussion about initial reactions, which just came up.

You are right, cabinet secretary, to say that there is no electronic index. It is not a well-presented document, which does not make it easy to understand. It took me about five minutes, using the control F function on my computer, to find that the agreement includes no mechanism for the clear input of the Scottish Government, the Scottish Parliament or other devolved Administrations.

The joint committee of the UK and the EU that would be set up under article 164 would be pretty crucial in trying to smooth out any conflicts that arose if the agreement were to be put in place—on the assumption that it is passed by Westminster and put into law. Has there been any discussion between the UK and Scottish Governments about how the joint committee is supposed to operate and the means by which there would be input? In the absence of Scottish members of the European Parliament, that would be the only route into the discussions on implementation and negotiations in the transition period or the longer-term future.

Michael Russell: There has been no such discussion and the precedent is worrying. There was a discussion at the JMC last week, which was led well by Suella Braverman—she was an effective minister in taking forward her brief and is yet another one who is not there now—about the independent monitoring authority in the withdrawal agreement bill. Mark Drakeford from Wales and I

made the point that we expected and thought that we had to have representatives on that authority. What we got back from the discussion, which is often what we get back, was that it would not be representative but would be based on merit. I made the point that there would be at least one person in Scotland and another in Wales who would be meritorious enough to serve on the authority. It is exactly the same with the trade remedies authority—we will have no membership, despite the fact that that was pursued in the House of Commons.

The joint committee will presumably not contain the balance that it should contain. If it were to come to pass, I would want to make sure that Scotland was in there, but the precedent is not good.

Patrick Harvie: There is a provision that says that the joint committee will make its decisions by “mutual consent”. There is an opportunity to ensure that either the UK is represented on the committee by all ministers who have an interest in matters under discussion—so, if a devolved matter was under discussion, the devolved Administrations would be physically present on that committee—or the positions of the UK on the committee are those that are reached by mutual agreement in the UK’s internal JMC mechanism.

Do you have a view about which would be the best way of doing that? Personally, I would be happy to see the deal struck down, but it is theoretically possible that it will be implemented and that we will be living with those provisions. How should the process work and what efforts are you making to change the UK’s thinking about that?

Michael Russell: To roll back a step, whatever arrangements are come to will need to recognise the existence of devolution and the fact that it is badly broken as a result of Brexit. The issue is tied up with the matter of what happens next and the involvement of the devolved Administrations. At present, the UK Government has a poor understanding of devolution. It fails to understand that, although there is a hierarchy of Parliaments, there is no hierarchy of Governments. There are responsibilities for each Government. That is not to say that the UK Government cannot overrule the Scottish Government—of course it can, but by using the parliamentary route and the hierarchy of Parliaments.

The important thing is to recognise the need to ensure that, where there is a devolved responsibility, the minister with that responsibility is involved in the process. That leads to the assumption that a mechanism such as the one that Carwyn Jones has frequently talked about, that is, some sort of council of ministers of these islands, who sit as equals, would be the right way

forward. That body would deal with issues that the UK Government deals with for England and that Welsh and Scottish ministers—and Northern Ireland ministers when they exist—deal with. What Patrick Harvie is postulating—the involvement of those ministers as equals in that process—would be the right thing to do. Deciding on that should be part of the process of looking at the failures of devolution to cope with the present situation and changing it accordingly.

The Convener: You have just raised issues about involvement of the devolved institutions. We should move on to that in relation to issues of consent, on which Adam Tomkins has questions.

Adam Tomkins (Glasgow) (Con): Before I ask the cabinet secretary questions about consent—*[Interruption.]* I am not sure that I have your attention yet, cabinet secretary. Are you ready?

Michael Russell: Sorry. I am of course ready.

Adam Tomkins: Before I go into questions of consent, I point out that the Presiding Officer has many times reminded us all that, in debates, we should treat parliamentarians in Parliaments across the country with dignity and respect. I have my quarrels with Jacob Rees-Mogg too but, frankly, describing him in the context of an alien invasion was beneath you. I know that it was a rush of blood to the head, but would you like to withdraw that remark?

Michael Russell: My blood did not rush to my head, but if the joke misfired in any sense I am of course sorry about that.

Adam Tomkins: Thank you. I am sure that Mr Rees-Mogg will appreciate the apology, and I certainly do.

Is it still the Scottish Government's position that it will not participate in any legislative consent process with regard to any Brexit legislation?

Michael Russell: Yes.

Adam Tomkins: I presume that that includes any future legislation with regard to the withdrawal agreement.

Michael Russell: It does.

Adam Tomkins: Does it extend to the legislative consent process that is under way with regard to the Healthcare (International Arrangements) Bill?

Michael Russell: It may not extend to that. We have to discuss that matter further with the relevant minister.

Adam Tomkins: Who is the relevant minister?

Michael Russell: It would be Jeane Freeman, I think.

Adam Tomkins: The Healthcare (International Arrangements) Bill is Brexit-related legislation, is it not?

Michael Russell: It is. I do not want to give a hard-and-fast answer on that bill, because it covers a significant number of individuals who will require services. In those circumstances, I do not want to answer at present, because I want to discuss the issue with the relevant minister.

Adam Tomkins: Please correct me if I am wrong but, as I understand it, the Healthcare (International Arrangements) Bill gives the secretary of state powers to fund and arrange healthcare for British citizens living in the EU 27 after we leave the European Union. Among other matters, it will help nearly 200,000 British pensioners, including of course Scottish pensioners, who live in EU countries to continue to access the healthcare that they need, and it will mean that the hundreds of thousands of British citizens, including people who live and work in Scotland, who require medical treatment each year during holidays in Europe can still be covered for medical assistance when they need it.

As we have agreed, the bill is Brexit-related legislation, and you have just reconfirmed that you wish to have no part in the legislative consent process with regard to any Brexit-related legislation. As I understand it, Scottish pensioners living abroad would continue to have their healthcare paid for, because the UK Government would legislate for that anyway, even if your consent or indeed Holyrood's consent was not forthcoming. However, there are categories of people that the bill cannot cover in Scotland unless there is a legislative consent memorandum and a legislative consent motion has been passed.

For example, present arrangements that allow patients in the United Kingdom who are being treated by the NHS to travel to an EU country for treatment, if required, would no longer be possible for NHS patients in Scotland. Is it really the Scottish Government's view that the devolution process is so broken because of Brexit that those patients should be harmed in that way?

Michael Russell: I repeat the answer that I gave you before you asked that question. I will have discussions with the relevant minister, because I recognise the sensitivity of this. That is our position. If you are arguing that I am taking a hard-and-fast view on that bill, I am not.

Adam Tomkins: So it is no longer the case that the Scottish Government will not participate in the legislative consent process for all Brexit-related legislation.

Michael Russell: I could perhaps ask whether you would rather that I take a hard-and-fast view that did what you clearly want me to do, which is

to deprive people of the services, or that I take the pragmatic, sensitive and sensible view that I am taking.

Adam Tomkins: I would rather that you were accurate in your answers to questions that are asked in good faith by this committee. Is it the Scottish Government's position that it will have nothing to do with the legislative consent process, with regard to any Brexit-related legislation? That is the question.

Michael Russell: The Scottish Government's position is that I will consider on their merits—as will the Cabinet—issues that arise, including issues that are of great sensitivity. That is what you would expect a Government to do.

Adam Tomkins: Having thrown all your toys out of the pram, you are now having to put them back in, are you not?

Michael Russell: Convener, I think that there was a question about respect at the start of this. That seems to have disappeared.

The Convener: I understand that this is an emotional matter. I ask everyone involved in the discussions to recognise that we are trying to do the best job that we can in as civil a way as possible, regardless of who we are round this table. I think that that would be helpful.

I have a question about legislative consent issues. If the UK Parliament votes on the withdrawal agreement, domestic legislation will be required in the UK. Has there been any discussion with the UK Government about the areas of the bill that may require the legislative consent of the Scottish Parliament?

Michael Russell: There have been discussions on the withdrawal implementation bill. I said earlier, and I want to repeat, that Suella Braverman, who was handling this for the UK Government through the JMC was doing extremely well and was doing that in a very positive and constructive way. Mark Drakeford and I indicated at the meeting on Monday that we will miss her, because she was consulting and bringing material to us. That does not alter the fact that we do not believe that we should give legislative consent, given that the legislative consent process is broken and was clearly broken in the way that the UK Government behaved earlier this year. However, there are areas in the bill that will require legislative consent. We have negotiated and discussed details of the bill and will continue to do so.

We could resolve the issue of legislative consent very quickly. As people round the table know, I have put proposals to David Lidington that would resolve this instantly; I had another conversation with him about the proposals last

week. Regrettably, the UK Government has not brought forward those proposals or agreed them. When it agrees them—if it agrees them—we can move into a situation that will allow us to operate in as constructive a way as possible, by having profound disagreements about what the issues are. Those disagreements will be undertaken in a civilised and sometimes jocular way, as they should be.

The Convener: We move on to some of the specifics.

Emma Harper (South Scotland) (SNP): I am interested in issues around fishing and the common fisheries policy as we move forward. Information in our papers indicates that the draft withdrawal agreement contains provisions relating to fisheries including transition, the future relationship and the potential use of the backstop. I am aware that concerns have been raised about the backstop issue, and about access to waters and markets. I do not know whether I fully understand the situation. How do we plan to have access to our waters for our Scottish fisherman as we move forward?

Michael Russell: I think that the agreement indicates that that is not likely to happen in the way that Scottish fishermen have been promised, repeatedly, by the Conservative Party at every level that it would happen. That will not be a surprise to observers over the past 40 to 45 years, because the story of that period is one of constant disappointment in terms of what the UK Government has promised to the Scottish fishermen, and the difference between what has been promised and what has been delivered.

10:00

The deal indicates that there could be, at some stage, the status of a coastal state. It also indicates that discussions are already under way about trading off access for other issues. It does that with one new element, which is very concerning. Suddenly, out of nowhere, aquaculture appears in this matter. Aquaculture is worth more to the Scottish economy than the other parts of the fishing industry, but it appears to have been thrown in as something to be traded off. At the weekend, I heard from somebody I know who is a senior journalist in Norway. They said that the Norwegian aquaculture industry is thrilled by that, because it thinks that it will diminish the competitiveness of the Scottish aquaculture industry. We are seeing something very cynical in this—cynical in terms of the promises that were made to Scottish fishermen, and cynical and damaging in terms of the aquaculture industry.

My final point is that, if transition is longer than presently stated—and it will be, because there is a

European election in June next year and it will be at least October and possibly the end of the year before a new Commission is in place—that will leave a single year for the negotiations, which will be far more complex than what has happened until now. Let us therefore assume that transition will take considerably longer, which means that it could be 2022-23 before there is any resolution of this. Again, that is contrary to the promises that have been made.

We should be very straight about this—the Prime Minister's so-called deal does not even honour the commitments to the one sector that she talks about in the Scottish economy. She never talks about any other sector in the Scottish economy, but she talks about fishing because she thinks that she has support there. Given the nature of the deal, however, that support might be eroding faster than she expects.

Emma Harper: The Secretary of State for Scotland, David Mundell, said that he was “content” with the fishing deal. He used that one word—“content”. However, I would be more inclined to use the words “continued uncertainty” or “potential sell-out.” Should we be alerting the fishermen to this?

Michael Russell: Well, if fishing, or the status of Northern Ireland, were red lines for the Secretary of State for Scotland, I do not quite understand why he has not recognised that. However, that is a matter for him.

Alexander Burnett (Aberdeenshire West) (Con): I note my entry in the register of members' interests around agriculture.

The cabinet secretary said that everyone shared his immediate rejection of the withdrawal agreement, but the National Farmers Union Scotland, in a joint statement, said that while the draft Brexit withdrawal agreement was “not perfect”, it was an opportunity that “needs to be taken”. Was it wrong?

Michael Russell: I did not say that everyone immediately rejected the draft withdrawal agreement; I said that I have the greatest understanding and sympathy for those who want to get this agony over—an agony imposed by the Conservatives. However, I think that the agreement will turn out to be a disappointment to them. I have already made that point to NFU Scotland and I will continue to make it, on the basis of both the analysis that I have given you and further information. Over the next few days, we will publish more information that will indicate the real problems in this.

Angela Constance (Almond Valley) (SNP): Before I ask questions on EU citizens and migration, the cabinet secretary knows me well and he knows that I like to cut to the chase. I am

sure that he will correct me if I am wrong, but it seems to me that England and Wales are getting what they voted for and that remain-voting Northern Ireland, rightly so and for good reasons, is getting a special arrangement to stay close to the EU. Yet Scotland, with the highest vote to remain in the EU, has, in my view, been ignored. That leads me to ask the question, and in less than the 23 minutes that were referred to by Mr Fraser: how come everybody else gets what they voted for?

We know that the LCM process has been trashed, we have heard countless accounts of how the joint ministerial committees have been frustrating and there is no membership for Scotland on the joint committees. Given that past behaviour is said to be the best predictor of future behaviour, how confident are you that the UK Government will start treating this Parliament and the people of Scotland with the dignity, fairness and respect that they demand and deserve?

Michael Russell: I am very familiar with your direct approach and I will give you a direct answer—I have no such confidence at all. As you say, and you are well qualified as a former professional and social worker, past behaviour is often an indicator of future behaviour, and I see no change coming at all.

I will add only one thing. It is not just the areas that Angela Constance mentioned that have got what they asked for—Gibraltar also got what it expected, and I am very glad about that. I rejoice that Gibraltar and Northern Ireland have got arrangements that suit them.

I understand that in Wales the vote would now very likely be against leaving, although Wales originally voted, by a small majority, to leave. Scotland has been, and remains, uniquely disadvantaged.

The governing party at Westminster has 13 Scottish MPs, and you would think that they would be leaping up and down demanding better treatment for Scotland. The opposite is the case: they are in fact demanding that Scotland is treated as badly as everybody else and I think that that is a bit weird.

Angela Constance: I am sure that the cabinet secretary has seen the BBC report of the remarks that Mrs May made to the Confederation of British Industry yesterday, when she vowed to put a stop to EU nationals “jumping the queue”. She did not provide any details of how she proposes to do that, but it seems to me that the Tories are once again appealing to the lowest common denominator, which has been a theme throughout the whole Brexit debate and has its roots in the referendum.

Given that there is a positive economic case for migration and the importance of freedom of movement, and given that we know that EU nationals are net contributors, what is your reaction to Mrs May's comments?

Michael Russell: Migration was a substantive item of discussion at the JMC, as it has been several times, but on Monday, Mark Drakeford and I put forward our very strong view that we found the remarks totally unacceptable. Indeed, in the television interview afterwards, I went as far as to say that I specifically disassociate the Scottish Government from the remarks. They are disgraceful. They are dog-whistle politics, they are designed to play to the lowest common denominator and they are also wrong. They are wrong both morally and in respect of the practicalities of the situation.

Migration is a benefit to Scotland. It is a net benefit in terms of the earning potential and contribution of migrants, as you said. Migrants are essential for Scotland and Scotland's economic health. I say again and again that, in the Highlands and Islands of Scotland, 20 per cent of the working-age population will retire in the next five to 10 years. People are not reproducing—there is no growth in the Highland population, unless it comes from migration.

If we do what the Prime Minister's deal proposes, we will condemn the Highlands and Islands of Scotland to perpetual long-term labour shortages in key sectors. I met the lead tourism provider in my constituency a few weeks ago, who told me that, on the sites that the organisation manages, the workforce has been down by between 10 and 15 per cent in the past year. It is now paying cleaning staff up to £12 an hour because it has to compete due to the real shortage of staff. That is having a progressive effect every year and is happening not just in tourism but in every part of the labour force.

The proposal on migration is self-defeating and the language of it is wrong—it is driving people away. It is utterly the wrong thing to do. We will have nothing to do with it—and nobody in this country should have anything to do with it—because it is against our own interests to argue in that way.

Angela Constance: I am sure that Mr Russell is aware that the committee has acknowledged and opined on the financial risks to our budget that are associated with the demographic challenge that is facing Scotland. We know that over the next 25 years the pension-age population will increase by 25 per cent and there is a predicted contraction in the working-age population. We know that, in comparison with the rest of the UK, the impact of migration on Scotland's gross domestic product is potentially greater. What certainty does the

proposed withdrawal agreement give to Scotland that our particular needs will be met?

Michael Russell: We gave very comprehensive evidence to the Migration Advisory Committee study and were immensely disappointed with it, as were Wales and Northern Ireland. The study showed the complete inability to understand the economies of Wales, Scotland and Northern Ireland—it was incredibly Anglocentric. That has continued, because the UK Government is leaning on that false analysis in order to drive forward a policy that will do huge damage.

I really laboured the point on Monday in London. The UK Government needs to recognise that this is not the same as the difficulties that we have with the shortage of construction workers, as a previous immigration minister suggested. The issue is existential for Scotland, if the population declines in the way that it looks that it might decline. In a scenario with zero EU migration, the population would decline by 3 per cent by 2041. In those circumstances, the decline would be concentrated in rural areas, particularly in the west of Scotland. I speak with some passion because my constituency is in such an area. That type of depopulation drives down the availability of services, it is circular—it feeds on itself—and it leads to whole communities, in essence, declining, dying and being emptied. That is the reality. That is what Scotland is being condemned to by a Government in London that is not listening. That is why I feel particularly strongly about the matter.

I want to take Caroline Nokes, the Minister of State for Immigration, to the islands of Argyll and point out to her the consequences of the actions that she appears to wish to take, which will lead to the decline and emptying of those communities. That is the reality; that is what the UK Government needs to know. Surely, if ministers saw the situation with their own eyes, they would desist from their destructive actions.

Neil Bibby (West Scotland) (Lab): I want to ask about the effect that the withdrawal agreement will have on on-going discussions about common UK frameworks. Do you accept that there is a greater urgency in agreeing those frameworks, given the potential for a hard Brexit? What impact will the Northern Ireland protocol in the withdrawal agreement have on the negotiation on common UK frameworks and on the operation of the UK internal market?

Michael Russell: Those are two related questions. On frameworks, over the past two years of JMC meetings—astonishingly, the 15th meeting was held this week—we have tried very hard to get a modus operandi through the frameworks that at least allows some activity and work together to take place. We have been quite successful, because of our determination to do

that and because of the superb work by officials. I do not intend to threaten the work of the frameworks in any way. We continue to make progress—a lot of stuff is in there and is operating.

At the event that the committee held at the Royal Society of Edinburgh, I said that the real problem with frameworks is that the more we have to write them down, the less easy it is to get agreement. If frameworks operate on the basis of mutual co-operation and established relationships, they tend to work quite well. However, when we try to be very specific, in relation to the Agriculture Bill, for example, we have a problem because there will clearly be difficulties in finding agreement. Even in that instance, discussion is continuing.

I hope that we can continue work on the frameworks, but the relationship is poor and there is a complete lack of trust on both sides. We are also in a situation in which we profoundly disagree with what is now taking place.

The conundrum of the Northern Ireland situation presents an additional issue for the frameworks. The conundrum is this: if we try to engage the four countries of these islands to work together under a framework, but one of those countries is in regulatory alignment with an EU country—as will be the case with Northern Ireland—there will be difficulties in managing that situation. We pointed that out at the very beginning, but the issue has not been addressed by the UK Government. I think that we will begin to see those difficulties.

Of course, if we were also in that situation, the benefits might accrue to the other members who were not, but at the moment it is not clear how that will happen with just one of us operating in a different way and perhaps in a different market.

As far as we understand, there is nothing in the withdrawal agreement that would prevent Northern Ireland from fully accessing the UK market, contrary to what Sammy Wilson said the other day. In those circumstances, the operation of the so-called UK internal market would presumably continue. The UK internal market must be predicated on the understanding of devolution and the legal reality of devolution that exists. Some of the discussion on the UK internal market seems to ignore the reality of devolution and subsidiarity, and we will resist any changes that push us in that direction.

10:15

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): Cabinet secretary, the Secretary of State for Scotland said last month that he could not support a differentiated deal for Northern Ireland, but now that we have one, he appears to support

it. What difficulties will Scottish producers face if the deal goes ahead in this manner?

Michael Russell: They are legion. If your very close neighbour can access the single market in a way that you cannot, you will, at the very crudest level, be competing with one hand tied behind your back. Any incoming investor that wants to access the single market will base themselves in Northern Ireland, not Scotland, and it will be able to get preferential treatment in the movement of goods and, of course, services, that will not be available to Scotland. It will be an additional element of competition that will be difficult to deal with.

It also means that manufacturers in Northern Ireland, whether it be of food, drink or a range of other things—I know that agri-food is very important there—will be operating with full European standards in perpetuity. That is what the backstop is about. However, we will be at the mercy of a UK Government that might be increasingly driven to come to trade deals with people whose standards are not the same as those in Europe, and that will also lead to a deterioration in our ability to compete effectively in the markets in which we should be competing.

It is simply the wrong thing to do. This is being driven by a UK Government that does not want to give anything to Scotland. That is what is at the centre of its thinking. We have seen reports that in the discussions in Brussels on the Northern Ireland backstop, it was desperate to ensure that any drafting excluded any possibility of Scotland's involvement. There is a dog-in-the-manger attitude towards Scotland that, as far as I can see, simply cannot be overcome. In the circumstances, exclusion will be damaging—and it knows that. Why the Secretary of State for Scotland does not see that it will be damaging, I have no idea—perhaps he is reading a different document.

Willie Coffey: If the deal is rejected by the House of Commons, how will we move forward in future discussion, after it has been trashed, to get for Scotland at least the same kind of arrangement that is in place for Northern Ireland?

Michael Russell: We very much recognise what Northern Ireland needs, and we have no difficulty with that; we very strongly support it and are not resisting it in any way. Indeed, were Scotland to be offered what Northern Ireland has been offered, I would not be sitting here, criticising the withdrawal agreement. I would still be saying, "I want to stay in the EU," because I do, but that sort of deal would be one that we could certainly have serious negotiations about.

As far back as the publication of "Scotland's Place in Europe" in December 2016, we indicated why membership of the single market was of vital

importance to Scotland. We said that we would prefer the whole of the UK to stay in the single market but that, if that did not happen, we would want Scotland to stay in it. In other words, it would be a differentiated deal. In January 2017, David Davis told me to my face in his office in the House of Commons that that was, in his words, impossible. It could not be done. Now we see not only that it can be done but that it is going to be done, and that is particularly galling.

It was also indicated in “Scotland’s Place in Europe” that, to make things really effective, the devolution package should be strengthened to give legal personality to Scotland and allow it to take part in trade discussions and negotiations, as the subsidiary Parliaments do in Belgium. That would be a strong package, but Scotland has had nothing like that.

Willie Coffey: Is there any support for Scotland’s position on this issue among the House of Commons Opposition parties?

Michael Russell: Well, you will have to ask the House of Commons Opposition parties. I notice, though, that in his response to the Prime Minister’s statement last week, Jeremy Corbyn talked about the issue of migration and devolution. It was an important contribution, so, although it might not be—and probably is not—exactly the same as I am expressing it, there is clearly an understanding that these issues are live.

That brings me back to Angela Constance’s point. I think that basic democrats would look at this and say, “Hang on a minute. If Scotland voted 62 per cent to remain, surely in a mature political system there would have been a sensible negotiation recognising and allowing for that within the overall polity being pursued by the UK Government.” There has been no such recognition at all.

The Convener: I know that Willie Coffey wants to ask about the digital issue, but we will come back to that. I want to take a number of supplementaries in this area.

Patrick Harvie: I want to come back to the arrangements in the withdrawal agreement for Northern Ireland, or to prevent a hard border, and to relate that to our later discussion on frameworks. We talk about frameworks almost in a technocratic sense, as merely operational or administrative arrangements that allow separate policies to exist, with shared decisions that bind them together. If frameworks are such technocratic arrangements, they should be ideologically neutral.

It seems to me that the level playing field commitments in the Northern Ireland backstop place a great deal of emphasis on things that restrict the ability of Governments to make

decisions, such as state aid, and very little emphasis on things that restrict the operation of the private sector, such as environmental regulations or workplace protections. It seems to me that it is an ideologically loaded framework.

Is there a danger not only that that has an impact on Northern Ireland but that that is the tone of the discussion on common frameworks in future, whereby we will not see something that merely facilitates good government but something that is ideologically loaded in favour of the kind of politics that some on the hard right of the Conservative Party, whatever their planetary origin, would like to see imposed on us?

Michael Russell: I will not rise to that final comment, but I have to say that the hard right is driving this debate and Brexit is a hard-right policy. The rest of the Conservative Party—even in Scotland—has simply gone along with it, presumably for fear of the Conservatives not being in office.

The point that you make is important. My position—and the position of others who have been negotiating—has been to see frameworks as the scaffolding around the building and to make sure that it is there and can be used. The actual agreements lie within the building itself—within each of the subjects that we are dealing with. Of course on those, the policy differences become important. If there is freedom to operate in those key policy areas, that is fine, but in some reserved areas there will be no such freedom to operate. In those areas, the type of push that you are talking about is taking place. It is very important that this Parliament is the master of all the issues rather than merely some of them, so that we do not find ourselves in that position.

Adam Tomkins: I wanted to ask a slightly different question, which was a supplementary to Willie Coffey’s question, but I now have a supplementary to Patrick Harvie’s supplementary to Willie Coffey’s question—which the convener and I were talking about just as you were answering it, cabinet secretary.

Is it not the case that included in annex 5—which is the long list of single market provisions that will continue to apply in Northern Ireland but not in the rest of the United Kingdom in the event that the protocol comes into force—are quite a number of environmental regulations and directives? It is not the case, as Mr Harvie might have implied, that all the single market rules and regulations that will apply in Northern Ireland are restrictions on Government; quite a lot of them are about product standardisation, product safety, environmental standards and so on and so forth.

Michael Russell: Yes, but they will not apply in Scotland.

Adam Tomkins: Indeed, but the question that Mr Harvie put to you was whether the construction of the single market protections that we have in the Northern Ireland protocol—the backstop—is ideologically driven in favour of a particular, pro-business direction. I do not think that that is an accurate reflection of the complexity of what is in annex 5.

Michael Russell: Let us not fall out about this, because we are talking about the interpretation of a question, but it seems to me that the ideological drive, in so far as it affects Scotland, could be profound.

Adam Tomkins: I want to ask you a slightly different question that is very closely related to the issue that you explored with Mr Coffey. One of the remarkable things about the backstop, as it is informally called—I prefer to call it the protocol, because I have the misfortune of being a lawyer and I have read it—is that the European Union has accepted something that, at the beginning of the process, it said that it would not accept: the disaggregation of the four fundamental freedoms of the single market. In the event that the protocol comes into force, article 6(2) would maintain for Northern Ireland a long series of single market provisions with regard to free movement of goods, but not with regard to free movement of workers or people, free movement of services or free movement of capital.

The European Union has accepted that, because, as I hope we all agree, it is imperative that Brexit does not jeopardise north-south co-operation or trigger a hard border on the island of Ireland and does not undermine in any way any aspect of the Belfast agreement of 1998. There is agreement between all of us on that—there is certainly agreement on that between me and you, Mr Russell.

The Scottish Government wants those provisions that apply to Northern Ireland also to apply to Scotland, so that, as the First Minister said last week, there is no “competitive disadvantage” to businesses in Scotland.

What evidence do you have that the European Union would be prepared to accept that those extraordinary provisions, which apply in these extraordinary circumstances because of the unique circumstances of Northern Ireland, could be extended to other parts of the United Kingdom—whether that is Scotland or even the whole of the UK—given that they fly in the face of what was one of the EU’s red lines at the beginning of the process, which was that the four fundamental freedoms of the single market could not be disaggregated? In other words, would the EU accept that the extraordinary provisions of article 6(2) of the Northern Ireland protocol could be extended to other parts of the United Kingdom?

Michael Russell: That is a good question. I will respond in two parts: first, in relation to the whole of the UK and, secondly, in relation to Scotland. In relation to the whole of the UK, I concur with your view that that particular disaggregation would be unlikely, to say the least, because it impinges on the integrity of the single market. If the UK had suggested—we do not know whether it did or not—that the current solution should apply to the whole of the UK, that would not have been acceptable, because it would affect the integrity of the single market. What we do not know—I wish that I did know—is at what stage of the negotiations, if any, the UK said, “Look, there are separate issues in Scotland, too, to which we require a particular approach, so what read-across could we have, given the democratic imperative to have a compromise?” We do not know whether the UK Government ever said that; I do not think that it did.

However, we do know that, as far as the attitude towards Scotland is concerned, all the discussions that have taken place and been reported publicly, particularly at the start of the process—many of which have been commented on by UK Government ministers—suggested that if the UK were to come to the table seeking special dispensations or deals for Scotland, that would have become part of the negotiation, because it would have been brought to the table by the UK. I cannot say whether the particular formulation that came out at the end would have been exactly the same as the one that has been applied to Northern Ireland. However, I can say that the UK Government appears to have made no attempt to do the read-across and recognise the case—which is, of course, different from that for Northern Ireland—for ensuring that Scotland has better treatment because of how it voted, and because of the implications of competition from Northern Ireland.

If the UK Government were to have said that that is what should have happened—it is late in the day for this deal—my view, given what I have heard from the EU, is that that discussion would have taken place, because it would have been part of the negotiations. If that had been pursued with vigour by the UK Government, in the same way in which it was absolutely insistent that there had to be a deal for Northern Ireland, I am sure that there would have been some different treatment. The reality was that nothing was done. That is where we are.

Adam Tomkins: It is very important that we clarify this for the record. I do not want to put words in your mouth, but my question was this: what evidence do you have that the solution proposed by the First Minister—for completely understandable reasons, given everything that you have written in the various “Scotland’s Place in

Europe” documents—would be acceptable to the European Union? Your answer is that you do not have any evidence that it would be acceptable to the European Union.

Michael Russell: I know that you are not trying to put words in my mouth, so I will be absolutely clear in what I say: there is no evidence that at any stage the UK endeavoured to get a differentiated deal for Scotland. Therefore, we find ourselves with a differentiated deal for Northern Ireland, but an expression that such a deal was impossible for Scotland, yet that is not the case, because a differentiated deal would have been possible for Scotland. What we are now left with, in circumstances in which there is one differentiated deal, is to say that if there was to be only one differentiated deal, we should have had it, too.

Adam Tomkins: But do you not accept that the European Union has accepted that there needs to be a differentiated deal for Northern Ireland to the extent that it compromises the integrity of the four fundamental freedoms only because of what the protocol describes as

“the unique circumstances on the island of Ireland”,

which are not shared by any part of Great Britain?

10:30

Michael Russell: I am not trying to be difficult about this, but the UK Government could have said at any stage, “Here are the unique circumstances in Northern Ireland and the unique circumstances in Scotland, which are not the same, but they both require us, speaking as the UK Government, to have an understanding of that in the negotiations and to produce an outcome that is acceptable.” That did not happen. When we are at the end of that process and we have on the table one unique deal, it is entirely legitimate to say, “We should have that deal, too.”

Adam Tomkins: Thank you.

Tom Arthur: Cabinet secretary, you have described some of the reaction to the withdrawal agreement as a “false dawn”. It is also fair to say that this is not the end or the beginning of the end; indeed, given the arithmetic in the House of Commons, it is probably not even the end of the beginning. However, if you will indulge me, I want to explore the hypothetical situation in which the EU withdrawal agreement finds a majority in the House of Commons and we move into the post-29 March world.

In that scenario, the negotiations that the United Kingdom will have to undertake with the European Union will be the most difficult negotiations that the UK has had to conduct in the post-war era. The UK, a state that has not had an independent trade policy for almost half a century, will be going up

against a trading superpower. There will clearly be a great asymmetry of power in that scenario, which will be compounded by the provisions in the EU withdrawal agreement.

With reference to the withdrawal agreement and the lack of any unilateral options for the UK, can you characterise the context in which the UK will have to conduct the negotiations and say what you think some of the implications would be with regard to the concessions that the EU will be able to extract on numerous areas, such as fishing?

Michael Russell: Some time ago, I had a fascinating conversation with a Swiss negotiator, who said to me that the UK should remember that if it is going to negotiate with the EU, it will be negotiating with the best in the world. What we have seen is some fairness and generosity from the EU but a recognition that, if the UK sets its red lines, that will dictate what comes out. If the UK had gone into the process in a better frame of mind, better prepared and briefed, and with a better set of red lines—for example, on single market and customs union membership—it could have come out with those things.

What will be necessary in the negotiations is absolute clarity about what the UK wants and how it can get it. One of the remarkable things in the past two and a bit years is that what the UK wanted was written down eventually only in the Chequers agreement. We had two years from the referendum to the Chequers agreement without anything being written down. Why was that? It was because—we now know, having seen what happened after the Chequers agreement—when it was written down, people fell out over it, could not agree and resigned because of what was in it. That has happened again with the written agreement last week and more people have resigned. The more specific the UK Government has become, the less it has been able to keep its own people on board and the more it has been the victim of others.

I think that, regrettably, we will see that again during these very complicated negotiations. I have little confidence that they will produce the results that are much vaunted. However, we should remember that the process takes a long time and people’s memories are often short, so we see what we are seeing at the moment, with people saying, “A plague on all your houses. We’ve had enough of all this. We just want it to stop.”

I suggest that our obligation is to persist, to tell people the truth of the situation as we see it and to try to ameliorate the difficulties and disasters if we can. That is what we will go on trying to do. However, things are changing by the minute. For example, I have just been told that Amber Rudd said on Radio 4 this morning:

"It's my view that parliament ... will stop no deal."

She has, in a sense, torpedoed the Prime Minister's argument that it is either her deal or no deal. That gives us an opportunity to say, "Let's get this as right as we can, given the chaos." That would allow us to reject that deal and to do something better. If we were to choose the single market and customs union option, the type of negotiations that Mr Arthur is talking about would not be necessary.

Tom Arthur: You spoke about the generosity and charity of the European Union in the negotiations, but the decision on a free-trade arrangement with the United Kingdom will ultimately involve a transactional consideration. In effect, the withdrawal agreement says that the UK will be locked in a shared customs area with the EU until Brussels determines otherwise. Does that make it impossible for the UK to cut any independent trade deals with third countries without an agreement with Europe?

Michael Russell: The UK may cut deals, but it will be at a great disadvantage in so doing. As I have said every time I have appeared before the committee, there is no pot of gold in the new trade negotiations—it does not exist, and it is a cruel deception to say to people that it exists. Any deals that are struck will be disadvantageous and minor.

Last weekend, while all the fuss was going on in London, David Davis and the former agriculture secretary, whose name escapes me—

Ian Mitchell (Scottish Government): Owen Paterson.

Michael Russell: Owen Paterson—indeed. I noticed that David Davis and Owen Paterson were discussing trade matters with a trade commission from Oklahoma, where there are, apparently, huge trading opportunities. They have failed to notice that two European countries—Germany and the Netherlands—do more trade with Oklahoma than we do. There are no barriers to trading with Oklahoma now; the fact that that is not being done probably reflects how poor the UK has been at setting up agreements. However, Oklahoma represents 0.3 per cent of the trade potential of the United States, so the approach is all nonsensical.

There are three big issues. First, the single market's integrity will be very important to the EU and will dominate the next process. The EU will be determined not to weaken that. Secondly, the UK will be treated like a third country, so it will have none of the heft in negotiations that it has as a member of the EU. Thirdly, we are not the centre of the universe. British exceptionalism has been a problem in the negotiations, and the reality is that there are bigger fish to fry in the EU. The UK will fall rapidly down the agenda of the EU, which has major issues of its own to address.

Tom Arthur: Given that it takes about four years to agree the average EU trade deal, plus a lengthy implementation period, does the withdrawal agreement set out realistic timescales?

Michael Russell: The timescales are utterly impossible. The European elections will take place in May 2019, so we cannot expect anything to happen between March and June. A new European Commission will come in after that. The expectation is that forming that Commission will be hard, as the outcome of the elections is unlikely to be clear cut. The earliest that we can normally expect a Commission to be in place is by October, but it might not happen until the end of the year. That would leave 12 months. The task cannot be done in 12 months. When Barnier said, "We'll give you until the end of 2022," Tory Brexiteers threw their hands up in horror and shouted about vassal states, but they will be lucky to have a conclusion by 2022, given the complexity of the task.

Tom Arthur: Having a Commission by October would give nine months before the decision had to be made on extending the transition period. Is it inevitable that the period will have to be extended?

Michael Russell: The work is impossible to do in the time that is set out. Apparently, the end date for the transition period was to be written into the withdrawal implementation bill, but I would be highly surprised if that happened now.

The Convener: Does Willie Coffey still want to ask a question?

Willie Coffey: Yes—if there is time. I will ask a wee question about the digital single market, which the Prime Minister has said we will come out of. As you probably know, that market is worth about €400 billion a year and supports hundreds of thousands of jobs across the European Union.

In the hour or so that we have been here, I have searched the withdrawal agreement for the word "digital"—you do not have to read it from cover to cover—and found only four mentions of it, which relate to signing application forms for residency. Not a word in the entire document is about the massive digital economy in Europe. What is the Scottish Government's view on that? How can we possibly maintain Scotland's interests in that economy?

Michael Russell: We addressed the subject in previous publications. The process of leaving the EU means not just walking away from valuable things but forgoing opportunities that would continue to be valuable, and the digital single market provides a classic example of that.

I declare an interest, as my son is involved in the flourishing tech sector in Edinburgh. The opportunities for Edinburgh and Scotland in the digital single market are enormous, but they will be

immensely diminished when we are in that market not as a member but as a third country, which will by definition not have the privileges of membership. That is a crying shame, because the opportunities that exist in Edinburgh and throughout the UK will not be taken. They are the opportunities of the next decade of the 21st century—they concern things that we will need to do. I have no doubt that we will be able to do some of them, but one hand will be tied behind our back. Why should that be the case? We did not vote for that—we do not want it and it is the wrong thing for us—but it is being imposed on us, which is utterly wrong.

The Convener: No more members wish to ask questions, so I thank the cabinet secretary for his evidence.

The committee previously agreed to take the next agenda item in private.

10:40

Meeting continued in private until 10:55.

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