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Pàrlamaid na h-Alba

Official Report

SCOTLAND BILL COMMITTEE

Tuesday 21 December 2010

Session 3

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SCOTLAND BILL COMMITTEE
3rd Meeting 2010, Session 3

CONVENER

*Ms Wendy Alexander (Paisley North) (Lab)

DEPUTY CONVENER

*Brian Adam (Aberdeen North) (SNP)

COMMITTEE MEMBERS

*Robert Brown (Glasgow) (LD)
*Tricia Marwick (Central Fife) (SNP)
*David McLetchie (Edinburgh Pentlands) (Con)
*Peter Peacock (Highlands and Islands) (Lab)

*attended

THE FOLLOWING ALSO ATTENDED:

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)

THE FOLLOWING GAVE EVIDENCE:

Gary Gillespie (Scottish Government Strategy and Ministerial Support Directorate)
Fiona Hyslop (Minister for Culture and External Affairs)
Graeme Roy (Scottish Government Strategy and Ministerial Support Directorate)
John Swinney (Cabinet Secretary for Finance and Sustainable Growth)

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

Committee Room 1

Scottish Parliament

Scotland Bill Committee

Tuesday 21 December 2010

[The Convener *opened the meeting at 13:31*]

Scotland Bill

The Convener (Ms Wendy Alexander): Welcome to the third meeting in 2010 of the Scotland Bill Committee. I make the usual plea that people turn off all electronic devices. There are no apologies today, and we are joined by Jeremy Purvis MSP, who is not a member of the committee. Welcome, Jeremy.

The first agenda item today is to continue to take evidence as part of our scrutiny of the Scotland Bill and the relevant legislative consent memoranda. I am very pleased to welcome Fiona Hyslop and John Swinney and their officials to the meeting. As those who have been following the committee will know, last week we heard from the Scotland Office and Her Majesty's Treasury. Today we hear from the Scottish Government its views on the Scotland Bill and the detail of its alternatives.

It might be helpful if, before we start, I outline how we intend to manage the meeting. I will invite Fiona Hyslop to make short opening remarks and introduce the team of officials, then we will move to John Swinney and start with questions on taxation, borrowing powers and financial matters. For the latter half of the meeting, we will move to Fiona Hyslop for the non-financial parts of the bill. We will do our utmost to finish on time for the Cabinet meeting later today. Members are obviously free to chip in, but it will be helpful if we concentrate on financial matters first, then on non-financial matters. I hand over to Fiona Hyslop.

The Minister for Culture and External Affairs (Fiona Hyslop): Thank you very much. John Swinney and I are joined by David Rogers and Gerald Byrne from the constitution unit, and Gary Gillespie and Graeme Roy from the economics department.

We are pleased to support the committee's work in scrutinising the bill. The Government engaged constructively with the recommendations of the Calman commission when they were published: we urged early action on proposals that would benefit Scotland and we did not support others—for example, the transfer to Westminster of responsibilities of the Scottish Parliament. We have asked serious questions about other proposals, particularly those on finance. We have continued that constructive and responsible approach to the UK Government's bill and the command paper.

On 1 December, within 24 hours of the bill's publication, I gave a statement to the Parliament and lodged a legislative consent memorandum, which the committee is now considering in this inquiry. On 2 December I wrote to the committee offering a full briefing on the financial aspects of the bill, which I understand took place on 9 December. On 6 December, the Government lodged a motion supporting the general principle of transferring powers to the Scottish Parliament, recognising the need for full scrutiny of the bill by the Parliament and looking forward to the report of this committee. The legislative consent memorandum that we lodged on 1 December sets out our analysis and view of what is in the bill, what was proposed by the commission but is not in the bill and related issues.

For some aspects of the bill we have been able to give no more than a preliminary view as the UK Government did not provide full details of its proposals until late in the process. For example, the details on insolvency and registered social landlords were included for our benefit only on 30 November. Our memorandum also sets out some of the issues that we suggest the committee consider at paragraph 7 on page 2.

I turn now to the financial aspects, which are key to the bill and need full scrutiny. There are four key questions that must be asked on the financial proposals. First, to what extent can the Scotland Bill's financial proposals help us to become a more prosperous, more sustainable and more equitable nation? Secondly, to what extent does the Scotland Bill provide a meaningful transfer of fiscal and economic levers to Scotland, and are those appropriate for the Parliament? Thirdly, what will be the impact of the changes on the Scottish budget and the resources that are available for public services? Fourthly, how can the Parliament and the committee improve the bill to provide meaningful powers and remove the weaknesses of the proposals? As it stands, the financial provisions in the bill would be, in parts, modestly useful and, in parts, actively harmful for Scotland.

On capital borrowing, we welcome the principle behind the proposed facility to borrow for capital investment, which will give the Scottish Government long-overdue flexibility in managing its capital programme. However, we are disappointed that the facility will not be implemented until 2015 and will, therefore, be of limited benefit in managing the real-terms cut of 36 per cent to our capital budget over the next four years. Moreover, the proposals are very constrained. Tight limits would be imposed on when and how much we could borrow and on the timeframe for repayment. For example, we could use up the entire cumulative borrowing limit of £2.2 billion simply in paying for the Forth replacement crossing. The powers would be more restrictive than those that are already available to local authorities, and the plan for a fixed annual limit constrains flexibility and does not encourage responsible capital budgeting. The bill would also limit borrowing to loans rather than bonds or other instruments.

On other economic levers, we welcome the devolution of stamp duty land tax and landfill tax, but we remain disappointed at the failure to devolve aggregates levy or air passenger duty, as was the commission's original recommendation. Generally, the bill fails to provide Scotland with any significant new economic levers that would allow us to increase our sustainable rate of economic growth. Over 85 per cent of Scottish tax revenues will continue to be controlled by Westminster; responsibility for economic levers including corporation tax, green taxes, fuel duty, North Sea revenues and excise duties will remain outwith the Scottish Parliament's control.

Parts of the bill also have the potential to be actively harmful to Scotland's public finances and economy. Our analysis has shown that, when assessed on a level playing field, the proposals on income tax have the potential to embed a long-term deflationary bias in Scotland's budget. The Scottish Government estimates that, had the income tax proposals been in place since 1999, they would have cost Scotland £8 billion by 2010-11. Last week, the United Kingdom Government also provided to the committee figures that we will no doubt discuss in more detail today. The assumptions that are set out behind the illustrations from the UK Government simply confirm the deflationary bias in the Scotland Bill's proposals. The UK Government's figures illustrated a possible approach to mitigating that effect in the short term, through the introduction of a windfall to the block grant in the early years. However, that illustration did not constitute an actual proposal for calculating the block grant. Indeed, the Secretary of State for Scotland made it clear that he does not foresee there being an answer to that fundamental question until after the bill becomes an act.

On revenue borrowing, the income tax proposal would expose the Scottish budget to volatility with revenues that would rise gradually in years of economic growth and fall sharply during periods of recession. However, the bill has not provided the levers that are needed to manage such volatility.

Under the Scotland Bill plans, limited borrowing of up to £200 million in any given year to meet the shortfall between forecast income tax revenues and what is actually collected will be permitted. There are two major problems with that. First, at £200 million, the cap is set too low. In this year alone, for instance, the difference between the Treasury's original forecast and its current best guess implies an error of £1 billion, which is far in excess of the £200 million cap in the bill. Secondly, borrowing is allowed only for deviations between actual receipts and forecasts, so the more accurate the Office for Budget Responsibility is at forecasting future tax revenues, the more volatile expenditure will be.

Some modifications to the bill have been made as a result of our engagement. For example, the UK Government has seen the potential of the proposed system to generate damaging policy spillovers, and the regard to the principle behind the concept of no detriment that has come in is a positive initiative. However, we are concerned about whether the principle of no detriment squares with the UK Government's apparent insistence that Scotland should bear the full cost of the implementation proposals. We remain sceptical about whether a system that is based on a series of ad hoc technical fixes—whether they be changes to tax rules or to the block grant—can be sustainable in the long term. We should look for a clear, transparent and sustainable framework that provides a step forward for Scotland, and not one that in providing modest reform builds into our budget uncertainty, volatility and the potential for future conflict.

On non-financial aspects, our legislative consent memorandum sets out the Government's view on the main proposals in the bill and on matters that were in the commission's report but which have been omitted from the bill. The Government welcomes the bill's provisions to extend the responsibilities of the Scottish Parliament and the Scottish ministers, but some provisions could be more effective—particularly those on the Crown Estate and the BBC trust, which do not reflect the Calman commission's recommendations.

I am sure that the committee is pleased to learn that BBC Alba will be available on Freeview, as announced today. Given that—as I think we all agree—BBC Alba is not a UK body and the Scottish Government provides £12 million in funding to BBC Alba, we call on the UK Government to amend the bill to provide the Scottish Government with the democratic responsibility to appoint that organisation's board in the future.

Other aspects of the bill—such as provisions on speed limits—seem to increase fragmentation of responsibilities, which is probably contrary to the commission's aim. The proposals on elections to the Scottish Parliament will increase the problems that the Gould report identified.

The Government does not support the proposals to reserve matters that are currently devolved to the Parliament—the commission's concerns do not justify such a radical step. Any issues could be addressed by other means, while respecting and preserving the Parliament's current competence.

The Government is disappointed that some matters that the commission identified are not in the bill. The commission's proposals on welfare were central and recognised its links to devolved matters. The commission also made a clear recommendation on the marine environment, which reflected a position that was supported in 2008 by a resolution of the Parliament. We urge the committee to examine again the case for that. The Government believes that other matters in the bill's scope, such as responsibility for the dates of the Scottish elections, should also be included as powers for the Scottish Parliament.

We look forward to working with the committee through the process of scrutinising the bill to identify areas—maybe great or maybe small—for improvements that will make a significant difference to the lives of the people of Scotland.

The Convener: Thank you for those full opening remarks. We will move straight on to financial aspects. The committee plans to cover three subjects—the Scottish Government's preferred approach, the criticisms that the Government has levelled at the bill and potential improvements to the bill.

I will kick off with the first subject. Cabinet secretary, the Scottish Government has said repeatedly that it would prefer more powers to be devolved than the bill proposes. What detailed proposals for more powers has the Scottish Government published? Where have they been costed?

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): I apologise in advance for the condition of my throat. I will do my level best, but my voice will be somewhat hoarser than usual.

You ask what the Government has published on the question. I refer the committee to the document that the Government published in February 2009, which set out the options for reform on fiscal responsibility. That was followed in November 2009 by the publication of the white paper on independence, which covered similar ground.

As for your final question, the Government has referred to the work that has been undertaken independent of the Government by Professor Hughes Hallett and Professor Scott, which demonstrated the implications of fiscal responsibility. That work has been communicated widely in the public domain.

The Convener: I want to pursue that further. In October, you were reported as saying that you intended to publish an alternative budget based on fiscal autonomy. Where is it?

John Swinney: It is contained in chapter 4 of the Government's 17 November publication.

13:45

The Convener: I am interested in the modelling on fiscal autonomy, given the First Minister's reference in the debate on the Scotland Bill to a detailed proposal for fiscal autonomy that he had put to the UK Government in the course of 16 meetings. Will you show the committee that proposal? Does it include any modelling of fiscal autonomy?

John Swinney: My answer to your first question essentially covered that ground. In the course of an extensive series of discussions with the UK Government over the summer, the Scottish Government made a number of different points and put forward a range of different proposals, some of which I am sure we will come to this afternoon. Those points and proposals were designed to assist the UK Government in reaching a conclusion on the contents of the Scotland Bill. I was not present at all of those discussions—most were conducted by our officials—but I have seen the ministerial and official correspondence surrounding them, and I think that both sides recognised that the discussions were helpful and positive in pointing out areas of weakness in the proposals that the UK Government was considering, and in which we could certainly offer alternatives.

As part of those discussions, the Government—as I said in my first response—advanced the independent academic research of Professor Hughes Hallett and Professor Scott to assist the UK Government in seeing what an alternative model of fiscal responsibility would enable Scotland to achieve. That thinking is reflected in chapter 4 of the budget document to which I referred a moment ago.

The Convener: I still have to press you on why the Scottish Government did not model fiscal autonomy itself.

John Swinney: Obviously, we could readily have done what you suggest, but we judged that there was an opportunity to have a dispassionate debate about the opportunities that are offered by fiscal autonomy that would be best informed by a contribution from independent academics. We are all familiar with the way in which Government data and the assumptions that underpin them can be kicked around—indeed, we have already covered some of that ground—and we felt that having independent academic opinion create a dispassionate climate in which both sides of the argument could consider certain issues would be helpful in general public debate.

The Convener: I think that people will be surprised to learn that, despite its proposing fiscal autonomy in 16 meetings with the UK Government, the Scottish Government did not at any stage in those lengthy deliberations model it. Why was that?

John Swinney: That question misses the substance of my previous answer. Given the clear indication of the UK Government's willingness to consider the right and proper approach to financial responsibilities, the Scottish Government came to the view that it would be most productive for the debate to be informed not by a proposition or set of numbers that it put forward, which would, after all, have taken us into the territory of political debate—I am not complaining about that; that is simply where we are—but by the numbers that are set out in a very detailed academic study. We felt that such an approach might help the UK Government to reach a conclusion in its deliberations.

The Convener: Given the desire to have a helpful debate, do you think that it would be helpful to prepare a consistent set of models that would compare on a like-for-like basis the various proposals in the Scotland Bill with the proposals that the Scottish Government is advocating?

John Swinney: The Scottish Government would be happy to model on the questions of fiscal responsibility. However, I come back to my point that it helps the debate if we have reference points of independent judgment, rather than just Government data, to aid the different parties and contributors to the debate.

Peter Peacock (Highlands and Islands) (Lab): It seems slightly odd that you have deployed considerable Government resource to produce a critique of the UK Government's proposals, which by definition—and by your own standard—is not produced by external academics to inform debate. If you were able to do that, why are you not similarly able to produce a critique of your own proposals, or leave it to academics to do so, to help to inform debate in exactly the same way?

John Swinney: We have a bill from the UK Government that contains a specific proposition. The modelling has been undertaken on the basis of the information that is available to the Scottish Government on the contents of that proposition.

I have dealt with the convener's question on modelling fiscal responsibility: of course that can be done. The issue is how best we use the information to try to advance our argument on, and consideration of, those questions.

Peter Peacock: You say that it can be done, as indeed it can. Do you propose to do it? If so, when?

John Swinney: If the committee wants that information at its disposal, we would be happy to provide it by carrying out the appropriate modelling.

What is interesting is that the Government is often criticised for embarking on such activity—I have heard demands for us to cease all activity on some of the questions, including fiscal responsibility and the issues that have arisen from the national conversation. I am fascinated to hear that the committee wants us to do more of that. Of course it can be done.

Brian Adam (Aberdeen North) (SNP): Given that we have been talking about academic modelling, I note that the economists Jim and Margaret Cuthbert recently published an article in which they argue that there is a fundamental flaw in the Scotland Bill, in that it would lead to a situation in which

"If the Scottish Parliament uses its tax powers successfully, it loses money. If it doesn't use its tax powers successfully, it loses money."

Does the Scottish Government agree with that damning verdict, with regard to the various models that have been produced? Can you or your officials explain in simple terms why the Scotland Bill would create such a damaging situation? Much more important, what can be done to ensure that a successful Scottish fiscal policy leads to increased revenue and better public services?

John Swinney: It is clear that Jim and Margaret Cuthbert have undertaken substantial work on that question, and I certainly understand and accept the logic of their argument. On the question of what can be done to remedy the situation, I suspect that brings us to questions about the nature and the limitations of the financial powers that the Scotland Bill contains.

What troubles me most about the income tax power, for example, is that it is just one tool. If exercising that tool has a negative implication—as the Cuthbert analysis suggests it will either way, if it is applied—the countermanding powers to create a different outcome do not exist for the Scottish Government.

It strikes me that we would need a broader range of financial and economic powers as balancing characteristics in addition to those income tax powers, to ensure that we are able to mitigate any of the negative effects that might arise as a consequence.

Brian Adam: Can you spell out for us the additional powers that would be required to allow a situation that is not “Heads you lose, tails you lose”?

John Swinney: A range of responsibilities—in particular, having control over a wider range of taxation—would assist in that respect. Business taxation is one example. The proposals that were implicit in the report of the Steel commission had a very robust model at their heart. Essentially, it recognised that all taxation should be devolved, with the exception of VAT. That would provide the flexibility to manage the implications of difficulties arising in one area but not another. There is a lot of strength in the argument for having a broad range of powers.

Examples of how the situation could be improved would include our being given the ability to exercise specific levers in the economy to create a better economic outcome, such as the ability to provide tax reliefs for particular sectors of the economy to encourage growth and development and, crucially, the ability to retain the proceeds of that within the Scottish financial arrangements.

Brian Adam: You have expressed concern that the Scotland Bill would transfer too much risk to the Scottish budget. How might you want to go about reducing that risk? Would you like the Scottish budget to receive a greater share of the revenues from the higher rates of income tax? If so, would not that add to the risk? How would you deal with the issue of stability, which we heard so much about from UK ministers last week? They were desperate to protect the Scottish Parliament and people from too much risk. Are you willing to be a risk taker or do you want stability?

John Swinney: I certainly want us to have a range of financial powers that would enable the Scottish economy to grow, and the proceeds of that growth to be retained and reinvested in Scotland.

There are, essentially, two flaws in the income tax powers. Mr Adam took me on to the second of those, which relates to higher-rate taxpayers. According to the proposals that are in front of us, the Scottish Government would receive half the tax revenues from the basic rate, a quarter of the revenues from the higher rate and a fifth of the revenues from the top rate. Between 1999 and 2008, the upper-rate revenues grew by an average of 13 per cent, compared to growth in the basic rate of just 6 per cent. Although the potential for growth in higher-rate tax revenues is double the potential for growth in basic-rate tax revenues, under the proposed arrangements a diminished share of those taxes would be retained in Scotland, with the result that the opportunity to see the tax base grow and, therefore, to tackle some of our underlying concern about the deflationary implications of the Scotland Bill proposals, would be lost to Scotland. In other words, there is a greater degree of risk.

The assessment that the Parliament must make about the Scotland Bill proposals involves consideration of how we can ensure that when we take on risk—there is nothing inherently wrong with taking on risk—we have the ability to take countermanding action that can compensate for or mitigate that risk. With any financial arrangements, that is a well understood trade-off that an Administration would have at its disposal.

Brian Adam: You are willing to take on appropriate risk, but how would you improve the proposals in the white paper in order to manage that risk appropriately and get the appropriate reward for taking that risk?

John Swinney: The answer lies in the range of financial responsibilities that would be available to the Scottish Government. Without a broad range of powers that can enable the Parliament and the Government to take account of particular circumstances and to take actions to address an inherent risk that might undermine revenue and could have a negative effect on levels of public expenditure, there has to be the ability to take action that can create greater economic activity and greater economic impact. That would be the Government’s approach to the issue.

14:00

Fiona Hyslop: One of the issues here is whether the bill is perceived as being about accountability for the Scottish budget or about levering economic growth. We can look at comparisons elsewhere. You will know about the current debate in Northern Ireland, which is considering going to 12.5 per cent corporation tax in order to generate income and create an estimated 180,000 jobs within six years. Obviously, Northern Ireland is taking a decision about accepting risk and shortfall in the short term in order to benefit in the longer term. There are other areas, such as excise duty—we have just had an interesting debate about that during the passage of the Alcohol etc (Scotland) Bill. Some have argued for using excise duty in a policy way and not just necessarily in an economic way.

The key here, though, and the point of your question, is about balancing risk and reward. Broadening the tax base is really important. Unfortunately, as you have probably seen, much of the commentary about the bill has been along the lines of, “Well, if you’ve got tax powers that must mean taxes are always going up.” We are arguing that we can bring about economic growth by broadening the range of taxes that we use and broadening the tax base, even within the income tax proposal. The issue of broadening the tax base would be helpful in the committee's analysis of the potential improvements to the bill.

Robert Brown (Glasgow) (LD): I want to go back to the different scenarios. I begin by defining terms such as fiscal autonomy and fiscal responsibility. I take fiscal autonomy to mean the Scottish Government raising all its own taxes and perhaps remitting to Westminster a payment in respect of the bill for services that Westminster carries out for us. However, it could mean a spectrum between the present situation at one end through to independence at the other, with a variety of stopping points in between. Is that broadly where the Scottish Government is coming from? You want to move up the level of fiscal responsibility towards one in which you have substantial if not complete control of the raising of all Scottish tax revenues.

John Swinney: That is a fair summary of the issue. Mr Brown's illustration of the issue as a spectrum is how I would characterise the way in which the Scottish Government went about its interaction with the UK Government over the summer. We said to the UK Government, using a similar inference to that of Mr Brown, if not the same words, that there is a range of responsibility. At one end of the spectrum would be the Parliament without its current tax-varying powers, and at the other end would be Scottish independence. On that spectrum, there are various choices that can be made about the level of financial responsibility that could be exercised. There is no perfect science for which tax falls on which side of the argument, but there is undoubtedly a spectrum of debate that can be taken forward in that respect.

Robert Brown: That is very helpful. I should say to the cabinet secretary in passing that if he is going to quote the Steel commission's proposals, he could at least do it accurately.

I want to explore more broadly what the implications of revenues in the period since devolution are for that sort of situation. We heard last week from the UK Government's economic adviser, who referred to the "Government Expenditure and Revenue Scotland" figures up to 2008-09. Over the period since devolution, tax receipts in Scotland have grown by 47 per cent. Does the cabinet secretary recognise and agree with that figure?

John Swinney: It is not an analysis that I would accept, from what I heard of it last week.

Robert Brown: In what respect?

John Swinney: My point is essentially that, if you look at the detail of the period since 1999-2000, you can see that total managed expenditure in Scotland grew by approximately 74 per cent. In comparison, the growth in total revenue over the same period was 75 per cent—the figures are virtually identical. That strikes me as the more appropriate analysis of the changes in expenditure and revenue over the period.

Robert Brown: I think that you misunderstood my point. I accept entirely that the Scottish Administration had revenues of the sort that you describe. I am asking whether you accept from the GERS figures that if Scotland had had control over and receipt of all the tax revenues that accrued in Scotland, receipts would have gone up by 47 per cent, as our witness told us at last week's meeting, when he quoted the GERS figures for the period since 1999-2000. The matter seems fairly straightforward and I am surprised that there is any dispute about it.

John Swinney: The analysis that I just quoted is from GERS. Total managed expenditure in Scotland has grown by approximately 74 per cent since 1999-2000, and total revenue in Scotland has grown by 75 per cent over the same period.

Robert Brown: To what are you referring when you say "revenue"? Do you mean the revenue that the Scottish Government actually receives?

John Swinney: I am talking about all revenue, which includes the geographic share of North Sea oil revenues, as is set out in the analysis in GERS.

Robert Brown: That is a helpful clarification. If we exclude the oil revenues, do you recognise the 47 per cent figure?

John Swinney: We can always remove factors. The important analysis in this debate is the 74 and 75 per cent argument, which I set out.

Robert Brown: I am asking whether, if we exclude the oil revenues, you accept that the figure is 47 per cent. We will come to the oil revenues in a minute.

John Swinney: I do not have all the detail in front of me. The most important reference point is the 74 and 75 per cent analysis.

Robert Brown: Can you confirm that the Scottish budget has increased by 94 per cent since 1999, as we were told last week? You seem to be suggesting that you do not agree with that.

John Swinney: We can trade numbers all we want, but the analysis that is substantiated by GERS is the 74 and 75 per cent analysis.

The Convener: Perhaps I can help. I would be grateful if you could clarify whether there was a 94 per cent rise in the Scottish budget. I think that when you talk about total managed expenditure you are including all UK spending in Scotland. Is that correct?

John Swinney: Yes, of course.

The Convener: Therefore, the 94 per cent figure is accurate, as is the 75 per cent figure. We agree that the Scottish budget grew by 94 per cent. That is, the Scottish Parliament's budget grew by 94 per cent—I think that I heard a "yes".

John Swinney: Let me make clear what numbers I am talking about. Since 1999-2000, total managed expenditure in Scotland has grown by approximately 74 per cent, compared with growth in total revenue of 75 per cent over the same period.

The Convener: However, that includes all UK Government spending in Scotland and does not refer to the Scottish budget, which grew by 94 per cent. I think that we agree.

John Swinney: I am simply citing the information that has emerged from the GERS analysis.

Fiona Hyslop: If the argument is about fiscal autonomy, it is obvious that we must look at spending and revenues in Scotland. The UK might choose to use figures that exclude other spending in Scotland, to make the figure smaller; all that we are saying is that GERS shows the 74 and 75 per cent figures. If the question is put in the context of fiscal autonomy, it is not unreasonable that we should consider total revenue and expenditure figures. In that context, the GERS figures that the cabinet secretary cited are correct.

Robert Brown: Let us look at the matter slightly differently, because it is important. If Scotland had had control of its tax receipts during the past couple of years, during the recession, what implications would there have been for receipts across the different tax baskets over which you seek to have control in Scotland?

John Swinney: There would have been significant reductions in the volume of certain tax take in the period. That takes us back to the realms of how much responsibility the Administration can exercise. I return to the point that I made to Mr Adam: the broader the range of responsibilities that any Administration carries, the greater its ability to manage any strain in one or more budget lines that arises from the tax revenues that it manages.

Robert Brown: Last year, Scotland's income tax take was down £549 million, its corporation tax take was down £641 million, its VAT take was down £402 million, its stamp duty take was down £300 million, its inheritance tax take was down £91 million and oil revenues were probably down by £6.5 billion. How could an independent Scotland with fiscal autonomy have managed that situation?

John Swinney: As Mr Brown will appreciate, it is impossible, impractical and inappropriate to make a judgment on the finances of any self-governing country on the basis of one year. There are challenges in any one financial year for any one country. For example, Scotland ran a cumulative current budget surplus that was worth £3.5 billion in the four years up to 2008-09. During the same time, the United Kingdom ran a current budget deficit that was worth £72.3 billion.

We have to look at these questions over a longer timescale, because that enables us to get a true picture of how the performance of an economy is affected by given circumstances in any one financial year, which may be good or bad. Over the past 10 to 20 years, we can point to financial years that were good revenue years and we can point to those that were bad revenue years. The importance of looking at things in the round is to get the type of analysis that I have just given.

Robert Brown: I probably agree with the direction of the question if not the answer.

I turn to international comparisons. You have said that your support for fiscal autonomy is to make Scotland more like the US, Canada or some European countries. Where does full fiscal autonomy for a sub-national Government operate anywhere in the world? By full fiscal autonomy, I mean not just greater responsibility but full autonomy.

John Swinney: Probably the best comparative example is the Basque Country where a significant degree of individual financial responsibility is exercised at that level of authority within Spain. That allows the Basque Country to pursue an approach to economic growth and development that enables it to be broadly more prosperous than the rest of Spain and to have a lower level of unemployment. Obviously, the proposition is exercised in the context of the constitutional structures of Spain.

Robert Brown: The integrity of the Spanish state and the equalisation of welfare arrangements across Spain are built into that sort of calculation. That may look like fiscal autonomy but, in practice, it is not. Is that not the reality?

John Swinney: The gross domestic product per capita of the Basque Country is about 30 per cent higher than that of Spain. Clearly, the arrangements that are in place in the Basque Country create a different outcome and performance from that of Spain as a consequence. I accept that all of that is delivered within the constitutional structures of Spain. That point takes me back to Mr Brown's first question. A range of different scenarios could be deployed within the constitutional structures of the United Kingdom. For a long time, I was told that our current arrangements were not necessary; we now have them. At various stages, I was then told that we do not need any more responsibilities; we are now on course to get more responsibilities. My proposition is this: there are plenty of other scenarios before we get near to the scenario that is clearly my preference—I have spent my political life trying to secure it—of an independent sovereign Scotland. I am prepared to discuss and consider those scenarios. I hope that the committee will look at the best set of arrangements that can be put in place, now that we have a window of opportunity to influence the contents of the Scotland Bill and to ensure that it best meets the aspirations and needs of the people of Scotland at this time.

14:15

Robert Brown: We can probably agree on that, if not on the earlier question of whether greater responsibility per se is the issue. Is the real issue not what is best for Scotland, the Scottish economy and the Scottish people?

John Swinney: It was in the spirit of pursuing that objective that the Scottish Government engaged with the United Kingdom Government on the formulation of the Scotland Bill over the summer. As the First Minister made clear in the parliamentary debate earlier this month, we wanted the United Kingdom Government to include a more ambitious proposition in the bill. We were engaged in a discussion to enable that to happen.

David McLetchie (Edinburgh Pentlands) (Con): Good afternoon. Further to Robert Brown's questions, I wonder whether we can nail the myth of the Basque Country that you have again perpetuated. Is it not correct that the Basque Country does not have full fiscal autonomy and that, rather, it has a higher degree of autonomy than we have?

John Swinney: That is a fair point.

David McLetchie: Good. The Government's paper, to which you referred earlier, points out in paragraph 4.1—written, no doubt, by your own fair hand—that the Basque Country has

"responsibility for raising and collecting all direct taxes, including corporation tax",

but that,

"to conform to EU legislation and retain a largely harmonised social security system, indirect taxes and payroll taxes remain centralised."

Do you recognise that as an accurate statement of the tax regime in the Basque Country?

John Swinney: Yes.

David McLetchie: Do you also recognise as accurate the statement in the same paper that there is an economic agreement between the Basque Country and the Spanish Government that guarantees—I think that that word is used—

"a degree of harmonisation between the Basque tax system and that in the rest of Spain"?

John Swinney: There is nothing unusual about the arrangement that Mr McLetchie has just outlined, which illustrates how it is possible within the structure of a unitary state for mature agreements to be reached between a devolved legislature and central Government that enable the devolved Administration to deploy a significant degree of economic flexibility without somehow jeopardising the integrity of the state.

David McLetchie: That is not your preferred option. You want independence and full fiscal freedom; you want to destroy the British state. You are not in favour of any intermediate systems, are you?

John Swinney: I am trying, as always, to be as helpful as I can to parliamentary committees. If Mr McLetchie wants, I can sit here and explain that, throughout my adult life, I have been driven by the wish to secure the establishment of an independent Scotland. Nothing would give me greater joy politically than to achieve that objective. However, I have always accepted—as Mr McLetchie will acknowledge—that that argument must be won in Scotland. While we make that argument, I have a duty as a member of the Parliament and a Government minister to engage with others to try to strengthen the Scottish Parliament as best I can.

I come back to the issue that Mr Brown raised with me. Of course there is a spectrum, which runs from the union with no Scottish Parliament—if my memory serves me right, that was Mr McLetchie's former position—to independence, the position that I have supported consistently. There are plenty of choices in between, as regards the levels of responsibility and control that could be secured. I make the important point that in the bill the current United Kingdom Government—and, to be fair, the previous United Kingdom Government—has opened up a window of discussion and scrutiny of what the next step should be. I accept that it is not opening up the door and saying that the next step is independence. We are engaging in a discussion about how we can make the proposition as strong as we can. That is the spirit in which we have taken forward our discussions with the UK Government.

David McLetchie: Yes, but the same spirit does not allow you to publish your proposals and have them properly costed and modelled, as was apparent from the discussion that we had in response to the convener's questions. You are not participating in this debate at all. You have not brought your proposals, properly modelled, to the debate.

John Swinney: Of course we have.

David McLetchie: Well, where are they? Where is the model?

John Swinney: It is contained in the publication of February 2009, the white paper of November 2009 and chapter 4 of the budget document. I would imagine that Mr McLetchie complained about the preparation of each of those things.

David McLetchie: Having carefully read the February 2009 document, I can assure you that it is most certainly not in that document. I suggest that you reread that as well as all the sections about the Basque Country and Navarre. Would you accept in the interests of clarity that we should get away from talking about gradations of fiscal autonomy? Your concept of fiscal autonomy is Scotland fiscally autonomous as an independent nation. The rest of us who do not subscribe to that view of Scotland are prepared to debate gradations falling short of that, but we both come to this from a completely different premise and starting point. Is that not correct? You have no intermediate proposal to offer us, do you?

John Swinney: Of course we do.

David McLetchie: Well, where is it?

John Swinney: It is contained in—

David McLetchie: Well, what is it? Describe it for us.

John Swinney: It is contained in the February 2009 publication and it is contained in—

David McLetchie: Where is it in the February 2009 publication? I have it here. Which page is it on?

John Swinney: The whole concept is underpinned by that document.

David McLetchie: Which page is it on?

John Swinney: The document sets out exactly the possibilities that can be achieved within the structure of the United Kingdom; it sets out how the Parliament can achieve greater responsibility over financial matters. That is an inherent part of the November 2009 white paper on independence. We have advanced those arguments, which are not the core proposition of the Scottish National Party—of course not. Mr McLetchie is absolutely right that the Scottish National Party is an independence political party, but we have been prepared to engage in a discussion and say to people, "What are the options between the current position and the achievement of independence?" For example, the First Minister made it clear that he was prepared to consider within the context of a referendum bill the possibility of a scenario—I think that it was affectionately called devomax—which would have maximised the responsibilities for financial powers within the constructs of the United Kingdom. That is not the position of the Scottish Government or the Scottish National Party, because we believe in independence, but it represents a broader view that could command the support of a wide range of individuals or parties.

The question for Mr McLetchie to resolve as a participant in this debate—it is a fair question—is to what extent the Scotland Bill enables Scotland to prosper to any significant extent. That is the key question that faces us in this debate. Is the bill the best way to maximise the opportunity that has been created to have a discussion about further powers for the Scottish Parliament?

David McLetchie: But there is no model that you have advocated. Would you like to outline for us the model, falling short of independence, that you advocate should be in the bill?

John Swinney: The model that could be in the bill is that all taxes with the exception of VAT would be set in Scotland and, from those revenues, Scotland could make a payment to the United Kingdom for the services that have been received from being part of the United Kingdom, such as defence and foreign policy; Scotland could be more fully responsible for all other aspects of public spending, including welfare; Scotland would have full borrowing powers to manage investment responsibly; borrowing could be overseen by an independent commission that could create the type of mature relationships that exist between, as I cited before, the Government of Spain and the Government of the Basque Country; and, in a direct parallel of that relationship, an economic agreement would establish the parameters within which the Scottish and United Kingdom economic and fiscal policies could complement each other to ensure that Scotland accepted within the constraints of the United Kingdom that its economic policy decisions could have ramification for the rest of the United Kingdom, and that those would have to be managed in some way.

David McLetchie: That is the Government's proposition, is it?

John Swinney: That is the model—it is a proposition.

David McLetchie: I am not asking what a proposition is; I am asking what the Government's proposition is. The United Kingdom Government has a proposition that we are examining. We keep hearing about alternatives. What is your alternative, short of independence for Scotland? I am asking you to express that. Is what you have just described your model?

John Swinney: I am saying to you that there is a model of that nature—

David McLetchie: There are lots of models.

John Swinney: Pardon?

David McLetchie: There are millions of models. I am asking you what the Scottish Government's model is.

Fiona Hyslop: It was set out in November 2009, in the white paper. Quite some time ago, I set out a model that could be implemented—

David McLetchie: No, no—not a model. What is the Scottish Government's model?

John Swinney: The Scottish Government's policy position—which is no surprise—is that we believe in Scottish independence. That is—

David McLetchie: You have no model for this.

John Swinney: No—

David McLetchie: Exactly. That is my point.

John Swinney: No, Mr McLetchie, you cannot get away with that kind of nonsense.

David McLetchie: Oh, I think that I can because it happens to be true, but carry on.

John Swinney: No, you cannot, Mr McLetchie. In the past three and a half years, the Scottish Government has accepted, maturely and responsibly, that we do not yet have a majority in favour of Scottish independence, which is the Government's position. We have, therefore, enabled a debate to take place about the potential alternatives that would increase the powers of the Parliament but would not represent Scottish independence. That is a mature and responsible position for the Government to have taken. It is not for the Government to prescribe the alternative model; it is for us to facilitate a debate, which we have done through the two papers that I have talked about, one of which was published in February 2009 and the other of which, to which the minister has just referred, was published in November 2009.

The challenge to individuals such as Mr McLetchie is to determine whether the proposals that we have in front of us in the Scotland Bill are in any way a step in the right direction that will enable us to create a more prosperous Scotland. That is the question, and the Scottish Government has submitted a significant amount of material to the debate to enable the Parliament to make an informed choice on that question.

David McLetchie: You have arrived at no position, maturely and responsibly; you have simply scattered into the debate a range of options among which you have no particular preference. You maturely and responsibly accept that there is no mandate for independence, which was well evidenced in the recent general election, but you maturely and responsibly have no intermediate position to contribute to the debate, although you have plenty to say about the position of Her Majesty's Government—is that correct?

John Swinney: We advanced a substantial amount of material in our discussions with the United Kingdom Government over the summer, to enable it to come forward with a bold proposition that would allow Scotland to prosper. Frankly, what has emerged from the UK Government is not a proposal that will allow Scotland to prosper; it is a proposal that enshrines some significant risks to the people of Scotland and their public finances.

Tricia Marwick (Central Fife) (SNP): Let us return to the Scotland Bill, which we are meant to be examining today. It has been said that the bill represents the biggest transfer of fiscal responsibility since devolution. What analysis has the cabinet secretary undertaken of the responsibility for revenues that are earned in Scotland? Can you put into context how the additional powers in the bill compare to those in other jurisdictions that you know about or those of local authorities?

John Swinney: In the current framework, about 7 per cent of Scottish tax revenues are devolved to the Scottish Government. That figure would rise to 15 per cent as a consequence of the decisions that are proposed in relation to the Scotland Bill. On the question of how much more flexibility the bill would deliver, there are a number of examples in the local authority sector of local authorities having control over a proportion of their resources. Equally, there is a range of different levels of financial responsibility in the other jurisdictions. However, the increase from 7 to 15 per cent puts the Scotland Bill changes into perspective.

14:30

Tricia Marwick: How does that position compare with that of the Basque Country, or other jurisdictions? What revenue does your analysis show that they are responsible for compared with the additional powers that we are getting, which will take us up to the grand sum of 15 per cent?

John Swinney: Clearly, the Scotland Bill proposals are set at a much more modest level than is the case for the Basque Country. I have gone through the range of arrangements that are in place there. The comparison demonstrates and reinforces the point that I made to Mr Brown. There is a range of responsibilities that could be transferred depending on the choice that is exercised in this respect.

Tricia Marwick: The borrowing powers in the Scotland Bill are considerably less than the borrowing powers of Northern Ireland, and indeed those of our Scottish local authorities. What effect will the limitation on the borrowing powers have on the Scottish Parliament? What benefits would there be from more extensive borrowing powers? Are there any specific examples that you would like to share with the committee?

John Swinney: There is a welcome element to the borrowing powers, because they provide the opportunity to undertake long-term borrowing to support capital expenditure. Needless to say, however, there are constraints within that, and the limit of £230 million of capital borrowing in any financial year is a significant constraint.

From my reading of the proposals, there does not seem to be a facility that would enable the Government to borrow zero in one year and £460 million in the next year. There is a £230 million quota throughout, and that is within a cumulative stock of £2.2 billion. I can see the United Kingdom Government's rationale for choosing that figure. The issue is close to Tricia Marwick's heart, because it is the estimated highest cost of the Forth replacement crossing. However, the inflexibility of the annual limit of £230 million is a technical point that could be further explored by the committee and revised.

The fact that the borrowing powers are not scheduled to become operative until 2015 is a further limitation. I do not see any reason why that could not happen earlier, although there are some signs in the command paper that there might be technical ways in which to advance it. Again, the committee's deliberations on that point would be helpful.

There are also some real constraints and limitations on borrowing to deal with revenue volatility. The annual limit of £200 million up to a cumulative total of £500 million was put in context by the information that Her Majesty's Government presented to the committee last week. In its own scenario, in each of the financial years 2008-09, 2009-10, 2010-11 and 2011-12, the borrowing threshold of £200 million would have been exceeded by the tax volatility that Her Majesty's Government highlighted. There is therefore a real constraint on the borrowing power, which is undermined for that reason.

Tricia Marwick: I was just coming on to the Government's presentation last week. There did not seem to be any clear explanation of why 2015 was chosen, and there did not seem to be any clear explanation of why there was a limit on borrowing each year. My colleague Brian Adam suggested that it was control freakery on behalf of the Treasury, and I suggested to the Treasury minister David Gauke that he was "all heart", and that he actually wanted to save Scotland from itself.

What conversations have you had with the UK Treasury on those powers? Do you get the impression that it would be prepared to consider some changes if such a recommendation were made by the committee?

John Swinney: All those issues were marshalled in front of the Treasury as part of the discussions that we had over the summer, which were principally conducted by officials.

I cited the references in the command paper about the possibility of introducing some borrowing flexibility for specific projects from 2013-14 as being a helpful signal. The earlier that such a measure is brought forward the better, given that we are facing an acute reduction in our capital expenditure budget in the coming period. There is an opportunity to amend the proposal that is before us, and I hope that it is taken up by the committee and by the United Kingdom Government.

Peter Peacock: I take you back to a question that Brian Adam raised earlier, as I did not fully understand the argument that you made about risk. You seemed to argue that the Scotland Bill "inherently"—I think you used the word—enshrines risk to the Scottish budget. However, you also gave the contrasting impression that the wider autonomy of the fiscal measures that you envisage is almost risk free. Can you clarify that?

John Swinney: If I suggested that it was risk free, that was not my intention. My point to Mr Adam was that there will of course be risks in all financial decisions—I manage risks in financial decisions in my responsibilities every day. The question is whether we have enough counterbalancing powers to accommodate the risks that will emerge from the income tax powers under the bill. I do not think that there is a sufficiently broad range of interventions to enable us to counterbalance the risks that are inherent in the bill.

Peter Peacock: The figures that Robert Brown gave were illustrative of reductions in income that would stem from a number of the fiscal measures that you would be looking to have control over, including those on oil, where the situation is extremely volatile. Do you accept that the risks from the package of measures that you would like to be in place are potentially much higher in the short term compared with what is contained in the Scotland Bill?

John Swinney: No. To use the same example, oil revenues remain buoyant, and if oil revenues had not remained as buoyant, there would have been significantly more weakness for the United Kingdom Government's public finances.

The Scotland Bill contains a very limited income tax proposition, which brings with it significant risks of volatility. Sufficient counterbalancing measures are not in place to allow that risk to be accommodated. For example, as I pointed out in response to Tricia Marwick about borrowing for the purposes of dealing with volatility, the document that Her Majesty's Government gave to the committee last week highlighted that, in 2008-09, the variance reduction in receipts was £243 million, which is more than the £200 million threshold for borrowing for volatility purposes. In 2009-10 the figure was £748 million, in 2010-11 it is £559 million and in 2011-12 it is £229 million. In all four years, the figure is more than the £200 million counterbalancing borrowing facility—which has a total limit for volatility purposes of £500 million. That is the nature of the problem that we are wrestling with in the bill. There has to be a full range of different responsibilities to enable us to manage the risk.

Peter Peacock: You seem to be suggesting that, at a time of economic turbulence, when revenues are crashing, you would have sufficient levers in the short term—I stress in the short term—to counteract the reductions in income through, I presume, the tax measures that you would have at your disposal. Are you seriously trying to suggest that you could do that in the short term without greater risk to the various services that are provided in Scotland?

John Swinney: Let us look at one of the counterbalancing factors that could be brought into play, which is the forecast for North Sea oil revenues. The outturn in 2009-10 was £6.5 billion, and the forecast is £9.1 billion for 2010-11, £9.8 billion for 2011-12, £9.4 billion for 2012-13, and £8.6 billion for 2013-14. In each of those four financial years, the outturn is forecast to be in excess of £2 billion greater than the outturn in 2009-10. That is my point about having at our disposal other taxation arrangements to provide us with the ability to counterbalance.

Let us compare the numbers. From the data given to the committee last week about the proposed model, the volatility in 2010-11 is minus £559 million. In 2010-11, the forecast increase in North Sea oil revenues is £2.6 billion—about four times greater than the loss of income tax revenues under the Scotland Bill. My point is that there has to be a broader range of financial interventions to enable us to counterbalance some of the difficulties.

Peter Peacock: You seem to be depending on oil to balance any reduction in other taxes. I thought that oil revenues would go into a separate oil fund.

John Swinney: It is just one example of where there is inherent strength in having at our disposal other elements of taxation.

Peter Peacock: You may want to pick up the point about the oil fund. I understood that your policy position was that income from oil would go into an oil fund, but perhaps you want to say more about that. If the policy is to subsidise reductions in other forms of income, you might want to clarify that.

My other point is how you square your approach with what GERS tells us about the figures between 2002-03 and 2008-09—the figures that you published when a revision of the GERS totals was completed in 2008. Those figures show that, if you had got a population share of the oil revenue, Scotland's deficit over that period would have been £69 billion, and if you had got a geographic share of North Sea oil—your preferred policy position—the cumulative deficit would have been £26 billion. That is opposed to the £8 billion that you have referred to in your analysis of the Scotland Bill. How will that approach provide any guarantee to pensions, benefits and public services?

14:45

John Swinney: Mr Peacock's question rather ignores what is happening in the UK at the same time. Let us just compare the figures. Earlier, I told the committee that over the four years to 2008-09, Scotland ran a cumulative budget surplus of £3.5 billion; over the same period, the UK Government ran a cumulative current budget deficit of £72.3 billion. Now, if we look at—

The Convener: I wonder whether the cabinet secretary can give us the total budget figures rather than the current ones. Does he have those available?

John Swinney: I do not have them in front of me, but—

The Convener: You do not have both the current and capital figures. Budget deficits usually combine current and capital.

John Swinney: The point undermines the whole nature of long-term capital investment to support our economy's development, but I am not altogether surprised that Wendy Alexander has made it, given the Labour Party's proposed ransacking of capital budgets. Now if we look—

The Convener: What you have given us is a partial, not full, budget deficit, cabinet secretary. One usually gets a full budget deficit figure, not a partial one.

John Swinney: Let me give Wendy Alexander the numbers that I have in front of me. The Scotland Office report estimates that, between 1980-81 and 2007-08, there was a cumulative Scottish deficit of £23.5 billion; over the same period, the cumulative UK deficit was £462 billion. Scotland's per capita share of the UK deficit would be £38.9 billion, or about twice the Scotland Office's worst-case scenario. That is the figure for the combined cumulative Scottish deficit, which is what Wendy Alexander was looking for. It shows that there is a deficit, which is hardly surprising, but it is half as serious as the UK deficit.

Peter Peacock: Is your measure of Scotland's success that it would have a lower deficit than that for the rest of the UK?

John Swinney: My measure of success is that Scotland is more prosperous, which could be achieved if it had the full range of financial powers that I have talked about this afternoon.

Peter Peacock: And you say that, even given the totals in GERS—which, I point out, are your figures—of a deficit of between £26 billion and £69 billion over that period.

John Swinney: I have already given the numbers to the committee. Over the four years to 2008-09, Scotland ran a cumulative budget surplus of £3.5 billion; at the same time, the UK had a current budget deficit of £72.3 billion. On the debt question, Scotland ran a cumulative budget deficit of £23.5 billion, while the UK's cumulative deficit was £462 billion. Those strike me as pretty compelling arguments that we need to do something different than what we are doing at the moment.

Peter Peacock: It strikes me as slightly odd that, at the same time as you are arguing that as an oil-rich nation we should be prospering, you are arguing that a measure of success is to have a deficit that is slightly less than that for the UK—and which will be kept down by those oil revenues.

John Swinney: I gently point out to Mr Peacock that in the period that we have been talking about—between 1980-81 and 2007-08—all of these things came under the constitutional arrangements of the UK.

Peter Peacock: I am not clear what your point is.

Before I move on to other issues, I have a question of clarification. In response to Trish Marwick, you suggested that short-term borrowing powers are inadequate to deal with fluctuations and referred to a few examples that we raised with the Treasury people last week. Although I understand the technical point, are you saying that you want more extensive powers to address the scenario that I have just described and undertake more extensive short-term borrowing?

John Swinney: I am saying that we need at our disposal a range of responsibilities that allow us to compensate for the volatility in income tax. One of the options could be greater short-term borrowing; however, I would prefer to have a broader range of options to enable us to grow the Scottish economy and to retain the proceeds in Scotland to deal with the strain that would come with having lower-than-expected income tax revenues.

Peter Peacock: I want to ask about the projection of an £8 billion deficit in figures that you have published. First of all, we should be clear that these things did not actually happen but are assumptions based on various figures to which you have alluded. Do you accept that, if you had made the same assumptions looking forward as you have looking back, any forward projections would show Scotland in a better-off position in future?

John Swinney: No. The fundamental problem with the Scotland Bill's tax proposals is that they have what can accurately be described as a deflationary bias. As the figures from Her Majesty's Government last week demonstrated, because tax revenues have grown more slowly than public expenditure has, the proposals have an inherent deflationary bias. I therefore do not accept your proposition.

Peter Peacock: On the basis of the UK figures, Scotland would be in surplus by more than £300 million for the spending review period to come. I am asking about your figures. Have you projected your figures in the same way?

John Swinney: Yes, we have.

Peter Peacock: Will you publish those figures?

John Swinney: I would be delighted to publish those figures, which show that the cumulative loss to the Scottish budget would be between £9 billion and £10 billion.

The Convener: You answered no to the question whether, on your assumptions, Scotland would move into surplus in the coming three years. Can we have clarity on that point? If we look forward to the next three years, the UK Government makes its contention precisely because spending is to be lower while tax receipts rise. You said no—that Scotland would not move into surplus on the basis of your assumptions. I am asking whether you stand by that assertion.

John Swinney: My officials will advise me, but the information that is in front of me is that, if we carried forward to 2014-15 the analysis that gave us the £8 billion figure, the estimated cumulative loss to the Scottish budget would be between £9 billion and £10 billion.

The Convener: I am not asking for a cumulative loss. On your figures, do we move into surplus in the next three years? You said no. I do not think that your figures show that.

John Swinney: I will be corrected; my officials can—

Fiona Hyslop: Can I explain about—

David McLetchie: No.

The Convener: No. In the next three years, on your methodology, does Calman give Scotland more money?

Graeme Roy (Scottish Government Strategy and Ministerial Support Directorate): That depends on the way in which the situation is modelled.

The Convener: If you model on the same basis on which you modelled your £8 billion, does Scotland move into a more favourable position of surplus in the next three years?

Graeme Roy: If the power was introduced in 1999—so we make a comparison with the £8 billion figure—as income tax receipts fall, the cumulative loss becomes larger. If we assume that, in the period afterwards, spending cuts are made because income tax is at a low level and then income tax starts to grow, the cumulative loss starts to decrease from its peak, but it is still a cumulative loss.

The Convener: We are not asking about a cumulative loss. We are asking whether, if we start from this year on exactly the same assumptions as you used to calculate the £8 billion, Scotland moves into surplus on the Calman proposals in the next three years.

John Swinney: I reserve my position so that I can give the committee a definitive view, because I do not have the specific breakdown of each year in front of me. I make the general observation that we are assessing a situation in which the Calman tax powers that the Scotland Bill envisages deliver for Scotland only when swingeing cuts are made in public expenditure. If that is the triumph, it is a strange triumph to achieve.

Peter Peacock: You are changing your ground.

John Swinney: No, I am not.

Peter Peacock: I am afraid that you are. On the cumulative loss, can we be clear that nothing has been lost until this point, so only looking forward is relevant? We did not lose £8 billion—we got what we got, which was not an £8 billion loss, as a different system applied. Moving forward is the important point.

Brian Adam: If a cumulative loss of £8 billion increases to £10 billion, that is an increase in the loss. Irrespective of what happens in an individual year, that is bound to be the case if a further loss of between £1 billion and £2 billion is incurred over the next three years.

The Convener: Members need to speak through the chair. Cabinet secretary, the floor is yours.

John Swinney: I will give the committee the information that it requests when I have it to hand. That will enable us to give the committee the precise answer.

Peter Peacock: That is fine.

I have one other question. You said in response to Robert Brown that it would be wrong to make a judgment that is based on any one year, yet that is precisely what you did with the income tax assumptions that underlie your own £8 billion forward projection.

John Swinney: No, we made an assumption that was based on applying that approach over a 10-year period.

Peter Peacock: But it is based on one year.

John Swinney: No—

Peter Peacock: You picked a figure for one year and projected it over 10 years.

John Swinney: But it involved applying the change over a 10-year period.

Peter Peacock: Yes, you applied a figure, but you picked the figure for one year. My point is that you have modelled—

John Swinney: Let us explain the methodology.

The Convener: Did you choose one year?

Gary Gillespie (Scottish Government Strategy and Ministerial Support Directorate): No, we started, yes—

The Convener: Thank you.

Gary Gillespie: It was in line with the calculations that were set out by the Commission on Scottish Devolution on pages 13 and 14 of its final report, and interpreted by the Holtham commission on page 53 of its final report.

The Convener: But not in line with the bill.

Gary Gillespie: I suppose the answer with regard to the bill is yes, the command paper talks about an average.

The Convener: Yes.

Gary Gillespie: Yes.

The Convener: So why did you build your model on an assumption that was explicitly rejected by the command paper? The figure of £8 billion is built on an assumption—choosing a single year—that the command paper explicitly ruled out. Why?

John Swinney: The command paper gives us no clarity about how the approach will be taken forward, and the secretary of state has said that it is illustrative. I am not sure how we can make any judgment based on what is in the command paper when it is illustrative, and when the secretary of state has made it clear that any definition of where we might be on that question will have to wait until after the bill has been enacted. How can the Parliament scrutinise legislation on that basis?

Peter Peacock: Is that not the exact principle that you advocated to the committee just a few minutes ago, when you said that one should not base a judgment on one year but should look at the evidence over a number of years and come to a judgment? I agree with that. The approach is not in the command paper, which is potentially to Scotland's huge benefit in comparison with picking any one year and working on that assumption.

John Swinney: The success of the command paper analysis is predicated on the somewhat optimistic scenario of a massive windfall in the first few years of the implementation of the tax powers. The answers given by the UK Treasury are predicated on exactly that, but it seems to be an unlikely proposition.

Peter Peacock: Sorry—that was the subsequent paper, not the command paper. Nonetheless, I have made the point that you have picked one year and rolled it forward.

On grant reduction, you again chose an assumption that is not advocated in the command paper. You picked a particular year and applied it to the 10-year period that you analysed, whereas the command paper says that the process of grant reduction would have to be negotiated. That is surely a good thing, is it not?

John Swinney: In my experience of negotiations with Her Majesty's Treasury on such issues—which I am surprised Mr Peacock thinks are a good thing—they tend to result in an outcome that is not to the benefit of Scotland.

Peter Peacock: But hang on a minute—the UK Government explicitly says that a process will be undertaken between the Scottish Government and the UK Government. That surely makes sense, does it not?

John Swinney: Yes, but we go through such things all the time, as I am sure that Mr Peacock did when he was a minister. There would be discussions with the UK Government about financial arrangements, which would result in an outcome that was favourable to Her Majesty's Treasury and not particularly favourable to the Scottish Government.

Peter Peacock: That displays a remarkable lack of confidence in your ability to negotiate a deal.

John Swinney: It reflects the question, which the Scottish Parliament must think about, of where the ultimate power over public expenditure lies within a unitary state. It lies with the Treasury.

15:00

Brian Adam: Given the uncertainty around the whole business of a grant reduction mechanism, because no mechanism has been published, we are being asked to buy into a system that is clearly a pig in a poke. It is unfair to ask the cabinet secretary precisely to define his mechanism for doing things, when the command paper makes it clear that there is no such mechanism in the bill.

Peter Peacock: I am just trying to establish the position. Cabinet secretary, given what you said about the Government being, in general, disposed to try to make the bill work in the interests of Scotland, what is your alternative in relation to the grant reduction negotiations that must take place?

John Swinney: When we get into the realms of such questions with the UK Government, and given that the final decision-making power on many issues will rest with the Treasury, ultimately the most advantageous position for us will be one in which we have a mechanism that creates a level playing field between the Scottish and UK Governments. For example, there might be some form of independent assessment of the strength of respective cases, which would enable us to take some questions forward—we have advanced that approach in relation to dispute resolution on financial matters.

Peter Peacock: You have known that a point will come at which there must be a discussion about grant reduction in the context of the Calman proposals. During the 16 meetings, did you put forward specific principles that you wanted to be enshrined in such negotiations?

John Swinney: In our discussions with the UK Government we have tried to arrive at a position of maximum strength in relation to the financial arrangements for Scotland and we have suggested ways in which the risks that are inherent in the Scotland Bill provisions could be mitigated to Scotland's advantage.

Fiona Hyslop: A serious problem, which the committee must address, is that regardless of what we have said about the £8 billion problem in relation to the experience of the past 10 years, the UK Government's published figures do not make the same comparison and answer a different question. That is exactly the point that Peter Peacock made. It is about how we handle the grant reduction. If we consider the figures that the UK Government produced last week, we can see that the UK Government is saying that there would have to be a windfall to the Scottish Government in order to compensate for and try to tackle some of the budget problems that committee members have identified as a result of the UK Government's slashing of public expenditure during the next few years. That is not a secure way to go forward. That is what the committee should be identifying—

The Convener: I do not think that the language of windfalls appeared anywhere in what was published, but we do not have time to pursue the issue. I am mindful that the cabinet secretary has been generous with his time. I will bring in Jeremy Purvis, who is a guest at the committee, before I bring in committee members again.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): I am grateful.

Cabinet secretary, in answer to Robert Brown you talked about TME growth in Scotland. I have a copy of the GERS 2007-08 report with me. There is a distinction between total expenditure on services and total managed expenditure; which were you using?

Graeme Roy: Total managed expenditure.

Jeremy Purvis: Will you confirm that in one year there was a difference between TME and total expenditure on services, excluding the accounting adjustment that is used in the documentation, of around £2 billion?

Graeme Roy: That is correct. In essence, TME is total expenditure on services plus an accounting adjustment—to get back to TME.

Jeremy Purvis: I think that you have the report in front of you. It says in the third bullet point of the executive summary:

> "In 2007-08, the estimated fiscal balance in Scotland, that is the estimated current budget balance plus estimated net capital investment, was a deficit of £11.1 billion ... when excluding North Sea revenue, a deficit of £10.4 billion ... when including a per capita share of North Sea revenue or a deficit of £3.8 billion ... when an estimated geographical share of North Sea revenue is included."

Is that correct?

Graeme Roy: I have a later version of GERS in front of me, but that would be correct, yes.

Jeremy Purvis: In a single year—2007-08—the net deficit of capital was £3.8 billion. Do the figures that you use for TME include capital?

Graeme Roy: Yes.

John Swinney: Yes.

Jeremy Purvis: Therefore, when the cabinet secretary answered Robert Brown's questions on growth in expenditure as opposed to growth in revenue, the figures that he gave on growth in expenditure included capital. However, when you calculate whether there is a deficit, you strip out capital. Is that correct?

John Swinney: The figures that I gave to Robert Brown showed that, since 1999-2000, total managed expenditure in Scotland has grown approximately 74 per cent.

Jeremy Purvis: That includes capital.

John Swinney: It is total managed expenditure, and it compares to a growth in total revenue of 75 per cent over the same period.

Jeremy Purvis: When you were answering Mr Peacock's questions about whether there would be a fiscal deficit, you chose to strip out the capital. Is that correct?

John Swinney: I did for the short-term analysis of the four years to 2008-09, but not for the long-term analysis of 1980-81 to 2007-08.

Jeremy Purvis: Thank you. I was just interested in getting that difference on the record.

You and the minister have referred to the table a lot and I have some specific questions about that, which follow on from Mr Peacock's questions. I just want to understand it and get that on the record.

John Swinney: Which table are we talking about?

Jeremy Purvis: The table that shows the workings for the £8 billion. How did you arrive at the estimated reduction in share in each of the years?

Graeme Roy: Essentially, the modelling makes the starting point zero sum. We replace an element of the block grant with the income tax revenues that are raised in that year. The budget that we start with is an illustrative budget, an element of which is replaced by income tax. That is then pushed forward, with the income tax element growing by the change in income tax year on year, and the departmental expenditure limit component growing as it would grow normally.

The Convener: Jeremy, can you keep going? The number of people who will be following all this is small, although we have covered some of the territory before.

Jeremy Purvis: Did you pick one year and then average it out over the decade?

Gary Gillespie: No.

Graeme Roy: It starts as a zero sum and then pushes forward. Every change that you see in the block grant replicates what would have happened to the total block grant.

The Convener: The grant reduction figure that was used was the one from 1999-2000 and it was projected forward. So it was the figure for one year rather than an average of the figures for all years, which is what the UK Government uses in its modelling and which reflects much more closely the command paper that says that a number of years would be involved. That is the point that we have reached. I am a little bit reluctant to pursue the subject much further because there are other issues that we have not yet touched on.

Jeremy Purvis: To be fair, that was not my understanding of the information that the officials gave. I understood that they picked 2007-08 and worked out what the figures would have been in 1999-2000. Obviously that is incorrect.

Gary Gillespie: There is a slight confusion. To get to the estimate of the share that Scotland would have received in total Scottish income tax at the start, we used data from 2008-09.

Jeremy Purvis: Oh yes, it was 2008-09.

Gary Gillespie: Giving Scotland its 50 per cent share of the basic rate, 25 per cent of the upper rate and a fifth of the top rate, that gives an estimated figure of £4.2 billion and 39 per cent of total income tax revenue. We then put that 39 per cent into the model in 1999-2000. The 39 per cent share is fixed; it does not deal with the second point about differential growth in bands.

Jeremy Purvis: That is different from simply taking 1999 as the base year. For the following eight years from 1999 to 2007-08, you did not look at any real sample data for income as a proportion of DEL, did you?

Gary Gillespie: We have the numbers here.

Jeremy Purvis: Can you answer that specific question? For each of those years, did you use the sample data for income as a proportion of the DEL outturn?

Gary Gillespie: No.

The Convener: Please be very quick, Jeremy. Some of this can be pursued by advisers offline. I am aware that there is new material to be touched on.

Jeremy Purvis: I just have one final thing that I could not find. Where can I see the published information on the figures that are used for DEL outturn?

Graeme Roy: These are our Treasury DEL figures. They are from our finance department, which I am sure would be happy to share them with the committee. They are the same DEL figures that appear in the expenditure outlook analysis, the state of the economy and the independent budget review.

Jeremy Purvis: The Scottish Parliament information centre could not correlate them with the Scottish DEL figures, the consolidated accounts or the public expenditure statistical analyses, so I wonder where they are.

Graeme Roy: There are a number of reasons why they differ.

Gary Gillespie: We have provided the advice to SPICe and we can write to the committee to explain.

The Convener: It is important. The fact that the Scottish Government is using DEL figures that are not publicly available makes it very difficult for us to make the like-for-like comparisons that the cabinet secretary has made.

Let us leave that there. The committee has one or two other questions.

Brian Adam: Robert Brown touched on the issue of corporation tax. On the tax powers that the Scottish Government wants, can you spell out to the committee what the implications for the Scottish economy would be of having corporation tax powers similar to those in places such as the Isle of Man and Jersey?

John Swinney: The Scottish Government's objective is to be enabled to use business tax powers to support economic growth in Scotland. That foundation of our thinking is about ensuring that the Parliament has a range of financial responsibilities and attributes that will enable us to deliver a higher level of economic performance. That may manifest itself in, for example, the way in which we provide tax reliefs to certain sectors of the economy; how we incentivise and encourage the development of research and development activity; and how we create an advantageous corporation tax regime on which we can establish the most competitive position in the international marketplace. Having that range of powers would enable the Scottish Government to exercise a greater degree of financial flexibility and responsibility in contributing to economic growth in Scotland.

Brian Adam: Last week, in response to a question from Mr McLetchie, the UK Exchequer Secretary indicated that in the short term—and almost in the medium term—any cut in corporation tax would lead to a cut in revenue. He did not recognise that as a lever to stimulate the economy. Do you share his view?

John Swinney: It is the aspiration of my colleague, the Minister of Finance and Personnel in Northern Ireland, to have the ability to reduce corporation tax, and I think that he would marshal a compelling argument as to why that would be advantageous for the Northern Ireland Executive. It is a pretty well understood technique in taxation that reductions in corporation tax can incentivise higher tax take.

David McLetchie: Can I just clarify that in relation to the figures to which Brian Adam is referring? The Exchequer Secretary suggested that the United Kingdom Government proposes to reduce corporation tax throughout the United Kingdom by 4p over the next four years. He said in evidence—as I am sure you know—that every 1p reduction would result in a loss of £800 million in revenue to the Treasury. So, the cumulative loss would be more than £3 billion. If Scotland had a share of that, it would be around £300 million, would it not? Where would all the extra revenues come from? If you then exercised a power to reduce corporation tax even further, to below the level that is envisaged by the UK Government, how much lower would it go?

John Swinney: Whether a reduced corporation tax level contributes to economic growth in our society depends on the assumptions that the Exchequer Secretary adopts. That is a fundamental point that would require to be explored. I take the view that reduced business taxation provides the opportunity to create a higher level of economic activity, which is welcome.

David McLetchie: Yes, but the Exchequer Secretary assumes, for budgetary purposes, that every 1p reduction in corporation tax leads to a loss in revenues of £800 million a year. Would your department make similar assumptions about corporation tax reductions leading to a loss of revenue?

15:15

John Swinney: There might well be short-term issues with revenue, but they would be compensated for by long-term gain. That plays into the argument that I have deployed, which is that the way to manage many of those challenges and to deliver the best outcome for Scotland is to have the fullest possible range of responsibilities.

David McLetchie: So if you had the full range of responsibilities, your ideal policy would be to set a lower level of corporation tax than the UK Government proposes to set, but you accept that in the short term, at least, that would have a negative revenue consequence for the Scottish budget and would necessitate increases in other taxes to compensate. Is that correct?

John Swinney: We accept that, fundamentally, there is a long-term gain to be made. That is the important point that was missing from the explanation that Mr McLetchie has just given.

Fiona Hyslop: Northern Ireland anticipates that it would recoup any losses and move into surplus within six years, by which time it would have benefited from the creation of 180,000 jobs. The proposal to reduce corporation tax in Northern Ireland is live and is being actively considered.

David McLetchie: Northern Ireland's position is very much conditioned by the position in the Republic of Ireland, which I think you will find will change rather dramatically in the next few years.

The Convener: We are incredibly pushed for time. I have a few questions and then, if we have time, we will wrap things up.

To return to the broader issues, is it wise to propose fiscal autonomy without monetary autonomy?

John Swinney: Yes, I think that it is.

The Convener: In that case, would you lay out for us where, under fiscal autonomy, the fiscal burden of bank rescues would fall? Would it fall on the Scottish treasury or the English treasury, as it would then be? Where would the fiscal burden of the bank bail-out have fallen if Scotland had had fiscal autonomy?

John Swinney: If we look at where the financial support for many of the global banking institutions came from, we find that it came from a range of countries. That was the case with the Benelux situation. A number of Governments have the potential to contribute to the rescue of financial institutions.

We must accept that despite all the banking issues that have been confronted, the circumstances that the UK Government now faces, whereby it has a shareholding in the UK's banking institutions, mean that, at the end of the day, the public purse will make a profit out of the whole process.

The Convener: I note that you have not answered whether the fiscal burden would lie with the Scottish treasury or the English treasury, so let me ask you this, just to put the issue in context: will you indicate for us, in broad terms, the scale of the guarantees that were extended to Scotland-based institutions during the financial crisis and how that compares with Scottish tax revenues over the past two years?

John Swinney: It is important to consider the issue of guarantees in relation to not just the tax revenue base, or income tax for example, but the asset base of a country.

The Convener: I asked about the scale of the guarantees. Can we just get that on the table?

John Swinney: I am answering your question by explaining that any analysis of the issue would have to take into account a country's asset base. Anyone who looked at the asset base of an independent Scotland would realise that the volume of Scotland's exploitable assets as regards North Sea oil revenues would give us an anchor for supporting the recovery of our financial institutions. As I said, we should bear in mind the point that, after the journey that they are now on, those financial institutions will return a profit to the taxpayer.

The Convener: I return to my original question. Roughly what was the scale of the guarantees that were extended to Scotland-based institutions over the past couple of years?

John Swinney: I am simply saying that any assessment of the question must take into account the importance of the country's asset base and what that can contribute to the process.

The Convener: I accept that, but I do not think that it is unreasonable to ask the finance minister of Scotland roughly what was the scale of the guarantees that were extended to Scottish financial institutions in the past couple of years.

John Swinney: The finance minister of Scotland has given you an answer—which is the correct answer—about the importance of taking into account the country's asset base.

The Convener: I want a number for the scale of the guarantees that were extended.

John Swinney: I have given you an explanation of the importance of recognising the country's asset base in that calculation.

The Convener: If Scotland's asset base is the relevant consideration, that implies that in any bank rescue responsibility would reside with Scotland. Is that the position?

John Swinney: I am saying that Scotland's asset base would have enabled us to handle the financial challenge that such a situation would have delivered to us. Of course, we would have been in a position to benefit from the financial gain from which the United Kingdom will benefit whenever the United Kingdom Government decides to sell its stake in the banking institutions.

The Convener: George Mathewson, the head of the Council of Economic Advisers, testified last week to the Economy, Energy and Tourism Committee that, in his view, the liability accruing to Scotland as a result of the bail-out would be simply an employment or activity share. He put a figure of 5 per cent on that. Do you share the view that, as he postulated, any future Scottish treasury would be responsible for only 5 per cent of the bank bail-out?

John Swinney: I saw the evidence that George Mathewson gave to the Economy, Energy and Tourism Committee last week. He marshalled an argument that was based on the strength of his understanding of and perspective on the United Kingdom banking sector. In my answers, I have indicated that it is important that when considering the question we in no way lose sight of the strength of Scotland's asset base.

The Convener: What is the total asset base of Scotland—its GDP—compared with the current asset base of RBS or RBS plus the HBOS part of Lloyds Banking Group?

John Swinney: I cannot give you a definitive number for that. I am here and have been briefed to discuss the Scotland Bill, but we are having an encyclopaedic tour of the issues. I am happy to engage with the committee on that, but I am here to talk about the Scotland Bill.

The Convener: In the 16 meetings that took place with the Treasury, was there any discussion of how a bank bail-out would have been managed under fiscal autonomy?

Gary Gillespie: No.

The Convener: As we watch the evidence emerge in Europe, where monetary authority and autonomy are separated from fiscal autonomy, do we not see that there are some risks for Scotland? The burden of fiscal adjustment is not borne equally by the peoples of Europe but falls squarely on national jurisdictions. Is not an incredible risk for Scotland associated with fiscal autonomy while remaining in a monetary union? I invite you to clarify which monetary union that would be.

John Swinney: I do not see the issues for Scotland as being particularly different from those with which the United Kingdom is currently wrestling. I cannot see what would be uniquely different about Scotland's circumstances.

The Convener: The point is that the United Kingdom has one fiscal union and one monetary union. You are proposing that Scotland should be in either a European monetary union or a UK monetary union but that there should be a separate fiscal union for Scotland. Is that not what fiscal autonomy is?

John Swinney: Indeed, and it would give us a great deal more fiscal responsibility and control than we have today or will get from the Scotland Bill.

The Convener: So the fiscal union would consist of Scotland only. Who would bear the fiscal adjustment in any financial crisis? Would the fiscal burden lie on the fiscal union, which would consist of Scotland only?

John Swinney: The fiscal burden and the fiscal benefit arising from the transaction that would follow would have to be addressed by the Scottish Government. Essentially, this is about the risk and the reward, convener. I know that it is terribly inconvenient to talk about the reward, but we have to remember that there are rewards and not just risks, whereas with the Scotland Bill and its income tax provisions, it is all risk and no reward.

The Convener: Others might have comments, but I say in conclusion that it seems a startling revelation that, whereas the First Minister told the Parliament in the chamber that he put a detailed proposal for fiscal autonomy to the UK Treasury and discussed it on more than 16 occasions, the cabinet secretary appears to have told us today that what was actually presented was an academic paper that was not modelled, and that there was no discussion of how the burden of fiscal adjustment would be managed in the context of a crisis.

I am happy to be disabused. Where is the detailed proposal? It turns out that it is an academic paper and there was no modelling.

John Swinney: Convener, you think that that is a revelation. Frankly, I think that there is a lot more that could be described as a revelation, beyond that.

The Convener: Are there any other final, concluding remarks?

Robert Brown: I was going to observe that the issue might seem theoretical, but we have a practical example from next door, in Ireland. Its banking problems were not anything like as great as ours, although they were substantial, and they almost brought the country down. That is a practical example of what happens with the fiscal responsibility to bail the thing out.

I want to ask a technical question, if I may, about bonds. That is a slightly different matter and one that the Scottish Government has made some issue about. The Holtham report in Wales pointed out—I think it is an obvious point—that borrowing by Government gives the best interest rates. It stated that it is unlikely that the Welsh Assembly Government would ever want to borrow from anywhere other than the national loans fund—for example, by using bonds—because it would be unable to get better terms from another source without incurring higher costs or higher risks.

Ultimately, my question is a technical one. I am keen to know the answer. There is no issue in principle here, but I wonder what the cabinet secretary's view is. What advantage does the Scottish Government see in having the power to issue bonds, which is something that it has pushed for?

John Swinney: The opportunity to pursue bonds carries with it inherent flexibility to manage the financial challenges and arrangements for long-term investment. I would cite the number of authorities other than the United Kingdom that undertake bond issues. Transport for London is one, and Birmingham City Council has issued £215 million of bonds to finance debt and undertake capital investments. There is no inherent obstacle to—

Robert Brown: But I am asking you about the advantages. Maybe limits and things like that apply to those authorities in relation to other forms of borrowing.

John Swinney: The advantage comes down to the degree of long-term investment that can be secured, the cost of servicing bonds and the issuing of bonds within an overall framework for what I might call long-term borrowing activities.

A borrowing facility is envisaged in the Scotland Bill. If the proposed constraints are applied to it, such as a £2.2 billion limit on the total capital borrowing that can be undertaken, would that essentially hem in any further bond issues? Would bond issues be unable to be undertaken, or would it be possible to undertake them subject to the sustainability of repayments in support of those bonds? The Scotland Bill answers those questions, but not in a way that the Scottish Government believes is satisfactory.

Robert Brown: You are thinking of bonds as a way round the borrowing limits. I am really looking for the substantive advantages of bonds per se, forgetting about borrowing limits and all that for the moment. That is another issue.

John Swinney: A bond issue is another device to facilitate capital investment—that is clearly the advantage of having a bond issue.

Robert Brown: My point is that it would be at a higher interest rate.

15:30

John Swinney: It would depend on where the negotiation of the interest rate settled, which would be influenced by the credit rating of the Scottish Government, its ability to repay and a variety of other questions. People have taken decisions in the past, for example, to procure private finance initiative schemes at higher interest rates than the Public Works Loan Board interest rates. They have paid more—much, much more—in interest rates than they would have with PWLB interest rates. Many of my predecessor ministers took decisions to procure capital investment at much higher interest rates than the PWLB rates. They took those decisions and are accountable for them, and I am having to pick up the financial pieces and the wreckage and damage that are a consequence of those decisions. However, people sometimes do choose to go for higher interest rates, and some of them were members of the Scottish Executive.

Tricia Marwick: Can I get back to the Scotland Bill and its implementation costs? The minister may be aware that last week at the committee we had the UK Treasury minister David Gauke, who was quite adamant that the costs of the Scottish income tax, the landfill tax and stamp duty will be met by the Scottish taxpayer. I have a series of questions. First, what information has the Scottish Government been given about the £45 million up-front cost plus the £4 million a year cost thereafter of the Scotland Bill? Secondly, has the UK Government explained to you why the first figure is so high and what exactly we are going to get for that money? Thirdly, what is the Scottish Government's understanding regarding which jurisdiction—Westminster or Scotland—should meet the cost of the implementation of the income tax proposals in the Scotland Bill?

John Swinney: On the overall costs, I stand to be corrected but I think that we have had one letter from the Secretary of State for Scotland in addition to the command paper, which does not really go into much more detail than the £45 million cost and the £4.2 million thereafter. Our view settles on the statement of funding policy that makes it clear that

"where decisions ... of the United Kingdom ... departments or agencies lead to additional costs for any of the devolved administrations ... the body whose decision leads to the additional cost will meet that cost".

Our view is that these are proposals of the UK Government, which should pick up the cost of putting in place the relevant powers.

Tricia Marwick: So what you are saying is that the income tax proposals force on Scotland changes to the income tax system. There is not necessarily a choice about whether we do it; there is only a choice about the level of income tax. Therefore, according to the funding policy that you have just articulated, the costs should be met by Westminster rather than the Scottish Government.

John Swinney: That would be my view.

The Convener: That is very helpful, thank you. I thank the cabinet secretary for his generosity with his time today. I am mindful that we do not want to deprive the Cabinet of two cabinet secretaries unnecessarily, so I am happy to excuse him and to indicate to Fiona Hyslop that we will try to be very quick.

I thank the Cabinet Secretary for Finance and Sustainable Growth for joining us today. This was obviously an initial exploration of the bigger-picture issues, but some of the issues with which Tricia Marwick finished will obviously form the detail of our consideration over the next two months. We will probably write to you, cabinet secretary, about details of the work that is on-going in the department that can assist us with some of the detailed provisions that we are now getting down to. We were anxious that both Governments had the opportunity to comment right at the outset of our considerations.

I invite Brian Adam to lead off with the next set of questions. Fiona, would you like a moment just to centre yourself?

Fiona Hyslop: No, it is fine.

Brian Adam: I am delighted to return to the substance of the Scotland Bill instead of the flights of fancy of the past few minutes. My questions are on two matters that are subject to reservation: insolvency and the health professions. What is the basis of Scottish Government concerns on those areas? Also, what is the Government's view on the omission of the marine environment? The marine environment was included in the Calman proposals but has been omitted from the bill.

Fiona Hyslop: I turn first to health professionals. One important thing of which the committee should be aware is that, in giving evidence to the Calman commission, nobody asked for any reservation to be made. Indeed, the UK Department of Health said that there was no need for reservations because administrative co-operation, Government to Government, had worked particularly well.

Brian Adam: Some of the royal colleges asked for that.

Fiona Hyslop: I am sorry; I should have said that the only evidence on the matter came from a profession that is not proposed for reservation. The suggestion for reservation came from neither the relevant health professionals nor the UK Department of Health. Health is substantially devolved to Scotland. It is clear that familiarity with the issues surrounding the quality frameworks and other aspects of Scotland's health service means that people think it better for the health professions to remain under the devolved settlement. As far as we can see, no one has identified any difficulty in how things have operated so far. We are very much against that reservation.

Modernisation of insolvency has been happening in Scotland. Because so much insolvency practice comes under Scots law—I refer to diligence and so forth—it is better for insolvency to remain devolved. Again, there seems to be no strong case for making it a reserved matter. Indeed, Lord Drummond Young, the chairman of the Scottish Law Commission, said in evidence that

"the result would, I fear, be that the sensible reform of Scottish commercial law becomes impossible."

That is the hard evidence that the commission received. There is no strong case to reserve either health professionals or insolvency.

Brian Adam: I gather that there were concerns about the powers of the Scottish housing regulator regarding registered social landlords and potential failures.

Fiona Hyslop: The issue is very serious. In my opening statement, I made the point that RSLs are to come under reserved insolvency proposals. Right up until the bill was published, we were told that RSLs would not be covered in that way. We need to bear in mind that the Scottish Parliament has just passed the Housing (Scotland) Act 2010, which gives real powers to the Scottish housing regulator that can be used even for companies that get into difficulties. There is a real conflict in this proposal. Alex Neil has written to the Secretary of State for Scotland to set out all the issues.

It might be helpful to the committee if the Government were to provide a background to the difficulties that we see with reservation in the areas of health professions and insolvency, particularly with regard to RSLs.

Brian Adam: And the marine environment?

Fiona Hyslop: Again, there is the strange anomaly of our having control over certain areas but not others. In 2008, the Parliament agreed to a motion that said that it wanted to ensure devolution of responsibility for the marine environment, in particular marine conservation. The commission said that the marine environment should be devolved at the earliest opportunity. This is an ideal early opportunity. There is cross-party support for the measure. I hope that the committee will look into the issue very seriously indeed.

Tricia Marwick: My questions are on speed limits, drink driving and airguns. The bill will devolve some power over those areas. That is welcome, but they all are subject to caveat. For example, "specially dangerous" airguns will not be devolved. When I asked the minister at the Scotland Office for an explanation of that last week, he said that "specially dangerous" airguns were, by and large, banned, which is why they could not be devolved. Caravans will have a speed limit imposed on them if they are being towed by a car, yet we have control over the speed limit for cars. The Parliament does not have the ability to introduce random breath tests.

The caveats that have been included in the bill on all those issues seem rather arbitrary, and I wonder what impact they will have on public safety and road safety. Have you put the case to the UK Government for the full devolution of all those powers?

Fiona Hyslop: Yes, we have. I am happy to expand on our concerns regarding those issues. Where the UK Government has been considering other aspects of an issue such as speed limits, for example speed limits on heavy goods vehicles, if in doubt it has left it out of the bill. That weakens the commission's original proposals.

As you identified, there is fragmentation in the bill on airguns and speed limits. Rather than consideration being given to the policy solutions that Scotland can implement, there seems to be an accusation, particularly with regard to airguns, that we would have a softer position. Given that there was cross-party support for airgun legislation to be devolved to Scotland—precisely because Scotland has a different experience—that accusation is ridiculous. There is a misapprehension about how the Scottish Parliament would operate. It is a mistake for policy items such as speed limits or airguns to be considered through that lens.

There are practical reasons why it makes sense for Scotland to have control of speed limits. We know the concerns about speed limits on the A9, which is why the Road Haulage Association gave evidence to the commission. Funnily enough, that is not covered in the bill. There is a strong case there, and we will provide the committee with our explanation of why we think that there is a problem.

One of the strongest parts of the commission's proposals was on tackling unemployment in Scotland by means of more integration between welfare benefits and job centres. However, if in doubt—Iain Duncan Smith is currently considering welfare reform—it has been left out. That is not satisfactory to the Scottish Government, but the committee can take a view on whether it stands with the commission on such issues or whether it backs the much softer version, which I think will be extremely limited in its outlook.

Although we welcome the proposed changes to policy on speed limits and airguns, it is important that we identify that they are not nearly as strong as they could be. However, there is room for improvement, and I am sure that the committee will take a view on that.

The Convener: Thank you. That was very helpful.

David McLetchie: In an element of the Government's legislative consent memorandum, it objects to the proposition that specific provisions of Scottish bills, rather than the bill as a whole, might be referred to the Supreme Court for rulings on competence. Why do you object to a specific aspect of the bill being examined and determined in that way?

Fiona Hyslop: That is a serious issue. Under section 33 of the Scotland Act 1998, the law officers can refer a question about legislative competence to the Supreme Court. The issue is whether parts of a bill could be referred. There has been one occasion on which there have been difficulties with a section of a bill, when the Parliament accidentally passed a law on the taxation of care homes. An order made under section 107 of the Scotland Act 1998 was used to reverse it. That mechanism has been used once in 10 years. If difficulty arises in an area, there is always a mechanism to try to tackle it.

The issue is why the proposition is being introduced now when it was not part of the commission's proposals. There is a danger that there will be more confusion if one part of a bill can be referred. There will be a temptation to refer disputed parts of a bill. The fact that an entire bill can currently be referred for a ruling on competence puts a great deal of responsibility and pressure on ministers not to legislate in areas in which there are reserved matters. That policing system has worked to great effect over the past 10 years. The idea that parts of a bill could be referred is more problematic. There will be less clarity than there is at present, and clarity in law is extremely important. If either the whole bill can be referred or none of it, that is far clearer.

15:45

A more fundamental point is whether the Executive—either the UK Government or the Scottish Government—or a court should decide about the commencement of an act. Our view is that the Executive, whether the UK Government or the Scottish Government, should be able to determine the commencement. The danger is that referring part of a bill could mean holding up the whole bill, and the commencement would then be determined by the Supreme Court. The issue is whether it should be the courts of the land—even the Supreme Court—or the UK Government or Scottish Government that decides on commencement.

I find it hard to understand why the proposal was made. Nobody asked for it, and we have not needed even the existing measure, so I am concerned about why it is there.

David McLetchie: It is there, perhaps, because the relevant minister in Her Majesty's Government is a man who has considerable experience of the workings of this Parliament and is now fulfilling the role of the Advocate General for Scotland. He is one of the law officers to whom you have referred.

Do you not agree that, with many pieces of legislation, there is often a significant gap between receipt of royal assent and commencement of any of the provisions? Quite often, commencement provisions are phased over long periods of time. In that situation, why would there be any objection to an expeditious referral of a section or two to the Supreme Court, which would be able to give a ruling on the matter far more quickly than it would take for a normal commencement provision to come into effect?

Fiona Hyslop: First, we have not needed to use the existing measure, and there is also a point that the proposal probably leaves us open to more confusion. My point about the principle of whether the Supreme Court should determine the commencement of a bill still stands—that is a principled argument.

On the operation of the proposal, I think that it would provide more opportunity for delay and disputation. My understanding was that the Scotland Bill was in part designed to ameliorate any disagreements between the UK Government and the Scottish Government. The proposed measure could cause more dispute, and there might be more temptation for law officers to refer. They have had every opportunity to refer a bill at any time over the period since devolution started, and that facility will still stand. I do not think that the proposal enhances the bill; I think that it could cause more confusion and conflict, which is what the Scotland Bill is trying to avoid.

David McLetchie: If you are concerned about disputation, there is no surer way of solving it than to get the Supreme Court to make a speedy adjudication on the matter that is allegedly in dispute. Everybody would know where they stood, and it would be beyond peradventure or appeal to any higher body. Is that not reasonable?

Fiona Hyslop: But there are regular discussions between Governments—

David McLetchie: Unless, I should say, it is Kenny MacAskill—for whom a higher power is part of the administration of justice.

The Convener: Given the proximity of 25 December, I will intervene. We have had a helpful airing of the issue, and we will certainly look in more detail at a submission and take further evidence on it. I am grateful to the committee member and the minister.

I fear another lawyer, but Robert Brown has another legal matter that we should explore.

Robert Brown: To some extent, the whole issue of the UK Supreme Court is a matter of philosophical difference in what I suggest is a developing quasi-federal system. As you know, following the Cadder decision and its aftermath the court has been the subject of an informal consultation by Jim Wallace as the Advocate General for Scotland on what should happen in criminal appeals with devolution and human rights aspects. Has the Scottish Government made a submission to Jim Wallace's expert group on that?

Broadly speaking, what is your view on the Supreme Court's role?

Fiona Hyslop: That is an area of serious concern. An increasing number of devolution cases has been raised on human rights grounds; that is a consequence of the position of the Lord Advocate being subject to the Scotland Act 1998, which has implications for human rights responsibilities, as well as the human rights legislation itself.

The situation is problematic. I know that the Lord Advocate has submitted comments and has had discussions with the Advocate General, as have the Scottish ministers. Again, if it would be helpful, we could set out our concerns. We have a vehicle that could be used to resolve some of the issues. We think that the Lord Advocate should probably have responsibility under the human rights legislation but perhaps have an exemption under the Scotland Act 1998.

The problem is that the bill has been published and is now going through its processes. Given our concerns about consultation on the rest of the bill—and given the short time for determining views and bearing in mind that dissolution is coming up—I can do nothing but appeal to the committee to support the Scottish Government in ensuring that we have engagement between Governments, as well as with this committee, on any proposals or amendments that the expert group might come up with. I think that we can reach a resolution in the bill, but we will need to act very quickly. In any case, I am sure that the Advocate General is very aware of these issues.

Brian Adam: Can we get copies of those submissions before we consider the matter in more depth?

Fiona Hyslop: Yes.

Robert Brown: We need to know your starting position in some detail to consider it and decide whether we agree with it.

Fiona Hyslop: That is fine.

The Convener: I have another not-quite-legal but broadly related question on proposals to allow UK ministers concurrent powers to implement international obligations. On first take, we felt that they were sensible, co-operative measures but if you are going to disabuse us of that notion please do so.

Fiona Hyslop: These things happen at the moment under various sections of the Scotland Act 1998—we need think only of the Scottish Government's devolved responsibilities in relation to the European Community and our implementation of various European measures. In fact, I refer you to a report by the European and External Relations Committee, suggesting better ways of implementing and anticipating what might come out of Europe, and I point out that the Scottish Government has one of the best rates of implementation in the UK, with only one transposition as yet not enacted.

That kind of activity and co-operation also takes place in other areas. As far as I can see, the Advocate General has highlighted only one measure, relating to members of international organisations, that was not implemented as quickly as the UK Government might have wanted; once the matter was brought to our attention, we immediately laid an order to address it. Most of these issues can be resolved by Government-to-Government activity. I think that these particular proposals are in danger of becoming a sledgehammer to crack a nut; if the UK Government is concerned about specific areas, it should identify them so that we can look at them.

Of all the non-financial areas in the bill, this is the one that I am really concerned about because the proposals would allow the UK Government to implement international obligations on devolved areas without the involvement of the Scottish Parliament or Government. Such involvement quite often takes the form of legislative consent motions or other measures that by and large have operated quite satisfactorily, and again I sense some control freakery coming through. Do we really need to do all this to get the end result and achieve the policy intention?

As I have said, we are concerned about the proposals relating to international obligations, but again I am happy to write to the committee on the matter.

The Convener: To some extent, it all depends on the extent or frequency of difficulties that arise. We heard from the UK Government last week, but if these particular difficulties prove to be as rare as you say, that might influence the committee's deliberations. In any case, it would be helpful if you could provide some detail.

Peter Peacock: I want to ask about the Crown Estate commission. I was going to ask about the BBC, but you made your position clear in your opening remarks.

Fiona Hyslop: What about BBC Alba?

Peter Peacock: Actually, I very much welcome that move.

What exactly does the Scottish Government hope to get out of this process as far as the Crown Estate is concerned?

Fiona Hyslop: The Scottish Parliament has raised and debated concerns that the Crown Estate has in the past operated without reflecting Scotland's policy needs. In other words, it provides tax revenues and resources to the Treasury without necessarily reflecting Scotland's policy interests.

The Calman commission set out its position on the involvement of Scottish ministers in not only appointments to the Crown Estate but policy implementation. Unfortunately, however, the bill covers only appointments and not policy direction. Most people in Scotland realise that our policy interests, not least in relation to the potential of renewables, must be taken into account in Crown Estate decisions; in fact, Richard Lochhead has just launched a consultation on that area. In a sense, the bill's provisions sell the commission short, never mind many people in Scotland and many authorities in the Highlands and Islands. Some might be under the illusion that there is devolution of policy consultation in the bill, but that is not the case. I am sure that the committee will return to that issue.

Peter Peacock: Have you developed any specific proposals for how such policy oversight could be achieved? Do you have any proposals that you could put to the UK Government?

Fiona Hyslop: We have done so on a regular basis. The committee should be aware that we have had very constructive engagement with the UK Government on a range of policy issues, both financial and non-financial. Richard Lochhead and I have both discussed matters concerning the Crown Estate with UK ministers, highlighting the need to be more sensitive to the policy needs of Scotland. We hoped that there would be something in that regard in the Scotland Bill—there is not, unfortunately, but there is always room for improvement, so we are encouraging the Parliament to improve the bill in that regard.

Peter Peacock: You do not have a specific mechanism for making such an improvement. The consultation on the matter that you said Richard Lochhead had commenced argues, in part, for the creation of a fund from Crown Estates receipts from Scotland, which could build up over time. The net receipts amount to about £8 million a year, so it is not a huge sum of money in the great scheme of things. You have indicated that the big prize lies in influencing the Crown over renewables and other investments. In many ways you could regard the Crown Estate as being more akin to a development agency, in that regard, with capital to deploy. Have you considered looking into that in a way that involves the Welsh and Northern Irish in joint ministerial committees?

Fiona Hyslop: The British-Irish Council that I attended in June discussed many issues around renewable energy in particular. However, there is a big issue around the proposals in front of us: if the bill even contained the provisions that were proposed by the Calman commission, to have policy involvement by the Scottish ministers along with UK ministers, that would have been an improvement on what we have before us. The bill covers only involvement in the appointment of Crown Estate commissioners. That is welcome, but it is token.

However, that does not go anywhere near what you are suggesting. We need to have some influence and the more direction we can get, the better. We should at least have some influence on policy aspects. You touched on two areas, concerning income and policy. Being involved in both those areas would be far better, but the bill as it stands does not provide for that.

Robert Brown: I have a small point to make about reverse Sewel motions, under clause 10. The Scottish Government has indicated that it is not particularly in favour of the mechanism. I understand your position—you wish powers to be transferred permanently. However, I would have thought that it would do no harm to have a power to make a temporary transfer under such a mechanism. That might be of use on occasion. Why is the Scottish Government so set against it?

Fiona Hyslop: First, we have such a mechanism already under section 30 of the Scotland Act 1998. It had to be used, for example, for transferring legislative competence in the Somerville case. The problem with that case was that we wanted a more permanent transfer, which was not an imperative for the UK Government, and it was not an imperative, with respect to timing, for the Government to resolve the matter on a UK basis. We were left in a limbo-land; we are all familiar with that.

The issue is one of compounding that and setting things in stone under the new Scotland Bill, and I do not think that that is desirable. There should at least be clarity and certainty on whether something is reserved or devolved, which indicates whose responsibility it is to sort it. In some cases, we would want there to be a transfer of responsibility to the Scottish Parliament, but if a power is to be reserved, it is incumbent on the UK Government to implement changes and improvements if the case arises.

We think that the current provisions are preferable to setting in stone a temporary measure that has come about only because of real problems in operating with the previous UK Government with regard to the Somerville case.

Robert Brown: I accept entirely the point about Somerville, but there will always be issues involving different levels of government when priorities are viewed slightly differently. The issue concerns a mechanism for dealing with such instances in a slightly more formal way. That could give the Scottish Government greater power to push for things—if a mechanism is in place, it is there to be used. Would that not be helpful, to a degree? I do not quite see the objection.

Fiona Hyslop: That anticipates things that might not happen. How often have such instances arisen over the past 10 years? Are the provisions of section 30 orders under the 1998 act sufficient to deal with what we need? It is mostly about Government-to-Government co-operation, and the more that things can be improved in anticipation of difficulties, the less likely will be the need for last-minute fixes. Rather than last-minute fixes being entrenched under the Scotland Bill, I would much prefer the clarity of the current arrangements, with the flexibility of section 30 of the 1998 act if we need it.

16:00

The Convener: Minister, I understand the difficulties that you have with the re-reservations proposed in the case of the non-medical health professions and in relation to insolvency and the difficulties with the reverse Sewel. Are you opposed to re-reservation in principle in all circumstances or just in those cases?

Fiona Hyslop: Generally, yes. There is a difficulty about re-reservation of what is currently within the Scottish competence. Very few Governments would ever give back power in areas for which they have responsibility. However, we recognise that we have to be sensible and take a pragmatic view of most things and that is what we have tried to do.

Obviously the commission proposed that charities law and food labelling be reserved, but now they no longer are. We made representations setting out why we thought that they should not be re-reserved, as we did for the two other areas. I wonder whether the reason why they are there is less about the issues themselves, because they can be dealt with in policy terms rather than in law, and more about giving a signal that what can be devolved can be re-reserved. The point is that what can be given can be taken away; the transfer can be both ways. I remember Gordon Brown talking about that. I also think that it was Mike Rumbles who said that over his dead body would there be any re-reservations. Perhaps Robert Brown might want to check whether that is the current Liberal Democrat position.

The Convener: In that context, does the minister have any views on Antarctica, just for the record?

Fiona Hyslop: I found it interesting that it was labelled as coming under technical amendments. I am not quite sure that re-reservation of relationships with a whole continent should carry the label of technical.

The Convener: That might be important not just for its own sake, given some of the interesting evidence that was news to me last week about who licensed who in doing what from Scottish universities. Is that persuasive? I do not know whether the minister has had a chance to look at the evidence—

Fiona Hyslop: We are very familiar with it, because we decided some time ago to agree that Scottish ministers could be represented by UK ministers in relation to licensing research activities by universities on Antarctica. That has happened without the Scotland Bill. We have managed to get a sensible solution without the Scotland Bill. Perhaps we might have drawn that to the attention of the committee or the Parliament subsequently. Our claim on Antarctica is not something that I think would disturb the committee, but the example shows that sensible Government-to-Government co-operation means that some of the issues that might come up can be dealt with without the sledgehammer of legislation.

Tricia Marwick: On that point, is the minister aware that a former Secretary of State, Michael Forsyth, is on his way to Antarctica right now? Does she think that he is perhaps going to plant the saltire before it is taken away from him?

Fiona Hyslop: I think that we should wish Michael Forsyth well in his charitable expedition. I am sure that if he manages to plant a saltire he can get a donation from the committee.

The Convener: I can think of no better note on which to end our formal deliberations before Christmas. I thank the minister very much for her time. I am aware of the coming break, but it would be helpful if officials could write in due course to officials about all the matters that we have touched on today.

16:03

Meeting continued in private until 16:38.

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