



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# SCOTLAND BILL COMMITTEE

Tuesday 28 June 2011

Session 4

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**Tuesday 28 June 2011**

**CONTENTS**

	<b>Col.</b>
<b>DECISION ON TAKING BUSINESS IN PRIVATE .....</b>	<b>21</b>
<b>SCOTLAND BILL .....</b>	<b>22</b>
<b>CALL FOR EVIDENCE.....</b>	<b>41</b>

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**SCOTLAND BILL COMMITTEE**  
**2<sup>nd</sup> Meeting 2011, Session 4**

**CONVENER**

\*Linda Fabiani (East Kilbride) (SNP)

**DEPUTY CONVENER**

\*James Kelly (Rutherglen) (Lab)

**COMMITTEE MEMBERS**

\*Richard Baker (North East Scotland) (Lab)  
\*Nigel Don (Angus North and Mearns) (SNP)  
\*Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP)  
\*Alison Johnstone (Lothian) (Green)  
\*John Mason (Glasgow Shettleston) (SNP)  
\*Stewart Maxwell (West Scotland) (SNP)  
\*Joan McAlpine (South Scotland) (SNP)  
\*David McLetchie (Lothian) (Con)  
\*Willie Rennie (Mid Scotland and Fife) (LD)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Bruce Crawford (Cabinet Secretary for Parliamentary Business and Government Strategy)  
John Swinney (Cabinet Secretary for Finance, Employment and Sustainable Growth)

**CLERK TO THE COMMITTEE**

Stephen Imrie

**LOCATION**

Committee Room 5



## Scottish Parliament

### Scotland Bill Committee

*Tuesday 28 June 2011*

[The Convener *opened the meeting at 14:15*]

### Decision on Taking Business in Private

**The Convener (Linda Fabiani):** Good afternoon everyone, and welcome to the second meeting of the new Scotland Bill Committee in the fourth session of the Scottish Parliament. I remind all those present, including committee members, to turn off mobile phones and BlackBerrys completely, as they interfere with the sound system even when they are switched to silent.

Agenda item 1 is a decision on taking business in private. Does the committee agree that we should take items 4 and 5, which relate to people such as witnesses in the work programme and advisers, in private?

**Members** *indicated agreement.*

## Scotland Bill

14:16

**The Convener:** For item 2, I see that we have with us John Swinney, the Cabinet Secretary for Finance, Employment and Sustainable Growth. I presume that Bruce Crawford has, like our committee member David McLetchie, been held up at the Parliamentary Bureau. They will join us when they can.

I welcome Mr Swinney and thank him for coming at such short notice. I understand that he would like to make a short statement before I open up to members for questions.

**The Cabinet Secretary for Finance, Employment and Sustainable Growth (John Swinney):** Thank you, convener. I welcome the opportunity to meet the committee today along with the Cabinet Secretary for Parliamentary Business and Government Strategy, who is, as you said, still at the Parliamentary Bureau but will join us shortly.

I recognise the significant amount of work that the previous Scotland Bill Committee undertook in scrutinising the proposed legislation from the United Kingdom Government. The Scottish Government did not agree with all the committee's conclusions, but we broadly welcomed its recommendations for changes to the bill. I welcome the UK Government's recent proposals—as far as they have gone at present—to improve the Scotland Bill.

Having said that, I register my disappointment that the UK Government did not act on more of the predecessor committee's recommendations, which the Parliament supported, on capital borrowing, revenue borrowing and non-financial matters such as international obligations, speed limits and drink driving. Mr Crawford may say more about those points later.

I look forward to the new committee's deliberations and will be happy to engage with it as its work develops. We all share the objective of delivering a bill that not only is workable but provides a genuine advance in the Parliament's powers. The committee's work will be crucial. The bill requires the Parliament's consent, and the committee's scrutiny of recommendations will be key to shaping the terms of that approval. The Scottish Government is clear that the UK Government and Parliament must take account of those views in order to respect the Sewel convention and recognise the views of the people of Scotland, whom this Parliament represents. In that regard, much of the discussion on the Scotland Bill so far has focused on the distinction between providing a revised funding mechanism

for the Scottish budget and setting an ambitious new framework to promote economic growth in Scotland.

The Scottish Government is clear on both points. First, on a financial framework for the Scottish Parliament, it is the case that greater accountability and fiscal responsibility are now necessary after 12 years of devolution. However, we have consistently outlined our significant concerns about the proposals, particularly around the reliance on the performance of one individual tax as the driver of future Scottish budgets.

Secondly, the Scottish Government has consistently argued that any reform to Scotland's financial powers must be more than simply an accounting exercise and should offer a genuine advance and real economic teeth that can boost Scotland's growth. We made clear in the election campaign that one of our key priorities when re-entering office would be to seek to secure greater economic powers in the Scotland Bill. With greater access to the key levers of economic growth, we could do more to enhance investment and competitiveness in the Scottish economy.

The committee has seen further detail from the Government on a number of other areas and proposals, and further work will be submitted to the committee and the UK Government in due course.

**The Convener:** I thank Mr Crawford for joining us.

**The Cabinet Secretary for Parliamentary Business and Government Strategy (Bruce Crawford):** My apologies for arriving late, convener.

**The Convener:** Before you give us your statement, I ask David McLetchie, who unfortunately missed our last meeting, whether he would like to declare any interests.

**David McLetchie (Lothian) (Con):** I have no interests other than those that are declared in the Parliament's register of interests.

**Bruce Crawford:** I welcome this opportunity to give evidence to the committee and look forward to its and the Parliament's renewed scrutiny of the Scotland Bill. As the cabinet secretary has no doubt outlined, we believe that the bill has the potential to provide the Parliament with meaningful new economic levers and further responsibilities in key areas where there is cross-party support. That is why the Government has identified and highlighted since the election six particular issues: the Crown estate, to allow Scotland to benefit fully from our natural energy resources; greater borrowing powers, to maintain our economy at this difficult time; corporation tax, to encourage future economic growth; excise duty, to respond to

Scotland's social needs; a greater role in broadcasting, to strengthen an important section of our national, cultural and economic life; and an improved role in the European Union, to ensure that Scottish interests are better represented in the forums of Brussels. The Government believes that its proposals to improve the bill are reasonable and represent a cross-section of opinion in the Parliament and wider Scotland. No doubt the committee will want to take further detailed evidence on these matters from the Government and others in the weeks and months ahead.

The Government believes that, in response to the work of your predecessor committee and the previous Parliament, other changes should be made to the bill, including devolution of air passenger duty and the aggregates levy; further devolution of speed limits, drink driving and elections; and the removal of the proposed power for the UK Government to implement devolved international obligations. At this stage, the UK Government has not made its position clear on those issues. We also support the removal of proposed reservations on insolvency and regulation of health professionals and the requirement on the Parliament to consent to the commencement of new financial arrangements.

In the report stage and third reading of the bill at Westminster, the UK Government made some moves towards the recommendations of the predecessor committee and the Parliament, particularly the recognition of recommendations on elections and the Gaelic Media Service. There was also some movement on bonds, but not as much as many others have suggested there should be. Perhaps most significant, the UK Government introduced new clauses on the Lord Advocate and the Supreme Court that the Parliament has yet to consider. I am sure that the committee will want to return to that matter, particularly in light of the McCluskey review and the parliamentary debate that we will have on Thursday morning.

The UK Government has yet to respond to many other proposals for changing the bill. Some, such as the regime for borrowing or the central issue of the block grant adjustment, are crucial financial matters; I have already highlighted other detailed non-financial matters on which, as I have said, the UK Government's position is not yet entirely clear. No doubt the committee will wish to receive evidence on those matters from the Secretary of State for Scotland and other UK ministers in due course.

That brings me to the crucial role of Parliament and this committee in the bill's remaining stages. In the previous session, neither the committee nor the Parliament gave unqualified support to the bill as it stood. That much was clear from the

committee report and conditional legislative consent motion that was passed in March. Following the election, the Government has made clear its mandate to seek further changes to the bill, building on the position taken by the previous Parliament.

The committee's remit brings together all those threads: the previous committee's recommendations; the UK Government's proposals for changing the bill; and proposals for further changes from the Scottish Government and others. The bill process at Westminster must give the committee sufficient time to carry out its tasks properly and provide appropriate time to allow Westminster to reflect on the Parliament's views. The committee's initial views might be set out before the House of Lords committee stage, with a final view taken when the bill has been further amended in the Lords. However, it is up to the committee how it goes about its business. I have already had very constructive discussions with David Mundell on this issue and on the need to synchronise parliamentary processes as we move through autumn towards the end of the year.

The most important point is that the Parliament needs to be content with the bill before it can become law. After all, the Parliament represents Scotland's democratic national voice and must be respected in the process. I cannot conceive of the UK Government attempting to pass a bill against our wishes—and that makes the committee's task crucial. As I have said all along, the Government will work constructively towards a bill that we can recommend to the Parliament. In the words of the First Minister, the aim should be a bill that is

"a worthy successor to Donald Dewar's original"—[*Official Report*, 26 May 2011; c 67.]

and of which we, on behalf of the people of Scotland, can say, "I like that".

**The Convener:** Thank you.

I now seek questions from members. I suggest that we focus first on financial issues, which Mr Swinney can address, and then consider some of the wider issues, which Mr Crawford can talk about.

**Richard Baker (North East Scotland) (Lab):** I am interested in testing the evidence for some of the financial proposals. That is something that we are going to be particularly interested in.

Mr Swinney, what evidence have you taken to the UK Government that your proposals for the devolution of corporation tax will benefit Scotland economically? What evidence will you be able to bring to the committee that that decision is right for that purpose?

**John Swinney:** A wide cross-section of evidence has been drawn together. Some of it is

on the debate that has been advanced by the Administration in Northern Ireland about the opportunities to reduce corporation tax and, as a consequence, achieve higher economic growth and higher tax revenues. Essentially, the Scottish Government respects the evidence that has been gathered as part of Northern Ireland's process, which is currently the subject of consultation by the UK Government. The Northern Ireland Administration has marshalled a clear and firm argument for the UK Government and it is now the subject of wide consideration.

There is sufficient economic analysis to show that competitive corporation tax rates that result in lower corporation tax rates can stimulate higher levels of economic activity and, as a consequence, higher tax revenues. That is, of course, the dynamic effect of having control over corporation tax that would be a substantial addition to the Parliament's financial and economic responsibilities.

**Richard Baker:** Can you clarify that if you gain control of corporation tax, you propose to reduce it to stimulate competitiveness, as you describe it?

**John Swinney:** That would have to be done in a responsible fashion. Any Administration operating within any set of financial arrangements has to act responsibly. As I have a fixed budget within which I have to operate and I cannot borrow to support the on-going activities of Government, I have to act responsibly in that context. If the power to levy corporation tax is devolved in the context of the tax variability that is envisaged by the Scotland Bill, that would be another and different set of responsibilities that I would have to exercise.

If the country were able to exercise the full range of financial and economic responsibilities to which I aspire, the Government would have to meet a set of financial obligations that would ensure the sustainability of Government finances and the Administration's financial credibility. Mr Baker's question has to be judged in the context of the powers and financial arrangements that we have at our disposal at the time. There is strong empirical evidence that a reduction in corporation tax results in a higher level of economic activity and higher levels of tax take, if the correct set of decisions is taken.

**Richard Baker:** We could debate that, but perhaps this is not the time.

If Scotland goes down the road of lower corporation tax, how would you ensure that we will not just end up with brass-plate exercises in which companies base themselves here to pay lower taxes, taking tax revenue from elsewhere while not generating greater economic activity here? How

would the Scottish Government seek to combat that kind of activity?

14:30

**John Swinney:** To an extent, that is always a vulnerability of reducing corporation tax. We would not be the first Administration to contemplate reducing corporation tax; others have done so, and there is always the danger that companies will engage in brass-plate operations. Clearly, the Scottish Government's objective has to be to ensure that we have in place the type of obligations that ensure that companies are not able to operate in that fashion. A degree of regulatory protection must be in place to ensure that a meaningful economic contribution is being delivered as a consequence of companies locating in Scotland. The evidence in studies that have been undertaken in Northern Ireland, for example, on the greater economic activity that is encouraged by the lowering of corporation tax is a powerful case to consider.

**Joan McAlpine (South Scotland) (SNP):** Mr Baker talked about one of the new proposals from the Scottish Government but, from the point of view of the work of this committee, I will ask you about the existing proposals in the bill.

It strikes me and many other people that there are many unanswered questions about the financial proposals in the bill. In particular, do you think that more work needs to be done to look at the shortcomings of the income tax proposals in two areas? The first is their ability to raise adequate revenue to fund public services and the second is their ability to stimulate economic growth.

**John Swinney:** On the first point that Joan McAlpine raises, the ability to raise revenue is a limitation of the bill. The bill as it stands, in the light of the proposals from the UK Government, provides a slightly improved mechanism of operation for the tax-varying powers. The proposals that the Secretary of State for Scotland and the Chancellor of the Exchequer have recently outlined in relation to the cash reserve improve marginally the operability of the tax-varying powers but do not address the fundamental point that Joan McAlpine raises about the ability to raise revenue and to substantially enhance Scotland's tax base as a consequence. The proposal certainly provides a greater degree of accountability for the management of public finances, but the central issue of boosting the ability to raise revenue is not tackled.

On the second point, about the ability to stimulate economic growth, there are again some slight improvements in the provisions in the Scotland Bill, but the predecessor committee's

proposal for a larger borrowing facility delivered on a much shorter timescale has not been responded to substantially by the UK Government's announcements.

First, having a broader range of taxes to vary and control would measurably increase the ability to address some of the issues that Joan McAlpine raises. Secondly, the ability to borrow more extensively but within a framework of financial control would assist in boosting economic activity, particularly at this time when we are, for example, facing such a significant reduction in capital expenditure within the Scottish block of expenditure. If we were able to supplement that by borrowing, that would assist our ability to stimulate economic activity and private sector activity, which is our objective.

**Joan McAlpine:** To go back to the first point about revenue raising, you say that the UK Government has modestly improved the bill. Is it your view that Scotland could be left worse off by the proposals as they stand?

**John Swinney:** Given tax volatility, which was discussed extensively in the previous committee, that is undoubtedly a possibility. In its evidence sessions, we discussed the scale of volatility in income tax revenues over the past three years. In one year, the volatility had been of the order of £1 billion. The short-term borrowing facility that is on offer in the bill as it stands is of the order of only £500 million, so clearly there is a practical issue that we could experience. We all hope that the past three years of financial information will most definitely not be the norm for the coming period, but it illustrates that, if we are to have volatilities in tax revenues, we must have adequate protection to ensure that we navigate our way through those difficulties. To answer Joan McAlpine's central question, which was about whether we could be worse off, that is in my view undoubtedly a possibility and we do not have adequate protection to avoid that being the case.

**Stewart Maxwell (West Scotland) (SNP):** I want to continue on from Joan McAlpine's questions about income tax. As I understand it, the current 10p proposal in effect ties together the basic and higher rates, so that there is no flexibility. If we change one rate, we have to change the other. We will not be able to change the higher or basic rates on their own. Where does that lack of flexibility and inability to manipulate the tax bands leave the Government's ability to use the mechanism to encourage economic growth and boost the economy?

**John Swinney:** To an extent, that comes back to the point that Mr Baker touched on about which tax levers enable an Administration to improve economic growth. I am persuaded by the argument that flexibility on business taxation

assists in driving economic growth, but I have not seen convincing evidence that varying personal taxation has a discernible impact on the ability to deliver economic growth. The tax-varying capability under the bill is similar in character to the tax-varying capability that we have on the basic rate of income tax under the Scotland Act 1998. Currently, the Administration could decide to reduce income tax by 3p in the pound, but I would not be persuaded on that for two reasons. First, I do not think that it would help economic growth, because people do not make their decisions about contributing to economic growth based on that particular margin. Secondly, the measure would hit public expenditure unless we gained the ability to increase tax revenue in some other area of economic activity.

The tax powers in the bill will reinforce the difficulty of utilising the existing tax-varying power to reduce income tax levels in the current context. No Administration has done that. One reason why that has never been done is that there has never been a prospect of gain for the Administration, only a prospect of loss, and there is no guarantee that it would improve economic activity.

**Stewart Maxwell:** For you, the relevant question is not about the rate that is set and whether it is 3p, 10p or 15p; the question is about the ability to compensate, in effect, by having a basket of levers.

**John Swinney:** There are two questions. One is whether the ability to vary income tax provides an ability to stimulate economic growth. I am not convinced by that argument, although I am convinced of the argument in relation to business taxation. Secondly, if one were to vary income tax, there would have to be sufficient flexibilities in other ranges of taxes at our disposal to cope with the inevitable volatility that would come. As I said in answering Joan McAlpine's question, there is an inherent volatility in income tax collection as it stands, some of which might be tempered or mitigated by the existing provisions of the bill, although some might not. That is the point that I was making to Joan McAlpine. There might well be a danger of a negative impact on Scotland as a consequence.

**Willie Rennie (Mid Scotland and Fife) (LD):** I want to understand where you stand overall on the financial aspects of the bill. Last year, you and your aides used some quite emotive language to describe the Scotland Bill as a "dog's dinner" or a "poison pill"—you described the bill as quite dangerous. However, last week in Westminster, your MPs did not oppose it during its third reading. I am just trying to get an understanding of the slight improvement that you described earlier. What is that improvement and is the bill no longer

a poison pill and no longer dangerous? What is your take on that now?

**John Swinney:** In my answer to Joan McAlpine I explained some of the dangers that exist. Those dangers have not gone away. I explained carefully that some mitigating or tempering interventions have taken place, but the bill still retains difficulties and dangers for the public finances of Scotland.

Mr Rennie has been a student and a practitioner of Scottish politics for many years, so he will know where I stand generally on these questions. In general, I take the view that if legislation will enhance the powers and responsibilities that can be delegated to Scotland, I will not stand in its way. That is the stance that people would expect somebody in my political position to take. I might not be rejoicing about all the provisions. It is part of my duty to point out where the shortcomings are, which we have done. I do not know whether I have said this, but my ministerial colleagues certainly have: we supported the LCM at its earlier stage because we could see ways in which the bill would enhance the responsibilities of the Scottish Parliament. There are ways that we can see that emerging and, if we can, we will support it.

**Willie Rennie:** Thank you. In that response, you did not give the bill the description that you gave it last year. It is not dangerous any more; you seem now to be supporting it. For the sake of clarity, is that the case?

**John Swinney:** I have just answered Joan McAlpine's detailed question on where dangers lie. If Mr Rennie is trying to push me into a corner, I say to him that I do still think that the bill contains dangerous provisions. The income tax power, as it is currently expressed—without sufficient other compensating factors and without the ability to deal with the volume of volatility that we have seen in the past three years—still has dangerous propositions in it.

**Willie Rennie:** Surely if you think that the bill is dangerous, you should oppose it.

**John Swinney:** Nothing is ever simple in this life. There are other parts of the bill that I think provide welcome enhancements. For example, the bill—even as it stands—provides advances on borrowing powers that do not currently exist, which I think is a massive limitation on what I and the rest of the Administration can do at this stage. The Government and I have to make a judgment about whether the advantages outweigh the disadvantages. The judgment that we have arrived at so far is that there are a number of advantages to the bill that mean that we were right to take the steps that we did in relation to the LCM. However, it is also part of our public duty to point out where some of the difficulties lie.

**The Convener:** Time is moving on. I am aware that Mr Crawford is sitting there desperate to make a contribution, but no one has asked him any questions. I have James Kelly and Adam Ingram down to ask questions and I know that Richard Baker wants to come in on an element of finance that has not yet been covered. John Mason and David McLetchie also want to ask questions. You guys are going to have to be pretty quick, so can we have concise questions and answers please?

**James Kelly (Rutherglen) (Lab):** Okay. Thank you, convener.

On the taxes that are devolved under the bill, the analysis that was produced by the Scottish Parliament information centre for the previous Scotland Bill Committee showed that, leaving aside income tax, which we have just discussed, the other taxes amounted to more than 50 per cent of devolved tax. What assessment has the Government made of how those other tax areas could be used to promote economic growth? I am thinking, for example, of how stamp duty land tax could be used to promote more house buying and help to alleviate the housing crisis. Has the Government given any thought to that?

14:45

**John Swinney:** The data that I have for the financial year 2008-09 show that the current arrangements for tax collection in Scotland give the Parliament and other authorities control over 7 per cent of the total tax revenue in Scotland. The Scotland Bill will provide us with control over 15 per cent, and a range of options such as corporation tax could increase that. We must, therefore, keep the matter in perspective. The degree of control over tax in Scotland has risen from about 7 to 15 per cent.

On the taxes that are devolved, Mr Kelly will have heard my answer to Mr Maxwell's question about income tax. In addition, in 2008-09 landfill tax generated £85 million in revenue. We will look for ways to minimise the take from landfill tax as we seek to ensure that, as part of the Government's zero waste approach and our wider obligations under the Climate Change (Scotland) Act 2009, less landfill activity takes place. So, the 2009 act will have a consequence for landfill tax in the future. We could raise more tax if we failed in our zero waste and climate change obligations, but none of us is particularly moved by that prospect. Stamp duty land tax has some potential to boost the level of economic growth. In 2008-09, stamp duty land tax generated £319 million, and the Government is exploring the implications of stamp duty land tax and what measures could be taken forward in that respect.

**Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP):** Does the cabinet secretary agree on the central importance of improved borrowing powers? He has said that he was disappointed with both the UK Government's response to the committee and the Scottish Government's representations in that area. Can he explain the logic of the UK Government's position of having a cap of £2.2 billion? That does not seem to relate to any particular economic quantity or financial figure of which I am aware; it seems more like a back-of-a-fag-packet calculation. By contrast, the paper that the cabinet secretary has produced appears to have an inherent logic whereby we are considering creating a borrowing framework that is sustainable and the Scottish Government has worked out how it will be able to repay any debt over the long term. How are the cabinet secretary's negotiations with the UK Government going in that regard?

**John Swinney:** The framework—if I can call it that—that has been set out in the Scotland Bill is not driven by a methodology; it is probably driven by the fact that the estimated cost of the Forth replacement crossing was just over £2 billion. The replacement crossing has been viewed as the biggest construction project in a generation, which it is, and that has rather set the framework. I do not think that there is any more science or methodology to it. If there is, the UK Government ministers would be better placed than me to explain it to the committee.

As for the developments that have taken place since the election and since the previous session's Scotland Bill Committee reported, the proposals that have been made show modest improvements, but they still do not represent a framework that enables the Scottish Government and the Parliament to exercise greater financial responsibility.

That point relates to Mr Baker's comment. I will not sit here or make representations to the United Kingdom Government to ask for unlimited borrowing, because that would be irresponsible and incredible. In our borrowing paper, which has been submitted to the United Kingdom Government, we have set out a framework that enables the Scottish Government to undertake capital borrowing that is equivalent to 2 per cent of its annual resources—on current numbers, that would be £558 million. The stock of debt would have to be capped at the equivalent of 20 per cent of Scottish Government resources.

That is an attempt—which I can substantiate—to create a prudential borrowing framework that is entirely serviceable by the resources that are at our disposal in the Scottish Government through the financial arrangements. For capital borrowing, we would put in place such a framework. To deal

with one of Mr Rennie's points, one of the bill's strengths is that it creates the opportunity to invest and borrow for the long term, which is welcome. The framework of constraints would reflect the fact that we must understand that the borrowing that we take on clearly counts towards the United Kingdom's overall borrowing framework. In these times—and at any time—we cannot ignore the borrowing framework in which the United Kingdom must operate.

We want to put in place a framework for revenue borrowing that provides us with the ability to borrow against volatility in tax revenues, up to a total limit of 5 per cent of the Scottish resource base. We accept that a repayment mechanism must oblige the Government to respond to changes in the economic cycle that will affect its ability to repay, so repayment would be undertaken over five years.

We have tried to marshal an approach that has a sense of logic. The proposition is compelling because, in whatever jurisdiction one cares to explore and if one explores the Maastricht criteria, there is a rationale for such a borrowing framework and for the limits that apply to it. That rationale is absent from the Scotland Bill.

**The Convener:** I call Mr Mason and ask him to be as brief as he can be—I ask that of the cabinet secretary, too.

**John Swinney:** I am sorry, convener.

**John Mason (Glasgow Shettleston) (SNP):** I will try to be brief. You have emphasised economic growth in all your answers. How does welfare reform fit into that? The previous committee discussed that and suggested a space for dialogue, which does not seem very dramatic. Is welfare reform important or is it further down the road?

**John Swinney:** Mr Mason will not be surprised to hear that I think that welfare reform is a pretty urgent priority. The United Kingdom Government is pursuing a welfare reform agenda that will have consequences for the obligations and burdens that we must address in our devolved establishment. Welfare reform is a significant issue. The earlier we address it, the better, and the better we can integrate the welfare reform agenda with the wider growth agenda.

The Scottish Government's framework for economic growth is not an agenda of economic growth at any price; it is a sustainable approach to economic growth that takes into account issues such as reducing regional economic differences and improving the life chances of individuals who are in poverty. All those issues are a material part of our economic growth agenda.

**Alison Johnstone (Lothian) (Green):** If corporation tax were to be devolved, would we be able to introduce more bands for different sizes of company and reflect the social or environmental values that they might have?

**John Swinney:** Those are some of the opportunities that would exist if we were to have control over that area of responsibility. That question opens up some of the exciting agenda that it might be possible to act on as a consequence of the agenda that the Government is pursuing. On the low-carbon economy, for example, our approach to corporation tax could be driven by ensuring that some of those aspirations were more widely reflected within the agenda. Equally, we could consider the appropriateness of some of the company structures, business structures and social enterprise models that exist, with an eye to incentivising greater opportunities for those areas of activity. Without a doubt, there are opportunities in the area that the member raises.

**David McLetchie:** Does the Scottish Government intend to produce a fully worked scheme, with detailed amendments, for incorporation into the Scotland Bill, to facilitate the devolution of all present excise duties that are charged by the United Kingdom Government?

**John Swinney:** We certainly intend to provide to the UK Government a detailed proposal that will set out the Government's views and aspirations in that respect.

**David McLetchie:** Yes, but a view and an aspiration are not the same as an amendment. This committee is here to consider proposed amendments to the Scotland Bill. Will the Scottish Government submit proposed amendments, in proper legislative form, for a scheme for the devolution of all excise duties?

**John Swinney:** In the interests of the convener's strictures on brevity, the answer that I have given is the answer that I would repeat. We will provide the UK Government with a detailed proposal that will set out the Government's aspirations and objectives in this area of activity.

**David McLetchie:** So there will be no amendments from the Scottish Government; there will merely be vague aspirations.

**John Swinney:** There might well be amendments. I am saying that we will—

**David McLetchie:** This committee cannot discuss amendments to a bill if there are no amendments to the bill, Mr Swinney.

**The Convener:** I think that the cabinet secretary has answered as far as he is willing to answer.

**David McLetchie:** The cabinet secretary has not answered.

**The Convener:** I believe that he has answered as far as he is willing to.

**John Swinney:** I will answer Mr McLetchie again. If he wishes to go down the route that he habitually likes to go down, I will go down it as well, and we will slug it out.

**The Convener:** Neither of you has time to slug it out.

**John Swinney:** We will slug it out, convener. On days like this, I am all for slugging it out with Mr McLetchie.

The Government will set out its aspirations to the UK Government. That might well involve detailed amendments; the Scottish Government will consider that issue. Mr McLetchie cannot put words into my mouth that I have not said. I will not put up with it.

**David McLetchie:** Right, so the Scottish Government has not concluded whether—

**The Convener:** Enough, Mr McLetchie. We have time for a quick supplementary on the same subject from Mr Baker.

**Richard Baker:** If you are looking to use excise duty to recover to the Government the extra funds that result from an increased price for alcohol products in Scotland, would that not require excise duty to be levied at the point of sale, rather than production or distribution, as it is currently? Will that be covered in the paper that you say you will send to the UK Government?

**John Swinney:** Those are some of the points that must be explored. The Government's preference is to proceed with minimum alcohol pricing. That was our proposal in the previous session, and that is what we will propose in the course of this session. As is pretty obvious, the Government has responded to calls from parties in the Scottish Parliament other than the Scottish National Party for there to be control of alcohol pricing through alcohol taxation.

That is not the preference of the Scottish Government in tackling the alcohol issue, but we have helpfully tried to consider whether there are ways of using alcohol taxation to tackle alcohol price and alcohol use. Although those are not suggestions of this Government, we have opened up the debate in the interests of constructing some consensus. I am sure that all those questions with which Mr Baker is familiar can be explored in that process.

15:00

**The Convener:** We move to the non-financial implications of the bill.

**Nigel Don (Angus North and Mearns) (SNP):** It would be good to bring my good friend Mr Crawford into the debate. Will you give us an outline of the options that you are considering for greater involvement in European affairs and the options for the Scottish Government to have greater influence in European decision making?

**Bruce Crawford:** As Mr Swinney suggested, the Government will bring forward papers and proposals on that, which we will share not only with the UK Government but with the committee so that it can understand exactly where we are in the process and what our views are in that regard. That will be helpful in letting people understand exactly where the Government is coming from, in the same way as we have produced the papers in regard to the borrowing powers that have been discussed this morning.

We have rightly called for a guaranteed involvement in EU negotiations, a statutory right for Scottish ministers to attend Council of Ministers meetings at which discussion touches on devolved responsibilities and the right to speak for the UK when Scottish interests predominate. We will be introducing proposals that will lay that out in a bit more depth. I am sure that the committee will want to discuss that with the appropriate cabinet secretary when the time comes.

**Nigel Don:** May I take it that those proposals will be before us before our next meeting?

**Bruce Crawford:** The Government will bring forward its proposals in its own time. We have already discussed with the UK Government the issue of when we will introduce those proposals. I will not stipulate exactly when that will be, but it will be in good time for the committee to consider them as part of its scrutiny of the Scotland Bill.

**James Kelly:** In his opening statement, Mr Crawford referred to the McCluskey report and the debate in Parliament later this week. What is his view on how that group was able to come to its interim conclusions when it did not take detailed evidence and, in fact, had not conducted any interviews? How was McCluskey able to reach his conclusions on a basis so lacking in detail? Will you outline the timetable for the production of the full report? Will it include proper evidence taking?

**Bruce Crawford:** I am not here to discuss the ins and outs of the McCluskey report. I am here to discuss the overall perspective on the Scotland Bill. We have had the interim report. There will be a debate in the Parliament on Thursday morning in that regard, at which the Government will lay out

its position clearly. I do not want to get ahead of that debate on Thursday.

**Willie Rennie:** Mr Crawford commented that his proposals would be produced “in good time”. The Calman commission started about four years ago. Just last week, after the bill’s third reading in the House of Commons, we received the Government’s submission on the Crown Estate. Is this an appropriate time to bring forward new proposals?

**Bruce Crawford:** I have previously heard comments like Mr Rennie’s with regard to what the Government is doing and when it is doing it. There is a fair bit of the process still to go. The first reading in the House of Lords will be in September or October; that will be followed by the second reading in the Lords. There is the opportunity thereafter for amendments at the Lords committee, by which time it will probably be getting on for October. There is the Lords second stage and the Lords third stage, all of which will allow the UK Government to introduce amendments.

As I said, I had some useful discussion with David Mundell about how this committee’s proposals, when it introduces them, can properly fit into the Westminster timetable. Certainly, my impression of that discussion is that there is an eagerness to ensure that this committee’s decisions and the Scottish Government’s proposals will be considered in due course and in good time as part of the continuing legislative process in Westminster. On the indicative timetable that has been laid out, the bill will not get to the royal assent process until about March next year. I will have further discussions later this week with Mr Mundell on the timetable.

**Willie Rennie:** I was pleased with last week’s decision by the First Minister on the Offensive Behaviour at Football and Threatening Communications (Scotland) Bill, because it showed that he had listened and realised that we wanted a longer process and greater time in which to consider the bill.

The Scotland Bill has gone through all three stages, including the committee stage, in the House of Commons and has been considered in great detail. The Calman commission discussed all the issues in great detail for a number of months, if not years. I am just not convinced that a seven-page report that is produced after all that has happened can give due consideration to the serious nature of the proposals. I wonder whether you might reflect on that and offer suggestions to the committee.

**Bruce Crawford:** I suggest to Mr Rennie and the other committee members that the papers that the Government will produce will be a fantastic opportunity for the committee to take evidence on

the Government’s suggestions and proposals and to scrutinise and examine them.

The UK Government is still unclear about its proposals on a number of areas that the predecessor Scotland Bill Committee identified. I have mentioned them already, but they include air passenger duty, the aggregates levy, speed limits, drink driving and elections—I could go on. I would have thought that this committee would want to continue discussions with the UK Government in that regard. As I said, there is still a fair bit of time left in the process. The Commons may have finished its legislative process on the bill, but there are still a number of stages to be gone through in the Lords.

**Stewart Maxwell:** My understanding is that the UK Government is reluctant to take a decision on the aggregates levy until an EU decision is made. Can you confirm that that is the case? Do you agree that, irrespective of the EU’s decision, the principle of the devolution of the aggregates levy could be included in the Scotland Bill and that, if the EU decision was delayed, that part of the bill would not have to be enacted until the EU decision was clarified?

**Bruce Crawford:** First, let me make it clear that it was this committee’s predecessor committee that suggested that the aggregates levy should be included in the Scotland Bill. However, your assumption about the legislative process is correct. On how much that is interrelated with the European Union, I am happy to write to the committee to confirm whether your view is correct.

**Stewart Maxwell:** A separate issue that is of great importance, particularly to me as the convener of the Education and Culture Committee, is the devolution of broadcasting regulation. I am sure that many members, as well as wider Scotland, are interested in that area. What benefits do you envisage accruing to Scotland’s cultural sector and the creative industries in Scotland if broadcasting regulation were to be devolved?

**Bruce Crawford:** First, with regard to suggestions from other members round the table on the Government’s proposals, the Government will bring forward a paper on the broadcasting proposals in due course. The Government recognises that there is a clear need for greater accountability and responsibility for broadcasting in Scotland. There is agreement across the political spectrum that Scotland needs its own distinctive broadcasting space to reflect our society and culture, and the debates and the decision making that go on in our country.

There are three priority areas in that regard: the ability to establish new public service broadcasting institutions with a remit within Scotland, such as a

Scottish digital network; the right to approve the TV licensing fee settlement; and responsibility for approving or refusing licences for and UK Government decisions on local television stations that will broadcast in Scotland. All that activity, with a greater focus on the Scottish scene, could create a greater mass of economic activity from the broadcasting arena. A specific proposal and papers from the Government in that regard will be put in front of the committee in due course—I hope that it will be sooner rather than later.

**Stewart Maxwell:** Do you expect that devolution of broadcasting regulation, which sounds like a rather dry and technical point, would allow the Government to create an atmosphere that enabled the sector to grow? The approach could lead to the expansion of economic activity in the creative sector, in particular enabling more productions to be made in Scotland, allowing people to grow their careers here and enabling us to attract work from other parts of the UK and perhaps abroad to be filmed, produced and directed in Scotland.

**Bruce Crawford:** You make well-founded points. Not long ago, on 16 June, the Parliament agreed to a motion, which had the support of the Liberal Democrats and the Greens, which reflected some of the areas that you outlined.

**The Convener:** Thank you, minister. There are no other questions—[*Interruption.*] Mr McLetchie, you will have to indicate that you want to ask a question a bit better than that, instead of waiting until the end of every discussion—

**David McLetchie:** I had quietly put up my hand, convener.

**The Convener:** Please carry on—quickly.

**David McLetchie:** My question is for Mr Crawford. Does the Scottish Government now accept that the Supreme Court should have a jurisdiction—albeit of a more limited nature—in Scottish human rights cases where the issue raises a matter of criminal law and procedure?

**Bruce Crawford:** You will see that the Scottish Government will lodge a motion tonight on its position on the Supreme Court. The Parliament will debate the matter on Thursday, when the Government will clearly set out its position.

**David McLetchie:** You are saying that the Government cannot tell us whether it remains of the view that there should be no access to the Supreme Court for cases conducted in Scotland.

**Bruce Crawford:** I will not fall into the trap of allowing you to put words into my mouth as well as John Swinney's mouth. I made my position clear. The Government will lodge a motion tonight on the Supreme Court, and the debate on Thursday will

allow the Government to lay out its position clearly.

**David McLetchie:** Convener, the motion will be lodged in 1 hour and 18 minutes' time. Why does it remain a state secret for 1 hour and 18 minutes? Why cannot the Government's position be revealed to the committee that is meant to be considering the Scotland Bill? That is a nonsense.

**The Convener:** It is the prerogative of the Government to set out such matters when it so wishes, as it is your prerogative to try to cause trouble whenever you can do—you are very good at that.

We must draw the discussion to a close. Mr Crawford, if the Government produces more papers on aspects of the Scotland Bill, I ask that as a courtesy to the committee you or your officials give us an idea of the timing, so that we can programme our work and the calling of witnesses as sensibly as possible.

**Bruce Crawford:** We will do the best that we can do to help you in that regard and to try to indicate the timescales that are involved. As Mr Swinney said, there are many in-depth discussions to be had on a number of areas.

**The Convener:** Thank you. I thank you and Mr Swinney for coming, which was much appreciated.

15:12

*Meeting suspended.*

15:15

*On resuming—*

## Call for Evidence

**The Convener:** We move to agenda item 3. At the previous meeting, the committee agreed to issue an open call for written evidence and the clerk has now produced a draft, which members will have read, based on what we discussed and the outline work programme. I ask for comments.

**John Mason:** My question is mainly about timescales. I assume that one group that will respond to our call will be councils, which are about to go into recess until around the middle of August. I know that our time is limited, but are we satisfied that we are giving people enough time to respond?

**The Convener:** We discussed that very issue when we were putting the paper together. The fact is that you can never have a timescale that suits everyone and we felt that, because of recess and so on, the suggested September deadline was actually quite generous. If members agree, however, there is nothing to stop us taking late submissions if doing so makes sense under the terms of our work programme. As I say, I think that the timescale is pretty generous; it is just unfortunate that, for some organisations, it is all happening over recess.

**Joan McAlpine:** I have a couple of comments about the work programme. At our previous meeting, we said that we did not want to reinvent the wheel by going over all the ground that the previous committee covered. However, given Mr Swinney's comments about the financial provisions that are likely to come into play as a result of the bill, it is clear that some very serious questions have arisen that we should make time to look at again. Indeed, given that there has been a general election and that the result of that election has changed the committee's complexion, we should consider giving time to those questions as well as to the Scottish Government's new proposals.

**The Convener:** I suggest that we discuss that as part of the next item, which relates to our work programme, rather than as part of this item. That said, we might follow the suggestion in the paper and, in our call for written evidence, be a bit more specific about some of what we ask those giving written evidence to address. For example, key questions 1 and, in particular, 2 on page 4 of the paper could be beefed up a wee bit—

**Joan McAlpine:** I am just not sure that the key questions really cover the big questions about the financial provisions in the bill.

**The Convener:** Well, the paper is up for discussion. I will take some more comments and let you have a wee think about how we might expand the key questions to address things better.

We also should bear it in mind that this is a call for written evidence.

**Stewart Maxwell:** The bullet points under question 4 on page 4 cover a number of questions related to the financial provisions, but they do not mention the aggregates levy or the air passenger duty. Is there a reason for that and, if not, can those subjects be included? After all, there are solid arguments for doing so. In fact, the previous committee made a recommendation on the aggregates levy and we should certainly get more information about it. Assuming that there is no problem with it, I do not see why it should be excluded from the bill just because we are waiting for an EU decision. It could be in the bill but not enacted until the issue is resolved.

**The Convener:** I will take that on board.

**Nigel Don:** Question 5 on page 5 begins:

"What further views do you have",

which is a kind of catch-all question. I wonder whether it asks whether there are any other issues that have not even been talked about yet, and I wonder whether it should, because there might be issues that people want to bring to our attention. I hope that they will not be long in doing so, but people might want to point out issues that they think we have not looked at yet.

**The Convener:** With other opinions on that particular question, David McLetchie.

**David McLetchie:** That is quite dangerous. We must decide what we are here to do. Irrespective of one's views on Scotland's long-term constitutional future, we are looking at the Scotland Bill, which contains a specific set of proposals, and the Government has tabled a specific set of propositions for consideration. The Government is entitled to do that and it wants those propositions to be incorporated in the bill. We must be careful. We are here to consider things that can be or are likely to be incorporated in the bill. We could waste an enormous amount of time discussing issues that have not the slightest chance of being incorporated in the bill. We must focus our inquiry on what is in the bill and on what I would call proper or real amendments that are tabled for consideration, not broader views about Scotland's constitutional future. If we did that, frankly, we would be here forever and we would make no progress at all. That is a debate for another day and in another environment. We should focus on the relatively narrow agenda that is set for us by the previous committee's recommendations, what is going on at Westminster and the proposals that the Scottish Government has tabled.

**The Convener:** Before I go back to the other members, David, you have said a few times that

we should discuss only specific amendments. The committee's remit is really a matter for the Parliamentary Bureau, so if you feel that that is what the remit says, perhaps it should go back to the bureau for clarification.

**David McLetchie:** That is what the remit says. The remit contains the words:

"proposed amendments to the Bill."

**The Convener:** That is a wee bit different from people coming forward with ideas for proposed amendments to go in the bill. As I say, if you want that to be clarified, perhaps the remit should go back to the bureau for clarification.

**David McLetchie:** Convener, I was well aware of the remit when the bureau discussed it, and I made it clear to the Government and to the Cabinet Secretary for Parliament and Government Strategy that the motion should be framed so that proposed amendments were proposed amendments and not generalised views. As far as I am concerned, the wording for the committee's remit, which was agreed by the Parliament, is

"proposed amendments to the Bill".

A proposed amendment to the bill is quite clear. It is not a white paper or an aspiration. It is an amendment that has been legally drafted and that sets out a proposal to change the law of the country.

**The Convener:** I think that you will find that some members are reading that differently. Perhaps we can get clarification of that from the bureau for the benefit of the committee. Nigel, is your point on this issue?

**Nigel Don:** Yes. David McLetchie is making mischief, and he knows he is, but I want to be clear that I agree with his answer to my question whether we should be asking for other issues; I do not believe that we should be. What I said had absolutely nothing to do with independence and other stuff; I was just trying to see whether we can improve the bill.

**Richard Baker:** I endorse Stewart Maxwell's proposal on the aggregates levy and air passenger duty. Those issues have been discussed before, so they are perfectly valid. I also take on board David McLetchie's point about sticking to our remit in what has been proposed and what we discuss, given the time constraints that we are under. We could open the debate significantly and take on a range of new issues, and we do not have time to do that within the bill's timescale.

I know when David McLetchie is making mischief and when he is not, and this time he is not. The session with the ministers that we had today was useful but, at the same time, we are in

danger of discussing topics, issues and proposals on which we have almost nothing at the moment. It would be most desirable to see amendments at least and at some point we will have to see the clear detail of the proposals. The committee needs to take that on board. People can put in submissions that are not amendments, but we will have to look pretty quickly at the Scottish Government's suggestions if those are not amendments. I would prefer amendments, or at the very least detailed proposals.

**Stewart Maxwell:** Much as I would love to open up the whole thing from the beginning, that is not technically feasible, nor is it in our remit, nor do we have enough time to do it. I accept David McLetchie's general point, but I do not think that our choices lie at the two extremes. It is not the case that we can discuss either everything or only very specific and detailed technical amendments to the bill.

As Richard Baker said, if solid proposals are brought forward it is only reasonable, right and fair that we discuss them. Although I accept that we cannot open up the whole thing again, there are a lot of specific proposals that are not yet detailed amendments but which are being discussed in that way. They were put forward by the previous Scotland Bill Committee—which David McLetchie was on—or were suggestions from the Steel commission or the Calman commission.

There is a lot of stuff in there that it is reasonable to discuss without going far too wide, because we just do not have the time to do that. There is a halfway house.

**John Mason:** I will defend the wording of question 5 on page 5 of the paper. It is reasonable and quite wide. It asks:

"What further views do you have",

so anyone could say anything if they wanted. However, it then asks for suggestions that

"help to achieve the purposes of the Bill".

I am not quite sure to whose purposes that refers, but I assume that it is the coalition Government in London, whose purpose is to give us a tiny little bit more power. There is a balance in that question.

**Alison Johnstone:** I agree with what John Mason said about the key questions. Question 5 offers enough opportunity for those who want to engage in the process.

**The Convener:** To sum up what we are saying, am I right that we want the paper—which members should remember will be requesting written evidence—to contain a bit more information on what the previous Scotland Bill Committee discussed in relation to finance and taxation, some of which we discussed today?

**Members indicated agreement.**

**The Convener:** People have clear views on what the bill currently proposes and on the Scottish Government's additional demands, so we should ask for evidence on that. The call for evidence can be finessed by the clerks. Bearing in mind that this is the last meeting of the session, do members wish the paper to be e-mailed to them for agreement, so that it can go out and so that we can collect evidence over the summer recess?

**Members indicated agreement.**

**Joan McAlpine:** Does that mean that we will ask an additional question about the financial powers in the bill, rather than only about the amendments and the previous committee's recommendations?

**The Convener:** I suggest that we allow the clerks to consider the best way of drawing that out, because they will have a good idea of the committee's views by now—after all, I am told that they are the experts on this type of thing. I ask them to come back with the paper so that the committee can look at it. Members can then pass their comments on whether it is not strong enough or too strong to Stephen Imrie or to James Kelly and me, so that by the end of this week we will have a definitive call for evidence. All views will be taken into account.

**Stewart Maxwell:** I am sure that you agree that it would be perfectly in order for Joan McAlpine to draft a third question and submit it to the clerks.

**The Convener:** Anyone who wishes may do that if they feel strongly about something.

**Stewart Maxwell:** I understand that, but as Joan is a new member I thought that it might be helpful specifically to say that, if she wanted, she could draft a third key question to submit to the clerks.

You mentioned including other provisions that were in the original committee report. For clarification, are we talking about the things that I mentioned, such as aggregates and air passenger duty?

**The Convener:** Yes. It might be worthwhile to specify them formally in the paper to jog people's memory, because there was a lot in the report.

**Stewart Maxwell:** It is just that there are three bullet points under question 4, on the financial provisions, but they do not seem to cover the financial provisions that were in that report.

**The Convener:** Would you like to draft something, Stewart?

**Stewart Maxwell:** I am sure that the clerks are more than able.

**The Convener:** I think that Stephen Imrie is quite aware of the committee's views on that.

I hesitate to ask, but is everybody happy?

**Members indicated agreement.**

**The Convener:** We agreed previously that we would go into private session for the final two items because of the subject of the discussions.

15:30

*Meeting continued in private until 16:50.*



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